

APPENDIX C

Cultural Resources Technical Memo



1425 N. McDowell Boulevard
Suite 200
Petaluma, CA 94954
707.795.0900 **phone**
707.795.0902 **fax**

www.esassoc.com

memorandum

date July 16, 2020

to Adam Petersen, Contract Environmental Team, City of San Jose

cc Heidi Koenig M.A., RPA, ESA Cultural Resources Group

from Ashleigh Sims M.A., RPA, ESA Cultural Resources Group

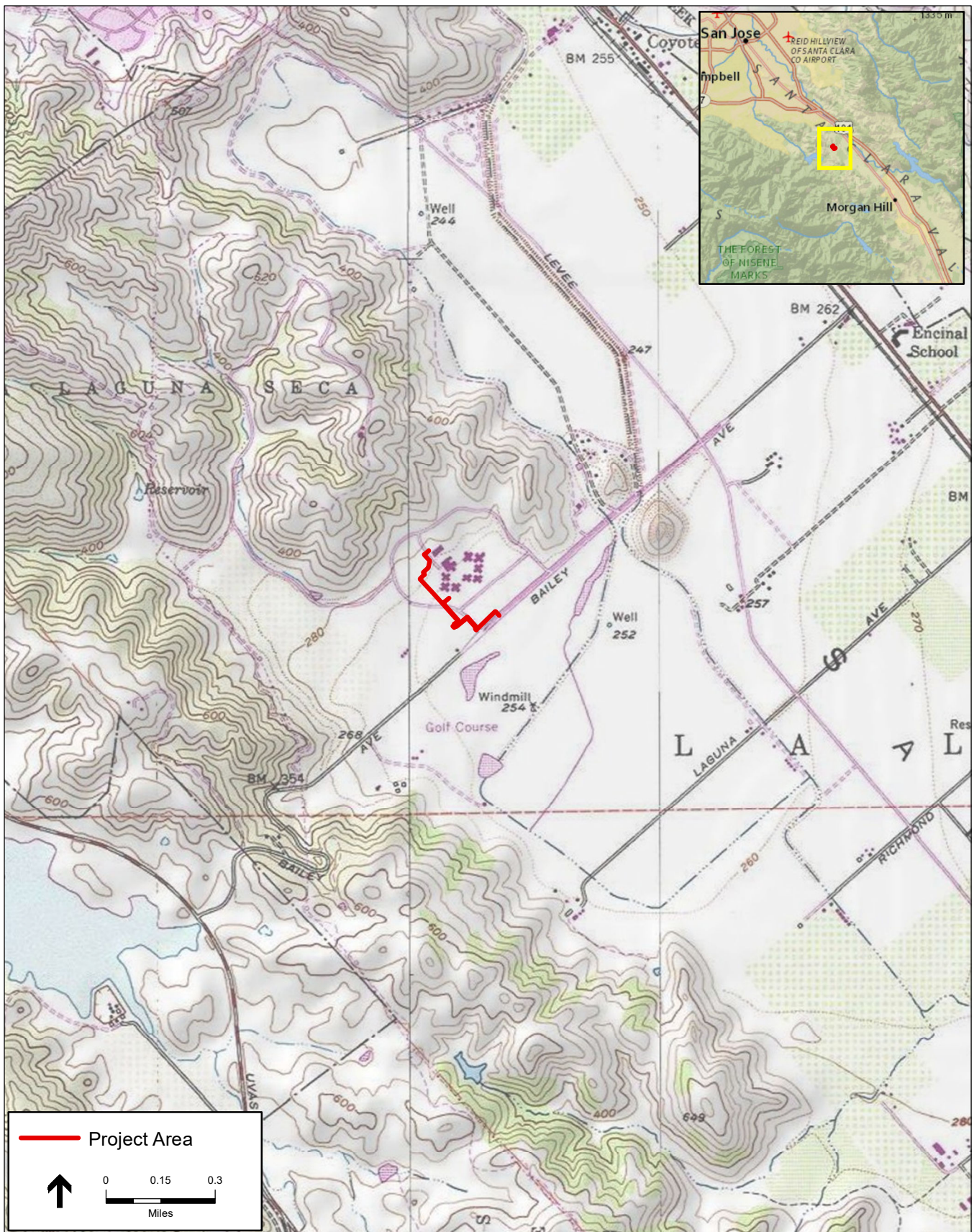
subject Cultural Resources Sensitivity Assessment for the 555 Bailey Water Line Project, City of San José, Santa Clara County

Project Description

This memorandum provides a cultural resources sensitivity assessment for the 555 Bailey Water Line Project. The City of San José is preparing the required environmental review for the installation of domestic and fire water lines at the IBM campus at 555 Bailey Avenue in San Jose, Santa Clara County. The project area is to the west and south of office buildings on the 200-acre parcel (APN 708-32-006). The proposed water lines measure approximately 2,300 feet in length. An associated pump house measuring approximately 65 by 30 feet will be placed at the southeast end of the orchard near Bailey Road (**Figure 1**).

