
036. Letter from Jason Weiner, Wishtoyo Foundation & Ventura Coastkeeper, dated February 13, 2017

Comment No. 036-1:

Please accept and confirm receipt of Wishtoyo Foundation's Comments on the Newhall Ranch Draft AEA. This is email 1 of 2.

Response No. 036-1:

CDFW acknowledges the comment and confirms receipt of the comments submitted by the Wishtoyo Foundation ("Wishtoyo"). No further response is required.

Comment No. 036-2:

Please note that Wishtoyo's full comments, with all attachments included that were too large to email, were mailed today via the US Postal Service.

Response No. 036-2:

CDFW acknowledges the comment and confirms receipt of the attachments. No further response is required.

Comment No. 036-3:

If you could confirm receipt of the two attachments in this email it would be much appreciated.

Response No. 036-3:

Receipt confirmed.

Comment No. 036-4:

Please accept and confirm receipt of Wishtoyo Foundation's Comments on the Newhall Ranch Draft AEA. This is email 2 of 2, and contains only attachments for Wishtoyo's cultural resources comments.

Response No. 036-4:

CDFW confirms receipt of the comments in question and further confirms receipt of the attachments set forth in Wishtoyo "email 2 of 2."

Comment No. 036-5:

Please note that Wishtoyo's full comments, with all attachments included that were too large to email, were mailed today via the US Postal Service.

Response No. 036-5:

CDFW acknowledges receipt of the noted materials by U.S. mail.

Comment No. 036-6:

If you could confirm receipt of the two attachments in this email it would be much appreciated.

Response No. 036-6:

Receipt confirmed.

Comment No. 036-7:

Thank you for confirming. Upon receipt, if there is a way to confirm receipt of the CD we mailed, plus the attachments in the CD, it would be more than great.

Response No. 036-7:

Receipt of the CD containing the attachments is confirmed.

Comment No. 036-8:

Sorry for the delayed response. This e-mail is to confirm CDFW received three e-mails and a total of 4 attachments.

Response No. 036-8:

CDFW confirms receipt of the three emails and the four attachments.

Comment No. 036-9:

Please accept and confirm receipt of Wishtoyo Foundation's Comments on the Newhall Ranch Draft AEA. This is email 1 of 2.

Response No. 036-9:

CDFW confirms receipt.

Comment No. 036-10:

Please note that Wishtoyo's full comments, with all attachments included that were too large to email, were mailed today via the US Postal Service.

Response No. 036-10:

CDFW acknowledges receipt of the noted materials by U.S. mail.

Comment No. 036-11:

If you could confirm receipt of the two attachments in this email it would be much appreciated.

Response No. 036-11:

Receipt confirmed.

Comment No. 036-12:

Thank you for providing Wishtoyo Foundation ("Wishtoyo") with the opportunity to submit comments on the Newhall Ranch Draft AEA. Wishtoyo is a Chumash Native American non-profit organization that protects Chumash culture, and the natural resources all Peoples depend upon. Amongst our members are Chumash Peoples, and Los Angeles and Ventura County residents adversely affected by the EIR.

Response No. 036-12:

The comment identifies Wishtoyo as a "Chumash Native American non-profit organization that protects Chumash culture, and the natural resources all Peoples depend upon." The comment indicates that Wishtoyo's members include Chumash Peoples, as well as residents of Los Angeles County and Ventura County "adversely affected by the EIR."

The comment does not address the adequacy of the Draft AEA. Nor does it raise any issue pertaining to the project. Therefore, no further response is required.

Comment No. 036-13:

These comments are specifically in regards to the impacts to Chumash tribal cultural resources, including burials and natural cultural resources, that are likely to occur during construction of the bridges as designed in the Newhall Ranch Draft AEA and that are likely to occur if the project is modified to reduce GHG emissions.

Response No. 036-13:

The comment indicates that Wishtoyo will be raising issues relating to impacts on “Chumash tribal cultural resources, including burials and natural cultural resources that are likely to occur during construction of the bridges designed in the Newhall Ranch Draft AEA.” In addition, Wishtoyo will be raising issues regarding impacts to Chumash tribal cultural resources “that are likely to occur if the project is modified to reduce GHG emissions.”

The comment does not identify any such impacts to Chumash tribal cultural resources, so no further response is required.

Comment No. 036-14:

We hereby incorporates Wishtoyo’s and Mati Waiya’s prior submitted comments on the EIR’s deficiencies, including the content of those comments regarding the EIR’s deficiencies as to the identification of, analysis of, and mitigation for Chumash tribal cultural resources at CA- LAN-2133, 2233, 2235, and throughout the project site.

Response No. 036-14:

The comment attempts to incorporate by reference the comments that Wishtoyo and Mati Waiya submitted on the 2010 Final EIR, including comments “regarding the EIR’s deficiencies as to the identification of, analysis of, and mitigation for Chumash tribal resources at CA-LAN-2133, 2233, 2235, and throughout the project site.”

All issues pertaining to the 2010 Final EIR’s analysis of the project’s cultural impacts, including impacts to CA-LAN-2133, 2233, 2235, were litigated (or waived) in the lawsuit known as *Center for Biological Diversity v. California Department of Fish and Wildlife* (1 Cal.App. 5th 452), to which Wishtoyo was and remains a party. In that case, the Court of Appeal rejected all claims that the EIR’s assessment of project-related impacts on cultural resources was inadequate under CEQA. The 2010 Final EIR determined that avoidance, preservation and minimization of impacts to known cultural sites and the adoption of mitigation measures that specify avoidance, treatment, monitoring and data recovery to be carried out by a qualified archaeologist and Native American monitors (Tataviam) reduced any impacts to less than significant levels. (2010 Final EIR, Section 4.10.) Consequently, those issues have been terminally resolved and cannot be raised a second time here.

In addition, none of the three cultural sites identified in the comment CA-LAN-2133, 2233, or 2235 – is located near the proposed bridge locations, and the comment does not demonstrate any connection between these sites and the proposed No Water Contact bridge construction approach addressed in the Draft AEA. Nor does the comment explain how the project’s approach to mitigate for GHG emissions affects these three sites or any others.

