

APPENDIX A

NOTICE OF PREPARATION, NOP COMMENTS

This page intentionally left blank

**Community Development
Department**
Planning Division
1017 Middlefield Road
Redwood City, CA 94063



(650) 780-7234
planning@redwoodcity.org
www.redwoodcity.org

NOTICE OF PREPARATION AND NOTICE OF PUBLIC SCOPING MEETING

DATE:	August 1, 2025
TO:	Reviewing Agencies, Interested Parties and Organizations
FROM:	City of Redwood City, Lead Agency
APPLICANT:	City of Redwood City
SUBJECT:	Notice of Preparation of a Draft Environmental Impact Report for the Proposed Recycled Water Master Plan Phase 2 Project

The City of Redwood City (City) proposes to adopt the Recycled Water Master Plan (RWMP) Phase 2 Project (Project). Pursuant to the California Environmental Quality Act (CEQA), the City has determined that a program-level Environmental Impact Report (EIR) will be necessary to evaluate the environmental impacts of the Project. The City is soliciting comments from the Redwood City community, the County of San Mateo, adjacent cities, responsible agencies, agencies with jurisdiction by law, trustee agencies, and other interested parties, as to the appropriate scope and content of the EIR.

Pursuant to *State CEQA Guidelines* Section 15168, a program-level EIR will be prepared for the proposed Project. This type of EIR examines implementation of a plan over an extended period of time including known potential construction and operational impacts and mitigation measures of implementing the plan. This type of EIR allows for later activities that are expected to occur under the proposed RWMP to be evaluated to the extent feasible based on the level of detail currently available. Later discretionary actions occurring under the proposed Project will build upon the foundation of this programmatic EIR and may be subject to additional environmental review and documentation, on a project basis, if it results in new or more significant environmental effects.

In compliance with CEQA, the City will be the Lead Agency and will prepare the EIR. Attached are a description of the proposed project, location map, and preliminary identification of the potential environmental issues to be explored.

The City is requesting review and consideration of this Notice of Preparation (NOP) and comments and guidance on the scope and content of the program-level EIR from the Redwood City community, responsible and trustee agencies, interested public agencies, organizations, and the general public (CEQA Guidelines Section 15082). If your agency is a responsible agency as defined by Section 15381 of the *State CEQA Guidelines*, your agency may use the environmental documents prepared by the City when considering permits or approvals for action regarding the proposed project. Due to the time limits mandated by State law, your response must be sent at the earliest possible date but **not later than 30 calendar days** after receipt of this NOP. The 30-day comment period for this NOP is **August 1 to September**



**Notice of Preparation of a Draft Environmental
Impact Report for the Proposed Recycled Water Master Plan
Phase 2 Project**

1, 2025. The final date for responses to the NOP to be received by the City of Redwood City is **September 1, 2025, by 4:00 p.m.**

Comments and responses to this NOP must be in writing and submitted by the close of business on the last day of the comment period. Please provide a contact name, phone number, and email address with your comments. All comments must be sent to:

Justin Chapel, Public Works
Superintendent, Water Division
City of Redwood City
1400 Broadway, Redwood City, CA 94063
(650) 780-7469 | jchapel@redwoodcity.org

Pursuant to *State CEQA Guidelines* Section 15082(c) (Notice of Preparation and Determination of Scope of EIR) and Section 15083 (Early Public Consultation), the Redwood City Zoning Administrator will also conduct a scoping session for the purpose of soliciting views of the Redwood City community, the County of San Mateo, adjacent cities, responsible agencies, agencies with jurisdiction by law, trustee agencies, and other interested parties, as to the appropriate scope and content of the EIR.

The scoping session will be conducted by the Zoning Administrator at its August 12, 2025 hearing, which begins at 3:00 p.m. in person at City Hall, Conference Room 2B, 1017 Middlefield Road, Redwood City. Members of the public may attend in-person and participate at City Hall or observe the meeting remotely (no public comment) via Zoom at <https://redwoodcity.zoom.us/j/98094090644>.

A handwritten signature in black ink, appearing to read "Melinda Hue", written over a horizontal line.

Melinda Hue, Planning
Principal Planner - CEQA Coordinator
City of Redwood City

7/24/25

Date



Notice of Preparation of a Draft Environmental Impact Report for the Proposed Recycled Water Master Plan Phase 2 Project

Project Title and Applicant

Recycled Water Master Plan (RWMP) Phase 2 Project by the City of Redwood City (City)

Project Location

The Project area encompasses the existing and proposed recycled water service area and facilities in Redwood City. Figure 1 shows the current recycled water service area, which includes the northern, eastern, and central portions of the City. The proposed Project would establish a plan to: (a) expand the City's Recycled Water Service area to include the East market Assessment Area, which would then be subject to the Recycled Water Use Ordinance, (b) expand the City's Recycled Water pipeline system in the Central and East areas, which is home to a higher concentration of high-demand customers in close proximity as shown in Figure 2; and (c) include back up water storage tanks and pumps.

Project Description

Project Background

In August 2003, the City Council of Redwood City approved the first phase of the Redwood City Recycled Water Project (Phase 1 Project), which consisted of recycled water infrastructure facilities to deliver tertiary treated wastewater to customers in the Redwood Shores, greater Bayfront area, and Central Redwood City area of Redwood City. The Phase 1 Project would be implemented in multiple phases over several years.

Recycled water is an alternative water source that can safely replace potable water in a variety of uses and significantly reduces demands on the potable water supply. Redwood City's Phase 1 Project provides disinfected tertiary recycled water to City customers for landscape irrigation and a variety of Title 22 approved non-potable uses including dust control, car washing, concrete mixing, toilet flushing, cooling, and other industrial uses.

Redwood City adopted a Recycled Water Use Ordinance in July 2008 that established the recycled water service area and requirements for use within the service area. The Ordinance (now Redwood City Municipal Code - Chapter 38 – Article VIII) identifies the required and voluntary uses of recycled water, including requirements for dual plumbing.

The design and construction of Phase 1 the Redwood City Recycled Water Project began in 2004 and included recycled water treatment, storage, and pumping facilities at the Silicon Valley Clean Water (SVCW) treatment plant, located at 1400 Radio Road in northeastern Redwood City; a recycled water distribution system; and on-site customer retrofit facilities. From 2005 to 2010, Phase 1 of the recycled water distribution system was constructed to expand the City's recycled water system along the eastern edge of United States Route 101 (US-101), from Redwood Shores to the Greater Bayfront Area. Phase 1 included construction and operation of two 2.2-million-gallon storage tanks, a distribution pump station, and 17 miles of distribution pipelines. Recycled water service began in 2007, and the system has helped save hundreds of millions of gallons of potable water each year. Phase 1 currently supplies recycled water to more than 450 points of connection. Sites served by recycled water include Oracle Inc., residential and City of Redwood City

Recycled Water Master Plan Phase 2 Project
Notice of Preparation

August 2025



Notice of Preparation of a Draft Environmental Impact Report for the Proposed Recycled Water Master Plan Phase 2 Project

multifamily developments, the Redwood City Police Station, the Port of Redwood City, and other industrial customers. In 2012, the City evaluated opportunities to expand the recycled water system. Later phases of the Phase 1 Project are underway and will bring recycled water pipes west of US-101 towards downtown Redwood City. Extension of the recycled water system along Walnut Street from US- 101 to Marshall Street is completed. Figure 1 shows the current recycled water service area, which includes the northern, eastern, and central portions of the city.

Proposed Project

The City's RWMP¹ Phase 2 is intended to provide a logical planning framework for the City to expand the existing Phase 1 recycled water system to serve additional customers with the available recycled water supply. Specifically, the proposed Project would establish a plan to: (a) expand the City's Recycled Water Service area to include the East market Assessment Service Area, which would then be subject to the Recycled Water Use Ordinance, (b) expand the City's Recycled Water pipeline system in the Central and East areas, which is home to a higher concentration of high-demand customers in close proximity as shown in Figure 2; and (c) include back up water storage tanks and pumps. The RWMP Phase 2 RWMP Phase 2 is intended to function as a planning document for the City as expansion opportunities for the recycled water system are considered.

