

Mono County Community Development Department

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Date: February 19, 2021

To: Honorable Board of Supervisors

From: Wendy Sugimura, Director
Gerry LeFrancois, Principal Planner
Michael Draper, Planning Analyst

RE: Mono County Compliance with AB 52 and SB 18 State Laws on Tribal Consultation for the Tioga Inn Specific Plan Amendment #3

Following the discussion at the Board's fourth public hearing on the Tioga Inn Specific Plan Amendment on 15 December 2020, Chair Kreitz requested a memorandum explaining tribal consultation requirements under AB 52 and SB 18, and the County's compliance with these requirements. This memorandum provides that explanation, and is organized into the following four parts:

1. A summary of state law requirements under AB 52 and SB 18 and the County's compliance,
2. A summary of the timeline of tribal consultation and outreach,
3. Specific consultation under SB 18, and
4. Tribal request to conduct further environmental analysis.

Please note this memorandum provides clarifications and further information compared to previously published staff reports.

Regardless of legal frameworks described in this memorandum and whether deadlines were met, County staff is always willing to respond to and hold discussions with a tribe at any time and incorporate tribal heritage considerations whenever possible within legal constraints.

Legislative information sources for this memorandum are listed at the end.

SUMMARY OF STATE LAW REQUIREMENTS

AB 52 Requirements

Assembly Bill No. 52 (AB 52) was signed into law in September 2014 creating a new category of environmental resources, Tribal Cultural Resources (TCRs), tied to project analysis under the California Environmental Quality Act (CEQA). AB 52 applies to all CEQA lead agencies and must be followed for CEQA projects that trigger a Notice of Preparation (i.e., an Environmental Impact Report), Notice of Mitigated Negative Declaration or Notice of Negative Declaration.

For AB 52 to apply to a specific tribe, that tribe must send a letter requesting notification by the lead agency of projects in their areas of traditional or cultural affiliation. If no notification request has been received by the lead agency, then AB 52's requirements do not apply to the project. The lead agency is required to send a letter under AB 52 to tribes that have requested notification within 14 days of an application being complete or the lead

agency's decision to undertake a project. Professional planning organizations recommend sending AB 52 consultation letters by certified mail. Tribes then have 30 days to request consultation.

Whether or not a tribe has requested consultation, a CEQA document must disclose and analyze whether the proposed project would cause a substantial adverse change to any TCRs and, therefore, have a significant impact. A CEQA document must consider feasible alternatives and/or mitigation measures to avoid or minimize the impact on the identified TCR(s).

If a tribe requests consultation, no statutory limit exists for the length of tribal consultation, but the environmental document cannot be released until consultation has been initiated. Consultation topics, if requested by the tribe, may include alternatives to the project, recommended mitigation measures, and significant effects. Environmental documents cannot be certified until 1) consultation, if initiated, has concluded, whether or not agreement has been reached; 2) the tribe requested consultation but failed to provide comments or otherwise failed to engage in consultation; or 3) the lead agency provided notice of the project and the tribe failed to request consultation within the 30-day deadline.

Regardless of whether consultation is requested, nothing in AB 52 precludes tribes or tribal members from participating in the CEQA process in the same manner as another government entity or member of the public via public comment.

County Compliance: The County had AB 52 notification requests on file from the Washoe Tribe of California and Nevada and the Mono Lake Kutzadika'a Tribe as of March 2017. In 2017 the project was under revision in response to NOP comments and so very little public outreach was conducted. The County sent AB 52 consultation request letters in April 2018 to the Washoe Tribe and Kutzadika'a Tribe, and no responses were received within 30 days.

SB 18 Requirements

SB 18 has been in place since 2005 and applies when a local government adopts or amends its general plan. Unlike AB 52, the tribes do not need to submit a request for notification under SB 18. The local government requests contact information from the state Native American Heritage Commission (NAHC) for tribes with traditional lands or places located in the geographic area affected by proposed changes and contacts tribes about the opportunity to consult. Tribes have 90 days to request consultation. Note that the Tioga Community Housing project does not involve a general plan amendment and so it is not clear that SB 18 applies.

County Compliance: The County sent the Mono Lake Kutzadika'a Tribe a notice offering consultation under SB 18 in June of 2019. In August of 2019, the Tribe requested consultation (see Attachment #1). It is unclear whether that request was pursuant to AB 52 or SB 18, but since the period to request consultation under AB 52 had expired, the County is construing the consultation request to be under SB 18. Consultation occurred over the five-month period from August 2019 to January 2020 and concluded with the Tribe formally accepting the mitigation measure proposed by the County (and voluntarily agreed to by the applicant). See Attachment #2. More detail is provided below.

PROJECT TIMELINE: TRIBAL CONSULTATION AND OUTREACH

The following table provides a summary of tribal consultation and outreach in the Tioga Inn Specific Plan Amendment process; noticed public opportunities available to anyone to comment on the project are in **bold**. Actions taken under SB 18 are listed under "Legal Requirements" although, as noted above, the Tioga Inn project does not include a General Plan Amendment and SB 18 may not apply and these may be "Above and Beyond" actions.

Date	Legal Requirements	"Above and Beyond" Outreach and Actions
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July 2016	Project formally accepted for processing.	
October 2016	<p>Notice of Preparation (NOP) published in local newspapers and sent to the Office of Planning and Research (OPR) State Clearinghouse.</p> <p>AB 52 request letter from Washoe Tribe is on file with the County.</p>	
December 2016	NOP scoping meeting held in Lee Vining.	County met with Bridgeport Indian Colony on another matter and discussed project.
2017	<p>March: County received AB 52 request for notification of projects from Kutzadika'a Tribe.</p> <p>Very little activity in 2017 – project under revision in response to NOP comments.</p>	
February 2018		CEQA consultants contacted Chairwoman Charlotte Lange on behalf of County staff requesting input on the project and review of some language in the archaeological report.
April 2018	AB 52 consultation letters sent via certified mail to the Washoe Tribe of California and Nevada and the Mono Lake Kutzadika'a Tribe at the addresses on listed their AB 52 request letters. No responses received.	
January 2019		Conversations with Kutzadika'a and Bridgeport Tribes by email, County was notified that Chairwoman Lange did not receive AB 52 letter, County staff/consultants and Kutzadika'a Tribe met in person and discussed issues (i.e., resources that weren't discovered in the archaeological survey but could be uncovered during grading). At some point following these communications, the Bridgeport Tribe no longer responded to communications.
April 2019		County staff sent emails to Chairwoman Lange on the status of the project and environmental analysis and anticipated public input opportunities. Chairwoman Lange responded by thanking staff for the information.
June 2019	Draft Subsequent Environmental Impact Report (SEIR) released for public comment	Because <u>no significant impacts to tribal cultural resources</u> were identified and no

	<p>and included a comprehensive cultural resource analysis. The Draft SEIR describes the body of evidence regarding cultural, paleontological and tribal resources, and states the following:</p> <ul style="list-style-type: none"> • "Based on results of the Archaeological site survey and analysis, there is no evidence of ancestral burials on the project site, and no tangible basis for the mitigation monitoring requirement. ... Because there is the possibility that one or more undocumented Native American burials could be encountered... Mitigation Measure 5.4(c) was developed for the protection of tribal cultural resources." • "Based on the criteria [for significant effects], and site survey results, it is concluded that there are not significant archaeological site within the proposed ... project area." <p>Requirements of the California Native American Historical, Cultural, and Sacred Sites Act; Health & Safety Code §7050.5; and Public Resources Code §5097.98 were integrated into mitigation measures.</p> <p>SB 18 consultation letters sent to seven tribes on the Native American Heritage Commission's (NAHC's) list, including the Kutzadika'a Tribe, at addresses provided by NAHC.</p>	<p>evidence of tribal resources was submitted, no mitigations were required under CEQA. However, measure 5.4(c) was voluntarily imposed (and agreed to by the developer) in response to tribal concerns and included the following: 1) notification of tribe prior to ground disturbance, 2) invitation for tribal monitors to be on site at any time (without compensation), 3) definition of stop work and preservation procedures in the event cultural resources are discovered, 4) tribal monitoring requirement with compensation post discovery, and 5) requirement to implement all feasible post-discovery mitigation measures.</p> <p>Planning Commission held a public workshop in Mammoth Lakes on the project and Draft SEIR.</p>
July 2019		<p>SB 18 letter additionally emailed to Chairwoman Lange.</p> <p>Public workshop held in Lee Vining on Draft SEIR.</p>
August 2019	<p><u>Consultation</u> County received consultation request from Kutzadika'a Tribe (as stated above, assumed to be under SB 18 since the AB 52 deadline had passed). Tribal attorney specifies two topics for discussion: 1) compensation of tribal monitors, and 2) potential impacts on well of neighboring Indian allotment holders. County and Tribe met to discuss. Follow up occurred by email throughout next couple of</p>	

	<p>months, with back-and-forth discussion and modification of proposed language.</p> <p><u>Public Comment</u> Kutzadika'a Tribe submitted comment letter on Draft SEIR.</p>	
September 2019		Planning Commission held workshop and site visit on project and SEIR in Lee Vining.
January 2020	County received email from Kutzadika'a Tribe attorney that Chairwoman Lange approves the proposed mitigation measure providing compensation for tribal monitoring. County commits to recommending revised mitigation measure in Final SEIR.	Because <u>no significant impacts to tribal cultural resources</u> were identified and no evidence of resources were provided by the Tribe, the following revisions in the agreed-upon measure were voluntary by the County and developer (in addition to the voluntary components of the draft measures described above): 1) 50-hours of compensation for tribal monitors, and 2) tribal approval of archaeologist evaluating discovered resources.
February 2020	Final SEIR released (no public comment period required). Response to Comment Letter #13 provides a direct response to the Kutzadika'a Tribe comment letter, topic by topic, including analysis of impact to the well on the neighboring Indian allotment. The analysis concluded no impact to the well or any other TCRs. In addition, several other "Topical Responses" addressed concerns raised the Tribe's public comment letter.	The Final SEIR could have been released with the first public hearing on the project. No requirement exists for a review period or public comment period prior to the public hearing. The early release provided initially a two-week review period, and the postponement of the Planning Commission meeting ultimately resulted in more than a month for public review.
March 2020	A letter providing updated meeting information and referring the project to the seven Tribes on the NAHC list was sent on 3 March 2020 per SB 18 via email. The Washoe Tribe responded it had no further interest in the project. No other responses were received.	<p>A second SB 18 courtesy letter was sent to the seven tribes on 26 March 2020. No responses were received.</p> <p>Public workshop held in Lee Vining on Final SEIR.</p> <p>Planning Commission meeting postponed to April due to COVID-19 outbreak.</p>
April 2020	Planning Commission public hearing: No written or verbal comments received from Kutzadika'a Tribe.	
June 2020	Mono County Board of Supervisors public hearing: Comments were received from tribal members but not tribal council leadership. Opposition to the project was expressed and	Staff responded at the meeting and the Board directed another meeting to be held, with further responses.