As stated in the Draft AEA, the location and disturbance footprint of the bridges and bank stabilization features has not changed since they were assessed in the 2010 Final EIR:

“The currently proposed bridge alignment and bank stabilization locations would be identical to the 2010 Final EIR’s project description. As a result, the river channel, floodplain, and riparian areas disturbed by construction, and the attendant biological impacts, would not increase in size, duration, or severity of landscape or river disturbance. In other words, the environmental footprint of the currently proposed infrastructure on the landscape is not substantially different from the footprint of

the project evaluated in the 2010 Final EIR. Therefore, no new significant impact nor a substantial increase in the severity of previously identified significant impact would occur related to the unarmored threespine stickleback, other fish and wildlife, or their habitats. No other additional or modified mitigation measures are needed. (See Draft AEA, p. 3-37.)”

Lastly, because the comments previously submitted by Wishtoyo and Mati Waiya address the 2010 Final EIR and not the Draft AEA, there is no need to address the comments again, as CDFW previously responded to the comments in the 2010 Final EIR. (See 2010 Final EIR, Letter F27 and RTC-F27-1–7.)

Comment No. 036-15:

In regards to the re-circulated GHG analysis in the Newhall Ranch Draft AEA, if any of the project changes result in new or different ground disturbance within the Project site, because this ground disturbance would likely impact the ancient Chumash burials, villages, and natural cultural resources located all along the Santa Clara River and its tributaries within and in addition to the sites the EIR has already identified, Wishtoyo requests that CDFW amend the EIR to:

1.) Consult with Wishtoyo Foundation and the Chumash Peoples, including the federally recognized Santa Ynez Band of Chumash Mission Indians, in regards to impacts to and mitigation for impacts to tribal cultural resources, including usable natural cultural resources such as arroyo willow, juncus, and tule. (See Attached Declaration from Chairman Armenta in regards to requested analysis to identify tribal cultural resources, requested mitigation, and the Chumash Peoples interest in the Project site; See attached Cal Trans 1999 Report providing more information about the Chumash Peoples’ historic presence in the project site);

Response No. 036-15:

The comment states that if the project’s GHG mitigation measures, as analyzed in the Draft AEA, “result in new or different ground disturbance within the [p]roject site,” such disturbance would “likely impact” ancient Chumash cultural resources. The comment then states that, in the event of such “new or different ground disturbance,” CDFW should consult with Wishtoyo and Chumash Peoples, “including the federally recognized Santa Ynez Band of Chumash Mission Indians, in regards to impacts to and mitigation for impacts to tribal cultural resources.” The comment cites a Declaration from Daniel Armenta, Chairman of the Santa Ynez Band of Chumash Indians.

The proposed mitigation measures for the project’s GHG emissions will not result in any ground disturbance on the project site beyond that analyzed and disclosed in the 2010 Final EIR. Further, Ramboll Environ evaluated the potential environmental effects of implementing the GHG mitigation measures related to achieving Net Zero Energy compliance (Mitigation Measures 2-1 and 2-2) and installing EV charging stations (Mitigation Measures 2-4, 2-5, and 2-12) and concluded the implementation of such measures would not result in any new significant environmental impacts, including to cultural resources.

The comment does not provide any evidence that there will be a change in potential ground disturbance that could impact cultural resources relative to what was already analyzed in the 2010 Final EIR. (See 2010 Final EIR, Section 4.10.) Because the 2010 Final EIR thoroughly analyzed cultural resources and the analysis was upheld following judicial review, there is no need for consultation as requested in the comment.

In short, the comment does not address any issue discussed in the Draft AEA, nor does it raise any issue or identify any impact that the Draft AEA is required to analyze. In short, the project’s potential impacts on cultural impacts has already been evaluated, disclosed, mitigated, and litigated. The Draft AEA does not address these issues, as they are beyond the scope of the writ of mandate, and the comment makes no connection between the proposed GHG mitigation measures and impacts to cultural resources. As discussed in **Response to Comment No. 036-14** above, the courts have terminally resolved issues related to cultural resources and the issue cannot be raised a second time here. Therefore, no further response is required.

Comment No. 036-16:

2.) Identify the presence of tribal cultural resources, village sites, and natural cultural resources with assistance from the Chumash and Tataviam Peoples;

Response No. 036-16:

The comment states that if the project's GHG mitigation measures, as analyzed in the Draft AEA, "result in new or different ground disturbance within the [p]roject site," such disturbance would "likely impact" ancient Chumash cultural resources. The comment then states that, in the event of such "new or different ground disturbance," CDFW should identify the presence of tribal cultural resources, village sites, and natural cultural resources with assistance from the Chumash and Tataviam Peoples.

The proposed mitigation measures for the project's GHG emissions will not result in any ground disturbance beyond that analyzed and disclosed in the 2010 Final EIR, as discussed in **Response to Comment No. 036-15**. The comment does not provide any evidence that there will be a change in potential ground disturbance that could impact cultural resources relative to what was already analyzed in the 2010 Final EIR. Because the 2010 Final EIR thoroughly analyzed cultural resources and the analysis was upheld following judicial review, there is no need for additional surveys to identify the presence of tribal cultural resources, village sites, and natural resources. Moreover, these resources have already been identified in the 2010 Final EIR, which the Court of Appeal determined was adequate with respect to its cultural resource analysis.

Comment No. 036-17:

3.) Use best available methods such as ground penetrating radar and canine forensics to locate the village remains and burials of the Chumash peoples (see attachments for examples and descriptions of these methods¹);

¹ Wishtoyo requests that specially trained forensic canines alone or in combination with ground penetrating radar are utilized (just like they were in Santa Cruz to identify Ohlone Native American burials for the KB Home development) to identify these tribal cultural resources. The use of specially trained canine forensics alone, or in combination with ground penetrating radar, represents the best available technology and most reliable means for the identification of Native American burials, villages, and remains, and thus should be used to identify potential impacts to Native American cultural / historic resources and to mitigate those impacts to a less than significant effect. As discussed by Mati Waiya in his August 2, 2010 letter, moving Native American burials from their original resting place upon discovery during construction, or disturbing and destroying Native American burials with construction equipment, harms Native American cultural historic resources and does not mitigate the impacts to the Native American cultural / historic resources. By utilizing highly trained forensic canines alone or in combination with ground penetrating radar to identify with more reasonable certainty all or almost all of the Native American burials at issue, mitigation measures can be developed in coordination with the local Tribes to achieve preservation in place for impacted burials and tribal cultural resources.