The purpose of the Project is to:

1. **Identify a cost-effective, phased approach to expansion:** The City plans to expand the City's Recycled Water Service Area to areas with anticipated demand and add transmission pipeline loops to expand the distribution system and Recycled Water Service Area. Phasing options are evaluated to implement planned projects over time at different funding levels.
2. **Prioritize improvements to the recycled water system:** The City seeks to improve resilience of the overall recycled water system by considering conceptual designs for new recycled water storage tanks, a chlorine booster system, and a new potable water storage tank to serve as backup supply for the recycled water system and to provide emergency storage.

The proposed Project includes the adoption of a RWMP Phase 2 to guide future expansion of the recycled water service area to include the East Market Assessment Service Area subject to the Recycled Water Use Ordinance and the enhancement of the physical pipeline system in the Central and East areas together with backup storage tanks and pumps in the Central area as further described below. This strategic focus enables the City to enhance its reuse efforts while minimizing the need for extensive new construction, fostering sustainable growth and maximizing efficiency in resource allocation. The proposed Project includes adding more than 30,000 linear feet, or 5.7 miles of transmission, distribution, and lateral pipelines that would create multiple transmission and distribution loops, as shown in Figure 2. The proposed Project expansion would enable the City to serve an additional 762 AFY of recycled water if all potential customers connect to the system, which represents about 78 percent of the estimated Central

¹ City of Redwood City. 2024. *Draft Final – Redwood City Recycled Water Master Plan Phase 2*. October 9.



Notice of Preparation of a Draft Environmental Impact Report for the Proposed Recycled Water Master Plan Phase 2 Project

demand (973 AFY). Focused expansion in the Central area would enable the fastest and most economical growth for the City's recycled water system.

The Redwood City Recycled Water System Design Criteria Part XIII requires high density polyethylene (HDPE) for the recycled water pipelines and outlines the process for sizing pipelines. For planning purposes, 12-inch HDPE pipe would be used as the default size for all distribution pipelines, 24-inch HDPE pipe would be used as the default size for all transmission pipelines, and 8-inch diameter pipe would generally be used for service laterals. The highest priority section that connects other transmission loops, Marshall Street B, would be a 30-inch diameter pipeline.

As the City expands the recycled water system, an increase in additional recycled water storage and pumps would be required to meet the growing demands and effectively manage fluctuations in peak recycled water usage throughout the day. Additional recycled water storage and pumps would improve service reliability for recycled water customers who rely upon recycled water for toilet flushing and other commercial type uses. The City is considering two concepts for recycled water storage: (1) a single 2 million gallon buried concrete recycled water tank, or (2) two 1 million gallon, above-ground steel recycled water tanks. A vacant 3.8-acre lot between Blomquist Street and Maple Street, opposite the Redwood City Police Station, would serve as a potential location for a new recycled water storage tank(s). At this location, regardless of the storage method used, the City would also build a new pump station with associated improvements and utility connections to help manage system pressures and a new chlorine boosting system to improve water quality in the recycled water system.

Furthermore, enhancing potable water storage would improve reliability by providing a backup supply for dual-plumbed buildings in the event that recycled water supply is unavailable due to disruptions in tertiary treatment at SVCW. The additional potable water storage would serve a critical role in supporting emergency needs and fire suppression efforts in various portions of Redwood City, ensuring greater resiliency and continuity of service. The City is considering two concepts for potable water storage: (1) 1-million-gallon steel water tank above ground, or (2) 3-million-gallon steel water tank above ground. The proposed potable tank would be located at an approximate 10-acre parcel currently used by Redwood City Public Works for office space and storage of vehicles, equipment, and construction materials at 1400 Broadway. At this location, regardless of the storage method used, the City would also build a new pump station with associated improvements and utility connections.

Construction of pipelines would occur primarily within existing roadway and public easement rights-of-way. Most pipeline construction would be performed by the "trench-and-cover" method, which involves excavating an open trench, laying pipe, and replacing and compacting soil to refill the trench. For construction in paved areas, the trench area is then repaved. For construction in landscaped areas, the landscaping would be replaced. Construction equipment would typically occupy approximately a 20- to 26-foot-wide segment of the roadway.

Construction of some pipeline segments would utilize the bore-and-jack method of construction. This method is typically used for pipeline crossings of railroad tracks, creeks or other water bodies, major transportation facilities (such as highways), or congested street intersections. This method involves

City of Redwood City
August 2025

Recycled Water Master Plan Phase 2 Project
Notice of Preparation



Notice of Preparation of a Draft Environmental Impact Report for the Proposed Recycled Water Master Plan Phase 2 Project

excavating a pit on either side of the area to be crossed. The pipeline is then installed by “jacking” or tunneling between the two pits. This method is more time-consuming than the trench and cover technique but allows installation of pipeline without disrupting the surface along the whole length of the pipe.

An alternative pipeline construction method may include directional boring, also known as Horizontal Directional Drilling (HDD). This is a trenchless method for installing underground pipelines by drilling a pilot hole along a desired path, enlarging it, and then pulling the pipeline into place, minimizing surface disturbance.

EIR Scope

The City has determined, pursuant to CEQA, that the RWMP Phase 2 will require the preparation of a Program EIR to evaluate potential environmental impacts that could result from implementation of the proposed project. The EIR will evaluate the following CEQA topics:

- Aesthetics
- Agriculture and Forestry Resources
- Air Quality
- Biological Resources
- Cultural Resources
- Energy
- Geology and Soils
- Greenhouse Gas Emissions
- Hazards and Hazardous Materials
- Hydrology and Water Quality
- Land Use and Planning
- Mineral Resources
- Noise
- Population and Housing
- Public Services
- Recreation
- Transportation
- Tribal Cultural Resources
- Utilities and Service Systems
- Wildfire

The EIR will also address:

Cumulative Impacts. The cumulative analysis will assess where cumulative impacts are significant compared to baseline conditions, and when the RWMPs’ Phase 2 incremental effect is cumulatively considerable. The cumulative impact analysis will rely on a combined projections/list-based approach.

Alternatives. Pursuant to *State CEQA Guidelines* Section 15126.6, the EIR will also identify and conduct a comparative evaluation of a reasonable range of alternatives to the RWMP Phase 2. The alternatives assessment in the EIR will consider alternatives to the proposed project, including the CEQA-required no-project and environmentally superior alternatives.



Notice of Preparation of a Draft Environmental Impact Report for the Proposed Recycled Water Master Plan Phase 2 Project

EIR Purpose

The purpose of an Environmental Impact Report is to inform decision-makers and the general public of the environmental impacts of a proposed project that an agency (in this case, the City of Redwood City) may implement or approve. The EIR process is intended to: (1) provide information sufficient to evaluate a project and its potential for significant impacts on the environment; (2) examine methods (e.g., project-specific mitigations, uniformly applied development regulations) for avoiding or reducing significant impacts; and (3) consider alternatives to the proposed project.

In accordance with CEQA, the EIR will include the following:

- A summary of the project, its potential significant environmental impacts, and mitigations required to avoid or reduce those significant impacts;
- A project description;
- A description of the existing environmental setting, potential environmental impacts, and mitigations for the project;
- Alternatives to the proposed project; and
- Other environmental consequences of the project including:
 - (1) growth-inducing effects,
 - (2) significant unavoidable impacts,
 - (3) irreversible environmental changes,
 - (4) cumulative impacts, and
 - (5) effects found not to be significant.

As discussed above, the EIR will be a program EIR pursuant to Section 15168 of the *State CEQA Guidelines*, as described in CEQA Guidelines Section 15168 (c)(2) or further review is required.

Required Approvals

At this time, it is anticipated that implementation of the Project would require the discretionary approvals as identified in Table 1. The EIR will confirm the required approvals.