	<p>topics of concern were listed, but no information was provided to which the County could respond. Comments by non-tribal public members raised questions about water supply and quality, including potential impact to well on neighboring Indian allotment.</p>	
<p>August – October 2020</p>	<p>Two Mono County Board of Supervisors public hearings held. Verbal and written comments from Kutzadika’a Tribe representatives, the Chairwoman, and Vice Chairwoman were received in opposition to the project. In addition to requesting project denial, the following concerns about impacts were listed: night sky, sound scape, scenery, consultation with tribe, water supply and use, pollution, increased wait times to access Yosemite, project components previously approved (hotel and restaurant) and tribal consultation at the time of approval, sense of community, law enforcement and medical services, landfill, cultural resources, trails, parking and pedestrian safety, septic seep, an arrowhead found on site, and cry dances “in this area.” For the most part, the topics were only listed with no specific details about the resources being impacted, very little new information was provided to which the County could respond, and most topics were already addressed in the SEIR. None of the letters requested mitigation measures or contained suggestions for project improvements to better address tribal cultural heritage concerns.</p> <p>For new comments raised, the County responded in staff reports and direct emails with additional information and analysis when warranted. In some cases, past staff reports or the published CEQA analysis was referenced. For example, the August staff report specifically addressed water usage, quality, and well impacts in addition to the CEQA analysis, and the October staff report provided a tribal outreach timeline including meetings between the County and tribe, and agreement on the mitigation measure</p>	<p>Theoretically, all responses provided at this point in the process are outside the required CEQA process public comment timeframes and could be considered voluntary on behalf of the County. However, the responses are shown in this analysis as “required” to be conservative and reflect the County’s commitment to addressing tribal concerns and comments throughout the CEQA process.</p> <p>In September 2020, in the event the consultation conclusion on potential impacts to the well on a neighboring Indian allotment was unclear, staff sent an email to Chairwoman Lange summarizing the SEIR analysis, the information provided in the August staff report, and supporting studies indicating that there would be no impact. Chairwoman Lange responded by thanking staff for the information (see Attachment #3).</p>

	<p>revision. The County also emailed a response on new information submitted in the comment letters about a Cry Dance site, which was represented to be “in the area” but the comment did not specifically locate the site on the project parcel and therefore no new impact was indicated. The County offered assistance to locate and establish a Cry Dance site elsewhere and advocate for federal tribal recognition, which were included as an attachment to the October staff report (see Attachment #4). No response was received from the Tribe indicating any follow up was needed.</p>	
20 October 2020	<p>Based on the information and evidence in the record, which indicated no qualifying tribal cultural resources, the Board certified the SEIR and directed staff to continue discussions with the Kutzadika’a Tribe to craft solutions to address concerns. As long as the developer agrees, measures can be incorporated into the project as Specific Plan Conditions and will have regulatory force and effect.</p>	<p>The Kutzadika’a Tribe requested to meet directly with the applicant (not the County) and the applicant agreed. The request falls outside of any known engagement framework with a tribe. The County was (and remains) fully supportive of any proceedings that foster a better understanding with the Tribe and staff was fully willing to participate in any meetings, but deferred to the applicant and tribe on arrangements, given the nature of the Tribe’s request. Ultimately, through no fault of either party, a meeting was not able to be arranged and a meeting with the Board of Supervisors was scheduled before the end of the year to consider the project before a change of supervisors occurred in 2021.</p>
December 2020		<p>The Kutzadika’a Tribe submitted a confidential map of tribal trails and identified the site as falling within a Cry Dance District. While the SEIR had already been certified in October and therefore the information does not fall under the CEQA analysis, County staff and the applicant remain willing to continue conversations with the Tribe about the best way to respect and protect tribal heritage on the project site. From the County’s perspective, the continued discussions and any measures agreed upon are voluntary on behalf of the applicant.</p>
January 2021		<p>County Counsel and Community Development Department staff met with Tribal representatives and legal counsel on 14</p>

		January 2021. Mono County staff is awaiting a response from the Tribe and has been periodically reaching out to the Tribe's legal counsel to request an update.
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TRIBAL CONSULTATION UNDER SB 18

Tribal consultation is considered complete when a) the parties agree to measures to mitigate or avoid a significant effect, if a significant effect exists to a tribal cultural resource; or b) a party, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached. (Pub. Resources Code § 21080.3.2, subd. (b)).

As noted in the timeline summary above, the Kutzadika'a Tribe requested consultation, which the County is construing as a request under SB 18 because the AB 52 response period had expired, and their attorney identified two topics for discussion: 1) "the importance of compensating tribal monitors," and 2) "potential impacts on the well of neighboring Indian allotment holders." (See Attachment #1.) It is important to note that significant impacts were not identified for either of these consultation topics in the Draft SEIR. Regardless, the County agreed to consult based on its commitment to respect tribal heritage.

County staff and the CEQA consultant met with tribal representatives, including Chairwoman Lange and tribal attorney Michael Godbe, on 19 August 2019 and discussed compensation for tribal monitors and concerns about impacts to nearby wells. The County expressed interest in meeting the Tribe's request to pay monitors but clarified that the County could not impose or require such mitigation measures given no significant impacts were identified in the CEQA analysis and therefore the County has no basis under the law to require the applicant to pay the cost. The applicant, however, offered to voluntarily modify the mitigation measures in the Draft SEIR by providing up to 50 hours of paid time for tribal monitors. The County and CEQA consultant suggested the Tribe use these hours to train the construction crew in the identification of TCRs or burial evidence, which would increase onsite resources and capacity for identifying TCRs not only on this project, but future projects this construction crew works on as well. The Tribe's preference was to use the paid hours for trained tribal monitors, expressing that adequate training required far more expertise than could be provided under the suggested model. Regarding the well on a neighboring Indian allotment, the County requested a map and more information (drilling date, depth, water production, etc.).

Email correspondence followed the August 2019 meeting to refine the applicant's voluntarily offered mitigation measure for monitoring and to exchange information on the well in question. The well questions were referred to the project hydrologist and ultimately a response was provided in the Final SEIR, released on 28 February 2020, in response to comment letter #13 which confirmed no impact. Revisions to the tribal monitoring mitigation measure was approved by the Tribe via an email dated 13 January 2020 from Mr. Godbe and included in the Final SEIR as a recommended modification (see Attachment #2). The email approving the mitigation measure concluded consultation.

No further comments or correspondence was received from tribal leadership from January to August 2020, during which time the Final SEIR was released, a community workshop was held, the Planning Commission public hearing was held, and the first Board of Supervisors public hearing was held. Written comments were received from tribal members (but not tribal leadership) at the 29-30 June Board meeting, which were considered public comment. The comments listed topics of concern with no new information to which the County could respond, and the topics had been analyzed in the SEIR documentation or otherwise previously addressed. No comments from tribal leadership were received until 6 August 2020, when Chairwoman Lange commented verbally at the Board of Supervisors public hearing in opposition to the project and, following the meeting, additional comments were received from tribal

leadership and tribal members about a variety of subjects which are listed in the table above under August-October 2020.

Within the consultation framework, the comments received at the Board meetings raised questions about the consultation topic of impacts to the well on the neighboring Indian allotment. Besides having addressed this issue in the Final SEIR, the 6 August 2020 staff report provided a summary of the well issue and provided additional information demonstrating no impact. On 22 September 2020, Community Development Director Wendy Sugimura sent an email to Chairwoman Lange summarizing the FSEIR and 6 August staff report information, along with copies of the studies supporting the analysis, and received a reply from Chairwoman Lange on 23 September acknowledging the information and thanking her for the information with no further questions, comments, or requests for discussion (Attachment 3).

Therefore, consultation was concluded under the first definition: 1) the parties agree to measures to mitigate or avoid a significant effect, if a significant effect exists to a tribal cultural resource. No significant effect to a TCR existed, no substantial evidence of a TCR or impact was provided during consultation, an agreement on a revised mitigation measure was reached (despite no significant effect), and the Tribe acknowledged the well impact analysis and indicated no further requests for discussion.