Records Search

In order to determine whether the proposed project could impact cultural resources, ESA completed a records search at the Northwest Information Center (NWIC) of the California Historical Resources Information System on May 10, 2019 (File No. 18-2185). The review included the project area and a ¼-mile radius. Previous surveys, studies, and site records were accessed. Records were also reviewed in the Built Environment Resources Directory for Santa Clara County, which contains information on places of recognized historical significance including those evaluated for listing in the *National Register of Historic Places*, the *California Register of Historical Resources*, the *California Inventory of Historical Resources*, *California Historical Landmarks*, and *California Points of Historical Interest*. The purpose of the records search was to (1) determine whether known cultural resources have been recorded within the project vicinity; (2) assess the likelihood for unrecorded cultural resources to be present based on historical references and the distribution of nearby sites; and (3) develop a context for the identification and preliminary evaluation of cultural resources.



SOURCE: USGS 7.5' Topographic Quadrangle (Morgan Hill, CA; Santa Teresa Hills, CA); ESA 2020

555 Bailey Water Line . 190330.02

Figure 1
Project Location

Previously Identified Resources

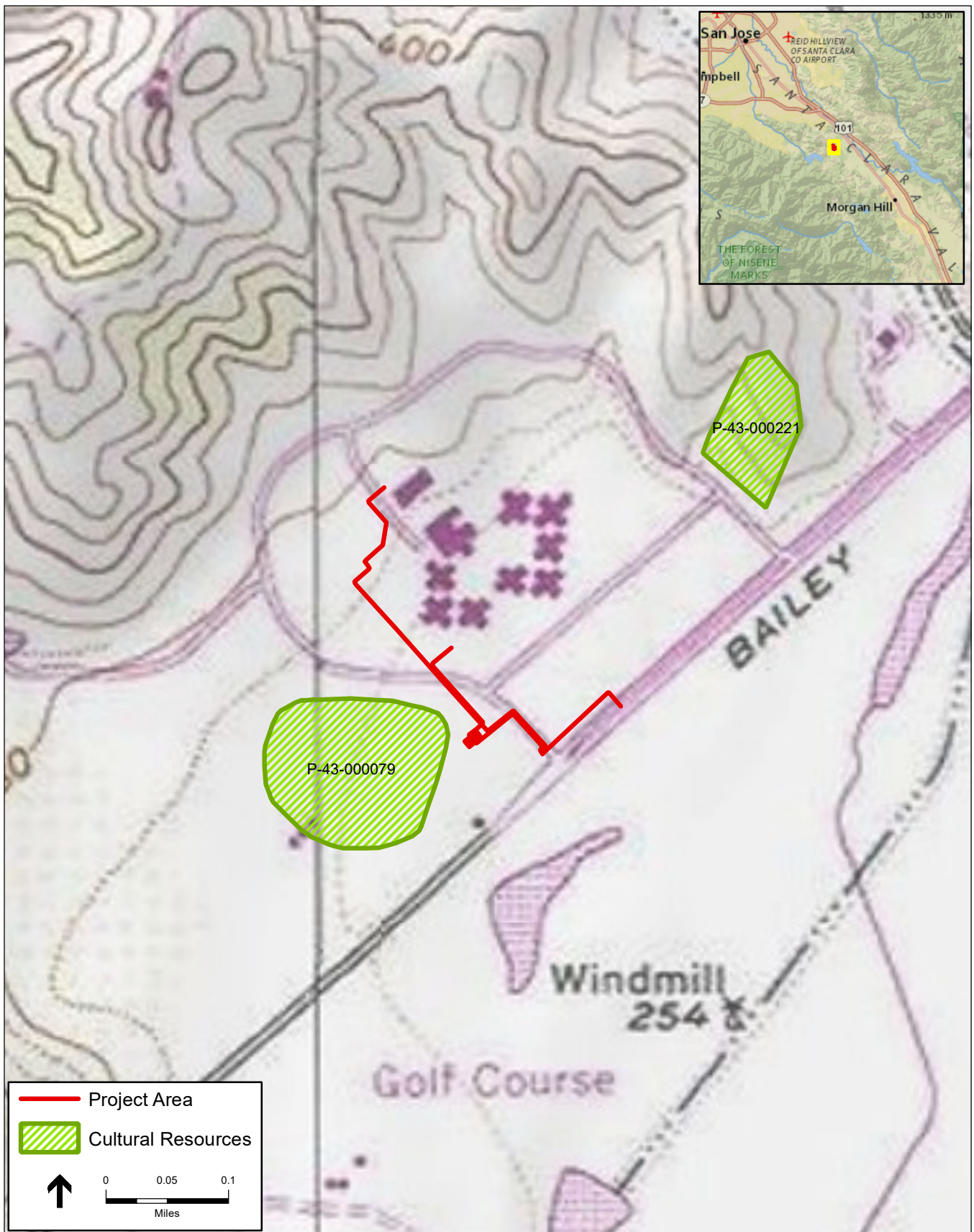
Base maps at the NWIC show that no cultural resources have been previously recorded within the proposed project area. Two resources have been identified within ¼-mile of the project area (P-43-000079 and P-43-000221). Both of these resources are indigenous archaeological sites. **Figure 2** shows the location of cultural resources within ¼-mile of the project area.