**Notice of Preparation of a Draft Environmental
Impact Report for the Proposed Recycled Water Master Plan
Phase 2 Project**

Table 1: Anticipated Approvals and Actions for Project Implementation

Lead Agency	Permit/Approval/Action
City of Redwood City	• Certification of the Environmental Impact Report (EIR) • Adoption and implementation of a Mitigation Monitoring and Reporting Program • Adoption of Findings and Statement of Overriding Considerations • Adoption of the Phase 2 Recycled Water Master Plan • Fire Department – Certified Unified Program Agency (CUPA) • Public Works - Water use requirements and cross-connection control • Engineering Department – Design approvals, Traffic Plans and Public Infrastructure
Responsible Agencies/Entities	
San Francisco Regional Water Quality Control Board (RWQCB)	• Approval of National Pollutant Discharge Elimination System (NPDES) permit for stormwater discharge • Clean Water Act Section 401 Certification
State Water Resources Control Board, Division of Drinking Water (DDW)	• Water System Permit amendments for new tanks and pump stations
California Department of Fish and Wildlife	• Lake or Streambed Alteration Agreement, Endangered Species Act, Riparian Vegetation Removal
San Francisco Bay Conservation and Development Commission (BCDC)	• BCDC Permit
Bay Area Air Quality Management District (Bay Area Air District)	• Permits for utility equipment
Department of Toxic Substances Control	• Hazardous Materials and Storage
Department of Health Services	• Review and approval of Engineer's Report
Caltrans and Peninsula Joint Powers Board (JPB)	• Encroachment Permit: Caltrans crossings
California Occupational Safety and Health Administration (Cal/OSHA), Mines and Tunnels	• Trenchless construction (e.g., jack/bore) for large diameter pipes or casing

Source: Compiled by LSA (2025).

FIGURE 1

Redwood City Existing Recycled Water System Service Area

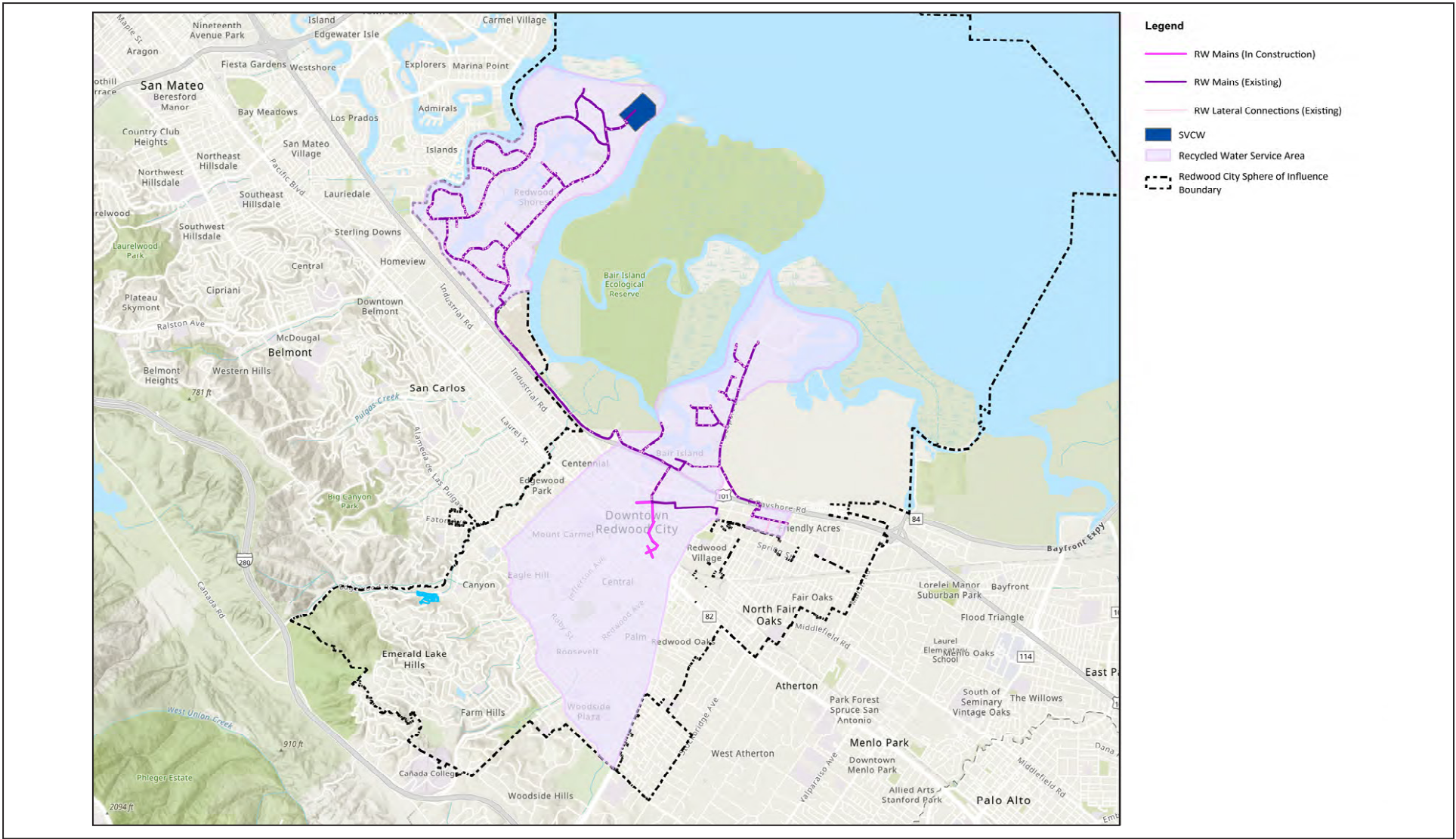
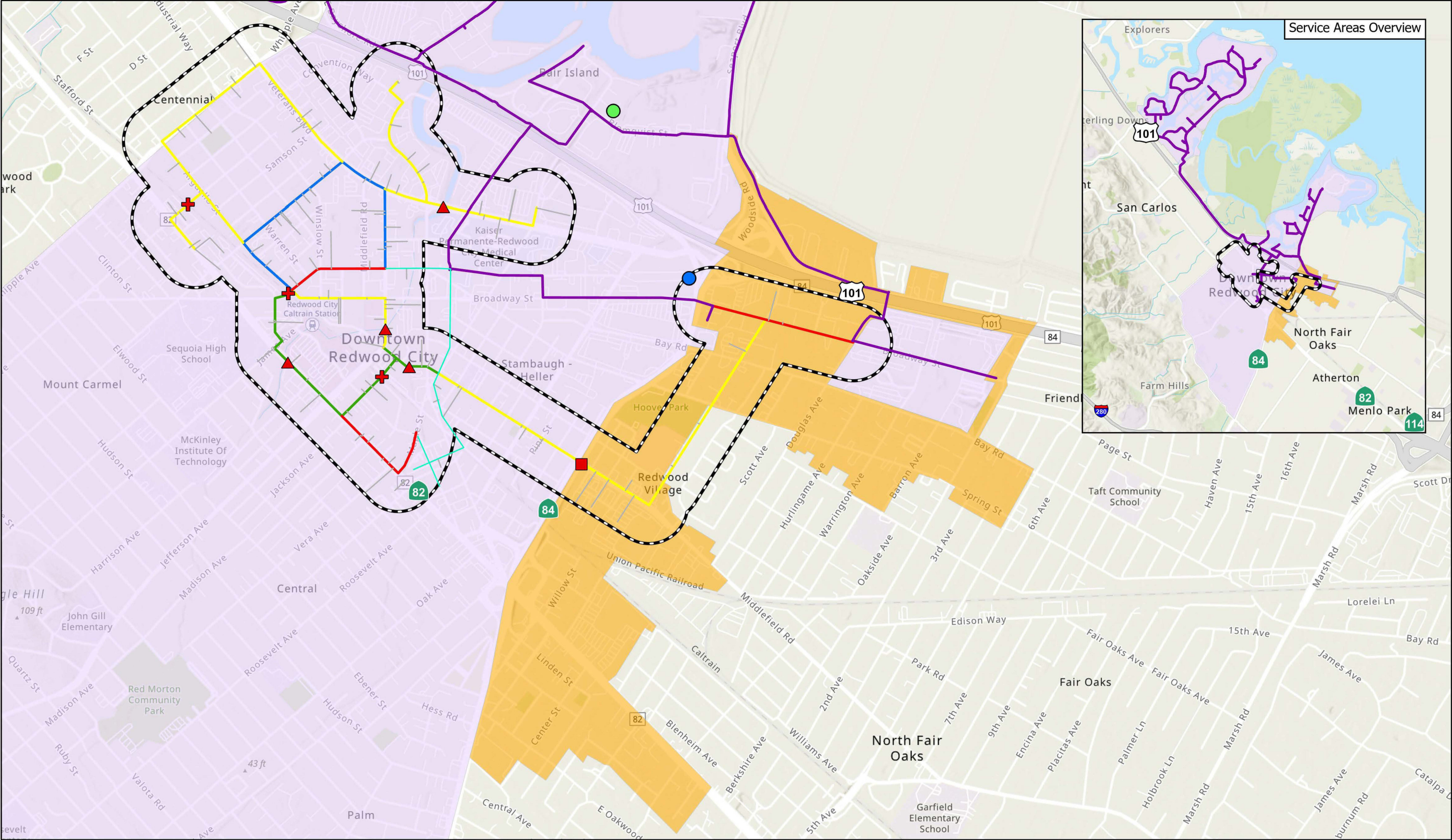


