



225 Bush Street
Suite 1700
San Francisco, CA 94104
415.896.5900 phone
415.896.0332 fax

www.esassoc.com

memorandum

date October 26, 2009
to Sidnie Olson, Principal Planner
from Lesley Lowe and Gary Oates, ESA
subject Marina Center EIR

This memorandum provides responses to three letters, one from an individual, Jeremy Mills, whose comments were submitted several days after the close of the public review period on the Draft EIR on January 30, 2009 due to legitimate technical transmission problems and was inadvertently not responded to in the Final EIR (FEIR) along with two letters received from public/quasi-governmental agencies commenting on the FEIR, Caltrans and the Blue Lake Rancheria. These letters are attached. To assist the reader, comments raised by these letters are responded to as numbered by the letter author or, in the case of the Mills letter (which is considered Letter 180 on the DEIR) and the Caltrans letter, numbered by the responder.

Letter 180: Jeremy Mills

180-1 This comment states the Draft EIR should look at all contaminants on the site including dioxins and furans. Dioxins and furans (often referred to collectively as “dioxins”) refer to groups of related compounds that are found in soil, sediment, air, and water all over the world. They are formed as a result of combustion processes, including commercial or municipal waste incineration, the burning of fuels like wood, coal, oil, gasoline, or diesel, and from some manufacturing processes. Dioxins can be formed as a result of natural processes such as forest fires.

Sampling for dioxin has occurred and would be remediated as part of implementing phase 1 of the proposed project. Phase 1 includes the Supplemental Interim Remedial Action Plan (SIRAP), which is summarized in Master Response 4 of Volume 1 of the FEIR and included in its entirety as Appendix S in Volume 2 of the Final EIR. Dioxins in sediment samples from onsite ditches and the Clark Slough remnant were also discussed on Draft EIR (DEIR) page IV.G-6. Further, Mitigation Measure G-1b of the DEIR states that prior to commencement of construction activities, the Project Applicant must complete characterization and remediation of all contaminants to the satisfaction of the Regional Water Quality Control Board (RWQCB). This includes dioxin. See also responses to comments 23-4 and 23-5 of the Final EIR for additional discussion of dioxin and related compounds such as furans.

- 180-2 This comment states that there is no clear threshold of significance set for exposure to contaminants. There are no existing thresholds for exposure to contaminants beyond those regulated by the U.S. Environmental Protection Agency, the California Department of Toxic Substances Control (DTSC), and the RWQCB. As such, these thresholds are used in the Draft EIR to identify project related impacts.

The levels of dioxin identified onsite are modestly elevated, but within the range of levels recommended as cleanup standards by DTSC (i.e., 200 to 1000 parts per trillion). DTSC is the primary agency in California with responsibility for cleaning up contaminated soils. Soils that come within cleanup levels need no further action. Nevertheless, the Project Applicant is proposing to remove dioxin-contaminated soils within Clark Slough and the ditches in Phase 1 as part of the SIRAP. Additional sampling would be performed during the excavation process, and soils with elevated levels would be removed.

- 180-3 The commenter states that there is no analysis of the impacts on fish, wildlife and vegetation. Section IV.D of the Draft EIR is entitled Biological Resources and is entirely devoted to documenting project related impacts on fish, wildlife and vegetation.

- 180-4 The commenter states that no performance standards are set for evaluating the deferred mitigation measure of “a site specific remediation plan and health and safety plan”. As noted on page III.15 of the Draft EIR, site remediation is Phase 1 of the proposed project, and is analyzed as such. The SIRAP, which has been approved by the RWQCB, is included as Appendix S.