Site P-43-000079 is a large habitation and burial site first recorded by S. Wilson in 1974. Wilson recorded that the site included chert flake waste, obsidian nodules, and midden soils. In 1998, Ohlone Families Consulting Services identified eight human burials along a dirt track within the site. These remains, along with other cultural material identified during the recovery, were collected, studied, and reburied in an unknown location within the site boundary. Ohlone Families note that it is likely that there are additional burials within the site boundary. The proposed water line alignment is approximately 22 meters (72 feet) northeast of the boundary of the resource.

Site P-43-000221 is a midden deposited located just west of the western access road to the IBM facilities and was largely destroyed during the construction of the IBM campus. It was recorded in 1976 by Katherine Flynn. The resource is located approximately 315 meters (1000 feet) northeast of the proposed water line alignment.

Previous Cultural Resources Survey Coverage

Archaeological Consulting and Research Services surveyed the entirety of the 200-acre parcel for cultural resources in 1977. Many cultural resources studies have been completed within ½-mile of the project area; most were conducted to the east of the project area in the direction of Highway 101 (Wilson, 1975; Archaeological Consulting and Research Services, 1977; Garaventa, 1983; Holman, 1985; Loveland et al., 1986; Ohlone Families Consulting Services, 1998; Hill et al.; 2006). These studies included record searches, surveys, excavation reports, and technical studies to support CEQA documentation.



SOURCE: USGS 7.5' Topographic Quadrangle (Morgan Hill, CA; Santa Teresa Hills, CA); ESA 2020

555 Bailey Water Line . 190330.02

Figure 2

Cultural Resources with 0.25 mi of Project Location

NAHC Correspondence

ESA contacted the Native American Heritage Commission (NAHC) on July 16, 2020 to request a search of the NAHC's Sacred Lands File (SLF) and a list of Native American representatives who may have interest in the project. The NAHC replied to ESA on July 17, 2019. The NAHC reply indicated that the SLF has no record of any cultural resources in the project area, and also included a list of Native American representatives who may be interested in the project. This list is included as **Appendix A**.

Field Survey

On June 23, 2020, ESA archaeologist Ashleigh Sims M.A., RPA conducted a survey of the project area. A large portion of the area was developed, and was located across and along the edge of a parking lot and paved roads. Areas where soil was visible were intuitively surveyed for cultural material. Specific attention was paid to the southwestern portion of the project area near site P-43-000079. The current survey did not identify any cultural material nor any evidence of site P-43-000079 within the project area. No prehistoric or historic-era resources were identified during the field survey.

Recommendations

The previous cultural resources study of the project area (Archaeological Consulting and Research, 1977) identified an indigenous resource with human remains approximately 22 meters (72 feet) of the project area. The EIR prepared for the original entitlements, in 1974, recommended that a thorough archaeological investigation, including excavation, may be necessary if work were to occur within 30 meters (100 feet) of site P-04-000079. The pump house and portions of the water line associated with the proposed project is within this suggested buffer and within 155 meters (500 feet) of identified human remains. It is possible that additional human remains are located within the site boundary. Additionally, while no cultural material was identified in the project area during the current survey effort, subsurface material from site P-43-000079 may underlie the project area. Therefore, implementation of the following actions would reduce potential impacts to cultural resources.