FIGURE 2

Proposed Phase 2 Recycled Water System Expansion





0 600 1200
Feet

SOURCE: Esri (2024), City of Redwood City (August 2023)
I:\R\WC2201.03\GIS\Pro\Recycled Water Phase 2 Master Plan Project.aprx (7/17/2025)

Recycled Water Service Area

East Market Assessment Service Area (Proposed Additional Recycled Water Service Area)

Demand Buffer (Proposed Phase 2 Expansion Area/Project Area)

RW New Northern Loop Transmission Pipelines

RW New Downtown Loop Transmission Pipelines

RW New Distribution Pipelines

RW New Transmission Pipelines

Proposed Lateral

RW Mains (Existing)

RW Mains (In Construction)

Potential Potable Water Tank Location

Potential Recycled Water Tank Location

Caltrain Crossing

Creek Crossing

Highway Crossing

Recycled Water Master Plan Phase 2 Project

ATTACHMENT

NOP Comments

From: [Chien, Tsungchu@Waterboards](mailto:Chien.Tsungchu@Waterboards)
To: [PWS-Justin Chapel](#)
Subject: A new water storage tank at 1400 Boardway? - City of Redwood City (CA4110022)
Date: Tuesday, August 12, 2025 2:23:16 PM
Attachments: [image001.png](#)

Hi Justin,

Our office was informed by our Division of Financial Assistance (DFA) that the City's [Recycled Water Master Plan Phase 2 Project](#) also included an installation of a new water storage tank (either 1 MG or 3 MG) and its pump station at 1400 Broadway.
However, our office hasn't received any info regarding this project.

What is the current status of this project? And what is the size of the proposed water storage tank? Please let me know so that our office can prepare a permit amendment packet for the City.
Thank you.



Tsungchu Chien, P.E.

Water Resources Control Engineer

DIVISION OF DRINKING WATER

Northern California Drinking Water Field Operations Branch | North Coastal Section
Santa Clara District

Email: Tsungchu.Chien@waterboards.ca.gov

Phone: +1 (510) 620-3461

State Water Resources Control Board

850 Marina Bay Parkway Building P, Richmond CA 94804

Website: www.waterboards.ca.gov

Follow: [X](#) | [Instagram](#) | [Facebook](#) | [LinkedIn](#)

California Department of Transportation

DISTRICT 4
OFFICE OF REGIONAL AND COMMUNITY PLANNING
P.O. BOX 23660, MS-10D | OAKLAND, CA 94623-0660
www.dot.ca.gov



August 29, 2025

SCH #: 2025080058
GTS #: 04-SM-2025-00711
GTS ID: 37467
Co/Rt/Pm: SM/VAR/VAR

Justin Chapel, Superintendent – Water Division
City of Redwood City, Public Works
1400 Broadway
Redwood City, CA 94063

Re: Recycled Water Master Plan Phase 2 Project – Notice of Preparation (NOP) of a Draft Environmental Impact Report (DEIR)

Dear Justin Chapel:

Thank you for including the California Department of Transportation (Caltrans) in the environmental review process for the Recycled Water Master Plan Phase 2 Project. The Local Development Review (LDR) Program reviews land use projects and plans to ensure consistency with our mission and state planning priorities. The following comments are based on our review of the August 2025 NOP.

Project Understanding

The proposed project would develop a logical planning framework for the City of Redwood City to expand its recycled water system to include the Phase 2 East market Assessment Service Area. The purpose of the project is to develop a planning document within which the City identifies a cost-effective, phased approach to expansion and priority areas of improvement to the system. The expansion is proposed include extending the City's existing Recycled Water pipeline system to the new service area as well as construction of back up water storage tanks and pumps. Work for the proposed pipeline expansion is within the vicinity of U.S. Route 101, State Route 84, and State Route 82.

Construction-Related Impacts

Potential impacts to the State Right-of-Way (ROW) from project-related temporary access points should be analyzed. Mitigation for significant impacts due to construction and noise should be identified. Project work that requires movement of oversized or excessive load vehicles on State roadways requires a transportation

permit that is issued by Caltrans. To apply, please visit Caltrans Transportation Permits ([link](#)).

Prior to construction, coordination may be required with Caltrans to develop a Transportation Management Plan (TMP) to reduce construction traffic impacts to the State Transportation Network (STN).

Equitable Access

If any Caltrans facilities are impacted by the project, those facilities must meet Americans with Disabilities Act (ADA) Standards after project completion. As well, the project must maintain bicycle and pedestrian access during construction. These access considerations support Caltrans' equity mission to provide a safe, sustainable, and equitable transportation network for all users.

Encroachment Permit

Please be advised that any temporary or permanent work including traffic control that encroaches in, under, or over any portion of the State highway ROW requires a Caltrans-issued encroachment permit.

The Office of Encroachment Permits requires 100% complete design plans and supporting documents to review and circulate the permit application package. The review and approval of encroachment projects is managed through the Encroachment Permits Office Process (EPOP) or the Project Delivery Quality Management Assessment Process (QMAP), depending on project scope, complexity, and completeness of the application. Please use the following resources to determine the appropriate review process:

- TR-0416 Applicant's Checklist ([link](#))
- Caltrans Encroachment Projects Processes – Information Video ([link](#))
- Flowchart, Figure 1.2 in Section 108, Overview of the Encroachment Review Process, of Chapter 100 – The Permit Function, Caltrans Encroachment Permit Manual ([link](#))

The permit approval typically takes less than 60 days, but may take longer depending on the project scope, size, complexity, completeness, compliance with applicable laws, standards, policies, and quality of the permit package submitted. Projects requiring exceptions to design standards, exceptions to encroachment policies, or external agency approvals may need more time to process.

To obtain more information and download the permit application, please visit Caltrans Encroachment Permits ([link](#)).

Justin Chapel, Superintendent – Water Division
August 29, 2025
Page 3

Thank you again for including Caltrans in the environmental review process. Should you have any questions regarding this letter, please contact Luana Chen, Transportation Planner, via LDR-D4@dot.ca.gov. For future early coordination opportunities or project referrals, please visit Caltrans LDR website ([link](#)) or contact LDR-D4@dot.ca.gov.

Sincerely,

A handwritten signature in black ink, appearing to read 'Luo Yunsheng'.