Response No. 036-17:

The comment states that if the project's GHG mitigation measures, as analyzed in the Draft AEA, "result in new or different ground disturbance within the [p]roject site," such disturbance would "likely impact" ancient Chumash cultural resources. The comment then states that, in the event of such "new or different ground disturbance," CDFW should use "best available methods such as ground penetrating radar and canine forensics to locate the village remains and burials of the Chumash peoples (see attachments for examples and descriptions of these methods."

As stated in **Response to Comment No. 036-15**, the proposed mitigation measures for the project's GHG emissions will not result in any ground disturbance beyond that analyzed and disclosed in the 2010 Final EIR. The commenter is referred to Section 4.10 of the 2010 Final EIR, which addresses potential impacts and mitigation measures related to this issue. Thus, there is no need for additional surveys to use ground

penetrating radar or canine forensics to locate village remains or human burials. Further, the information set forth in the comment or the comment footnote has no bearing on any issue within the scope of the Draft AEA.

The comment includes a footnote requesting “that specially trained forensic canines alone or in combination with ground penetrating radar are used (just like they were in Santa Cruz to identify Ohlone Native American burials for the KB Home development) to identify these tribal cultural resources.” The comment does not provide any evidence that there would be a change in potential ground disturbance that could impact cultural resources relative to what was already analyzed in the 2010 Final EIR; therefore, the additional requested analysis is not necessary to evaluate potential impacts to cultural resources. Because the 2010 Final EIR thoroughly analyzed cultural resources and the analysis was upheld following judicial review, there is no need for additional surveys to identify the presence of tribal cultural resources, village sites, and natural resources.

Comment No. 036-18:

4.) If Chumash villages, remains, or burials are found:

a. Follow CEQA’s requirements to fully analyze from the Chumash and Tataviam Peoples’ perspective what constitutes avoidances and preservation in place (See Madera Oversight (2011) 199 Cal.App.4th 48 for requisite analysis and EIR discussion); and.

Response No. 036-18:

The comment states that if the project’s GHG mitigation measures, as analyzed in the Draft AEA, “result in new or different ground disturbance within the [p]roject site,” such disturbance would “likely impact” ancient Chumash cultural resources. The comment then states that, in the event Chumash villages, remains, or burials are found, CDFW should “fully analyze from the Chumash and Tataviam Peoples’ perspective what constitutes avoidance and preservation in place.”

As stated in **Response to Comment No. 036-15**, the proposed mitigation measures for the project’s GHG emissions would not result in any ground disturbance beyond that analyzed and disclosed in the 2010 Final EIR. The commenter is referred to Section 4.10 of the 2010 Final EIR, which addresses potential impacts and mitigation measures related to this issue. In addition, as discussed in **Response to Comment No. 036-14** above, the courts have terminally resolved issues related to cultural resources and the issue cannot be raised a second time here.

The comment does not address any issue discussed in the Draft AEA; nor does it raise any issue or identify any impact that the Draft AEA is required to analyze. In short, the project’s potential impacts on cultural impacts has already been evaluated, disclosed, mitigated, and upheld following judicial review. The Draft AEA does not address these issues, as they are beyond the scope of the writ of mandate, and the comment makes no connection between the proposed GHG mitigation measures and impacts to cultural resources.

Comment No. 036-19:

b. Commit to avoidance of impacts if feasible, then preservation in place for the resources if feasible, and only if avoidance and preservation in place are not feasible as defined by adequate feasibility criteria articulated in the EIR, then provide for careful data recovery and re-entry as a last resort. It is impermissible under CEQA to leave it up to Newhall’s discretion as to whether to avoid or preserve tribal cultural resources in place.

Response No. 036-19:

The comment states that if the project’s GHG mitigation measures, as analyzed in the Draft AEA, “result in new or different ground disturbance within the [p]roject site,” such disturbance would “likely impact” ancient Chumash cultural resources. The comment then states that, in the event Chumash villages, remains, or burials are found, CDFW should “[c]ommit to avoidance of impacts if feasible, then preservation in place for

the resources if feasible, and only if avoidance and preservation in place are not feasible as defined by adequate feasibility criteria articulated in the EIR, then provide for careful data recovery and re-entry as a last resort.” The comment then states that “it is impermissible under CEQA to leave it up to Newhall’s discretion as to whether to avoid or preserve tribal cultural resources in place.”

As stated in **Response to Comment No. 036-15**, the proposed mitigation measures for the project’s GHG emissions would not result in any ground disturbance beyond that analyzed and disclosed in the 2010 Final EIR. The commenter is referred to Section 4.10 of the 2010 Final EIR, which addresses potential impacts and mitigation measures related to cultural resources. The comment is beyond the scope of the Draft AEA and fails to draw any connection between the project’s GHG mitigation measures and impacts to cultural resources.

Comment No. 036-20:

In regards to the movement of the bridge columns in the Santa Clara River and its floodplain as provided in the Newhall Ranch Draft AEA, the movement of these columns to areas known to contain Chumash burials (the Chumash buried their dead within the project site for thousands of years along the Santa Clara River)² surely requires a comprehensive investigation of the presence of Chumash burials and other associated remains and tribal cultural resources using the best available methods in the area of bridge construction.³ This is because the deep and extensive excavation into the Santa Clara River and its floodplain needed to insert the columns will surely destroy Chumash burials and tribal cultural resources if these sacred tribal cultural resources lie in the new locations for the columns. These best available methods to identify burials and other significant cultural resources that can inform whether the columns should be moved so as to avoid these cultural resources include ground penetrating radar and canine forensics to locate the village remains and burials of the Chumash peoples (see attachments for examples and descriptions of these methods).

² In addition to Wishtoyo’s and Mati Waiya previously submitted comment letters, see also attached Declaration from Chairman Armenta in regards to requested analysis to identify tribal cultural resources, requested mitigation, and the Chumash Peoples interest in the Project site; See attached Cal Trans 1999 Report providing more information about the Chumash Peoples’ historic presence in the project site.

³ For example, the bridge at Long Canyon crossing the river near Chiquito Canyon will likely impact the Chumash burial grounds and ancient village remains at around and connected to CA-LAN-2233 and or 2235, which are located near the confluence of the Santa Clara River and Chiquito Canyon on both sides of Highway 126 extending all the way down to the Santa Clara River through the proposed Long Canyon bridge crossing.