TRIBAL REQUEST FOR ADDITIONAL ENVIRONMENTAL ANALYSIS

The Kutzadika'a Tribe submitted a letter at the 15 December 2020 Board of Supervisors meeting requesting further environmental analysis and providing a confidential map of tribal trails and identification of a "Cry Dance District." No legal requirement exists to open the SEIR certified in October, recirculate that EIR, or prepare a subsequent or supplemental EIR based on CEQA Guidelines §15162, §15163, or §15088.5 for the following reasons:

- Recirculation (§15088.5): *"A lead agency is required to recirculate an EIR when significant new information is added to the EIR after public notice is given of the availability of the draft EIR for public review under Section 15087 but before certification."* (Emphasis added.) The confidential map of TCRs was not submitted within the public review period prior to certification and therefore recirculation does not apply. In this case, public notice of the SEIR was first given in June 2019 and certification occurred in October 2020, providing well over a year for the Tribe and other parties to submit information, and documentation of communication with the Tribe is detailed earlier in this memorandum. CEQA establishes time limits and requirements to provide for a fair process for the developer, tribes, and public, and to provide for a fair and reasonable conclusion to the analysis and that process.
- Subsequent EIR (§15162), Supplement to an EIR (§15163), and PRC §21166: A subsequent or supplemental EIR applies if changes to a project or its circumstances occur or new information which was not known, and could not have been known with the exercise of reasonable diligence at the time of certification, becomes available after certification. In this case, no changes to the project or its circumstance is being proposed as part of the project's approval, and the information about the historic trails and Cry Dance District were known to the Tribe prior to certification but not submitted to the County during public review. Due diligence was completed by the County as evidenced by the record of letters, meetings, emails, and communication in general between the County and Kutzadika'a Tribe. Case law has confirmed that if the information was known by a third party, but not presented to the public agency, then it does not trigger additional review. (See e.g., *No Oil, Inc. v. City of Los Angeles* (1987) 196 Cal.App.3d 223, 234 where the court ruled that a study completed before the EIR was certified, but not submitted to the agency prior to certification, did not constitute grounds to reopen the EIR under §21166 and §15162.) Moreover, the decision-making agency is actually prohibited from reopening a certified EIR in this circumstance.

- “Once an EIR has been certified or a negative declaration adopted for a project, a public agency’s discretion to require further environmental review is confined. No further environmental review may be required unless one of the specified triggering events occurs (PRC §21166; 14 CCR § 15162). The statute is phrased in prohibitory terms: “An agency shall not require a supplemental or subsequent EIR unless one of the statutory exceptions exists” (Kostka & Zischke “Practice under the California Environmental Quality Act” § 19.40).

QUESTIONS

Please feel free to contact Stacey Simon (760.924.1704 or ssimon@mono.ca.gov) with legal questions regarding AB 52, SB 18 or CEQA compliance; and Wendy Sugimura (760.924.1814 or wsugimura@mono.ca.gov) with any questions.

ATTACHMENTS

1. Emails related to SB 18 consultation request and topics
2. Email related to SB 18 consultation accepting mitigation measure
3. Email related to SB 18 consultation acknowledging well analysis
4. Responses to comments from the October 2020 Board meeting, including tribal comments

INFORMATION SOURCES

- A. AB 52 legislative text: https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201320140AB52
- B. Summary of AB 52 requirements and best practices (powerpoint) by General Counsel for the Native American Heritage Commission: https://www.counties.org/sites/main/files/file-attachments/ab52_tribal_consultation_best_practices_calepa.pdf
- C. New Tribal Consultation Requirement: AB 52 (powerpoint) by Best Best & Krieger Law Firm for the Association of Environmental Professionals and American Planning Association: <http://oc-apa.org/wp-content/uploads/2013/12/The-New-Tribal-Consultation-Requirement-AB-52.pdf>
- D. Tribal Consultation Guidelines, Supplement to General Plan Guidelines, Governor’s Office of Planning and Research, November 14, 2005. <http://nahc.ca.gov/wp-content/uploads/2019/04/SB-18-Tribal-Consultation-Guidelines.pdf>

From: [Michael Draper](#)
To: [Sandra Bauer](#); [Wendy Sugimura](#); [Gerry LeFrancois](#)
Subject: FW: Tioga Consultation
Date: Monday, August 5, 2019 11:48:20 AM

FYI – just received.

From: charlotte Lange <char54lange@gmail.com>
Sent: Monday, August 5, 2019 11:10 AM
To: Michael Draper <mdraper@mono.ca.gov>
Cc: Angela Williams <Mono1paiute@gmail.com>; Barbara Coons <bjharley@gmx.com>
Subject: Tioga Consultation

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Hello,
The Mono Lake Kutzadika Tribe is requesting consultation.
We are available Friday, August 9, 2019 at 1:30. If this date inconvenient, please let me know and we'll reschedule.
Thank you.
Charlotte Lange
Chairperson

From: [Michael Draper](#)
To: [Sandra Bauer](#); [Wendy Sugimura](#); [Gerry LeFrancois](#)
Subject: FW: Consultation with Mono Lake Tribe
Date: Friday, August 16, 2019 2:46:27 PM
Attachments: [image001.png](#)

FYI -

From: Michael Godbe <mgodbe@calindian.org>
Sent: Friday, August 16, 2019 1:27 PM
To: Michael Draper <mdraper@mono.ca.gov>
Cc: Angela Williams <mono1paiute@gmail.com>; charlotte Lange <char54lange@gmail.com>
Subject: RE: Consultation with Mono Lake Tribe

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Michael,

The main item the Tribe wants to discuss on Monday is the importance of compensating tribal monitors. The Tribe would also like to discuss potential impacts on the well of neighboring Indian allotment holders. These are the primary concerns and topics for Monday's consultation.

Thank you; we look forward to discussing these matters further with you on Monday.

Have a good weekend,

Mike

Michael Godbe

Staff Attorney



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From: Michael Draper [<mailto:mdraper@mono.ca.gov>]
Sent: Thursday, August 15, 2019 4:08 PM
To: Michael Godbe <mgodbe@calindian.org>; Angela Williams <mono1paiute@gmail.com>; charlotte Lange <char54lange@gmail.com>
Cc: Barbara Coons <bjharley@gmx.com>; Gerry LeFrancois <glefrancois@mono.ca.gov>; Sandra Bauer <Sandra@bpesinc.com>

Subject: RE: Consultation with Mono Lake Tribe

Great, I've sent out a meeting invitation to everyone.

Could you provide the goals or discussion items that you would like to go over at the meeting?

Having those may better prepare us all to discuss.
Thank you,

Michael Draper

Mono County Planning Analyst II

Community Development Department

PO Box 347

437 Old Mammoth Rd, Suite 220

Mammoth Lakes, CA 93546

760-924-1805

From: Michael Godbe <mgodbe@calindian.org>

Sent: Thursday, August 15, 2019 4:02 PM

To: Angela Williams <mono1paiute@gmail.com>; charlotte Lange <char54lange@gmail.com>

Cc: Barbara Coons <bjharley@gmx.com>; Gerry LeFrancois <glefrancois@mono.ca.gov>; Michael Draper <mdraper@mono.ca.gov>; Sandra Bauer <Sandra@bpesinc.com>

Subject: RE: Consultation with Mono Lake Tribe

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That works for me as well.

Michael Godbe

Staff Attorney



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From: Angela Williams [<mailto:mono1paiute@gmail.com>]

Sent: Thursday, August 15, 2019 3:14 PM

To: charlotte Lange <char54lange@gmail.com>

Cc: Barbara Coons <bjharley@gmx.com>; Gerry LeFrancois <glefrancois@mono.ca.gov>; Michael Draper <mdraper@mono.ca.gov>; Michael Godbe <mgodbe@calindian.org>; Sandra Bauer

<Sandra@bpesinc.com>

Subject: Re: Consultation with Mono Lake Tribe

Monday at 315 works for me!

On Thu, Aug 15, 2019 at 3:02 PM charlotte Lange <char54lange@gmail.com> wrote:

Yes, that works for me. If not for others, at this time, I have nothing scheduled for next week.

Charlotte

On Thu, Aug 15, 2019, 10:06 AM Michael Draper <mdraper@mono.ca.gov> wrote:

Hello Chairwoman Lange,

Would 3:15 p.m. on Monday in our Mammoth office work for you?

Thank you,

Michael Draper

From: Michael Godbe <mgodbe@calindian.org>

Sent: Thursday, August 15, 2019 9:28 AM

To: charlotte Lange <char54lange@gmail.com>

Cc: Michael Draper <mdraper@mono.ca.gov>; Angela Williams <Mono1paiute@gmail.com>; Barbara Coons <bjharley@gmx.com>

Subject: RE: Consultation with Mono Lake Tribe

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Charlotte,

Would you suggest some times next week that are convenient for yourself and others? I am available next week to come up to Mammoth or Lee Vining any day/time except for Monday before 2pm. I could be in Mammoth by 2pm or later on Monday.

Mike

Michael Godbe

Staff Attorney

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From: charlotte Lange [<mailto:char54lange@gmail.com>]

Sent: Wednesday, August 14, 2019 11:07 PM

To: Michael Godbe <mgodbe@calindian.org>

Cc: Michael Draper <mdraper@mono.ca.gov>; Angela Williams <Mono1paiute@gmail.com>; Barbara Coons <bjharley@gmx.com>

Subject: Re: Consultation with Mono Lake Tribe

Hello everyone,
I am available Friday, but seems not convenient for others. Let me know if still on for Friday. Next week will be fine as well. Let me know.
Charlotte.

On Wed, Aug 14, 2019, 12:51 PM Michael Godbe <mgodbe@calindian.org> wrote:

Michael,
Chairwoman Lange has informed me that she is not available to meet tomorrow, however I am now available on Friday (which I wasn't before).
We would prefer to meet in Mammoth Lakes. I have not yet been able to confirm if Chairwoman Lange is available to meet on Friday, but, if she is, is there a time you would be available meet on Friday in Mammoth Lakes?

Thanks,

Mike

Michael Godbe

Staff Attorney

California Indian Legal Services

873 N. Main Street, Suite 120

Bishop, CA 93514

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From: Michael Draper [mailto:mdraper@mono.ca.gov]

Sent: Tuesday, August 13, 2019 1:24 PM

To: Michael Godbe <mgodbe@calindian.org>; charlotte Lange <char54lange@gmail.com>

Cc: Angela Williams <Mono1paiute@gmail.com>; Barbara Coons <bjharley@gmx.com>

Subject: RE:

Hello All,

Please let me know of a good time to meet this week.