YUNSHENG LUO
Branch Chief, Local Development Review
Office of Regional and Community Planning

c: State Clearinghouse



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Bay Delta Region
2825 Cordelia Road, Suite 100
Fairfield, CA 94534
(707) 428-2002
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



August 13, 2025

Melinda Hue
City of Redwood City
1017 Middlefield Road
Redwood City, CA 94063
MHue@redwoodcity.org

Subject: Recycled Water Master Plan Phase 2 Project, Notice of Preparation of a Draft Program Environmental Impact Report, SCH No. 2025080058, Redwood City, San Mateo County

Dear Melinda Hue:

The California Department of Fish and Wildlife (CDFW) has reviewed Redwood City's (City) Notice of Preparation (NOP) of a Draft Program Environmental Impact Report (EIR) for the Recycled Water Master Plan (RWMP) Phase 2 Project (Project) pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect fish and wildlife resources of the State. Please be advised, by law, CDFW may be required to carry out or approve aspects of the Project through the exercise of its own regulatory authority under the Fish and Game Code.

CDFW is providing the City, as the lead agency, with specific detail about the scope and content of the environmental information related to CDFW's area of statutory responsibility that must be included in the program EIR (Cal. Code Regs., tit. 14, § 15082, subd. (b)).

CDFW ROLE

CDFW is California's **Trustee Agency** for fish and wildlife resources and holds those resources in trust by statute for all the people of the State. (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a).) CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species. (*Id.*, § 1802.) For purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

CDFW is also submitting comments as a **Responsible Agency** under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381.) CDFW expects that it may need to exercise regulatory authority over the Project pursuant to the Fish and Game Code. For example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority, if the Project impacts the bed, channel or bank of any river, stream or lake within the State (Fish & G. Code, § 1600 et seq.). Likewise, to the extent the Project may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), the project proponent may seek related take authorization as provided by the Fish and Game Code.

REGULATORY REQUIREMENTS

¹ CEQA is codified in the California Public Resources Code in section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

Melinda Hue, Principal Planner – CEQA Coordinator
Redwood City
August 13, 2025
Page 2

California Endangered Species Act

A CESA Incidental Take Permit (ITP) must be obtained from CDFW if the Project has the potential to result in “take” of plants or animals listed under CESA, either during construction or over the life of the Project. Under CESA, “take” means “hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill.” (Fish & G. Code, § 86.) CDFW’s issuance of an ITP is subject to CEQA and to facilitate permit issuance, any project modifications and mitigation measures must be incorporated into the CEQA document analysis, discussion, and mitigation monitoring and reporting program. If the Project will impact CESA listed species, early consultation is encouraged, as significant modification to the Project and mitigation measures may be required in order to obtain a CESA Permit.

CEQA requires a mandatory finding of significance if a project is likely to substantially impact threatened or endangered species. Pub. Resources Code, §§ 21001, subd. (c) & 21083; CEQA Guidelines, §§ 15380, 15064 & 15065.) In addition, pursuant to CEQA, the lead agency cannot approve a project unless all impacts to the environment are avoided or mitigated to less-than-significant levels, or the lead agency makes and supports findings of overriding consideration for impacts that remain significant despite the implementation of all feasible mitigation. Findings of consideration under CEQA, however, do not eliminate the Project proponent’s obligation to comply with the Fish and Game Code.

Lake and Streambed Alteration

CDFW requires an LSA Notification, pursuant to Fish and Game Code section 1600 et seq., for Project activities affecting river, lakes or streams and associated riparian habitat. Notification is required for any activity that may substantially divert or obstruct the natural flow; change or use material from the bed, channel, or bank (including associated riparian or wetland resources); or deposit or dispose of material where it may pass into a river, lake, or stream. Work within ephemeral streams, drainage ditches, washes, watercourses with a subsurface flow, and floodplains is generally subject to notification requirements. In addition, infrastructure installed beneath such aquatic features, such as through hydraulic directional drilling, is also generally subject to notification requirements. Therefore, any impact to the mainstems, tributaries, or floodplains or associated riparian habitat caused by the proposed Project will likely require an LSA Notification. CDFW may not execute a final LSA Agreement until it has considered the final program EIR and complied with its responsibilities as a responsible agency under CEQA.

Migratory Birds and Raptors

CDFW has authority over actions that may result in the disturbance or destruction of active bird nest sites or the unauthorized take of birds. Fish and Game Code sections protecting birds, their eggs, and nests include section 3503 (regarding unlawful take, possession, or needless destruction of the nests or eggs of any bird), section 3503.5 (regarding the take, possession, or destruction of any birds-of-prey or their nests or eggs), and section 3513 (regarding unlawful take of any migratory nongame bird). Migratory birds are also protected under the federal Migratory Bird Treaty Act.

PROJECT DESCRIPTION AND LOCATION SUMMARY

Proponent: Redwood City

Objective: The objective of the Project is to provide a logical planning framework for the City to expand the existing Phase 1 recycled water system to serve additional customers with the available recycled water supply. Specifically, the proposed Project would establish a plan to: (a) expand the City’s Recycled Water Service area to include the East market Assessment Service Area, which would then be subject to the Recycled

Melinda Hue, Principal Planner – CEQA Coordinator
Redwood City
August 13, 2025
Page 3

Water Use Ordinance, (b) expand the City’s Recycled Water pipeline system in the Central and East areas, which is home to a higher concentration of high-demand customers in close proximity as shown in Figure 2; and (c) include back up water storage tanks and pumps. The RWMP Phase 2 is intended to function as a planning document for the City as expansion opportunities for the recycled water system are considered.

Location: Redwood City, San Mateo County, citywide project, and Latitude 37.487373, Longitude -122.225488.

Timeframe: To be determined

The CEQA Guidelines (§§15124 & 15378) require that the draft program EIR incorporate a full Project description, including reasonably foreseeable future phases of the Project, and that contains sufficient information to evaluate and review the Project’s environmental impact. Please include a complete description of the following Project components in the Project description including, but not limited to, the below information.

- Land use changes resulting from, for example, rezoning certain areas.
- Footprints of permanent Project features and temporarily impacted areas, such as staging areas and access routes.
- Area and plans for any proposed buildings/structures, ground disturbing activities, fencing, paving, stationary machinery, landscaping, and stormwater systems.
- Operational features of the Project, including level of anticipated human presence (describe seasonal or daily peaks in activity, if relevant), artificial lighting/light reflection, noise, traffic generation, and other features.
- Construction schedule, activities, equipment, and crew sizes.

ENVIRONMENTAL SETTING

Sufficient information regarding the environmental setting is necessary to understand any potentially significant impacts on the environment of the proposed Project and any alternatives identified in the draft program EIR (CEQA Guidelines, §§15125 & 15360). CDFW recommends the draft program EIR provide baseline habitat assessments for special-status plant, fish and wildlife species located and potentially located within the Project area and surrounding lands, including all rare, threatened, and endangered species (CEQA Guidelines, §15380). The draft program EIR should describe aquatic habitats, such as wetlands or waters of the U.S. or State, and any sensitive natural communities or riparian habitat occurring on or adjacent to the Project site (for sensitive natural communities see:<https://wildlife.ca.gov/Data/VegCAMP/NaturalCommunities#sensitive%20natural%20communities>), and any stream or wetland set back distances the City may require. Fully protected, threatened or endangered, candidate, and other special-status species or sensitive natural communities that are known to occur, or have the potential to occur in or near the Project site, include, but are not limited to:

Common Name	Scientific Name	Status
Steelhead – Central California Coast DPS	<i>Oncorhynchus mykiss irideus</i>	FT
Green sturgeon – southern DPS	<i>Acipenser medirostris</i>	FT
Longfin smelt	<i>Spirinchus thaleichthys</i>	ST
Crotch's bumble bee	<i>Bombus crotchii</i>	CE

Melinda Hue, Principal Planner – CEQA Coordinator
Redwood City
August 13, 2025
Page 4

Alameda song sparrow	<i>Melospiza melodia pusillula</i>	SSC
Western snowy plover	<i>Charadruis nivosus nivosus</i>	FT
California Ridgway’s rail	<i>Rallus obsoletus obsoletus</i>	FE, SE, SP
California black rail	<i>Laterallus jamaicensis coturniculus</i>	ST, SP
California least tern	<i>Sternula antillarum browni</i>	FE, SE, SP
Hoary bat	<i>Lasiurus cinereus</i>	SSC
Salt-marsh harvest mouse	<i>Reithrodontomys raviventris</i>	FE, SE, FP
Nesting birds		
Bats		
Rare plants		
Other aquatic and riparian species		
Notes: FT = listed as threatened under the federal Endangered Species Act; FE = listed as endangered under the federal Endangered Species Act; ST = listed as threatened under CESA; SE = listed as endangered under CESA; SSC = state species of special concern; SP = state listed as fully protected; CE = state candidate endangered.		