It is appropriate under CEQA to defer such details when it is impractical to do so, and measures including performance standards are included to ensure that the impact will be mitigated to a less than significant level. Concerning the remediation plans, this is one part of the project that is proposing to improve the baseline environmental conditions over current conditions. Details concerning the SIRAP only became available after the close of the comment period on the Draft EIR as part of the ongoing process to remediate the site in response to the RWQCB’s 2001 Cleanup and Abatement Order. Further details concerning the Final Remedial Action Plan are not known at this time because those details depend on further site characterization, final land use plans, and further direction from the RWQCB. This step-wise approach to remediation planning and implementation is effective, and will ensure that the project applicant cleans up the property to levels that satisfy federal and state standards and are appropriate for the proposed uses. Consequently, the EIR provides sufficient information with which to evaluate the impacts of the project and the effectiveness of its mitigation.

- 180-5 This comment states that traffic impacts beyond U.S. Highway 101 and the Sixth and Seventh Street corridor should be analyzed as project related traffic would cause diversions. Project traffic was distributed onto all streets within the Greater Eureka Area Traffic Model based on roadway capacity and driver behavior considerations. The volume and location of those trips are portrayed in Appendix H of the Draft EIR. Larger plots (24 inch by 36 inch) including street names are available at the City because the amount of information in Appendix H does not easily lend itself to a letter-size print.

As shown on the output plots, project trips were distributed throughout the city, although the vast majority of project trips were assigned by the model to Broadway (U.S. 101) east and south of the project site, the model predicted that some trips (both trips generated by the project and other “background” trips) would divert to other arterial routes, such as 6th and 7th Streets east into Downtown. The model results demonstrate that intersections beyond the focused study intersections would operate at acceptable levels

of service. Therefore, the project would have a less-than-significant impact on those additional segments and intersections and therefore conducting a more detailed analysis of those intersections and roadway was not warranted.

- 180-6 The commenter states that there is no analysis of how increased traffic would affect quality of life or pedestrians and bicycle crossing of U.S. 101. The proposed project's potential impacts to traffic circulation and bicycle safety are discussed in Chapter IV.O, Transportation of the DEIR. As stated on Draft EIR page IV.O-42 under Impact O-1, with the exception of one intersection, the identified mitigation measures would reduce the potential impacts of the Marina Center project's increase in traffic to less-than-significant-levels. As stated on Draft EIR page IV.O-48 under Impact O-7, with the implementation of the proposed measures, the potential for the proposed project to conflict with adopted policies, plans, or programs supporting alternative transportation is less than significant.
- 180-7 The commenter states that there is no analysis of how the reopening of the railroad would affect traffic exiting onto Waterfront Drive. Potential conflicts associated with the reactivation of the railroad right-of-way are discussed in the Draft EIR under Impact O-7 beginning on page IV.O-45. Vehicles exiting the site onto Waterfront Drive would queue onsite behind safety gates until all train traffic had passed. As train traffic, if ever re-established, would not be either high volume or frequent, these queues would be minimal in length and wait time.
- 180-8 The commenter states that the proposal for exiting bicycle traffic to use the sidewalk to reach Seventh Street is dangerous if done while walking one's bicycle and illegal if riding. The comment criticizes the location of the proposed bicycle route crossing Broadway at Sixth Street. With the Marina Center project, an alternative route is available by guiding bicyclists to exit the Marina Center site from the Fourth Street access drive, go south on Broadway to Fifth Street, turn left on Fifth Street to go east, turn south on B Street, and then turn onto Seventh Street connecting to the existing Class II bike lanes on Seventh Street. The out-of-the-way problem already exists for the bicyclist travelling from Waterfront Drive wishing to access the existing bike lanes on Seventh Street, in that they must either go east on Washington Street to Summer Street and then to Seventh Street, or they can go south on Commercial Street to get to the Seventh Street bike lane. Therefore, the project would improve bicycle circulation by opening a route directly across the project site from Waterfront Drive to Fourth Street and Broadway. It should be noted, the project does not propose to circulate bicycles on the sidewalk.
- 180-9 This comment states that there should be analysis of whether the project could better fit into the existing traffic pattern with a signal at Seventh Street and access on to Washington Street. As illustrated in Figure III-2 of the Draft EIR, the design of the proposed project, with the Clark Slough wetland in the southwest corner, would not leave any project frontage access points on Washington Street for vehicle access.
- A signal at Seventh Street was initially examined as part of the proposed project, but was rejected after signal and queuing analysis revealed that the intersection would operate poorly and cause additional traffic congestion on Broadway. In order to address these deficiencies, the proposed project access and egress was realigned to Sixth Street, as portrayed in the Project Description and preliminary site plans.
- 180-10 This comment states that a roundabout at the Fairfield, Wabash, and Broadway intersection should be considered. A roundabout was not considered a feasible mitigation for the Fairfield, Wabash, and Broadway intersections because of physical constraints for properly designing and sizing the feature for the amount