Would you like to meeting at the Mammoth office or in Lee Vining?

Thank you,

Michael Draper

From: Michael Godbe <mgodbe@calindian.org>

Sent: Wednesday, August 7, 2019 1:37 PM

To: Michael Draper <mdraper@mono.ca.gov>; charlotte Lange <char54lange@gmail.com>

Cc: Angela Williams <Mono1paiute@gmail.com>; Barbara Coons <bjharley@gmx.com>

Subject: Re:

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Michael,

Thank you for clarifying about Friday. In case it is not clear, my organization represents the Mono Lake Tribe.

I am assuming the meeting will be in Lee Vining, but please let me know if not. I am currently available to meet in Lee Vining on Tuesday after 1pm, anytime Wednesday, and Thursday between 12pm and 3:30pm.

Thank you,

Mike

Michael Godbe

Staff Attorney

California Indian Legal Services

Sent from a Mobile Device

From: Michael Draper <mdraper@mono.ca.gov>

Sent: Tuesday, August 6, 2019 4:56:18 PM

To: Michael Godbe <mgodbe@calindian.org>; charlotte Lange <char54lange@gmail.com>

Cc: Angela Williams <Mono1paiute@gmail.com>; Barbara Coons <bjharley@gmx.com>

Subject: RE:

Hello Michael,

That is correct, Friday's meeting is not occurring and we are working to reschedule that meeting. The consultant working on this project is currently out of phone/email service until Friday and we feel her presence would be critical to this meeting.

Please let me know what times work best on Tuesday, Wednesday, Thursday.

Thank you,

Michael Draper

Mono County Planning Analyst II

Community Development Department

PO Box 347

[437 Old Mammoth Rd, Suite 220](#)

[Mammoth Lakes, CA 93546](#)

760-924-1805

From: Michael Godbe <mgodbe@calindian.org>

Sent: Tuesday, August 6, 2019 12:28 PM

To: charlotte Lange <char54lange@gmail.com>; Michael Draper <mdraper@mono.ca.gov>

Cc: Angela Williams <Mono1paiute@gmail.com>; Barbara Coons <bjharley@gmx.com>

Subject: RE:

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I think I may have been left off of an email. Does Charlotte's email below mean that the proposed consultation at 1:30pm on Friday is not occurring at that time and day? Please let

me know if a new date and time has been proposed / decided on.

Thank you,

Mike

Michael Godbe

Staff Attorney

California Indian Legal Services

873 N. Main Street, Suite 120

Bishop, CA 93514

760.873.3581

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From: charlotte Lange [<mailto:char54lange@gmail.com>]

Sent: Monday, August 5, 2019 3:51 PM

To: Michael Draper <mdraper@mono.ca.gov>; Angela Williams <Mono1paiute@gmail.com>; Barbara Coons <bjharley@gmx.com>; Michael Godbe <mgodbe@calindian.org>

Subject:

Yes, we can reschedule. Let me know what's best for you.

Charlotte

From: [charlotte Lange](#)
To: [Wendy Sugimura](#)
Cc: [Bob Gardner](#)
Subject: Re: Kutzadika'a Tribe comments on Tioga Inn
Date: Wednesday, September 23, 2020 12:52:29 AM

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Thanks for the info.
Charlotte

On Tue, Sep 22, 2020, 9:22 PM Wendy Sugimura <wsugimura@mono.ca.gov> wrote:

Dear Chairwoman Lange:

Supervisor Gardner asked me to follow up further and provide the details about the Andrews well that is referenced in my email.

The staff report for the 6 August 2020 Board of Supervisors meeting states, "The Team Engineering study shows that the Tioga Inn well is not in the Lee Vining Creek watershed, or any of the Lee Vining Creek sub-watersheds, and also shows that the Tioga well is in the same watershed as the Andrews well, but not in the same aquifer as the Andrews well. Additional information concerning the Andrews well is provided in FSEIR Topical Response #11, Water Quality and Water Supply."

The Final Subsequent Environmental Impact Report (FSEIR) states the following: "The project hydrologist has reviewed and analyzed concerns raised by the Mono Lake Kutzadika'a Tribe regarding project impacts on the neighboring Andrews family Indian allotment wells. By way of background, the Andrews family in 1980 installed a well on their property at a depth of 250 feet; the well did not reach groundwater. In 1992, the family hired Maranatha to drill through the bottom of the original hole to a new depth of 370 feet. With the second effort, Maranatha did reach groundwater, and the new well produced groundwater at an estimated rate of 30 gallons per minute (gpm). The static water level of the new well stabilized at 230 feet.

The Andrews well was drilled in a comparatively small groundwater basin located about 1 mile south of the Tioga wells. The groundwater basin tapped by the Andrews well is geologically separated from the Tioga well by the Sierra Range Front Fault System. Based on this review, the hydrologist concludes that the failure of the initial Andrews well resulted from insufficient well depth, and that the low groundwater production rate of the second Andrews well is due to the small diameter of the well and the completed depth of the well (i.e., not deep enough). The reason this well cannot be deepened is that it is already cased with 4 inch diameter casing (i.e., the 4-inch diameter casing cannot support a larger pump

than what is in it now; to drill deeper would require a 3 inch diameter casing and a much smaller pump, further reducing production from this well).

The pump stress test conducted for the proposed Community Housing Project showed no interference with the Winston well, which is located northwest of and in the same groundwater basin as the Tioga well, and is nearly the same distance away as the Andrews well. Even if no recharge to the basin occurred in a given year, the project hydrologist indicates that it is highly unlikely there would be a noticeable drop in the groundwater levels of surrounding wells solely due to annual production from the Tioga well. Based on these considerations, the project hydrologist has a 95% confidence level that there will be no interaction between the Tioga and Andrews' wells resulting from groundwater production in these two wells."

I have attached the 6 August 2020 staff report, the Team Engineering study, and FSEIR Topical Response #11 for your convenience.

Thank you,

Wendy Sugimura

Community Development Director

760.924.1814

From: Wendy Sugimura
Sent: Thursday, September 10, 2020 5:07 PM
To: Charlotte Lange <char54lange@gmail.com>
Cc: Bob Gardner <bgardner@mono.ca.gov>
Subject: Kutzadika'a Tribe comments on Tioga Inn

Dear Chairwoman Lange:

The Mono County Community Development Department is in receipt of your email dated August 9 commenting on the Tioga Inn Specific Plan Amendment, as well as emails from Vicki Glazier, Jocelyn Sheltraw, and Angela Williams Eddy. Mono County welcomes these comment letters from the Tribe and tribal members.

The concerns raised in the recent emails, including water usage, potential depletion of the Andrews well, law enforcement, medical services, and impacts to community character have been addressed in the published materials on the project and the California Environmental Quality Act (CEQA) analysis. Concerns about pollution and land fill are also addressed in the CEQA analysis; please let me know if there are specific aspects of those issues that were not considered.

Lastly, although not mentioned in any of the emails, testimony from the Tribe at the August public hearing indicated an arrowhead was found on the site. The Community Development Department recognizes that the project area is within the traditional territory of the Kutzadika'a and that the evidence of your ancestors' use of the land may well be found in the project area. The archaeological survey conducted for the project documented a few other isolated artifacts, although no archaeological sites or historic properties potentially eligible for the California Register of Historical Resources were discovered. During our previous consultations, we identified a mitigation measure that is being voluntarily provided by the applicant for the discovery of cultural resources during the project implementation. We understand that the mitigation measure resolved that issue, as indicated in an email dated January 13, 2020, from Michael Godbe, the attorney from California Indian Legal Services representing the Tribe.

Thank you again for the Tribe's input. Mono County values input from the Tribe and recognizes the need to be respectful of traditional lands and values while also adhering to our responsibilities to private landowners.

Thank you,

Wendy Sugimura

Community Development Director

PO Box 347

1290 Tavern Road, Suite #138

Mammoth Lakes, CA 93546

760.924.1814

**Attachment 6:
Responses to Comments Requested by the Board**

1. Response to 4 August 2020 comment letter from Matt Banta (the original comment letter is attached)
2. Response to letter from Angela Williams Eddy, Mono Lake Kutzadida'a Tribal Vice Chairwoman
3. Email exchange with Charlotte Lange, Mono Lake Kutzadika'a Tribe Chairwoman and original emails

Response to 4 August 2020 Comment Letter from Matt Banta

Response to Hydrology Concerns Raised in Public Comment Letter

The Mono County Board of Supervisors received correspondence on 4 August 2020 from Matt Banta (Attachment 1) that raised questions concerning potential impacts of project water demands on the Mono Groundwater Basin. In response, the Project Hydrologist (Roger Smith of SGSI) has provided information as presented in the discussion below.

Comments provided in the 4 August letter indicate that the author has not fully reviewed information provided in the environmental record for the proposed Community Housing Project. The author makes reference to a 4-hour pump test at 150 gallons per minute (gpm), as a comparison to the water level elevation of Mono Lake. The referenced pump test (by Kleinfelder) was performed more than 25 years ago, and was used in the current hydrologic assessments only for backup data. A new pump test was performed for the current project EIR (i.e., the 2017 24-hour "long term" aquifer test). Results of the 2017 pump test (which were not mentioned in the August 2020 comment letter) refute the claim made by the commenter that boundary conditions were found. The project wells are located over a mile from Mono Lake, and drawdown from the wells remains over 50 feet above the elevation of Mono Lake. Based on the foregoing, it is not reasonable to postulate that the project wells will cause saltwater intrusion into the aquifer. The springs along the lake shore indicate that there is a hydraulic pressure gradient of fresh water pushing against the salt water of the lake from the west, and the 2017 pump test showed that there was no impact on the Winston well. With construction of a second well on the Tioga site, it will be possible to compile additional data on how far the cone of groundwater level depression extends while the wells are being pumped.