Habitat descriptions and species profiles included in the draft program EIR should include robust information from multiple sources: aerial imagery; historical and recent survey data; field reconnaissance; scientific literature and reports; U.S. Fish and Wildlife Service’s (USFWS) Information, Planning, and Consultation System; California Aquatic Resources Inventory; and findings from “positive occurrence” databases such as California Natural Diversity Database (CNDDB). Only with sufficient data and information can the City adequately assess which special-status species are likely to occur in the Project vicinity.

CDFW recommends surveys be conducted for special-status species with potential to occur, following recommended survey protocols if available. Survey and monitoring protocols and guidelines are available at:
<https://www.wildlife.ca.gov/Conservation/Survey-Protocols>.

Botanical surveys for special-status plant species, including those listed by the California Native Plant Society (<https://www.cnps.org/rare-plants>) should also be conducted during the blooming period for all sensitive plant species potentially occurring within the Project area and include the identification of reference populations. Please refer to CDFW protocols for surveying and evaluating impacts to rare plants available at: <https://www.wildlife.ca.gov/Conservation/Plants>.

IMPACT ANALYSIS AND MITIGATION MEASURES

The CEQA Guidelines (§15126.2) necessitate the draft program EIR discuss all direct and indirect impacts (temporary and permanent) that may occur with implementation of the Project. This includes evaluating and describing impacts such as:

- Land use changes that would reduce open space or increase residential or other land use involving increased development;
- Changes in hydrological conditions that could alter the timing and magnitude of streamflows both during construction and operation of the Project;
- Potential for impacts to special-status species;
- Loss or modification of breeding, nesting, dispersal and foraging habitat, including vegetation removal, alternation of soils and hydrology, and removal of habitat structural features (e.g., snags, roosts, overhanging banks);

Melinda Hue, Principal Planner – CEQA Coordinator
Redwood City
August 13, 2025
Page 5

- Permanent and temporary habitat disturbances associated with ground disturbance, noise, lighting, reflection, air pollution, traffic or human presence;
- Obstruction of movement corridors, fish passage, or access to water sources and other core habitat features;
- Water quality impacts resulting from construction and operation of the Project;
- Impacts both from construction and operation of the Project;
- Impacts to the bed, channel, and bank, in the reservoirs and creeks within and downstream of the Project; and
- Impacts to bed, channel, bank, and riparian habitat, and the direct and indirect effects to fish, wildlife, and their habitat.

The CEQA document also should identify existing and reasonably foreseeable future projects in the Project vicinity, disclose any cumulative impacts associated with these projects, determine the significance of each cumulative impact, and assess the significance of the Project’s contribution to each impact (CEQA Guidelines, §15355). Although a project’s impacts may be insignificant individually, its contributions to a cumulative impact may be considerable; a contribution to a significant cumulative impact (e.g., reduction of available habitat for a listed species) should be considered cumulatively considerable without mitigation to minimize or avoid the impact.

The CEQA Guidelines direct the City, as the lead agency, to consider and describe in the draft program EIR all feasible mitigation measures to avoid and/or mitigate potentially significant impacts of the Project on the environment based on comprehensive analysis of the potential direct, indirect, and cumulative impacts of the Project. (CEQA Guidelines, §§ 15021, 15063, 15071, 15126.2, 15126.4 & 15370.) This should include a discussion of take avoidance and minimization measures for special-status species, which are recommended to be developed in early consultation with the USFWS, the National Marine Fisheries Service and CDFW. These measures can then be incorporated as enforceable Project conditions to reduce potential impacts to biological resources to less-than-significant levels.

Fully protected species such as California Ridgway’s rail, California black rail, California least tern and salt-marsh harvest mouse may not be taken or possessed at any time and no licenses or permits may be issued for their take except as follows:

- Take is for necessary scientific research;
- Efforts to recover a fully protected, endangered, or threatened species, live capture and relocation of a bird species for the protection of livestock; or
- They are a covered species whose conservation and management is provided for in a Natural Community Conservation Plan (Fish and G. Code §§ 3511, 4700, 5050, & 5515).

COMMENTS AND RECOMMENDATIONS

Based on the information provided in the NOP CDFW offers the comments and recommendations below to assist the City in adequately identifying and/or mitigating the Project’s significant, or potentially significant, direct and/or indirect impacts on fish and wildlife (biological) resources. **These comments and recommendations are not an exhaustive list and CDFW may provide additional recommendations as more Project specific information is disclosed. The draft program EIR must include a full Project Description, Environmental Setting, and Impact Analysis and**

Melinda Hue, Principal Planner – CEQA Coordinator
Redwood City
August 13, 2025
Page 6

Mitigation Measures as outlined above. Editorial comments or other suggestions may also be included to improve the document.

COMMENT 1: Program EIR Subsequent Project Review

The Project EIR has been prepared as a draft program EIR pursuant to CEQA Guidelines Section 15168. While program EIRs have a necessarily broad scope, CDFW recommends providing as much information related to anticipated future activities as possible. CDFW recognizes that, pursuant to CEQA Guidelines section 15152, subdivision (c), if a Lead Agency is using the tiering process in connection with an EIR or large-scale planning approval, the development of detailed, site-specific information may not be feasible and can be deferred, in many instances, until such time as the Lead Agency prepares a future environmental document. This future environmental document would cover a project of a more limited geographical scale and is appropriate if the deferred information does not prevent adequate identification of significant effects of the planning approval at hand. The CEQA Guidelines section 15168, subdivision (c)(4) states, “Where the later activities involve site specific operations, the agency should use a written checklist or similar device to document the evaluation of the site and the activity to determine whether the environmental effects of the operation were within the scope of the program EIR.” Based on CEQA Guidelines section 15183.3 and associated Appendix N Checklist, and consistent with other program EIRs, CDFW recommends creating a procedure or checklist for evaluating subsequent Project impacts on biological resources to determine if they are within the scope of the program EIR or if an additional environmental document is warranted. This checklist should be included as an attachment to the program EIR. Future analysis should include all special-status species and sensitive habitat including, but not limited to, species considered rare, threatened, or endangered species pursuant to CEQA Guidelines, section 15380.

When used appropriately, the checklist should be accompanied by enough relevant information and reasonable inferences to support a “within the scope” of the program EIR conclusion. For subsequent Project activities that may affect sensitive biological resources, a site-specific analysis should be prepared by a Qualified Biologist to provide the necessary supporting information. In addition, the checklist should cite the specific portions of the EIR, including page and section references, containing the analysis of the subsequent Project activities’ significant effects and indicate whether it incorporates all applicable mitigation measures from the EIR.

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to prepare subsequent CEQA documents or to make supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (d) & (e).) Accordingly, please report any special-status species and natural communities detected during Project surveys to the CNDDB. The CNDDB field survey form can be filled out and submitted online here: <https://wildlife.ca.gov/Data/CNDDB/Submitting-Data>. The types of information reported to CNDDB can be found here: <https://www.wildlife.ca.gov/Data/CNDDB/Plants-and-Animals>.

ENVIRONMENTAL DOCUMENT FILING FEES

CDFW anticipates that the proposed Project, will have an impact on fish and/or wildlife, and assessment of environmental document filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the environmental document filing fee is required in order for the underlying project approval to be operative, vested,

Melinda Hue, Principal Planner – CEQA Coordinator
Redwood City
August 13, 2025
Page 7

and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089.)