and types of vehicles that use the intersection. Furthermore, roundabouts provide the best results for intersections that have relatively equal volumes on all approaches and large numbers of left-hand turns. This intersection has mostly through moving vehicles on Broadway. Mitigation Measure O-1b, presented in the Draft EIR, would reduce impacts to this intersection to a less-than-significant level.

- 180-11 This comment states that a no retail alternative should be analyzed, as the majority of traffic is generated by retail. As described on page IV-9 of the Draft EIR under item 19, a No Retail Alternative was analyzed per comments made on the Notice of Preparation. The No Retail Alternative was screened out for future analysis as it wouldn't reduce project impacts to a less-than-significant level (see Tables VI-1 through VI-4 of the Draft EIR).
- 180-12 This comment states that an alternative with more housing should be evaluated as it would better balance jobs and housing and thus reduce traffic. A Housing Alternative was not analyzed in the Draft EIR as it would not meet the basic objectives of the project as defined by the City of Eureka (Draft EIR page VI-3), in that a Housing Alternative would not “[s]trengthen Eureka as the retail and employment center of Humboldt County” or “[d]evelop an economically viable mixed use project.” By not meeting two of the three basic objectives, a Housing Alternative was screened-out for further analysis. The proposed project does include a housing component.
- 180-13 This comment questions the Reduced Footprint Alternative's inclusion of the home improvement store as it is the largest trip generator. As described on page IV-19 of the Draft EIR, the Marina Center Reduced Footprint Alternative includes 182,000 square feet of retail/service/future and 28,000 square feet of nursery/garden. The commenter incorrectly concludes that the large scale retail would generate more vehicle trips than the other smaller retail uses combined. As presented in Table IV.O-5 of the Draft EIR, Anchor 1 would generate approximately 3,667 daily vehicle trips compared to the approximately 6,954 daily vehicle trips that would be generated by the other retail uses. Thus, the inclusion of Anchor 1 in the Reduced Footprint Alternative was selected as it would reduce project related traffic impacts.
- 180-14 This comment states that the urban decay analysis does not look at the reuse of such buildings as the Daly's or Bistrin's which exemplify that buildings in the area become blighted before they are reused. See Master Response 1 in the Final EIR under “Vacancy in the City of Eureka” for the results of additional fieldwork completed in April 2009, which supplements that in the Draft EIR. The April 2009 fieldwork found that three vacant buildings in the Old Town and Downtown areas of Eureka had signs of a lack of maintenance and some graffiti. Given the recessionary conditions, drop in consumer spending, and many vacant storefronts, this is a fairly strong performance for the hundreds of buildings located in the Old Town and Downtown areas. No signs of urban decay were observed at any of the other business districts and shopping centers in Eureka. As such, although the commenter states that two buildings, that are currently occupied, stood vacant for sometime before begin retenanted, this does not represent the vast majority of buildings in the Old Town or Downtown areas, and does not suggest that the proposed project would cause further urban decay. Indeed, the fact that those two buildings have been retenanted is evidence that urban decay has been addressed. Likewise, the project proposes to redevelop and clean up an existing, blighted condition.

