

**ELLA WAY WELL
CITRUS HEIGHTS WATER DISTRICT**

**ADDITIONAL INFORMATION ADDED TO THE
TRIBAL CULTURAL RESOURCES EVALUATION OF
THE MITIGATED NEGATIVE DECLARATION
PREPARED BY THE LEAD AGENCY –
CITRUS HEIGHTS WATER DISTRICT**

MAY 8, 2018

This document is prepared pursuant to the California Environmental Quality Act (CEQA) (Public Resources Code 21000 *et seq.*) as Additional Information added to the March 2018 Mitigated Negative Declaration for the Ella Way Well project circulated by the Citrus Heights Water District (District), as lead agency, on March 30, 2018. The District is providing this Additional Information as the appropriate CEQA document to amend the discussion of tribal cultural resources because this additional information entails minor technical changes that do not constitute the conditions identified in CEQA Guidelines §15073.5 that could require recirculation of the Mitigated Negative Declaration.

CEQA Guidelines (§15073.5) allow a lead agency to modify a previously circulated Negative Declaration to add additional information if none of the following conditions are true:

A lead agency is required to recirculate a negative declaration when the document must be substantially revised after public notice of its availability has previously been given pursuant to Section 15072, but prior to its adoption. A **“substantial revision”** of the negative declaration shall mean:

- a. A new, avoidable significant effect is identified and mitigation measures or project **revisions** must be added in order to reduce the effect to insignificance, or
- b. The lead agency determines that the proposed mitigation measures or project revisions will not reduce potential effects to less than significance and new measures or revisions must be required.

Recirculation is not required under the following circumstances:

1. Mitigation measures are replaced with equal or more effective measures pursuant to **Section 15074.1**.
2. New project revisions are added in response to written or verbal comments on the project’s effects identified in the proposed negative declaration which are not new avoidable significant effects.
3. Measures or conditions of project approval are added after circulation of the negative declaration which are not required by CEQA, which do not create new significant environmental effects and are not necessary to mitigate an avoidable significant effect.
4. New information is added to the negative declaration which merely clarifies, amplifies, or makes insignificant modifications to the negative declaration.

The Mitigated Negative Declaration prepared for the Ella Way Well project addressed the potential environmental effects associated with development of a water supply well and ancillary structures. Subsequent to circulation of the Mitigated Negative Declaration, the District completed consultation with Native Americans as required by Section 21073 of the Public Resources Code (AB 52). Therefore, the District is amending the Negative Declaration to present the findings of the completed Native American consultation presented in the Mitigated Negative Declaration.

Following is the District’s updated evaluation of the Ella Way Well project’s effects on tribal cultural resources set forth in the Mitigated Negative Declaration pursuant to §15073.5 of the CEQA Guidelines.

Changes to the Text of the Initial Study / Mitigated Negative Declaration¹

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
XVII. TRIBAL CULTURAL RESOURCES - Would the project:				
Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:			X	
a) Listed or eligible for listing in the California Register of Historic Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k), or				
b) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resources Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.			X	

ENVIRONMENTAL SETTING

A Tribal Sacred Lands search request was filed with the Native American Heritage Commission (NAHC). The search was completed with the conclusion that no tribal cultural resources are located on or in the vicinity of the proposed project site (NAHC 2018).

Records of the known cultural resources found in Sacramento County are included in the files of the Office of Historic Preservation, California Historical Resources Information System. The Northern California Information Center (NCIC), housed at California State University, Sacramento, locally administers these records. A cultural resources records search was conducted at the NCIC for the project site and surrounding area to determine its historic and cultural sensitivity (NCIC 2018). Based

¹ Changes to the text of the circulated Mitigated Negative Declaration are denoted by underline for added text and strikeout for deleted text.

on the records search, there are no known prehistoric or historic archaeological resources on the project site or in its vicinity that have been reported to the NCIC.

REGULATORY SETTING

Effective July 1, 2015, Assembly Bill 52² (AB 52) amended CEQA to require that: 1) a lead agency provide notice to any California Native American tribes that have requested notice of projects proposed by the lead agency; and 2) for any tribe that responded to the notice within 30 days of receipt with a request for consultation, the lead agency must consult with the tribe. Topics that may be addressed during consultation include Tribal Cultural Resources (TCR), the potential significance of project impacts, type of environmental document that should be prepared, and possible mitigation measures and project alternatives.