Response No. 036-20:

The comment states that by widening the span of the permanent bridge columns to prevent contact with the wetted channel of the Santa Clara River, the project would penetrate and disturb Chumash burials.

The comment does not provide any evidence that the ground disturbance associated with the modified bridge design measures would result in greater impacts than were already analyzed in the 2010 Final EIR. In fact, the bridge locations have not changed since the 2010 Final EIR modified bridge design would be result in few bridge pilings that would need to be installed, reducing overall impacts from this aspect of the project construction. (See Draft AEA, p. 3-37.)

Because this comment does not identify any impacts associated with the AEA that exceed the analysis contemplated by the 2010 Final EIR, the comment is beyond the scope of the AEA. For informational purposes, the following response is provided.

There is no evidence that the areas where the bridge columns would be installed contain any significant cultural resources that were not already analyzed and considered in the 2010 Final EIR. The comment

merely asserts that such resources exist but provides no support for this assertion. The 2010 Final EIR for the RMDP/SCP included extensive assessments of the cultural resources on the project site. (See 2010 Final EIR, Section 4.10; see also RTC-F27-1–7 for a detailed summary of cultural resources associated with the project site.) Neither document identified any such resources at or near the locations of the proposed bridges. (See 2010 Final EIR, Section 4.10, which identifies significant cultural resources, with no such resources being located in the area impacted by the modified bridge design.) All issues pertaining to the 2010 Final EIR's analysis of the project's cultural impacts, including impacts to CA-LAN-2233 and CA-LAN-2235, were litigated in the lawsuit known as *Center for Biological Diversity v. California Department of Fish and Wildlife* (1 Cal.App. 5th 452), to which Wishtoyo was and remains a party. In that case, the Court of Appeal rejected all claims that the EIR's assessment of project-related impacts on cultural resources was inadequate under CEQA. (*Id.*, at p. 469.) The 2010 Final EIR determined that avoidance, preservation and minimization of impacts to known cultural sites and the adoption of mitigation measures that specify avoidance, treatment, monitoring and data recovery to be carried out by a qualified archaeologist and Native Americans reduced any impacts to less than significant levels. Consequently, those issues have been terminally resolved and cannot be raised a second time here.

With regard to footnote 2, CDFW has reviewed the Declaration from Mr. Armenta. It does not address the Draft AEA, either directly or indirectly, and is therefore beyond the scope of the AEA; consequently, no response is needed.

Further, CDFW is also aware of the 1999 Caltrans report and discussed it in the 2010 Final EIR. It also has no bearing on any issue addressed in the Draft AEA, either directly or indirectly, and is therefore beyond the scope of the AEA. The 1999 Caltrans report is not applicable because it addresses the data recovery at CA-LAN-2233 that took place in 1998, which is not an issue material to either GHG emissions or take avoidance of unarmored threespine stickleback.

With regard to footnote 3, which claims that CA-LAN-2233 and CA-LAN-2235 are located near the confluence of the Santa Clara River and Chiquito Canyon and thus would be affected by construction of the Long Canyon Drive Bridge, there is no evidence that either of these sites extends anywhere near the bridge pier locations. They are in fact hundreds of yards away and would not be affected by any of the proposed bridge construction work.

Comment No. 036-21:

In addition, consultation with Wishtoyo and the Chumash Peoples, including the federally recognized Santa Ynez Band of Chumash Mission Indians, is required to help identify the locations of these burial grounds and other cultural resources in this area. This consultation includes provision of the confidential maps to the Chumash Peoples of the exact locations all cultural resources have been found to date to fully inform and aid the Chumash Peoples in identifying their resources and their locations in relation to the new locations for the bridge columns. If during these investigations, Chumash villages, remains, or burials are found, CDFW must:

Response No. 036-21:

The comment states that “consultation with Wishtoyo and the Chumash Peoples, including the federally recognized Santa Ynez Band of Chumash Mission Indians, is required to help identify the locations of these burial grounds and other cultural resources in this area” and introduces the actions required by CDFW during investigations. The comment does not question the adequacy of the Draft AEA and the comment is beyond the scope of the AEA (see **Topical Response 1: Scope of the Additional Environmental Analysis**); therefore, the comment does not warrant further response. For additional discussion, please see **Response to Comments Nos. NA2-5 and NA2-6**.

Comment No. 036-22:

a. Follow CEQA's requirements to fully analyze from the Chumash and Tataviam Peoples' perspective what constitutes avoidances and preservation in place, and

Response No. 036-22:

The comment notes CEQA requirements to “fully analyze from the Chumash and Tataviam Peoples’ perspective what constitutes avoidances and preservation in place.”

See **Response to Comment Nos. 036-14, 036-15, 036-20 and 036-21**. As stated in these responses, CDFW completed a comprehensive analysis and mitigation of cultural resources impacts in the 2010 Final EIR, which was upheld following judicial review. The proposed modifications analyzed in the AEA would not result in increased disturbance that could impact cultural resources. The comment does not provide evidence of any specific deficiency with the Draft AEA. No additional analysis is required.

In addition, this very claim was litigated and rejected by the courts in *Center for Biological Diversity v. California Department of Fish and Wildlife* (2016) 1 Cal.App.5th 452, 469.

Comment No. 036-23:

b. Commit to avoidance of impacts if feasible, then preservation in place for the resources if feasible, and only if avoidance and preservation in place are not feasible as defined by adequate feasibility criteria articulated in the EIR, then call for data recovery. It is impermissible under CEQA to leave it up to Newhall’s discretion as to whether to avoid or preserve tribal cultural resources in place.

Response No. 036-23:

The comment states that it is impermissible to allow Newhall, the project applicant, to determine the circumstances under which preservation in place is feasible or infeasible.

See **Response to Comment Nos. 036-14, 036-15, 036-20 and 036-21**. As stated in these responses, CDFW completed a comprehensive analysis and mitigation of cultural resources impacts in the 2010 Final EIR, which was upheld following judicial review. The proposed modifications analyzed in the AEA would not result in increased disturbance that could impact cultural resources. The comment does not provide evidence of any specific deficiency with the AEA. No additional analysis is required.