State of California Department of Transportation (Caltrans), District 1 (Rex Jackson)

1. The commenter refers to response to comment 5-1 and restates the need to devise an implementation phasing plan for the identified mitigation measures. The commenter requests that such a phasing plan and supplemental traffic impact study be required as a condition of project approval.

As the proposed project is a phased project, and the first phase of the project, site remediation and the creation of the wetland reserve, would not require transportation improvements. Beyond Phase 1 it is impracticable, if not impossible, to outline the necessary phasing for transportation improvements because the phasing scenarios have not been developed and ultimately would depend on market conditions and other business-related factors. Nonetheless, the Draft EIR evaluates the worst-case scenario – full build-out of the project by 2010.

When phasing scenarios are developed for additional phases, The City of Eureka (and the Project Applicant) would work with Caltrans to determine the appropriate supplemental analysis necessary and mitigation phasing plan, as Broadway is a coordinated corridor.

2. The commenter refers to response to comment 5-3 and states that the required appropriate Project Initiation Document(s) (i.e., Project Study Report or Preliminary Engineering Evaluation Report) would be determined when encroachment permits are requested.

It is acknowledged that an encroachment permit and appropriate ignition documents would be required prior to construction of improvements within Caltrans right-of-way. The City of Eureka (and the Project Applicant) would work with Caltrans to determine the appropriate documentation when encroachment permits are requested.

3. The comment refers to response to comment 5-4 and states that they stand by their original comment regarding projections for collision reductions. As acknowledged in response to comment 5-4, accident forecasting methodologies have limitations, and the traffic analysis used one of the best methodologies available to demonstrate the proposed project's effect on traffic safety, which concludes that the proposed project would have a less-than-significant impact on traffic safety (pages IV.O-43 and IV.O-44 of the Draft EIR).
4. The comment refers to response to comment 5-6 and states that they stand by their original comment regarding bicycle use on sidewalks. As stated in response to comment 5-4, the project does not propose to circulate bicycles on the sidewalk, and the proposed project would improve bicycle circulation around the project site by providing direct access from Waterfront Drive to Fourth Street and Broadway.
5. The comment refers to Chapter 6 of the Final EIR, Mitigation Measure O-1b, and suggests the language be changed to:

“Approved traffic control measures/devices will be used to prohibit northbound access to Wabash/Broadway from Fairfield Street. Signal phasing will be adjusted to eliminate this movement.”

The suggested mitigation language is noted and will be revised as follows.

O-1b: Obtain an encroachment permit from Caltrans for ~~and complete the following~~ modifications at the intersection of Broadway and Wabash Avenue/Fairfield Street: which shall include approved traffic control measures/devices to prohibit northbound access to Wabash Avenue and Broadway from Fairfield Street. Signal phasing shall be adjusted to eliminate this movement.

~~1. Close northbound Fairfield Street access to Wabash Avenue and Broadway approximately 40 feet south of the intersection, and post signs on northbound Fairfield at Del Norte advising motorists that traffic is "LOCAL ACCESS ONLY - NO ACCESS TO BROADWAY OR WABASH AVENUE".~~

~~2. Closure should be accomplished by extending the east curb of Fairfield to the street centerline, and posting a "DO NOT ENTER" sign at the closure. Modify the Broadway and Wabash signal to account for the elimination of northbound Fairfield access.~~

Blue Lake Rancheria (Janet Eidsness)

1. The commenter states that it is important to acknowledge that in addition to their potential archaeological research significance (per Criterion D of the California Register of Historical Resources), the two subject named Wiyot village sites are important to contemporary Wiyot people for their association with events important in their history and their on-going cultural identity, per Criterion A of the California Register as Traditional Cultural Properties (TCPs) and should be so stated in the Final EIR. The comment calls for continued consultations with and involvement by the Wiyot affiliated tribes (Blue Lake Rancheria Tribe, Wiyot Tribe/Table Bluff Rancheria, Bear River Band of the Rohnerville Rancheria Tribe) need to occur throughout project implementation.