Cultural Resources Awareness Training Before any ground-disturbing and/or construction activities, a Secretary of the Interior (SOIS)-qualified archaeologist shall conduct a training program for all construction and field personnel involved in ground disturbance. On-site personnel shall attend a mandatory pre-project training that will outline the general archaeological sensitivity of the area and the procedures to follow in the event an archaeological resource and/or human remains are inadvertently discovered. A training program shall be established for new project personnel before project work.

Archaeological Monitoring: The project applicant shall have an archaeologist monitor ground-disturbing activities in previously undisturbed soils within 60 meters (200 feet) of site P-43-000079. An Archaeological Monitoring Plan (AMP) will be prepared to guide the monitor. The monitoring shall be conducted by an archaeologist meeting or under the supervision of an archaeologist meeting the SOIS for Archeology. A report shall be prepared summarizing the results of the archaeological monitoring. Should archaeological resources be inadvertently discovered during project construction activities, the following procedures should be implemented:

If pre-contact or historic-era archaeological resources are encountered by construction personnel during project construction, all construction activities within 100 feet shall halt until a qualified archaeologist, defined as one meeting the SOIS for Archeology, or the on-site archaeological

monitor(s) can assess the significance of the find. Pre-contact archaeological materials might include obsidian and chert flaked-stone tools (e.g., projectile points, knives, scrapers) or toolmaking debris; culturally darkened soil (midden) containing fire affected rock, artifacts, or shellfish remains; and groundstone artifacts (e.g., mortars, pestles, handstones); battered stone tools, such as hammerstones and pitted stones. Historic-era materials might include stone, concrete, or adobe footings and walls; filled wells or privies; and deposits of metal, glass, and/or ceramic refuse.

If the City determines, based on recommendations from a qualified archaeologist and a Native American representative (if the resource is Native American-related), that the resource may qualify as a historical resource or unique archaeological resource (as defined in CEQA Guidelines § 15064.5) or a tribal cultural resource (as defined in PRC § 21080.3), the resource shall be avoided if feasible. If avoidance is not feasible, the City shall consult with appropriate Native American tribes (if the resource is Native American-related), and other appropriate interested parties to determine treatment measures to avoid, minimize, or mitigate any potential impacts to the resource pursuant to PRC § 21083.2, and CEQA Guidelines § 15126.4. This shall include documentation of the resource and may include data recovery (according to PRC § 21083.2), if deemed appropriate, or other actions such as treating the resource with culturally appropriate dignity and protecting the cultural character and integrity of the resource (according to PRC § 21084.3).

Human burials have been identified within ¼-mile, including within 155 meters (500 feet) of the project area. It is possible that human remains could be encountered during construction of the proposed project. Therefore, the possibility of inadvertent discovery cannot be entirely discounted. In the event of the discovery of human remains during project construction activities, implementation of the following actions would reduce potential impacts to human remains.

Inadvertent Discovery of Human Remains. If potential human remains are encountered, all work will halt within 100 feet of the find and the on-site construction crew will immediately contact the City of San Jose. The City of San Jose will contact the Santa Clara County coroner in accordance with PRC Section 5097.98 and Health and Safety Code Section 7050.5. If the coroner determines the remains are Native American, the coroner will contact the Native American Heritage Commission (NAHC). As provided in PRC Section 5097.98, the NAHC will identify the person or persons believed most likely to be descended from the deceased Native American. The most likely descendent will make recommendations for means of treating, with appropriate dignity, the human remains and any associated grave goods as provided in PRC Section 5097.98.