The two Tioga Inn wells and the Andrews well are the only active wells in the study area south of the Lee Vining Study area of Team's Mono Basin Report (Figure 3 Subwatershed Map, Lee Vining). As noted in response to the comment letter submitted during June 2020, the Andrews well is in the same watershed, but not in the same aquifer, as the Tioga wells. Thus, the only potential impacts to the aquifer from pumping the Tioga wells would be a decrease in water flow from "nearby" springs. Because the wells are more than a mile from these springs, and the recharge to the basin is high, and the pumping rate is so low, any impacts of the Tioga wells on the spring flow would be negligible and unmeasurable. Additional discussion of these issues is provided in Sections 3.0, 3.8., and 3.11 of the Team Engineering Report (Surface Water and Groundwater and Basin Assessment, Lee Vining^a). It is also noted that the Tioga Inn project has been pumping from Well #1 for more than 25 years with no known detriment to the nearest springs.

The comment letter asks if water use during construction would require more water than the daily use when the project is complete and fully operational. For several reasons, it is anticipated that construction will use less water than future water demands. Key factors include the fact that construction will occur primarily during daylight hours, and for a relatively short period of time, with maximum water consumption limited by the wells' production capability of up to 125 gpm each. Additionally, Well #1 was used as the sole source of construction water during Caltrans' expansion of US 395 from 2-lanes to 4-lanes. The well operated a full capacity for the duration of that construction effort, which continued over an 8 month period around 2004. Well #1 was later used as the sole water source for the reconstruction of Lee Vining Airport. There was no sustained decline in water levels during either project.

As discussed in DSEIR/FSEIR §5.2 (Hydrology), and in response to DSEIR review comments submitted by the Lahontan Regional Water Quality Control Board (LRWQCB), monitoring wells will be provided on the project site along with other mitigation requirements that have been developed to protect area water quality and area water supply in the

^a See Attachment 4 to the 6 August 2020 staff report for the Board of Supervisors meeting, available at https://monocounty.ca.gov/sites/default/files/fileattachments/board_of_supervisors/meeting/30949/08_aug_06_2020_special_agenda.pdf.

event the proposed Community Housing Project is approved. Requirements include (a) Mitigation HYDRO 5.2(b-1) detailing decommissioning of the existing septic system and limits on future use of the existing leachfield, (b) Amended Mitigation HYDRO 5.2(b-2) specifying percolation rates and minimum distance from high groundwater for the new leachfield, (c) Mitigation HYDRO 5.2 (b-3) specifying treatment standards and performance goals for the new package system, (d) Mitigation HYDRO 5.2(b-4) requiring Title 22 compliance, or a written letter from the SWRCB Division of Drinking Water stating that the project does not need to satisfy Title 22 criteria, (e) New Mitigation HYDRO 5.2(b-5) requiring that the project provide at least 3 monitoring wells (1 upgradient and 2 downgradient of the package treatment system), in locations and at depths to be determined by LRWQCB during permitting, (f) New Mitigation HYDRO 5.2(b-6) requiring that the package treatment system be modified to include nitrogen removal systems if the monitoring wells show a sustained increase in groundwater salinity levels.

The WWTP monitoring wells will be separated from the water supply wells by approximately 1500 feet. The monitoring wells will provide information about groundwater flow and gradient for the treatment system, and may determine whether the waste system and the water supply wells are located in separate aquifers, as hypothesized on the basis of current information. Groundwater flow in this area is most likely towards the lake, due to elevation differences and recharge from upslope. However, there may be fault or boundary conditions that shift groundwater flow in a slightly different direction, as discussed in Section 3.4 of the Team Engineering Report. Issues pertaining to the Andrews well were addressed in depth in FSEIR Topical Response #11.

The commenter requests that the project applicant undertake studies to characterize the entire Mono Basin. The proposed project has a de minimis impact on overall Mono Basin hydrogeology. Far more important to basin hydrology are the operations of LADWP and SCE, as well as many other smaller operations. A fairly detailed characterization of the Mono Basin hydrogeology is provided in the Mono Basin watershed studies prepared for Mono County by Team Engineering.

The first Tioga well has been in operation for more than 25 years, and producing water supply at a rate that is sufficient to meet all foreseeable future demands of the project including existing and proposed elements. SGSI recommendations for Well #1 are to periodically clean it and remove sediment build up from the sump to maintain well capacity and efficiency. Well #2 was not installed to meet water demands, but rather was installed as a back-up well, to meet the well reliability requirements of the State of California. The project applicant does not plan, or foresee a need, to construct a third well. Normal completion times to construct a well of this size and depth would be 2-3 weeks, irrespective of the 6-month timeframe used by Maranatha to construct Well #2. Please note that neither Well #1 nor Well #2 is part of the proposed Community Housing Project.

Attachment 1: Comment letter from Matt Banta dated 4 August 2020

August 4, 2020

14175 Saddlebow Dr.
Reno NV, 89511
775-843-1908
mbantah20@yahoo.com

Mono County Board of Supervisors
P.O. Box 715
Bridgeport, CA 93517

Regarding: Tioga Inn Project - Water Resource Development Plan (General Comments)

Dear Mono County Board of Supervisors,

Greetings, my name is Matt Banta. I am of over five generations to have been born and raised in the Eastern Sierra and of four generations whom have called Lee Vining and the Mono Basin home. I am a graduate of Mammoth High School, a community volunteer, and an advocate of preserving the intrinsic values of wild unspoiled places, such as the Mono Basin. I am proponent of sustainable development and industry. I am also a professional hydrogeologist with many years of experience in various development markets.

For over two decades, the Tioga Inn Project (Project) has been in a process of on-going planning and feasibility level studies. From a water resources perspective, the data presented from previous groundwater and surface water resource evaluations is insufficient to defensibly establish baseline data required to evaluate cumulative impacts. Specifically, impacts resulting from the long-term stress to the underlying alluvial groundwater system has not been characterized in accordance with acceptable engineering practices. Impacts to surface water resources, i.e. Lee Vining Creek, and regional seeps and springs have not been assessed. A hydrologic study area (HSA) has not been established, nor has the hydrology within the HSA been characterized to define basic hydrological parameters. At minimum, these baseline parameters should include characterizing the groundwater flow direction, gradient, transmissivity, and storage coefficients of the underlying aquifer(s). The current hydrological evaluation supporting the Project is insufficient in characterizing these parameters and does not address feasibility level impacts since it lacks site specific data.

The following provides a summary of data gaps which must be addressed to defensibly evaluate cumulative impacts and provide feasibility level design specifications for the Project:

1. The Project does not provide a detailed water balance and the yearly duty of groundwater extraction has not been completely defined. For example, there is no accounting for construction water demand through each phase of development. It is unclear if the existing

water supply well has sufficient capacity to support construction and dust suppression activities during summer months. Has Mono County accounted for all components of the Project's water demand and can the existing well support those demands through the life of the Project? Please provide a detailed water balance accounting for each development phase to ensure the existing well can support the entire Project. Please also provide a statement indicating no water will be required from the Lee Vining community water system to supplement the existing supply well(s) during construction activities.

2. As indicated above, baseline water resource parameters have not been characterized. It is not clear what the gradient or direction of groundwater flow beneath the Project is. Without this basic information, future downgradient groundwater monitoring wells cannot be located to establish baseline conditions or monitor for potential impacts resulting from the proposed wastewater management system. At minimum, three piezometers must be installed in the vicinity of the proposed system to define the gradient and groundwater flow direction. The elevation of groundwater measured from the piezometers will be required to properly establish a defensible downgradient monitoring location, which is currently lacking from the plan.

3. There has been no long-term aquifer test to assess boundary conditions or establish aquifer parameters such as Transmissivity or Storativity (T&S) outside the vicinity of the existing wellbore. These parameters are required to simulate a long-term stress to the underlying groundwater system and should be based on realistic Projects extraction rates. The data generated from the short-term well test indicated drawdown occurred to an approximate elevation of 6,252 feet above mean sea level (feet amsl) at an extraction rate of 150 gallons per minute (GPM) over 4-hours. The approximate surface elevation of Mono Lake located 1-mile east of the well is 6,400 feet amsl. The short-term test indicates drawdown will occur below the elevation of Mono Lake at a pumping rate of 150 GPM. A longer-term test conducted at a pumping rate which realistically simulates the operational demand of the Project will be required to determine if long-term drawdown also persist at a lower rate or, if near steady state conditions can be achieved in the aquifer.

4. The head dynamics between Lee Vining Creek, Mono Lake, and the seeps and spring in the vicinity of Mono Lake, vs. the long-term groundwater demand (still to-be-defined) have not been examined. Since there is no analyses of constant head or constant flux boundaries, it is unknown if the Project's pumping wells will reverse the hydraulic gradient in a direction away from Mono Lake back towards the extraction wells. In this case, the fresh water alluvial aquifer system which the Project wells are located may be contaminated with saline lake water. This dynamic must be defined to eliminate potential to degrade waters of the State and not violate regulations protecting fresh-water aquifers. Additionally, seeps and springs in the vicinity of

Mono Lake may cease to flow through prolonged extraction from the alluvial groundwater system. Please provide evidence that the long-term net extraction of groundwater, including the demand for construction water will not impact other water resources in terms of direct impacts to water quality and discharge rates.

5. Since storage parameters and boundary conditions have not been defined, there is no defensible evidence indicating the Project's long-term use of groundwater will not impact the neighboring domestic well located on the Andrews' property, approximately 0.75 miles south of the Project. Please provide evidence indicating the Andrews Well will not be impacted by the Project, or provide a monitoring, mitigation and maintenance plan to address potential impacts to the nearby domestic well.