As stated in the Final EIR, and demonstrated in Mitigation Measures E-2a through E-2c in the FEIR, the Project Applicant and its contractors would consult with the appropriate tribal groups in conducting subsequent archeological investigations. The Blue Lake Rancheria would almost certainly be one of those tribes consulted. Although the village is not formally considered a TCP, it is acknowledged that the site is important and any encountered cultural material will be treated with respect.

2. The commenter requests that the three identified Wiyot tribes be explicitly inserted into Mitigation Measure E-2a (i), Mitigation Measure E-2a (ii), and elsewhere as appropriate, as being among the "appropriate Native American group(s)" to be invited to consult and actively participate in the protection of Wiyot cultural resources located within the project site. While the three tribal groups referred to by the commenter would almost certainly be among those consulted, there may be other groups consulted as well, and it seems unnecessary at this stage of the process to be more explicit.
3. This comment states that consultation with and participation by Blue Lake Rancheria, among other interested Wiyot area tribes, needs to be included in carrying out site significance evaluations, and developing and implementing treatment, protection and monitoring plans and worker training, to be crafted by the professional archaeologist and implemented by the Project Applicant, in consultation with and with compliance monitoring by the City of Eureka.

As stated in Mitigation Measures E-2a through E-2c the appropriate Native American group(s) with Wiyot affiliation would be invited to consult and actively participate in the protection of Wiyot cultural resources

located within the project site. This constitutes a commitment to work with and consider treatment recommendations with the Native American community throughout project implementation.

4. The commenter states that at least one representative recommended by one or more of the three Wiyot area tribes participate as a Tribal Monitor-Consultant, and work alongside the archaeologists during mitigation monitoring. The mitigation measures as revised in the FEIR do ensure that when monitoring by a qualified archaeologist is required, there will also be a Native American monitor present.
5. The comment states that Mitigation Measure E-2c should be revised to allow not only recovery and reburial of potentially found cultural resources, but also modification of the land-use plan or construction methods to avoid the object or feature, or permanent protection through conveyance of a conservation easement if the resource is found to be a qualifying TCP.

The City will ensure that treatment of human remains and of associated or unassociated funerary objects discovered during any soil-disturbing activity shall comply with applicable State laws. This shall include immediate notification of the coroner and, in the event of the coroner's determination that the human remains are Native American, notification of the California State Native American Heritage Commission (NAHC), who shall appoint a Most Likely Descendant (MLD) (PRC Section 5097.98). The archaeological consultant, project sponsor, and MLD shall make all reasonable efforts to develop an agreement for the respectful treatment, with appropriate dignity, of human remains and associated or unassociated funerary objects (CEQA Guidelines Section 15064.5(d)). The agreement will take into consideration the appropriate excavation, removal, recordation, analysis, custodianship, and final disposition of the human remains and associated or unassociated funerary objects. All efforts will be made to leave the remains in place if possible, or to rebury them in close proximity to their place of discovery. California Public Resources Code allows 48 hours to reach agreement on these matters. If the MLD and the other parties do not agree on the reburial method, the Project will follow Section 5097.98(b) of the California Public Resources Code, which states that "the landowner or his or her authorized representative shall reinter the human remains and items associated with Native American burials with appropriate dignity on the property in a location not subject to further subsurface disturbance."

6. The commenter suggests that Mitigation Measure E-2b(iii) be modified as follows to avoid any miscommunications:

"If archaeological materials are discovered and construction activities are halted, those construction activities may resume immediately upon a written determination from the City of Eureka that the archaeological material is not significant or unique or a treatment or protection plan is prepared and ~~initiated~~ the field portion adequately completed."

The language edit suggestions reflecting Mitigation Measure E-2b(iii) are acknowledged and will be incorporated into the final mitigation monitoring and reporting program language.