Pursuant to AB 52, Section 21073 of the Public Resources Code defines California Native American tribes as “a Native American tribe located in California that is on the contact list maintained by the NAHC for the purposes of Chapter 905 of the Statutes of 2004.” This includes both federally and non-federally recognized tribes.

Section 21074(a) of the Public Resource Code (PRC) defines TCRs for the purpose of CEQA as sites, features, places, cultural landscapes (geographically defined in terms of the size and scope), sacred places, and objects with cultural value to a California Native American tribe that are either of the following:

- a. included or determined to be eligible for inclusion in the California Register of Historical Resources; and/or
- b. included in a local register of historical resources as defined in subdivision (k) of Section 5020.1; and/or
- c. a resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Section 5024.1. In applying the criteria set forth in subdivision (c) of Section 5024.1 for the purposes of this paragraph, the lead agency shall consider the significance of the resource to a California Native American tribe.

“Substantial evidence” is defined in Section 21080 of the Public Resources Code as “fact, a reasonable assumption predicated upon fact, or expert opinion supported by fact.”

The criteria for inclusion in the California Register of Historical Resources (CRHR) are as follows [CCR Title 14, Section 4852(b)]:

1. It is associated with events that have made a significant contribution to the broad patterns of local or regional history, or the cultural heritage of California or the United States; and/or
2. It is associated with the lives of persons important to local, California, or national history; and/or
3. It embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of a master or possesses high artistic values; and/or

² Codified as Sections 21080.3.1, 21080.3.2, and 21082.3.

4. It has yielded, or has the potential to yield, information important to the prehistory or history of the local area, California, or the nation.

In addition, the resource must retain integrity, which is evaluated with regard to the retention of location, design, setting, materials, workmanship, feeling, and association [CCR Title 14, Section 4852(c)].

Recognizing that California tribes are experts in their TCRs and heritage, AB 52 requires that CEQA lead agencies initiate consultation with tribes at the commencement of the CEQA process to identify TCRs. Furthermore, because a significant effect on a TCR is considered a significant impact on the environment under CEQA, consultation is required to develop appropriate avoidance, impact minimization, and mitigation measures.

Summary of Tribal Consultation

Consistent with the requirements of PRC Section 21080.3.1(b), the CHWD has received written requests to be notified of projects in which the CHWD is the Lead Agency under CEQA from the Wilton Rancheria, United Auburn Indian Community (UAIC), and the Buena Vista Rancheria of Me Wuk Indians. Therefore, on March 22, 2018, the CHWD sent letters offering project consultation to these tribes. The letters provided a brief description of the proposed project and its location, the lead agency contact information, and a notification that each tribe had ~~30~~ 30 days from receipt of the CHWD's letter to request consultation. The 30-day response period concluded ~~s~~s on April 24, 2018.

~~Should one or more of the tribes request consultation on the project, a summary report of the consultation process shall be made an addendum to this Initial Study/Mitigated Negative Declaration for review by the CHWD Board of Directors prior to their consideration of the project.~~

No response was received from Wilton Rancheria or the Buena Vista Rancheria of Me Wuk Indians within that timeframe. Therefore, pursuant to Public Resources Code section 21082.3(d)(3), no tribal consultation with the Wilton Rancheria or the Buena Vista Rancheria of Me Wuk Indians was carried out for this project.

On March 30, 2018, the UAIC requested consultation on the Ella Way Well project. The tribe additionally requested copies of any archaeological reports prepared for the Ella Way Well project, as well as copies of future environmental documents. The UAIC also requested that they be advised of any Native American cultural resources within the project area, and notification in the event that such resources are found during project construction.

On April 23, 2018, the District formally initiated consultation with the tribe and provided all requested information. The District additionally invited the tribe to a meeting on May 7, 2008 to discuss the project further and to continue consultation with the UAIC. There has been no further communication from the UAIC since their letter of March 30, 2018, and no tribal representatives attended the May 7, 2018 meeting. Therefore, pursuant to Public Resources Code section 21082.3(d)(2), the District has concluded its consultation with the UAIC, having complied with all requirements of AB 52.