References

- Archaeological Consulting & Research Services, Report of the Archaeological Reconnaissance of the Proposed IBM West Coast Programming Development Center, San Jose, Santa Clara County, California. On file (S-4365), NWIC, 1977.
- Garaventa, Donna M., Rebecca Loveland Anastasio, Robert M. Harmon, and William A. McCormack, *Cultural Resources Survey, Santa Teresa Campus Park Project Located Along Santa Teresa Boulevard at Bailey Avenue, City of San Jose, Santa Clara County, California*. Prepared by Basin Research Associates, Inc. On file (S-6180), NWIC, 1983.
- Hill, Ward, Woodruff C. Minor, Denise Bradley, and Charlene Duvall, *Cultural Resources Technical Report in Support of the Environmental Impact Report (EIR), Coyote Valley Specific Plan (CVSP), Including Bailey Over the Hill Initial Study (with McKean Road Corridor), City of San Jose and Unincorporated Santa Clara County, California*. Prepared by Basin Research Associates, Inc. On file (S-39009), NWIC, 2006.
- Holman, Miley Paul, Matthew Clark, and Randy Wiberg, *A Preliminary Report of Findings at the Proposed Apple Development Area, San Jose, California*. Prepared by Holman and Associates. On file (S-7521), NWIC, 1985.
- Loveland Anastasio, Rebecca, Robert M. Harmon, Stuart A. Guedon, Michael D. Meyer, Patricia M. Ogrey, Robert T. Schinowsky, James F. Thomas, and Michael R. Corbett, *Cultural Resources Survey of North Coyote Valley Assessment District Infrastructure Project Areas, San Jose, Santa Clara County, California*. Prepared by Basin Research Associates, Inc. On file (S-11912), NWIC, 1986.
- Northwest Information Center (NWIC), File No. 18-2185. California Historical Resources Information System at Sonoma State University, Rohnert Park. On file at ESA, May 10, 2019.
- Ohlone Families Consulting Services, *The IBM Santa Teresa Laboratory Project: Burial Recovery Program at CA-SCL-62*. Prepared by Rosemary Cambra, Norma Sanchez, Viviana Bellifemine, and Susan Morley. On file (S-25382), NWIC, 1998.
- Wilson, Steven, *Supervision of the Grading Activities near the Archaeologically Sensitive Area in the Southeastern Portion of the IBM West Coast Programming Center Job Site*. Prepared by Archaeological Consulting and Research Services. On file (S-4397), NWIC, 1975.

APPENDIX A

Sacred Lands File Search Response and Native American Contacts List

**NATIVE AMERICAN HERITAGE COMMISSION**

July 17, 2020

Ashleigh Sims, MA, RPA, Archaeologist
Environmental Science AssociatesVia Email to: asims@esassoc.comCHAIRPERSON
Laura Miranda
LuiseñoVICE CHAIRPERSON
Reginald Pagaling
ChumashSECRETARY
Merri Lopez-Keifer
LuiseñoPARLIAMENTARIAN
Russell Attebery
KarukCOMMISSIONER
Marshall McKay
WintunCOMMISSIONER
William Mungary
Paiute/White Mountain
ApacheCOMMISSIONER
Julie Tumamait-Stenslie
ChumashCOMMISSIONER
[Vacant]COMMISSIONER
[Vacant]EXECUTIVE SECRETARY
Christina Snider
Pomo**NAHC HEADQUARTERS**
1550 Harbor Boulevard
Suite 100
West Sacramento,
California 95691
(916) 373-3710
nahc@nahc.ca.gov
NAHC.ca.gov

Re: Native American Tribal Consultation, Pursuant to the Assembly Bill 52 (AB 52), Amendments to the California Environmental Quality Act (CEQA) (Chapter 532, Statutes of 2014), Public Resources Code Sections 5097.94 (m), 21073, 21074, 21080.3.1, 21080.3.2, 21082.3, 21083.09, 21084.2 and 21084.3, 555 Bailey Water Line Project, Santa Clara County

To Ms. Sims:

Pursuant to Public Resources Code section 21080.3.1 (c), attached is a consultation list of tribes that are traditionally and culturally affiliated with the geographic area of the above-listed project. Please note that the intent of the AB 52 amendments to CEQA is to avoid and/or mitigate impacts to tribal cultural resources, (Pub. Resources Code §21084.3 (a)) ("Public agencies shall, when feasible, avoid damaging effects to any tribal cultural resource.")

Public Resources Code sections 21080.3.1 and 21084.3(c) require CEQA lead agencies to consult with California Native American tribes that have requested notice from such agencies of proposed projects in the geographic area that are traditionally and culturally affiliated with the tribes on projects for which a Notice of Preparation or Notice of Negative Declaration or Mitigated Negative Declaration has been filed on or after July 1, 2015. Specifically, Public Resources Code section 21080.3.1 (d) provides:

Within 14 days of determining that an application for a project is complete or a decision by a public agency to undertake a project, the lead agency shall provide formal notification to the designated contact of, or a tribal representative of, traditionally and culturally affiliated California Native American tribes that have requested notice, which shall be accomplished by means of at least one written notification that includes a brief description of the proposed project and its location, the lead agency contact information, and a notification that the California Native American tribe has 30 days to request consultation pursuant to this section.