RECEIVED

HSU Webmail

FEB 04 2009

jtm10@humboldt.edu

DEPARTMENT OF
COMMUNITY DEVELOPMENT

Marina Center DEIR

Thursday, January 29, 2009 4:40:44 PM

From: jtm10@humboldt.edu

To: DEIRcomments@ci.eureka.ca.us

After reading the Marina Center Draft Environmental Impact Report I have several concerns about how well the impacts of the project are analyzed:

Hazardous Materials

The document does not look at all contaminants on the site including dioxins and furans. [180-1

There is no clear threshold of significance set for exposure to contaminants. [180-2

There is no analysis of the impacts on fish, wildlife, and vegetation. [180-3

No performance standards are set for evaluating the deferred mitigation measure of "a site specific remediation plan and health and safety plan". [180-4

Transportation

The analysis only looks at the Highway 101 corridor and 6th and 7th streets. A project of this scale could lead to the diversion of traffic onto neighborhood streets. [180-5

There is no analysis of how the increased traffic will affect quality of life or pedestrian and bicycle crossings of Highway 101. [180-6

There is no analysis of how the reopening of the railroad will affect the traffic exiting onto Waterfront Drive. [180-7

The proposal for exiting bicycle traffic to use the sidewalk to reach seventh street is dangerous if done while walking one's bicycle and illegal if riding. [180-8

There should be analysis of whether the project could better fit into the existing traffic pattern with a signal on 7th street and access to Washington street. [180-9

A roundabout at the Fairfield, Wabash, and Broadway intersection should be analyzed. If the blighted buildings on the south side of the intersection were removed there would be sufficient space for a roundabout to be constructed. [180-10

Alternatives Analysis

The no retail alternative should be analyzed. Because the majority of traffic is generated by retail this may lower the traffic impacts below the level of significance. [180-11

An alternative with more housing should be evaluated. A better jobs housing balance may lower the amount of traffic generated below the level of significance. [180-12

Why does the reduced footprint alternative include the home improvement store and exclude the smaller retail? The home improvement store creates the largest impacts from the project. [180-13

Urban Decay

The analysis of urban decay does not look at the Daly's or Bistrin's buildings. Neither of these buildings was successfully reused after they became vacant and both became blighted. This suggests that the market for retail space is much weaker and the possibility of urban decay is much stronger than the analysis in the DEIR. [180-14

Jeremy Mills
1616 F Street
Apartment A
Eureka, CA 95501
(707) 476-0840

DEPARTMENT OF TRANSPORTATION

DISTRICT 1, P. O. BOX 3700
EUREKA, CA 95502-3700
PHONE (707) 445-6412
FAX (707) 441-5869
TTY (Teletypewriter #707-445-6463)



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October 15, 2009

1-HUM-101-78.026
Eureka Marina Center FEIR
SCH# 2006042024

Sidnie Olson, Principal Planner
Community Development Department
City of Eureka
531 K Street
Eureka, CA 95501

Dear Ms. Olson,

We have reviewed the Final Environmental Impact Report (FEIR) and Mitigation Monitoring and Reporting Program, released on October 6, 2009. We commend the City for its thorough approach to this project and its continued proactive approach in working with us and other stakeholders as the project develops. We are pleased to note the City's commitment to implementing all needed mitigation, as required to maintain safety and mobility for the traveling public. We offer the following comments on the FEIR's response to our original comments, and an additional comment on the Mitigation Monitoring and Reporting Program:

5-1

We continue to have some concerns regarding the implementation of the identified mitigation measures in concert with discrete phases of the project as it is constructed. The Mitigation Monitoring and Reporting Program identifies and describes all of the required mitigation measures to be constructed under encroachment permits in "Future Phases." As stated in our letter of January 30, 2009, since the required mitigation measures work in conjunction with each other—improving traffic flow up and down 101 as a coordinated system—they can not be implemented piecemeal.