In terms of feasibility, the capital expenditures to construct and maintain new wells which are designed to be in compliance with California well standards, the storage tanks, wastewater treatment system, and all other water conveyance systems requires further examination to define the magnitude of respective impacts. For example, drilling of additional wells or piezometers will likely be required to meet future permit conditions or operational demands. This work will be completed at the expense of the Project proponent. The most recent Project well was spud in October 2019 and completed in early summer 2020 (over half a year to complete one well). The well was poorly designed and will likely have a well-life similar to the Proponent's original water supply well. Has Mono County considered the visual impacts associated with a single well drilling program which was drug out over the course of half a year? Please consider supporting a timeframe for completion of any new wells to avoid prolonging undue degradation of visual resources within the Mono Basin.

In closing, please be aware this comment letter was not solicited from any single organization. From a technical water resource perspective, the existing baseline data and impact analyses is not sufficient to support the Project, nor is it defensible. From a personal perspective, the people who live and recreate in the Mono Basin are distinctively tied to the waters. These waters are sacred and have been protected for thousands of years with the lives of countless individuals dedicated to its preservation. We would be abandoning our duties as scientist and remiss as stewards of this remarkably unique environment if we ignore our responsibility to complete the full due analysis based on the best available science. Anything less would desecrate the work and the path set forth by those individuals who fought tirelessly to protect these extraordinary resources from exploitation.

With urgency, please consider filling the data gaps which are required to defensibly evaluate cumulative impacts and provide realistic feasibility level water resource design specifications for the Project.

Respectfully,

A handwritten signature in blue ink, appearing to read "Matt D. Banta", with a stylized flourish underneath.

Matt Banta

Mono County response in blue, dated Sept. 22, 2020.

To Whom It May Concern:

September 1, 2020

I, Angela Williams Eddy a Mono Lake Kutzadika'a Tribal member/Tribal Council Vice Chairwoman writing this letter with concerns, facts and reasons that no building or disturbance of our sacred lands in the Tioga Inn project. I am opposed to this project.

Thank you for your letter and the information you have provided. The Mono County Community Development Department (Department) recognizes that the entire landscape is considered traditional lands of the Kutzadika'a Tribe and respects the Tribe's cultural heritage. At the same time, the Department must honor current legal land use laws and private property owner rights.

Our concerns are that Native artifacts have been found on this land and in the area.

In the original archaeological survey for the project, conducted in 1984, portions of the Lee Vining Ditch and associated 20th-century artifacts were recorded, as well as an obsidian flake and a small pumice block. Because that survey was over 30 years old, the project area was resurveyed in 2016 for the Supplemental Environmental Impact Report (SEIR). Eleven isolated artifacts were documented during that survey; four of these were obsidian flakes, the others include cans and can fragments that date to the mid- to late 20th century, a whiteware bowl dating to between 1958 and 1980, a saw-cut stump, and asphalt fragments. The Lee Vining Ditch was determined ineligible for the National Register of Historic Places or the California Register of Historical Resources in 1996 as part of the Highway 395 widening project. Even with the additional biface found by a tribal member in 2020, none of the isolates meet the criteria for the California Register of Historical Resources, either individually or taken together.

Its also known as a walking path of the Mono Lake Kutzadika'a tribe to and from town, to the known areas of our people that lived out by Williams Bluff, Cane Ranch, Rush Creek , Tioga pass, and Yosemite. The fact that multiple cry dances took place in this area in which it makes it sacred land. A fact that I have knowledge of and took part in 1988 when my Great Grandmother (Hutsi) Vina Williams took her journey. This area is important to our heritage, culture, people and the future of our people.

The County recognizes that not all Tribal Cultural Resources will be found during archaeological survey and, following the provisions of AB 52, consultation was held with the Kutzadika'a Tribe. In meetings with the county staff, Tribal representatives identified several concerns, including public safety, traffic, noise, and competition with existing Lee Vining motels. Many of these concerns are shared by members of the public, and the EIR has addressed them and identified mitigation measures where appropriate.

The Kutzadika'a Tribe and the Bridgeport Indian Colony also stated concerns about the potential for human burials to be encountered during ground disturbance: as we understand it, burials were often not marked, and if they were located away from villages, there would be few artifacts accompanying them. To address this concern, the applicant voluntarily agreed to adopt a mitigation measure to provide some funding for monitoring by qualified tribal members and/or training for the construction crew. The mitigation measure was accepted in an email dated 13 January 2020 from Michael Godbe, the attorney from California Indian Legal Services representing the Tribe.

The Department recognizes the importance of cry dances. To the owner's knowledge, no cry dances have taken place on the property for the past approximately 37 years since he has been the owner. We realize that cry dances and other traditions and ceremonies have likely occurred in the vicinity, given the Kutzadika'a's long history in the area, and that the landscape in its entirety is sacred to indigenous people. It is beyond the scope of the current analysis to address the management of sacred lands in general, but we hope that with continued communication and collaboration, the County and the Tribe will be able to work together to better acknowledge and honor the Kutzadika'a's heritage. With that in mind, the County would be happy to facilitate a conversation between the Tribe and public land managers such as the Bureau of Land Management and/or Inyo National Forest to find and establish an appropriate cry dance site should the Tribe be interested. Given the current level of existing and approved development on the Tioga Inn Specific Plan site, the location is likely not ideal for a cry dance site regardless of the currently proposed project.

There are important concerns and questions we have about the contract that was approved in 1993. Was the tribe offered consultation or involved? Were there tribal monitors there when surveyed and when ground breaking began for the building of the gas station? Who? Were they certified? Why now?

In 1993, the California Environmental Quality Act did not readily or directly include California Native American tribes' knowledge and concerns. Although an archaeological survey was conducted at that time, Tribes were treated as regular members of the public, and were not afforded specific government-to-government consultation. The California state legislature tried to remedy this situation with Senate Bill (SB) 18, passed in 2005, and Assembly Bill (AB) 52, passed in 2014. The provisions of AB 52 have been incorporated into CEQA, Division 13 of the Public Resources Code. The County has followed the provisions of SB 18 and AB 52 for the currently proposed Specific Plan Amendment, but the 1993 approvals are not reconsidered as part of the current project.

Instead of building lets help local community businesses (motels) by using them as seasonal housing for the workers. Already a safety hazard with the gas station in that area, vehicles parked all over the side of road, people running and walking on HWY120 to get to and from those vehicles, a distraction from HWY395 for traffic

passing by. Also was having live entertainment part of the contract? Do they have permits? Do they have security and safety in place for the public? What about drinking and noise ordinances? I believe we should come together and renegotiate this contract do to the findings of Native Artifacts and the tribal sacred land.

Local motels and hotels are generally fully booked during the summer season when employee housing is at peak demand. However, these properties are welcome to utilize rooms at any time of the year for longer term rental housing; it is a private business choice that does not involve the County. As for the parking and pedestrian safety situation, both will be substantially reorganized and cleaned up in the current proposal. The project has coordinated with Caltrans on parking along State Route 120 and the entry roadway will be slightly reconfigured to improve traffic circulation. The live entertainment is considered an allowable ancillary use to the deli and is being formally acknowledged under the current proposed project, alcoholic beverage consumption is regulated by the California Department of Alcoholic Beverage Control (ABC), and all uses on the site are required to comply with the noise ordinance as set forth in Mono County Code.

So in closing can we please compromise, work together to come up with another solution? You have the Gas station that is making a great deal of money, while serving the community and tourist. More building just destroys mother earth and brings more people into a very content small community. Than it soon becomes a crowded over populated city and you lose the tourist. Another fact is that it is a Native sacred site being artifacts have been found on the land and that cry dances took place in that area. Our people are asking please leave our sacred land undisturbed? Our heritage, culture, traditions, land and people are very important to us.

Unfortunately, the County is not currently revisiting the development approvals issued in 1993 under the current project proposal. During review of the current project proposal, several concerns were identified by the Tribe and addressed through a voluntary agreement by the property owner to fund cultural monitoring by qualified tribal members and/or training for the construction crew in identification of cultural resources. Other compromises and project revisions by the property owner include: the provision of housing to alleviate the housing need in the county, reduction in scale of the original project (which proposed a third story on the hotel and a larger restaurant), a secondary emergency access road, solar panels, a recycled water system, lighting restrictions exceeding the County's regulations for dark sky protection, and several others that will be listed in the 13 October 2020 staff report for the upcoming Board of Supervisors meeting. Please let us know if you have any specific additional mitigations to propose for the current project, which is the only proposed development under consideration at this time.

Thank you for your time and consideration,

Thank you again for your letter, and for your prior participation in the Kutzadika'a's consultation with the county. We recognize your continuing cultural ties to the land and the importance of your traditional heritage, and appreciate the Tribe's efforts to help us meet our responsibilities under CEQA. In addition to the offer to help identify a cry dance site, the County is happy to support the Tribe's effort for federal recognition which has been introduced by Congressman Cook. Please let us know if the Tribe has any interest in pursuing either of these two issues.

Angela (Williams) Eddy
Mono Lake Kutzadika'a Tribal Member/Vice Chairwoman

From: [charlotte Lange](#)
To: [Wendy Sugimura](#)
Cc: [Bob Gardner](#)
Subject: Re: Kutzadika'a Tribe comments on Tioga Inn
Date: Wednesday, September 23, 2020 12:52:29 AM

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Thanks for the info.
Charlotte

On Tue, Sep 22, 2020, 9:22 PM Wendy Sugimura <wsugimura@mono.ca.gov> wrote:

Dear Chairwoman Lange:

Supervisor Gardner asked me to follow up further and provide the details about the Andrews well that is referenced in my email.

The staff report for the 6 August 2020 Board of Supervisors meeting states, "The Team Engineering study shows that the Tioga Inn well is not in the Lee Vining Creek watershed, or any of the Lee Vining Creek sub-watersheds, and also shows that the Tioga well is in the same watershed as the Andrews well, but not in the same aquifer as the Andrews well. Additional information concerning the Andrews well is provided in FSEIR Topical Response #11, Water Quality and Water Supply."