In addition, this very claim was litigated and rejected by the courts in *Center for Biological Diversity v. California Department of Fish and Wildlife* (2016) 1 Cal.App.5th 452, 469.

Comment No. 036-24:

Furthermore, in regards to the movement of the bridge columns out of the wetted channel of the Santa Clara River and onto the Santa Clara River banks and floodplain as provided in the Newhall Ranch Draft AEA, it is apparent that the movement of the columns will result in the clearing and permanent removal of “usable” healthy native riparian vegetation such as tule, juncus, and arroyo willow that are vital natural tribal cultural resources to the Chumash Peoples.

Response No. 036-24:

The need to clear vegetation for bridge construction was analyzed in the 2010 Final EIR. Nothing about the proposed No Water Contact approach to bridge construction adds to or changes that impact. Further, CEQA does not require that lead agencies study project impacts on vegetation that may be used by members of Indian tribes. And even if CEQA imposed such an obligation, Wishtoyo should have raised the issue during the review of the 2010 Final EIR. Consequently, as discussed in **Response to Comment No. 036-20** above, those issues have been terminally resolved and cannot be raised a second time here.

In addition, the amount of vegetation to be removed is negligible when compared to the amount of riparian vegetation – including tule, juncus, and arroyo willow – that exists elsewhere along the Santa Clara River and its tributaries. Thus, there is ample riparian vegetation for use by Chumash and other Indian tribes in the region.

Comment No. 036-25:



Chumash Ap (traditional dwelling unit) made from usable willow and tule

Response No. 036-25:

The comment consists of a photograph which, according to its caption, depicts a Chumash Ap (traditional dwelling unit) made from willow and tule. The photograph and caption do not address any issue or identify any inadequacy in the Draft AEA. Thus, no further response is required.

Comment No. 036-26:

Healthy tule and arroyo willow that are used for instance to construct Chumash dwelling units (aps), for medicinal purposes, and for other cultural purposes; healthy juncus that is used for instance for the world renowned Chumash basketry and for other Chumash cultural practices; and other healthy strands of native riparian vegetation used for Chumash cultural practices, are all rapidly disappearing in the Santa Clara River watershed due to a variety of reasons. These reasons include drought, water diversions (ie: United Water Conservation District's diversion at the Vern Freeman Diversion Dam of all of the Santa Clara River's flow outside of large storm events at River mile 10.5 that dewater the Santa Clara River from River mile 10.5 to the estuary), channelization, and development in the floodplain and along the banks of the Santa Clara River.

Response No. 036-26:

The comment states that tule and arroyo willow are used for constructing Chumash dwellings and for other cultural purposes. The comment also states that healthy stands of native riparian vegetation used by Chumash are rapidly disappearing from the Santa Clara River watershed "due to a variety of reasons," including drought, water diversions, and development.

The comment does not address any issue covered in the Draft AEA. Nor does the comment indicate that the proposed No Water Contact approach to bridge construction is responsible for any perceived loss of tule and arroyo willow. In fact, the comment provides no evidence in support of its claim that tule and arroyo and other riparian vegetation is "rapidly disappearing" from the project reach of the Santa Clara River or any other location within the river's watershed.

See **Response to Comment Nos. 036-14, 036-15, 036-20 and 036-21**. As stated in these responses, CDFW completed a comprehensive analysis and mitigation of cultural resources impacts in the 2010 Final EIR, which was upheld following judicial review. The proposed modifications analyzed in the AEA would not result in increased disturbance that could impact cultural resources. The comment does not provide evidence of any specific deficiency with the AEA. No additional analysis is required.

Comment No. 036-27:

We thus request that the EIR survey and document the usable native riparian vegetation that will be impacted by the change in location of the bridge columns/piers, and conduct a cumulative impact analysis as to the cumulative impacts of the project and placement of the bridge columns on the loss of "usable"

healthy native riparian vegetation in the Santa Clara River watershed that are suitable for cultural utilization by the Chumash Peoples.

Response No. 036-27:

The comment requests that the AEA “survey and document the usable native riparian vegetation that will be impacted by the change in location of the bridge columns/piers,” and then analyze the cumulative loss of such vegetation within the Santa Clara River watershed.

See **Response to Comment Nos. 036-14, 036-15, 036-24, 036-25, and 036-26.** As stated in these responses, CDFW completed a comprehensive analysis and mitigation of cultural resources impacts in the 2010 Final EIR, which was upheld following judicial review. The proposed modifications analyzed in the AEA would not result in increased disturbance that could impact cultural resources. The comment does not provide evidence of any specific deficiency with the AEA. No additional analysis is required.

Comment No. 036-28:



Tima Link Lotah, a Shmuwich Chumash weaver and cultural educator, weaving Chumash baskets with usable juncus from the Santa Clara River

Response No. 036-28:

The comment consists of a photograph which, according to its caption, depicts a “Shmuwich Chumash weaver and cultural educator, weaving Chumash baskets with usable juncus from the Santa Clara River.” The photograph and caption do not address any issue or identify any inadequacy in the Draft AEA. Thus, no further response is required.

Comment No. 036-29:

If CDFW does not have the expertise to identify the native riparian vegetation used for Chumash cultural purposes or to determine which native riparian vegetation is “usable” for Chumash cultural purposes, we ask that you consult with the various Chumash bands, clans, and tribes, and the Wishtoyo Foundation who has members from various Chumash bands, clans, and tribes, whom can assist the Department in these identification efforts.

Response No. 036-29:

See **Response to Comment Nos. 036-14, 036-20, 036-24, 036-25, and 036-26.** As there is no need to study further the project’s impacts on riparian vegetation, CDFW will respectfully decline the invitation to consult with Wishtoyo and other Chumash organizations on this issue. As stated in these responses, CDFW completed a comprehensive analysis and mitigation of cultural resources impacts in the 2010 Final EIR, which was upheld following judicial review. The proposed modifications analyzed in the AEA would not result in increased disturbance that could impact cultural resources. The comment does not provide evidence of any specific deficiency with the AEA. No additional analysis is required.