In its Response to Comments, the FEIR states that details of any phased mitigation will be provided in a Development Agreement. However, the selection of the phased traffic measures must be based on a quantitative analysis in order to ensure that the implemented measures are effective. Without this further commitment, the FEIR leaves open the possibility of the City or developer subjectively selecting the traffic measures to be included in each phase. We therefore request to participate in the negotiations of the Development Agreement with regard to implementation of transportation mitigation. The Department's early participation in identifying appropriate mitigation for each phase will facilitate the encroachment permit process.

1

5-3

The required appropriate Project Initiation Document(s) (Project Study Report or Preliminary Engineering Evaluation Report) will be determined when encroachment permits are requested.

2

5-4

Regarding projections for collision reduction, we stand by our original comment.

3

5-6

Regarding bicycle use on the sidewalk (p. 3 of the TIS), we stand by our original comment.

4

Mitigation Monitoring and Reporting Program

Measure O-1b

We have some concerns about the specified method of closure. We recommend that this item be changed to, "Approved traffic control measures/devices will be used to prohibit northbound access to Wabash/ Broadway from Fairfield St. Signal phasing will be adjusted to eliminate this movement."

5

Please feel free to call or email me if you have any concerns or questions regarding these comments. We look forward to continued collaboration with City staff and consultants on this challenging project.

Sincerely,



REX A. JACKMAN
Chief, System, Regional and Community Planning
Caltrans District 1

c:

Kurt Gierlach
Scott Morgan, State Clearinghouse



BLUE LAKE RANCHERIA

Post Office Box 428

Blue Lake, California 95525-0428

BUS: (707) 668-5101 • OFFICE: (707) 668-5615 • FAX: (707) 668-4272

October 20, 2009

City of Eureka
Community Development Department
Sidnie L. Olson, AICP, Principal Planner
531 K Street
Eureka, CA 95501-1165

sent via email to soloson@ci.eureka.ca.org

Re: Comments on Marina Center Final EIR

Dear Ms. Olson:

While we are pleased to find the Final EIR has responded to many of the concerns for the protection of two ethnographically described Wiyot archaeological and heritage resources identified by Roscoe & Associates as being on or near the proposed Marina Center project, several concerns remain.

1. Potential Significance as Traditional Wiyot Cultural Resources. (Final EIR page 3-86, 4th paragraph, last sentence): It is important to acknowledge that in addition to their potential archaeological research significance (per Criterion D of the California Register of Historical Resources), the two subject named Wiyot village sites are important to contemporary Wiyot people for their association with events important in their history and their on-going cultural identity, per Criterion A of the California Register as Traditional Cultural Properties (TCPs). This significance criterion is acknowledged in the Draft EIR (Impact E-4, page IV.E-19, paragraph 1) and incorporated into the Final EIR by reference (no changes). It needs to be referenced here as well. While archaeological data recovery excavation may be an acceptable approach for mitigating significant impacts to sites having only scientific research values (only meeting Criterion A), this approach may not reduce to a less-than-significant-level the project impacts for TCPs. Continued consultations with and involvement by the Wiyot affiliated tribes (Blue Lake Rancheria Tribe, Wiyot Tribe/Table Bluff Rancheria, Bear River Band of the Rohnerville Rancheria Tribe) need to occur throughout project implementation.
2. Appropriate Native American group(s). It is important for the City and Applicants to acknowledge in the Final EIR that the Blue Lake Rancheria Tribe, Wiyot Tribe of the Table Bluff Rancheria, and the Bear River Band of the Rohnerville Rancheria Tribe are

the three Federally recognized tribes located within ancestral Wiyot territory, that each tribe include persons of Wiyot ancestry among their memberships, and each tribe works with the City and other local, state and federal governments to protect Wiyot heritage resources. We request that these three tribes be inserted at Final EIR page 3-87 Mitigation Measure E-2a (i), page 3-88 Mitigation Measure E-2a (ii), and elsewhere as appropriate, as being among the “appropriate Native American group(s)” to be invited to consult and actively participate in the protection of Wiyot cultural resources located within the Project area. Specifically, the Blue Lake Rancheria serves this official notice to be included in on-going consultations and project monitoring, with myself, serving as their designated Tribal Heritage Preservation Officer (THPO), being their point-of-contact at (707) 668-5101 (office), (530) 623-0663 (cell phone), and email jeidsness@bluelakerancheria-nsn.gov.