The Final Subsequent Environmental Impact Report (FSEIR) states the following: "The project hydrologist has reviewed and analyzed concerns raised by the Mono Lake Kutzadika'a Tribe regarding project impacts on the neighboring Andrews family Indian allotment wells. By way of background, the Andrews family in 1980 installed a well on their property at a depth of 250 feet; the well did not reach groundwater. In 1992, the family hired Maranatha to drill through the bottom of the original hole to a new depth of 370 feet. With the second effort, Maranatha did reach groundwater, and the new well produced groundwater at an estimated rate of 30 gallons per minute (gpm). The static water level of the new well stabilized at 230 feet.

The Andrews well was drilled in a comparatively small groundwater basin located about 1 mile south of the Tioga wells. The groundwater basin tapped by the Andrews well is geologically separated from the Tioga well by the Sierra Range Front Fault System. Based on this review, the hydrologist concludes that the failure of the initial Andrews well resulted from insufficient well depth, and that the low groundwater production rate of the second Andrews well is due to the small diameter of the well and the completed depth of the well (i.e., not deep enough). The reason this well cannot be deepened is that it is already cased with 4 inch diameter casing (i.e., the 4-inch diameter casing cannot support a larger pump

than what is in it now; to drill deeper would require a 3 inch diameter casing and a much smaller pump, further reducing production from this well).

The pump stress test conducted for the proposed Community Housing Project showed no interference with the Winston well, which is located northwest of and in the same groundwater basin as the Tioga well, and is nearly the same distance away as the Andrews well. Even if no recharge to the basin occurred in a given year, the project hydrologist indicates that it is highly unlikely there would be a noticeable drop in the groundwater levels of surrounding wells solely due to annual production from the Tioga well. Based on these considerations, the project hydrologist has a 95% confidence level that there will be no interaction between the Tioga and Andrews' wells resulting from groundwater production in these two wells."

I have attached the 6 August 2020 staff report, the Team Engineering study, and FSEIR Topical Response #11 for your convenience.

Thank you,

Wendy Sugimura

Community Development Director

760.924.1814

From: Wendy Sugimura
Sent: Thursday, September 10, 2020 5:07 PM
To: Charlotte Lange <char54lange@gmail.com>
Cc: Bob Gardner <bgardner@mono.ca.gov>
Subject: Kutzadika'a Tribe comments on Tioga Inn

Dear Chairwoman Lange:

The Mono County Community Development Department is in receipt of your email dated August 9 commenting on the Tioga Inn Specific Plan Amendment, as well as emails from Vicki Glazier, Jocelyn Sheltraw, and Angela Williams Eddy. Mono County welcomes these comment letters from the Tribe and tribal members.

The concerns raised in the recent emails, including water usage, potential depletion of the Andrews well, law enforcement, medical services, and impacts to community character have been addressed in the published materials on the project and the California Environmental Quality Act (CEQA) analysis. Concerns about pollution and land fill are also addressed in the CEQA analysis; please let me know if there are specific aspects of those issues that were not considered.

Lastly, although not mentioned in any of the emails, testimony from the Tribe at the August public hearing indicated an arrowhead was found on the site. The Community Development Department recognizes that the project area is within the traditional territory of the Kutzadika'a and that the evidence of your ancestors' use of the land may well be found in the project area. The archaeological survey conducted for the project documented a few other isolated artifacts, although no archaeological sites or historic properties potentially eligible for the California Register of Historical Resources were discovered. During our previous consultations, we identified a mitigation measure that is being voluntarily provided by the applicant for the discovery of cultural resources during the project implementation. We understand that the mitigation measure resolved that issue, as indicated in an email dated January 13, 2020, from Michael Godbe, the attorney from California Indian Legal Services representing the Tribe.

Thank you again for the Tribe's input. Mono County values input from the Tribe and recognizes the need to be respectful of traditional lands and values while also adhering to our responsibilities to private landowners.

Thank you,

Wendy Sugimura

Community Development Director

PO Box 347

1290 Tavern Road, Suite #138

Mammoth Lakes, CA 93546

760.924.1814



Michael Draper

From: Wendy Sugimura
Sent: Monday, August 10, 2020 9:34 AM
To: CDD Comments
Subject: FW: Tioga Inn

Follow Up Flag: Follow up
Flag Status: Flagged

Wendy Sugimura
Community Development Director
760.924.1814

-----Original Message-----

From: Bob Gardner <bgardner@mono.ca.gov>
Sent: Saturday, August 8, 2020 9:12 PM
To: Wendy Sugimura <wsugimura@mono.ca.gov>
Subject: FW: Tioga Inn

FYI

-----Original Message-----

From: Vicki Glazier <vickimnolk@yahoo.com>
Sent: Saturday, August 8, 2020 8:27 PM
To: Bob Gardner <bgardner@mono.ca.gov>
Subject: Tioga Inn

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Mr. Gardner,

I strongly oppose the work force housing project being proposed in Lee Vining. As a restaurant and hotel have already been approved, that in itself will hurt the established businesses in Lee Vining. I grew up in Lee Vining and always appreciated the sense of community. Tioga Inn will undoubtedly become a community of itself. Seasonal workers will be moving in and out, with no plans of permanent residency. What about law enforcement and medical services? Those services are limited as it now. The Paiute people lived and traveled all throughout that area and to see the destruction of more our homeland is devastating.

Sincerely,

Vicki Glazier
Mono Lake Kutzadika Tribal Member

Sent from my iPad

Michael Draper

From: Wendy Sugimura
Sent: Monday, August 10, 2020 11:32 AM
To: CDD Comments
Subject: FW: Tioga Inn Project

Follow Up Flag: Follow up
Flag Status: Flagged

Wendy Sugimura

Community Development Director
760.924.1814

From: Bob Gardner <bgardner@mono.ca.gov>
Sent: Monday, August 10, 2020 10:52 AM
To: Wendy Sugimura <wsugimura@mono.ca.gov>
Subject: FW: Tioga Inn Project

FYI

From: charlotte Lange <char54lange@gmail.com>
Sent: Sunday, August 9, 2020 10:19 PM
To: Bob Gardner <bgardner@mono.ca.gov>
Subject: Tioga Inn Project

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Supervisor Bob Gardner,
I am sending this email expressing my opposition to the Tioga Inn Project.
The community of Lee Vining needs to be kept serene, safe and the traditional lands not disturbed as best we can.
The amount of more pollution, land fill, water usage and the well depletion for the Andrew's family are more concerns.
Thank you for your time in considering our request.
Charlotte Lange,
Mono Lake Kutzadika Chairperson

Michael Draper

From: Wendy Sugimura
Sent: Tuesday, August 18, 2020 8:44 AM
To: CDD Comments
Subject: FW: Tioga Inn Project

Wendy Sugimura

Community Development Director
760.924.1814

From: Bob Gardner <bgardner@mono.ca.gov>
Sent: Tuesday, August 18, 2020 8:41 AM
To: Wendy Sugimura <wsugimura@mono.ca.gov>
Subject: FW: Tioga Inn Project

FYI

From: Bob Gardner
Sent: Tuesday, August 18, 2020 8:40 AM
To: Jocelyn Sheltraw <jocelynseltraw@gmail.com>
Subject: RE: Tioga Inn Project

Dear Jocelyn,

Thank you for your comments. I will make sure it gets included in the public comments for the Tioga Inn project.

Bob Gardner
Mono County Supervisor

From: Jocelyn Sheltraw <jocelynseltraw@gmail.com>
Sent: Monday, August 17, 2020 11:11 PM
To: Bob Gardner <bgardner@mono.ca.gov>
Subject: Tioga Inn Project

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello Supervisor Bob Gardner,

I am emailing you today to express my opposition to the Tioga Inn Project.

I believe that the community of Lee Vining should be kept serene and safe, ultimately ensuring that the traditional lands are the least disturbed as possible. I have concerns over increases in pollution, landfill, and water usage. The well depletion for the Andrew's family is concerning as well.

Thank you for your time in considering our request.

Be well,
Jocelyn Sheltraw
Mono Lake Kutzadika Preservation Chairperson

From: [Sandra Bauer](#)
To: [Wendy Sugimura](#)
Subject: FW: another possible idea for the tioga workforce housing project?
Date: Tuesday, April 7, 2020 9:36:21 AM
Attachments: [image001.png](#)

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Wendy,

Below for your review and files is the email from Michael Godbe approving of the revised Cultural Resource Mitigation language:

From: Michael Godbe [mailto:mgodbe@calindian.org]
Sent: Monday, January 13, 2020 1:36 PM
To: Mary Farrell
Cc: charlotte Lange; Sandra Bauer; Dorothy Alther
Subject: RE: another possible idea for the tioga workforce housing project?

Mary and Sandra,

I have discussed the new proposed language with Chairwoman Lange and she approves. We would like to move forward with this new language proposed by Mary (copied from Mary's 12/12 email below):

"MITIGATION CULT 5.4(a). Discovery of Cultural Resources: Prior to initiation of any earthwork on the project site, The Mono Lake Kutzadika'a Tribe shall receive reasonable compensation in an amount equivalent to 50 hours of time and travel costs. The Tribe may use the 50 hours of compensated time for training of the onsite construction crew and/or for tribal monitoring, with the allocation of time to be at their discretion. Additionally, all construction plans that require ground disturbance and excavation shall contain an advisory statement that there is potential for exposing buried cultural resources, which would require implementation of the procedures described below . The interested Tribes shall be notified by postal mail and electronic mail no less than 10 days prior to the initiation of any grading or earthwork. Tribal monitors are invited to observe the work at any time, either as paid professionals within the 50-hour pre-discovery allotted compensation or as non-paid volunteers. In the event of the discovery of archaeological resources during construction, ground disturbance shall be suspended within a 200-foot radius of the location of such discovery until the area can be evaluated, by Tribal cultural resource experts assisted by a qualified archaeologist. The selection of the archaeologist will be approved by Mono County, the Mono Lake Kutzadika'a Tribe, Bridgeport Indian Colony, and the project proponent. The Tribal cultural resource experts and the archaeologist will be fairly compensated. Work shall not resume in the defined area until sufficient research and data collection are conducted to make a determination as to the significance of the resource. If the resource is determined to be significant and mitigation is required, the first priority shall be avoidance and preservation of the resource. All feasible recommendations of the Tribal cultural resource experts and archaeologist shall be implemented. Mitigation may include, but is not limited to, in-field documentation and recovery of specimens, laboratory analysis, preparation of a report detailing the methods and findings of the investigation, and curation at an appropriate collection facility. Evaluation and recommendations shall be developed in collaboration with the Kutzadika'a Indian Community of Lee Vining and the Bridgeport Indian Colony, and the tribes shall be responsible for determining who will monitor the subsequent ground disturbance. Post-discovery,

the tribal monitor shall receive reasonable compensation for time and travel costs, beyond the 50-hour limit allocated for pre-discovery monitoring.