Comment No. 036-30:

Wishtoyo and our Chumash members that have expertise in basket weaving; Ap construction; native plant harvesting; native plants used for Chumash cultural, medicinal, and religious purposes; and the “usable” native riparian vegetation of the Santa Clara River that are utilized for Chumash cultural practices, would be happy to take you on a tour of the Santa Clara River, the Newhall project sight, and the location where the Newhall Ranch Draft AEA indicates the bridge columns and infrastructure will be moved to in order to share Chumash traditional knowledge to inform CDFW of the presence “usable” native riparian vegetation essential to the cultural practices and life ways of the Chumash Peoples.

Response No. 036-30:

See **Response to Comment Nos. 036-14, 036-20, 036-24, 036-25, and 036-26.** As there is no need to study further the project’s impacts on riparian vegetation, CDFW will respectfully decline the invitation to consult with Wishtoyo and other Chumash organizations on this issue. As stated in these responses, CDFW completed a comprehensive analysis and mitigation of cultural resources impacts in the 2010 Final EIR, which was upheld following judicial review. The proposed modifications analyzed in the AEA would not result in increased disturbance that could impact cultural resources. The comment does not provide evidence of any specific deficiency with the AEA. No additional analysis is required.

Comment No. 036-31:

Once the usable native riparian vegetation is identified, CDFW must adhere to CEQA’s requirements to avoid as a first priority and preserve in place the usable native riparian vegetation, as it is a sacred and vital natural tribal cultural resource. This means moving the bridge columns, the bridge entirely, or not building a bridge, or taking other measures to avoid impacts to these rapidly disappearing natural tribal cultural resources.

Response No. 036-31:

See **Response to Comment Nos. 036-14, 036-20, 036-24, 036-25, and 036-26.** As stated in these responses, CDFW completed a comprehensive analysis and mitigation of cultural resources impacts in the 2010 Final EIR, which was upheld following judicial review. As the proposed No Water Contact approach to bridge construction would not result in vegetation impacts beyond those already assessed in the 2010 Final EIR, no additional analysis or mitigation is required. Moreover, vegetation does not qualify as a cultural resource under CEQA and thus impacts to such vegetation are not subject to CEQA’s standard mitigation measures for cultural resources. The comment does not provide evidence of any specific deficiency with the AEA. No additional analysis is required.

Comment No. 036-32:

Tima Link Lotah weaving Chumash baskets with usable juncus from the Santa Clara River

Response No. 036-32:

The comment consists of a photograph which, according to its caption, shows Tima Link Lotah weaving Chumash baskets with usable juncus from the Santa Clara River.” The photograph and caption do not address any issue or identify any inadequacy in the Draft AEA. Thus, no further response is required.

Comment No. 036-33:

Usable native riparian vegetation, including, but not limited to tule, arroyo willow, and juncus, are rapidly disappearing in the watershed, and are tribal cultural resources essential to sustaining the culture and cultural practices, and life ways of the Chumash Peoples.

Response No. 036-33:

The comment states that usable native riparian vegetation is rapidly disappearing in the Santa Clara River watershed. The comment states that such vegetation are tribal cultural resources essential to sustaining the cultural and cultural practices, as well as the life ways, of the Chumash Peoples.

See **Response to Comment No. 036-26**. In addition, there is no evidence that the riparian vegetation identified in the comment meets the definition of “tribal cultural resource” set forth in Public Resources Code Section 21074.

Comment No. 036-34:

A finished Chumash Basket. Usable Juncus is Essential for Chumash Basketry and the Chumash Cultural Practice of Basket Weaving

Response No. 036-34:

The comment consists of a photograph of a basket made of “usable juncus,” which, according to the photograph’s caption, is essential for Chumash Basketry. The photograph and caption do not address any issue or identify any inadequacy in the Draft AEA. Thus, no further response is required.

Comment No. 036-35:

Thank you for considering our comments. Please feel free to contact Wishtoyo with questions, for additional information, or to schedule consultation and a site visit.

Response No. 036-35:

The comment does not raise any issue as to the adequacy of the Draft AEA; therefore, no further response is required.

Comment No. 036-36:

Provided below is the first page of Attachment 1 to Letter No. 036. A full copy of the attachment is available on the CD located on the inside cover of Volume 1 of the Final AEA.

**ATTACHMENT 1
PAGE 1 OF 147**

Case 2:14-cv-01667-PSG-CW Document 97-1 Filed 03/03/15 Page 1 of 147 Page ID #:1968

1 Aruna Prabhala, Cal. Bar No. 278865
2 Adam Keats, Cal. Bar No. 191157
3 John Buse, Cal. Bar. No. 163156
4 Center for Biological Diversity
5 351 California Street, Suite 600
6 San Francisco, CA 94104
7 Telephone: 415-436-9682
8 Facsimile: 415-436-9683
9 aprabhala@biologicaldiversity.org
10 akeats@biologicaldiversity.org
11 jbuse@biologicaldiversity.org
12
13 Jason Weiner, Cal. Bar. No. 259264
14 Wishtoyo Foundation and its Ventura Coastkeeper Program
15 3875-A Telegraph Road #423
16 Ventura, CA 93003
17 Telephone: 805-823-3301
18 Facsimile: 805-258-5107
19 jweiner.venturacoastkeeper@wishtoyo.org

Attorneys for Plaintiffs

**UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA**

19	CENTER FOR BIOLOGICAL)	Case No. CV 14-01667 PSG (CWx)
20	DIVERSITY, et al.)	
21)	
22	Plaintiffs,)	DECLARATION OF HON.
23	v.)	CHAIRMAN VINCENT ARMENTA
24)	IN SUPPORT OF PLAINTIFFS'
25	UNITED STATES ARMY CORPS OF)	MOTION FOR SUMMARY
26	ENGINEERS, et al.)	JUDGMENT
27	Defendants.)	
28)	

Declaration of Hon. Chairman Vincent Armenta
CV 14-01667 PSG

Response No. 036-36:

The comment consists of the declaration of Vincent Armenta, former Chairman of the Santa Ynez Band of Chumash Indians ("the Santa Ynez Band"). It does not address the Draft AEA or its adequacy. Rather, it was prepared for and filed in the federal court litigation brought by the Center for Biological Diversity, Wishtoyo, and the Santa Ynez Band of Chumash Indians against USACE. For this reason, no further response is required.

Comment No. 036-37:

Provided below is the first page of Attachment 2 to Letter No. 036. A full copy of the attachment is available on the CD located on the inside cover of Volume 1 of the Final AEA.