CONCLUSION

CDFW appreciates the opportunity to comment on the NOP in order to assist the City in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Shannon Husband, Environmental Scientist, at (707) 336-1364 or Shannon.Husband@wildlife.ca.gov; or Wes Stokes, Senior Environmental Scientist (Supervisory) at Wesley.Stokes@wildlife.ca.gov.

Sincerely,

DocuSigned by:
Erin Chappell
B77E9A6211EF486...
Erin Chappell
Regional Manager
Bay Delta Region

ec: Office of Land Use and Climate Innovation (SCH No. 2025080058)



NATIVE AMERICAN HERITAGE COMMISSION

August 12, 2025

Melinda Hue
City of Redwood City
1017 Middlefield Road
Redwood City CA 94063

CHAIRPERSON
Reginald Pagaling
Chumash

VICE-CHAIRPERSON
Buffy McQuillen
Yokayo Pomo, Yuki,
Nomlaki

SECRETARY
Isaac Bojorquez
Ohlone-Costanoan

PARLIAMENTARIAN
Wayne Nelson
Luiseño

COMMISSIONER
Sara Dutschke
Miwok

COMMISSIONER
Stanley Rodriguez
Kumeyaay

COMMISSIONER
Bennae Calac
Pauma-Yuima Band of
Luiseño Indians

COMMISSIONER
Vacant

COMMISSIONER
Vacant

ACTING EXECUTIVE
SECRETARY
Michelle Carr

NAHC HEADQUARTERS
1550 Harbor Boulevard
Suite 100
West Sacramento,
California 95691
(916) 373-3710
nahc@nahc.ca.gov

Re 2025080058 Recycled Water Master Plan Phase 2 Project San Mateo County

Dear Ms. Hue:

The Native American Heritage Commission (NAHC) has received the Notice of Preparation (NOP), Draft Environmental Impact Report (DEIR) or Early Consultation for the project referenced above. The California Environmental Quality Act (CEQA) (Pub. Resources Code §21000 et seq.), specifically Public Resources Code §21084.1, states that a project that may cause a substantial adverse change in the significance of a historical resource, is a project that may have a significant effect on the environment. (Pub. Resources Code § 21084.1; Cal. Code Regs., tit.14, §15064.5 (b) (CEQA Guidelines §15064.5 (b)). If there is substantial evidence, in light of the whole record before a lead agency, that a project may have a significant effect on the environment, an Environmental Impact Report (EIR) shall be prepared. (Pub. Resources Code §21080 (d); Cal. Code Regs., tit. 14, § 5064 subd.(a)(1) (CEQA Guidelines §15064 (a)(1)). In order to determine whether a project will cause a substantial adverse change in the significance of a historical resource, a lead agency will need to determine whether there are historical resources within the area of potential effect (APE).

CEQA was amended significantly in 2014. Assembly Bill 52 (Gatto, Chapter 532, Statutes of 2014) (AB 52) amended CEQA to create a separate category of cultural resources, "tribal cultural resources" (Pub. Resources Code §21074) and provides that a project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource is a project that may have a significant effect on the environment. (Pub. Resources Code §21084.2). Public agencies shall, when feasible, avoid damaging effects to any tribal cultural resource. (Pub. Resources Code §21084.3 (a)). **AB 52 applies to any project for which a notice of preparation, a notice of negative declaration, or a mitigated negative declaration is filed on or after July 1, 2015.** If your project involves the adoption of or amendment to a general plan or a specific plan, or the designation or proposed designation of open space, on or after March 1, 2005, it may also be subject to Senate Bill 18 (Burton, Chapter 905, Statutes of 2004) (SB 18). **Both SB 18 and AB 52 have tribal consultation requirements.** If your project is also subject to the federal National Environmental Policy Act (42 U.S.C. § 4321 et seq.) (NEPA), the tribal consultation requirements of Section 106 of the National Historic Preservation Act of 1966 (154 U.S.C. 300101, 36 C.F.R. §800 et seq.) may also apply.

The NAHC recommends consultation with California Native American tribes that are traditionally and culturally affiliated with the geographic area of your proposed project as early as possible in order to avoid inadvertent discoveries of Native American human remains and best protect tribal cultural resources. Below is a brief summary of portions of AB 52 and SB 18 as well as the NAHC's recommendations for conducting cultural resources assessments.

Consult your legal counsel about compliance with AB 52 and SB 18 as well as compliance with any other applicable laws.

AB 52

AB 52 has added to CEQA the additional requirements listed below, along with many other requirements:

1. Fourteen Day Period to Provide Notice of Completion of an Application/Decision to Undertake a Project:

Within fourteen (14) days of determining that an application for a project is complete or of a decision by a public agency to undertake a project, a lead agency shall provide formal notification to a designated contact of, or tribal representative of, traditionally and culturally affiliated California Native American tribes that have requested notice, to be accomplished by at least one written notice that includes:

- a. A brief description of the project.
- b. The lead agency contact information.
- c. Notification that the California Native American tribe has 30 days to request consultation. (Pub. Resources Code §21080.3.1 (d)).
- d. A "California Native American tribe" is defined 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 Statutes of 2004 (SB 18). (Pub. Resources Code §21073).

2. Begin Consultation Within 30 Days of Receiving a Tribe's Request for Consultation and Before Releasing a Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report: A lead agency shall begin the consultation process within 30 days of receiving a request for consultation from a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project. (Pub. Resources Code §21080.3.1, subds. (d) and (e)) and prior to the release of a negative declaration, mitigated negative declaration or Environmental Impact Report. (Pub. Resources Code §21080.3.1(b)).

- a. For purposes of AB 52, "consultation shall have the same meaning as provided in Gov. Code §65352.4 (SB 18). (Pub. Resources Code §21080.3.1 (b)).

3. Mandatory Topics of Consultation If Requested by a Tribe: The following topics of consultation, if a tribe requests to discuss them, are mandatory topics of consultation:

- a. Alternatives to the project.
- b. Recommended mitigation measures.
- c. Significant effects. (Pub. Resources Code §21080.3.2 (a)).

4. Discretionary Topics of Consultation: The following topics are discretionary topics of consultation:

- a. Type of environmental review necessary.
- b. Significance of the tribal cultural resources.
- c. Significance of the project's impacts on tribal cultural resources.
- d. If necessary, project alternatives or appropriate measures for preservation or mitigation that the tribe may recommend to the lead agency. (Pub. Resources Code §21080.3.2 (a)).

5. Confidentiality of Information Submitted by a Tribe During the Environmental Review Process: With some exceptions, any information, including but not limited to, the location, description, and use of tribal cultural resources submitted by a California Native American tribe during the environmental review process shall not be included in the environmental document or otherwise disclosed by the lead agency or any other public agency to the public, consistent with Government Code §6254 (r) and §6254.10. Any information submitted by a California Native American tribe during the consultation or environmental review process shall be published in a confidential appendix to the environmental document unless the tribe that provided the information consents, in writing, to the disclosure of some or all of the information to the public. (Pub. Resources Code §21082.3 (c)(1)).

6. Discussion of Impacts to Tribal Cultural Resources in the Environmental Document: If a project may have a significant impact on a tribal cultural resource, the lead agency's environmental document shall discuss both of the following:

- a. Whether the proposed project has a significant impact on an identified tribal cultural resource.
- b. Whether feasible alternatives or mitigation measures, including those measures that may be agreed to pursuant to Public Resources Code §21082.3, subdivision (a), avoid or substantially lessen the impact on the identified tribal cultural resource. (Pub. Resources Code §21082.3 (b)).