ENVIRONMENTAL ANALYSIS

Question a, b: Less-than-significant Impact. The search for Tribal Sacred Lands resources conducted by the NAHC yielded negative results. Additionally, a NCIC Records Search for cultural

resources found no prehistoric archaeological resources on the project site or in its vicinity that have been reported to the NCIC. In making an offer of consultation to registered tribes pursuant to PRC Section 21080.3.1, the CHWD has met the initial requirements of AB 52. Offers of consultation were sent via registered mail to representatives of the three tribes who have registered with the District. Two of the tribes did not respond to the initial request, and thus, consultation was terminated. One tribe, the UAIC, requested additional information, but declined to continue consultation once information was provided. Therefore, pursuant to the requirements of PRC §21073, the District has terminated consultation with this tribe also. Because the CHWD has initiated and offered consultation with registered tribes and consultation has been terminated, and no known tribal cultural resources or other prehistoric cultural resources were identified that are listed or eligible for listing in a register of historic resources, a less-than-significant impact would result. No mitigation would be required.

All other environmental conditions within the project area are the same as those previously evaluated in the Initial Study / Mitigated Negative Declaration. Since the environmental conclusions with respect to tribal cultural resources are the same as those evaluated in the District's circulated Mitigated Negative Declaration and no other changes are proposed, no significant impacts not previously identified in the Negative Declaration would result and no additional mitigation not previously identified would be necessary. Thus, the proposed change would not trigger the requirements of criteria 'a' and 'b' set forth above and the CEQA requirements for recirculation would not be triggered.

Characterization of Information Added to the Mitigated Negative Declaration – The information added to the Mitigated Negative Declaration regarding tribal cultural resources documents that the District completed all required actions necessary to comply with AB 52, and confirms the environmental conclusions of the circulated Mitigated Negative Declaration. Therefore, the information added to the document merely clarifies, amplifies, or makes insignificant modifications to the Mitigated Negative Declaration. This meets the requirements of criterion 4 as cited above, thereby avoiding the requirement to recirculate the document.

Comment Letters - No written comments were received from the general public on the draft document. Agency comments were received from SMUD, the State Office of Planning and Research (OPR), and the Central Valley Regional Water Quality Control Board (CVRWQCB). Although CEQA does not require that the District formally respond to comments received on the draft Initial Study/Mitigated Negative Declaration, it does require that the Board consider each comment prior to certifying the Initial Study/Mitigated Negative Declaration and taking action on the Project. Following is a summary of comments received, and our conclusions.

- CVRWQCB - The letter provides a list of potential permits under the CVRWQCB's jurisdiction for a generic well project. Impacts to water quality, including necessary permits, were evaluated in Section IX, *Hydrology and Water Quality*, of the IS/MND. The comments from the CVRWQCB raise no issues regarding the environmental information or conclusions presented in the IS/MND for the Ella Way Well Project. Since no environmental issue was raised by the comment that was not previously evaluated in the IS/MND, no modification of the IS/MND is necessary.
- SMUD - The comments from SMUD discuss a number of construction details and requirements to avoid existing SMUD facilities, and to construct any needed new facilities to meet SMUD standards. The comments from SMUD raise no issues regarding the

environmental information or conclusions presented in the IS/MND for the Ella Way Well Project. Since no environmental issue was raised by the comment that was not previously evaluated in the IS/MND, no modification of the IS/MND is necessary.

- OPR – This letter transmits a copy of the CVRWQCB’s comments noted above. The comments from OPR raise no issues regarding the environmental information or conclusions presented in the IS/MND for the Ella Way Well Project. Since no environmental issue was raised by the comment that was not previously evaluated in the IS/MND, no modification of the IS/MND is necessary.

Conclusion – As set forth above, none of the conditions set forth in CEQA Guidelines §15073.5(a) and (b) (set forth as criteria ‘a’ and ‘b’ above) exist that would require the recirculation of the Mitigated Negative Declaration. The information added qualifies as an insignificant modification consistent with the provisions of §15073.5(c) (set forth as criterion 4 above). Thus, the modification of the Mitigated Negative Declaration set forth in this document is exempt from recirculation. Therefore, the addition of information to the Mitigated Negative Declaration contained in this document is sufficient to permit the District to consider the Ella Way Well project, and to meet the requirements of CEQA consistent with §15073.5 and 15074 of the State CEQA Guidelines. The Citrus Heights Water District will consider the results of this additional information, together with the Ella Way Well project Mitigated Negative Declaration, prior to taking action on the proposed the project.