ATTACHMENT 2
PAGE 1 OF 443

LA 4546

A Study in the Prehistory of the Santa Clara River Valley

Archaeological Data Recovery at CA-LAN-2233

Los Angeles County, California

P.M. 0.0/R5.3
07-LAN-126, 07-051421

auth: Georgie Waugh

with Contributions by

Patricia Welsh
K.W.P. Miller, I. Lopez and P.L. Walker
Harold Hunt
Jason Eschelman
Judith K. Polanich
Glenn Russell
Lisa S. Klug and Virginia Popper
Deborah J. Meyer
B.G. Hallock
Donna Kirner
Beta Analytic
M. Steven Shackley
Thomas Orger

4) Test Excavation
1) Hand Collection
1st Verde BBL
10-00-00

Prepared by:

Cultural Studies Office
Environmental Program
California Department of Transportation
Sacramento, California

Prepared for:

Ron Kosinski
Supervising Environmental Planner
California Department of Transportation
District 7
Los Angeles, California

June 1999

ACOE138796

Response No. 036-37:

The comment consists of Caltrans's 1999 report on the Archaeological Data Recovery at CA-LAN-2233. The report does not address the Draft AEA. CDFW has reviewed the report and discussed it in the 2010 Final EIR. It does not provide any new information regarding project impacts on cultural resources.

Comment No. 036-38:

Provided below is the first page of Attachment 3 to Letter No. 036. A full copy of the attachment is available on the CD located on the inside cover of Volume 1 of the Final AEA.

**ATTACHMENT 3
PAGE 1 OF 6**

Articles Discussing How Forensic Dogs can be and have been successfully used to identify and locate Native American human remains (last visited October 21, 2011)

1.) <http://www.ohlonenation.org/?p=264>

By charlene on September 20th, 2011

[Forensic Dogs Successful in Identifying Ancient Human Remains for Ohlone](#)

Category: Uncategorized, Tags: burial site, forensic dog, kb homes, ohlone, santa cruz

Native Americans are always concerned when their exists the potential of unearthing human remains during construction projects. During a time when regular protocol would dictate the use of drills and tedious ground penetrating strategies that might harm or destroy findings, two alternatives have been incorporated during a recent project.

This fall the remains of an Ohlone boy were discovered during a KB home building project in Santa Cruz, CA. During negotiation meetings between the home builder, the City of Santa Cruz, CA and the Ohlone all parties agreed to respect and accept the results from two alternative proven methods of ground investigation. The two methods include ground penetrating radar or (GPR) and specially trained forensic dogs.



In this case, Ohlone descendant Chuck Strickland recommended [the GPR](#) method. A trained GPR technician came to the building site and scanned surface of the earth to see if additional buried remains could be detected. Unfortunately, due to layers of sediment and rock would not allow proper functioning of this method. While this did meet the Ohlone requirement of a non-invasive method for predicting the likelihood of findings, it would not be a good match for this project.

Response No. 036-38:

The comment consists of an article about forensic dogs that search for and identify human remains. The article does not address any issue in the Draft AEA. Thus, no further response is required.

037. Letter from Jason Weiner, Wishtoyo Foundation & Ventura Coastkeeper, dated February 13, 2017

Comment No. 037-1:

Wishtoyo Foundation hereby supplements its 2/13/17 comments on the Newhall Ranch Draft AEA regarding the Unarmored Threespine Stickleback ("UTS") with the following content that we request be attached to and included in our 2/13/17 UTS letter:

Based on the scientific literature regarding Unarmored Threespine Stickleback ("UTS") habitat and water quality requirements and sensitivities, the Valencia WTP monitoring data of its effluent discharge and the Santa Clara River upstream and downstream of its discharge, and Wishtoyo Foundation monitoring data of the Santa Clara River upstream and downstream of the Valencia WTP effluent discharge, it is apparent that the Valencia WTP effluent discharge is impairing UTS habitat and causing adverse survival and reproductive impacts to the UTS in the Santa Clara River from the confluence of the Valencia WTP effluent discharge to the Dry Gap also due to:

Pollutants, including, but not limited to metals, chlorides, excessive nutrients causing oxygen starved conditions, and CECs (Contaminants of Emerging Concern such as caffeine, fire retardants, and pharmaceuticals) contained in the Valencia WTP effluent discharge. (see attachments in CD to Wishtoyo 2/13/17 letter).

Response No. 037-1:

The comment states that the comments to follow “supplements [Wishtoyo’s] 2/13/17 comments on the Newhall Ranch Draft Additional Environmental Analysis (AEA) regarding the unarmored threespine stickleback (UTS),” and requests that these supplemental comments be included in the 2/13/17 unarmored threespine stickleback letter. The comment then states that based on scientific literature and effluent monitoring data, “it is apparent that the Valencia WTP effluent discharge is impairing unarmored threespine stickleback habitat and causing adverse survival and reproductive impacts to the unarmored threespine stickleback in the Santa Clara River from the confluence of the Valencia WTP effluent discharge to the Dry Gap” due to pollutants, “including but not limited to metals, chlorides, excessive nutrients causing oxygen starved conditions, and CECs (Contaminants of Concern such as caffeine, fire retardants, and pharmaceuticals)” contained in the Valencia Water Reclamation Plan (WRP) effluent.

As stated in **Response to Comment No. 035-18** to Wishtoyo Foundation’s Comments Regarding UTS (Comment Letter dated 2/13/17), the Valencia WRP is an existing facility that has been operating for many years pursuant to Waste Discharge Requirements (WDRs) and a National Pollution Discharge Elimination System (NPDES) permit issued by the Los Angeles Regional Water Quality Control Board. It is not part of the proposed project and thus is not within the scope of the Draft AEA. In addition, CDFW has no jurisdiction over the Valencia WRP’s NPDES permit or WDRs nor does it have jurisdiction over the WRP’s discharges. Nonetheless, for information purposes, please refer to **Response to Comment No. 035-18** to Wishtoyo Foundation’s Comments Regarding UTS (Comment Letter dated 2/13/17) for additional information responsive to the comment.