The AB 52 amendments to CEQA law does not preclude initiating consultation with the tribes that are culturally and traditionally affiliated within your jurisdiction prior to receiving requests for notification of projects in the tribe's areas of traditional and cultural affiliation. The Native American Heritage Commission (NAHC) recommends, but does not require, early consultation as a best practice to ensure that lead agencies receive sufficient information about cultural resources in a project area to avoid damaging effects to tribal cultural resources.

The NAHC also recommends, but does not require that agencies should also include with their notification letters, information regarding any cultural resources assessment that has been completed on the area of potential effect (APE), such as:

1. The results of any record search that may have been conducted at an Information Center of the California Historical Resources Information System (CHRIS), including, but not limited to:

- A listing of any and all known cultural resources that have already been recorded on or adjacent to the APE, such as known archaeological sites;
- Copies of any and all cultural resource records and study reports that may have been provided by the Information Center as part of the records search response;
- Whether the records search indicates a low, moderate, or high probability that unrecorded cultural resources are located in the APE; and
- If a survey is recommended by the Information Center to determine whether previously unrecorded cultural resources are present.

2. The results of any archaeological inventory survey that was conducted, including:

- Any report that may contain site forms, site significance, and suggested mitigation measures.

All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum, and not be made available for public disclosure in accordance with Government Code section 6254.10.

3. The result of any Sacred Lands File (SLF) check conducted through the Native American Heritage Commission was negative.

4. Any ethnographic studies conducted for any area including all or part of the APE; and

5. Any geotechnical reports regarding all or part of the APE.

Lead agencies should be aware that records maintained by the NAHC and CHRIS are not exhaustive and a negative response to these searches does not preclude the existence of a tribal cultural resource. A tribe may be the only source of information regarding the existence of a tribal cultural resource.

This information will aid tribes in determining whether to request formal consultation. In the event that they do, having the information beforehand will help to facilitate the consultation process.

If you receive notification of change of addresses and phone numbers from tribes, please notify the NAHC. With your assistance, we can assure that our consultation list remains current.

If you have any questions, please contact me at my email address: Sarah.Fonseca@nahc.ac.gov.

Sincerely,



Sarah Fonseca
Cultural Resources Analyst

Attachment

**Native American Heritage Commission
Tribal Consultation List
Santa Clara County
7/17/2020**

Amah Mutsun Tribal Band

Valentin Lopez, Chairperson
P.O. Box 5272
Galt, CA, 95632
Phone: (916) 743 - 5833
vlopez@amahmutsun.org

Costanoan
Northern Valley
Yokut

North Valley Yokuts Tribe

Timothy Perez, MLD Contact
P.O. Box 717
Linden, CA, 95236
Phone: (209) 662 - 2788
huskanam@gmail.com

Costanoan
Northern Valley
Yokut

***Amah Mutsun Tribal Band of
Mission San Juan Bautista***

Irenne Zwielerle, Chairperson
789 Canada Road
Woodside, CA, 94062
Phone: (650) 851 - 7489
Fax: (650) 332-1526
amahmutsuntribal@gmail.com

Costanoan

The Ohlone Indian Tribe

Andrew Galvan,
P.O. Box 3388
Fremont, CA, 94539
Phone: (510) 882 - 0527
Fax: (510) 687-9393
chochenyo@AOL.com

Bay Miwok
Ohlone
Patwin
Plains Miwok

***Indian Canyon Mutsun Band of
Costanoan***

Ann Marie Sayers, Chairperson
P.O. Box 28
Hollister, CA, 95024
Phone: (831) 637 - 4238
ams@indiancanyon.org

Costanoan

***Muwekma Ohlone Indian Tribe
of the SF Bay Area***

Monica Arellano,
20885 Redwood Road, Suite 232
Castro Valley, CA, 94546
Phone: (408) 205 - 9714
marellano@muwekma.org

Costanoan

***Muwekma Ohlone Indian Tribe
of the SF Bay Area***

Charlene Nijmeh, Chairperson
20885 Redwood Road, Suite 232
Castro Valley, CA, 94546
Phone: (408) 464 - 2892
cnijmeh@muwekma.org

Costanoan

North Valley Yokuts Tribe

Katherine Perez, Chairperson
P.O. Box 717
Linden, CA, 95236
Phone: (209) 887 - 3415
canutes@verizon.net

Costanoan
Northern Valley
Yokut

This list is current only as of the date of this document. Distribution of this list does not relieve any person of statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5097.94 of the Public Resources Code and section 5097.98 of the Public Resources Code.

This list is only applicable for consultation with Native American tribes under Public Resources Code Sections 21080.3.1 for the proposed 555 Bailey Water Line Project, Santa Clara County.