- 7. Conclusion of Consultation:** Consultation with a tribe shall be considered concluded when either of the following occurs:
- The parties agree to measures to mitigate or avoid a significant effect, if a significant effect exists, on a tribal cultural resource; or
 - A party, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached. (Pub. Resources Code §21080.3.2 (b)).
- 8. Recommending Mitigation Measures Agreed Upon in Consultation in the Environmental Document:** Any mitigation measures agreed upon in the consultation conducted pursuant to Public Resources Code §21080.3.2 shall be recommended for inclusion in the environmental document and in an adopted mitigation monitoring and reporting program, if determined to avoid or lessen the impact pursuant to Public Resources Code §21082.3, subdivision (b), paragraph 2, and shall be fully enforceable. (Pub. Resources Code §21082.3 (a)).
- 9. Required Consideration of Feasible Mitigation:** If mitigation measures recommended by the staff of the lead agency as a result of the consultation process are not included in the environmental document or if there are no agreed upon mitigation measures at the conclusion of consultation, or if consultation does not occur, and if substantial evidence demonstrates that a project will cause a significant effect to a tribal cultural resource, the lead agency shall consider feasible mitigation pursuant to Public Resources Code §21084.3 (b). (Pub. Resources Code §21082.3 (e)).
- 10. Examples of Mitigation Measures That, If Feasible, May Be Considered to Avoid or Minimize Significant Adverse Impacts to Tribal Cultural Resources:**
- Avoidance and preservation of the resources in place, including, but not limited to:
 - Planning and construction to avoid the resources and protect the cultural and natural context.
 - Planning greenspace, parks, or other open space, to incorporate the resources with culturally appropriate protection and management criteria.
 - Treating the resource with culturally appropriate dignity, taking into account the tribal cultural values and meaning of the resource, including, but not limited to, the following:
 - Protecting the cultural character and integrity of the resource.
 - Protecting the traditional use of the resource.
 - Protecting the confidentiality of the resource.
 - Permanent conservation easements or other interests in real property, with culturally appropriate management criteria for the purposes of preserving or utilizing the resources or places.
 - Protecting the resource. (Pub. Resource Code §21084.3 (b)).
 - Please note that a federally recognized California Native American tribe or a non-federally recognized California Native American tribe that is on the contact list maintained by the NAHC to protect a California prehistoric, archaeological, cultural, spiritual, or ceremonial place may acquire and hold conservation easements if the conservation easement is voluntarily conveyed. (Civ. Code §815.3 (c)).
 - Please note that it is the policy of the state that Native American remains and associated grave artifacts shall be repatriated. (Pub. Resources Code §5097.991).
- 11. Prerequisites for Certifying an Environmental Impact Report or Adopting a Mitigated Negative Declaration or Negative Declaration with a Significant Impact on an Identified Tribal Cultural Resource:** An Environmental Impact Report may not be certified, nor may a mitigated negative declaration or a negative declaration be adopted unless one of the following occurs:
- The consultation process between the tribes and the lead agency has occurred as provided in Public Resources Code §21080.3.1 and §21080.3.2 and concluded pursuant to Public Resources Code §21080.3.2.
 - The tribe that requested consultation failed to provide comments to the lead agency or otherwise failed to engage in the consultation process.
 - The lead agency provided notice of the project to the tribe in compliance with Public Resources Code §21080.3.1 (d) and the tribe failed to request consultation within 30 days. (Pub. Resources Code §21082.3 (d)).

The NAHC's PowerPoint presentation titled, "Tribal Consultation Under AB 52: Requirements and Best Practices" may be found online at: http://nahc.ca.gov/wp-content/uploads/2015/10/AB52TribalConsultation_CalEPAPDF.pdf

SB 18

SB 18 applies to local governments and requires local governments to contact, provide notice to, refer plans to, and consult with tribes prior to the adoption or amendment of a general plan or a specific plan, or the designation of open space. (Gov. Code §65352.3). Local governments should consult the Governor's Office of Planning and Research's "Tribal Consultation Guidelines," which can be found online at: https://www.opr.ca.gov/docs/09_14_05_Updated_Guidelines_922.pdf.

Some of SB 18's provisions include:

1. **Tribal Consultation:** If a local government considers a proposal to adopt or amend a general plan or a specific plan, or to designate open space it is required to contact the appropriate tribes identified by the NAHC by requesting a "Tribal Consultation List." If a tribe, once contacted, requests consultation the local government must consult with the tribe on the plan proposal. **A tribe has 90 days from the date of receipt of notification to request consultation unless a shorter timeframe has been agreed to by the tribe.** (Gov. Code §65352.3 (a)(2)).
2. **No Statutory Time Limit on SB 18 Tribal Consultation.** There is no statutory time limit on SB 18 tribal consultation.
3. **Confidentiality:** Consistent with the guidelines developed and adopted by the Office of Planning and Research pursuant to Gov. Code §65040.2, the city or county shall protect the confidentiality of the information concerning the specific identity, location, character, and use of places, features and objects described in Public Resources Code §5097.9 and §5097.993 that are within the city's or county's jurisdiction. (Gov. Code §65352.3 (b)).
4. **Conclusion of SB 18 Tribal Consultation:** Consultation should be concluded at the point in which:
 - a. The parties to the consultation come to a mutual agreement concerning the appropriate measures for preservation or mitigation; or
 - b. Either the local government or the tribe, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached concerning the appropriate measures of preservation or mitigation. (Tribal Consultation Guidelines, Governor's Office of Planning and Research (2005) at p. 18).

Agencies should be aware that neither AB 52 nor SB 18 precludes agencies from initiating tribal consultation with tribes that are traditionally and culturally affiliated with their jurisdictions before the timeframes provided in AB 52 and SB 18. For that reason, we urge you to continue to request Native American Tribal Contact Lists and "Sacred Lands File" searches from the NAHC. The request forms can be found online at: <http://nahc.ca.gov/resources/forms/>.

NAHC Recommendations for Cultural Resources Assessments

To adequately assess the existence and significance of tribal cultural resources and plan for avoidance, preservation in place, or barring both, mitigation of project-related impacts to tribal cultural resources, the NAHC recommends the following actions:

1. Contact the appropriate regional California Historical Research Information System (CHRIS) Center (https://ohp.parks.ca.gov/?page_id=30331) for an archaeological records search. The records search will determine:
 - a. If part or all of the APE has been previously surveyed for cultural resources.
 - b. If any known cultural resources have already been recorded on or adjacent to the APE.
 - c. If the probability is low, moderate, or high that cultural resources are located in the APE.
 - d. If a survey is required to determine whether previously unrecorded cultural resources are present.
2. If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.
 - a. The final report containing site forms, site significance, and mitigation measures should be submitted immediately to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum and not be made available for public disclosure.
 - b. The final written report should be submitted within 3 months after work has been completed to the appropriate regional CHRIS center.

3. Contact the NAHC for:

- a. A Sacred Lands File search. Remember that tribes do not always record their sacred sites in the Sacred Lands File, nor are they required to do so. A Sacred Lands File search is not a substitute for consultation with tribes that are traditionally and culturally affiliated with the geographic area of the project's APE.
- b. A Native American Tribal Consultation List of appropriate tribes for consultation concerning the project site and to assist in planning for avoidance, preservation in place, or, failing both, mitigation measures.

4. Remember that the lack of surface evidence of archaeological resources (including tribal cultural resources) does not preclude their subsurface existence.

- a. Lead agencies should include in their mitigation and monitoring reporting program plan provisions for the identification and evaluation of inadvertently discovered archaeological resources per Cal. Code Regs., tit. 14, § 15064.5(f) (CEQA Guidelines § 15064.5(f)). In areas of identified archaeological sensitivity, a certified archaeologist and a culturally affiliated Native American with knowledge of cultural resources should monitor all ground-disturbing activities.
- b. Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the disposition of recovered cultural items that are not burial associated in consultation with culturally affiliated Native Americans.
- c. Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the treatment and disposition of inadvertently discovered Native American human remains. Health and Safety Code § 7050.5, Public Resources Code § 5097.98, and Cal. Code Regs., tit. 14, § 15064.5, subdivisions (d) and (e) (CEQA Guidelines § 15064.5, subds. (d) and (e)) address the processes to be followed in the event of an inadvertent discovery of any Native American human remains and associated grave goods in a location other than a dedicated cemetery.

If you have any questions or need additional information, please contact me at my email address:

Mathew.Lin@NAHC.ca.gov.

Sincerely,

Mathew Lin

Mathew Lin
Cultural Resources Analyst

cc: State Clearinghouse



This page intentionally left blank