Thank you both for your continued engagement with the Tribe on this project.

Best,

Mike

Michael Godbe

Registered Legal Aid Attorney



California Indian Legal Services

873 N. Main Street, Suite 120

Bishop, CA 93514

760.873.3581

Fax: 760.873.7461

www.calindian.org

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From: Mary Farrell [mailto:mollyofarrell@gmail.com]

Sent: Monday, January 13, 2020 10:59 AM

To: Michael Godbe <mgodbe@calindian.org>

Cc: charlotte Lange <char54lange@gmail.com>; Sandra Bauer <sandra@bpesinc.com>; Dorothy Alther <dalther@calindian.org>

Subject: Re: another possible idea for the tioga workforce housing project?

Great, Thank you!

Mary M. Farrell
760-644-4284

On Mon, Jan 13, 2020 at 10:55 AM Michael Godbe <mgodbe@calindian.org> wrote:

Mary and Sandra,

Apologies for the delay. I am meeting with Chairwoman Lange today and plan to respond by the close of business.

Thank you,

Mike

Michael Godbe

Registered Legal Aid Attorney



California Indian Legal Services

873 N. Main Street, Suite 120

Bishop, CA 93514

760.873.3581

Fax: 760.873.7461

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From: Mary Farrell [mailto:mollyofarrell@gmail.com]

Sent: Thursday, January 2, 2020 5:34 PM

To: Michael Godbe <mgodbe@calindian.org>

Cc: charlotte Lange <char54lange@gmail.com>; Sandra Bauer <sandra@bpesinc.com>

Subject: Re: another possible idea for the tioga workforce housing project?

Happy new year, Charlotte and Michael!

Hope you are keeping healthy and happy. Just want to check in on you to see if you have further thoughts on the alternative wording for the Tioga Workforce Housing project. Charlotte, do you agree with Michael that the new wording would be better? With all the holidays, I realize you might not have had a chance to talk with the Bridgeport folks yet, so this note is sort of a reminder! Plus an excuse to wish you happy new year!

I'm copying Sandra Bauer, too, if you want to let her know your preference directly. She said if you could let her know by January 14 (or

maybe it was Jan 15) it would be good!

Thank you both for all you do,
Mary

Mary M. Farrell
760-644-4284

On Mon, Dec 23, 2019 at 11:34 AM Michael Godbe <mgodbe@calindian.org> wrote:

Mary,

I apologize for the delay – I had my first trial on Friday and these past two weeks have been very busy (trial went very well, but it's not over, continued in January).

I have not had a chance to discuss the proposal below with Charlotte yet, but I just re-read the revised one we approved (in my 11/19 email) and this one and I like this one much better. Your language below will allow the tribe to put on one or a few trainings that in total probably won't total more than 6 hours (three 2-hour trainings?) for the construction workers, but then be also able to compensate a tribal monitor for a not insignificant amount of time. Additionally, your language below improves the current version by requiring the Bridgeport and Mono Lake tribes to both approve the selection of the archeologist if one is called in – a much appreciated change.

I think this language is a big improvement. **Charlotte, please let me know if I am missing anything or if you agree.** Here is the language that is currently approved (with the changes after we met with Sandra and the county in red):

MITIGATION CULT 5.4(a). Discovery of Archaeological Resources: Prior to initiation of any earthwork on the project site, a Tribal member shall provide training to the onsite construction crewmembers. The training shall focus on teaching construction workers how to recognize cultural resources that are unearthed during grading. The tribal monitor shall receive reasonable compensation for up to 50 hours of time and travel costs during the training effort, and all construction crewmembers shall be required to attend the training sessions. Additionally, all construction plans that require ground disturbance and excavation shall contain an advisory statement that there is potential for exposing buried archaeological resources. The interested Tribes shall be notified by postal mail and electronic mail no less than 10 days prior to the initiation of any grading or earthwork, and are invited to observe the work at any time without compensation. In the event of the discovery of archaeological resources during construction, ground disturbance shall be suspended within a 200-foot radius of the location of such discovery until the area can be evaluated by a qualified archaeologist. Work shall not resume in the defined area until the archaeologist conducts sufficient research and data collection to make a

determination as to the significance of the resource. If the resource is determined to be significant and mitigation is required, the first priority shall be avoidance and preservation of the resource. All feasible recommendations of the archaeologist shall be implemented. Mitigation may include, but is not limited to, in-field documentation and recovery of specimens, laboratory analysis, preparation of a report detailing the methods and findings of the investigation, and curation at an appropriate collection facility. Because archaeological resources are likely to also be tribal cultural resources, evaluation and recommendations shall be developed in collaboration with the Kutzedika'a Indian Community of Lee Vining and the Bridgeport Indian Colony, and the tribes shall be responsible for determining who will monitor the subsequent ground disturbance. The tribal monitor shall receive reasonable compensation for time and travel costs. [\[1\]](#)

[1] Reasonable compensation shall include mileage at standard IRS rates, and an hourly fee (including training, **monitoring** and travel time) not to exceed \$40.

Mary, thank you for your efforts regarding this project and taking the time and initiative to discuss the above with Sandra. We appreciate your care and attention to this important matter.

Happy holidays,

Mike

Michael Godbe

Registered Legal Aid Attorney



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From: Mary Farrell [mailto:mollyofarrell@gmail.com]

Sent: Thursday, December 12, 2019 1:20 PM

To: charlotte Lange <char54lange@gmail.com>; Michael Godbe <mgodbe@calindian.org>

Subject: another possible idea for the tioga workforce housing project?

Hello, Charlotte! I hope you are doing well, and that you have been able to keep some of your famous quilts to keep you warm!

Sandra Bauer just called me to say she got a note from Michael Godbe about the Tioga workforce housing project. Sandra says that she, and the county planning department folks, are very grateful to you and Michael for all the work and thought you have put into reviewing this project, and for your well-considered ideas. They plan to use the EIR wording (revised and sent to you in September) that you have reviewed and approved, via Michael's email of November 19.

The reason Sandra called me today is because after she sent you that email or letter in September, I had suggested another option, and she thought maybe I should run it by you and Michael to see what you think. I don't know if it's any better than the "train the construction workers" mitigation measure you have (somewhat reluctantly) approved, but it gives the Tribe more flexibility in using the funding set aside for you. If you like it better, let Sandra or me or the county know by January 15, and they'll use it instead. I know you don't need more work, but it seems pretty cool that the county wants to keep the dialogue going, right? So, with apologies for taking more of your time, here's what I had suggested:

"MITIGATION CULT 5.4(a). Discovery of Cultural Resources: Prior to initiation of any earthwork on the project site, The Mono Lake Kutzadika'a Tribe shall receive reasonable compensation in an amount equivalent to 50 hours of time and travel costs. The Tribe may use the 50 hours of compensated time for training of the onsite construction crew and/or for tribal monitoring, with the allocation of time to be at their discretion. Additionally, all construction plans that require ground disturbance and excavation shall contain an advisory statement that there is potential for exposing buried cultural resources, which would require implementation of the procedures described below. The interested Tribes shall be notified by postal mail and electronic mail no less than 10 days prior to the initiation of any grading or earthwork. Tribal monitors are invited to observe the work at any time, either as paid professionals within the 50-hour pre-discovery allotted compensation or as non-paid volunteers. In the event of the discovery of archaeological resources during construction, ground disturbance shall be suspended within a 200-foot radius of the location of such discovery until the area can be evaluated, by Tribal cultural resource experts assisted by a qualified archaeologist. The selection of the archaeologist will be approved by Mono County, the Mono Lake Kutzadika'a Tribe, Bridgeport Indian Colony, and the project proponent. The Tribal cultural resource experts and the archaeologist will be fairly compensated. Work shall not resume in the defined area until sufficient research and data collection are conducted to make a determination as to the significance of the resource. If the resource is determined to be significant and mitigation is required, the first priority shall be avoidance and preservation of the resource. All feasible recommendations of the Tribal cultural resource experts and archaeologist shall be implemented. Mitigation may include, but is not limited to, in-field documentation and

recovery of specimens, laboratory analysis, preparation of a report detailing the methods and findings of the investigation, and curation at an appropriate collection facility. Evaluation and recommendations shall be developed in collaboration with the Kutzedika'a Indian Community of Lee Vining and the Bridgeport Indian Colony, and the tribes shall be responsible for determining who will monitor the subsequent ground disturbance. Post-discovery, the tribal monitor shall receive reasonable compensation for time and travel costs, beyond the 50-hour limit allocated for pre-discovery monitoring.

Meanwhile, best wishes for a good winter season!

Mary

Mary M. Farrell
760-644-4284

[\[1\]](#) Reasonable compensation shall include mileage at standard IRS rates, and an hourly fee (including training, monitoring and travel time) not to exceed \$40.