3. Development of Wiyot Sites Treatment, Protection and Monitoring Plans, and Construction Worker Training in Consultation with Blue Lake Rancheria. Consultation with and participation by Blue Lake Rancheria, among other interested Wiyot area tribes, needs to be included in carrying out site significance evaluations, and developing and implementing treatment, protection and monitoring plans and worker training, to be crafted by the professional archaeologist and implemented by the Project Applicant, in consultation with and with compliance monitoring by the City of Eureka. This directive needs to be inserted on Final EIR at Page 3-87, Mitigation Measure E-2a(i) (subsurface archaeological resources investigation), Page 3-88 Mitigation Measure E-2a(ii) (treatment and monitoring plan), and Mitigation Measure E-2b(i) (worker training), and Page 3-89 Mitigation Measure E-2b(iii) (treatment or protection plan).
4. Monitoring Archaeological Explorations, Site Significance Evaluations, Test and Data Recovery Excavations, and Inadvertent Discoveries including Native American Remains, by a Wiyot Representative. It is imperative, for purposes of identifying, evaluating the significance of, and treating significant Wiyot heritage resources in a manner that will reduce impacts to a less-than-significant level, that at least one representative recommended by one or more of the three Wiyot area tribes (see #1 above) participate as a Tribal Monitor-Consultant, and work alongside the archaeologists in accordance with the *Native American Heritage Commission Guidelines for Monitors/Consultants Native American Cultural, Religious, and Burial Sites* (9/13/05; posted at website <http://www.nahc.ca.gov/guidelines-mon.html>). This directive must be inserted at Final EIR Page 3-87 Mitigation Measure E-2a(i) (monitor implementation of subsurface archaeological resources field investigation; it may be in conjunction with the remediation plan soils excavation), Page 3-88 Mitigation Measure E-2b(ii) (independent significance review by archaeologist of discoveries made during construction), Page 3-89 Mitigation Measure E-2b(iii) (monitor implementation of the treatment and monitoring plan, and conduct monitoring specified in that plan), and Page 3-90 Mitigation Measure E-2c (independent archaeological review of discovered Native American remains).
5. Option to Leave In Place Native American Burials. Final EIR Mitigation Measure E-2c (Page 3-90) only provides for “recovery and reburial” of Native American remains in cases where six or more burials are discovered. Contemporary Wiyot peoples would find this very objectionable, and this option would be unlikely to reduce the impact to a less-than-significant-level on a qualifying TCP. This measure needs to be revised to allow for other in situ treatment options as specified in Mitigation Measure E-2a (Page 3-88),

namely, modification of the land-use plan or construction methods to avoid the object or feature, or permanent protection through conveyance of a conservation easement. CEQA Guidelines instruct that archaeological data recovery for future scientific study is *the least preferred alternative, whereas in place preservation is the most desirable*.

6. Resuming Construction After Treatment or Protection Plan Implemented. As currently written, Final EIR Mitigation Measure E-2b(iii) on Page 3-89 may easily be misinterpreted, although the point is important. We suggest that the language is tightened up to avoid miscommunications (inserts are underlined, words are stricken): “If archaeological materials are discovered and construction activities are halted, those construction activities may resume immediately upon a written determination from the City of Eureka that the archaeological material is not significant or unique or a treatment or protection plan is prepared and ~~initiated~~ the field portion adequately completed.”

Thank you for the opportunity to share our concerns.

Sincerely,

/ - signed - /

Janet P. Eidsness, M.A., RPA
Tribal Heritage Preservation Officer
Blue Lake Rancheria

Cc: Maura Eastman, Wiyot Tribe
Nick Angeloff, THPO for Bear River Band Tribe