

May 20, 2010

Via Email and Facsimile

Matt Walsh
Principal Planner
Solano County
675 Texas Street
Suite No. 5500
Fairfield, California 94533

Re: Comments on the Middle Green Valley Specific Plan Draft and Final EIR (State Clearing house #2009062048)

Dear Mr. Walsh:

This letter provides comments to the Environmental Impact Report ("EIR") for the Middle Green Valley Specific Plan ("Project"). On behalf of the Yocha Dehe Wintun Nation ("Tribe"), we hereby submit the following comments on the Project's Draft/Final EIR and identify the need for further analysis and/or mitigation in the area of cultural, historical and paleontological resources, land use and planning, and CEQA-required assessment considerations.

The Tribe is opposed to the proposed Project. The Tribe insists that Solano County ("County") deny the Project to preserve the integrity of the numerous cultural resource sites, including archaeological sites and historic properties located in the Project area. If, however, the County decides to move forward with the Project, the Tribe requests to meet and confer with County to discuss the proper application and implementation of mitigation measures.

Our comments are organized section by section and include recommended changes and sample language following the Draft EIR.

Section 8.1.1 Cultural and Historical Resources

Section 8. 1.1(d) provides an overview of the "Known Archaeological and Historic Resources in the Plan Area" of the Project site and states that the Project area consists of "[a] number of known cultural resources [...], as remnants of the prehistoric and historic periods of settlement described above." The Tribe recommends that additional information explaining that the Yocha Dehe Wintun Nation is descended from the Patwin, and Wintun people, and that the Project area is of special cultural significance to the Tribe because of its location in the Tribe's aboriginal territory.

Section 8.3 Impacts and Mitigation Measures

It is the Tribe's view that human burials should always be avoided, to the greatest extent feasible. Therefore, the Tribe takes issue with the mitigation measure proposed under Section 8.3 of the Draft EIR. In particular, the Tribe objects to the use of a backhoe excavator for "additional subsurface testing" to increase the sample of information. The Tribe believes that backhoe excavators should be reserved for use only after other less invasive methods have proven unsuitable. The use of a backhoe excavator has the potential to destroy culturally-

sensitive burials and artifacts of importance to the Tribe. Therefore, the Tribe requests that a distinction be made between these various mitigation measures listed (i.e., excavation by auger, shovel, and backhoe) for clarification. Furthermore, the Tribe would like the EIR to reflect the Tribe's preference for the use of minimally invasive forensic investigations where possible, rather than more invasive mitigation methods.

The "Impacts and Mitigation Measures" Section 8.3, Mitigation 8-1 states, "In the event that subsurface cultural resources are otherwise encountered during approved ground-disturbing activities for a plan area construction activity, work in the immediate vicinity shall be stopped and a qualified archaeologist retained to evaluate the finds following the procedures described above. If human remains are found, special rules set forth in State Health and Safety Code section 7050.5 and CEQA Guidelines section 15064.5(e) shall apply." Given the impact such a decision will have on Native American groups, and in particular the Tribe, it is recommended that consultation include the Tribe. Thus, the Tribe recommends that this portion instead state " ... construction activities shall be halted in the vicinity of the find and the construction contractor, the Tribe, and the Native American Heritage Commission ("NAHC"), if proper, and other appropriate parties shall be *notified* regarding the discovery."

The Mitigation Measures often notes that a "qualified archaeologist" will observe construction activities to ensure that site-specific avoidance measures and special construction actions. However, the Tribe recommends that this language be revised to add that approved Tribal monitors will serve as the monitors mentioned above where cultural resources are known located and its vicinity.

The proposed project would bring no local benefits to the community or the Tribe. The Project is not a temporary development but will permanently disrupt the sacred landscape which is unique to the area. The project footprint will have long-lasting impacts which will likely grow into further development projects, thus forever changing the cultural, religious, and social values of area.

Overall, the Tribe objects the approval of the Project, especially since the cultural resources inventory and requisite consultation has not yet been completed, rendering the action to approve the Project prematurely could cause the Tribe to suffer irreparable and irreversible harm from the loss of cultural, historical, and religious resources located on the 3,000 acres (or more) Project site.

Thank you for providing us with this notice and opportunity to comment. Please contact our Tribal Attorney, Michelle LaPena, at (916) 442-9906, or michelle@lapenalaw.com in order to begin the consultation process.

Sincerely,

Leland Kinter
Tribal Secretary