Moreover, the discharges from the Valencia WRP are not generated by any aspect of the project’s modifications evaluated in the Draft AEA. Said differently, the Valencia WRP discharges are not generated by the project’s modified design and construction approach to the bridges and bank stabilization, which approach is required by, and in response to, the corrective action required by the Supreme Court’s decision with regard to unarmored threespine stickleback. In addition, the discharges are not generated by the project’s GHG analysis, nor the new mitigation measures reducing the project’s greenhouse gas (GHG) impacts to net zero in response to the Supreme Court’s decision. In short, the project’s modified approaches evaluated in the AEA with regard to the bridges, bank stabilization, and GHG analysis do not generate any discharge, nor impact Valencia WRP operations. Thus, the issues concerning the Valencia WRP discharges are issues that were raised or could have been raised in response to the 2010 Final EIR and no

further response is required. For further responsive information, please refer to **Topical Response 1: Scope of the Additional Environmental Analysis**.

Comment No. O37-2:

Baskin 2000 (see attachments in CD to Wishtoyo 2/13/17 letter) provides:

Two features of the stickleback's habitat appear to be essential for the survival of the young. First a slow flow of clear water is necessary for the proper development of the eggs. Any form of pollution or even small amounts of turbidity may interfere with normal development.

Because of the presence of the Valencia WTP effluent discharge containing CECs, excessive nutrients, chlorides, metals, and other pollutants that dominates the amount of flow in the Santa Clara River from its confluence with the Santa Clara River to the Dry Gap, and because the EIR has now revealed that UTS are not present in this stretch, the EIR must prevent any discharge of effluent from the Proposed Newhall POTW, as doing so would expose the UTS to additional CECs, chlorides, metals, excessive nutrients and other pollutants that would interfere with normal UTS egg and juvenile development, and UTS survival. Unless, the EIR can demonstrate that the pollutants in the proposed Newhall POTW will not harm UTS, because of the new information that UTS are no longer present downstream of the Valencia WTP, the EIR must prohibit any discharges of effluent from the proposed Newhall POTW containing levels of CECs, chlorides, nutrients, metals, and other pollutants that are greater than the levels naturally found in an unimpaired Santa Clara River.

Response No. O37-2:

The comment states that, because the Valencia WRP effluent contains pollutants such as those listed in Comment No. O37-1, and “because the EIR [sic] has now revealed that UTS are not present” in that portion of the Santa Clara River between the WRP and the Dry Gap, the AEA must prevent any discharge of effluent from the Proposed Newhall WRP to protect unarmored threespine stickleback from exposure “to additional CECs, chlorides, metal, excessive nutrients and other pollutants that would interfere with normal UTS egg and juvenile development, and UTS survival.” The comment then states that, due to the “new information that UTS are no longer present downstream” of the Valencia WRP, the AEA “must prohibit any discharges of effluent from the proposed Newhall [WRP] containing levels of CECs, chlorides, nutrients, metals, and other pollutants that are greater than the levels naturally found in an unimpaired Santa Clara River.”

In response, CDFW makes the following five points:

First, as stated in **Response to Comment No. O35-18** to Wishtoyo Foundation’s Comments Regarding UTS (Comment Letter dated 2/13/17) and in **Response to Comment No. O37-1**, the Valencia WRP is not part of the project and, in fact, is an existing facility that operates pursuant to existing permits that regulate its effluent discharges. Thus, any issue pertaining to the Valencia WRP is beyond the scope of the AEA.

Second, the comment asserts that the Valencia WRP’s discharges contain pollutants that adversely affect unarmored threespine stickleback, disrupt its reproductive behaviors, and impair its survival; however, the comment provides no evidence in support of this assertion.

Third, as explained in **Response to Comment No. O35-17**, the fact that recent surveys did not detect unarmored threespine stickleback in the project reach of the Santa Clara River does not mean that the species does not exist there or has been extirpated. To the contrary, surveys going back many years indicate that unarmored threespine stickleback presence is variable at any given location. For this reason, the AEA assumes unarmored threespine stickleback presence in the project reach of the river and, more particularly, assumes presence at the proposed bridge and bank stabilization locations. Simply put, none of the data that CDFW has received and reviewed indicates that unarmored threespine stickleback have been extirpated from the project reach of the river. For further responsive information, please refer to **Response to Comment No. O35-18** to Wishtoyo Foundation’s Comments Regarding UTS (Comment Letter dated 2/13/17).

Fourth, the Newhall Ranch WRP is not part of the project's proposed modifications evaluated in the Draft AEA. The Newhall Ranch WRP was approved in 2003 by the County of Los Angeles, pursuant to a certified project-level EIR. Although it has not yet been constructed, it is nevertheless subject to an existing NPDES permit and WDRs issued by LARWQCB. CDFW has no jurisdiction over the Newhall Ranch WRP's discharges and cannot impose restrictions on those discharges. For further responsive information, please refer to **Response to Comment No. 035-19** to Wishtoyo Foundation's Comments Regarding UTS (Comment Letter dated 2/13/17).

Fifth, the comment provides no evidence that effluent from the Newhall Ranch WRP would contain any pollutant at concentrations high enough to adversely affect unarmored threespine stickleback. In any case, the Newhall Ranch WRP NPDES permit and related waste discharge requirements impose restrictions on pollutant concentrations protective of beneficial uses within the Santa Clara River.

Lastly, as stated in **Response to Comment No. 037-1**, above, the project's modified approaches evaluated in the AEA with regard to the bridges, bank stabilization, and greenhouse gas analysis do not generate any discharge, nor impact the Valencia WRP or the Newhall Ranch WRP operations. Thus, the issues concerning the Valencia WRP and the Newhall Ranch WRP discharges are issues that were raised or could have been raised in response to the 2010 Final EIR and no further response is required. For further responsive information, please refer to **Topical Response 1: Scope of the Additional Environmental Analysis**.

Comment No. 037-3:

Thank you for considering our supplemental comments.

Response No. 037-3:

The comment thanks CDFW for considering Wishtoyo's supplemental comments.

CDFW has considered the supplemental comments and will include them in the record prior to any decision with regard to the project as modified. No further response is required.

Comment No. 037-4:

Please accept and confirm receipt of Wishtoyo Foundation's Comments on the Newhall Ranch Draft AEA. This is email 2 of 2, and contains only attachments for Wishtoyo's cultural resources comments.

Response No. 037-4:

CDFW confirms receipt of Wishtoyo's supplemental comments; however, the attachments provided by Wishtoyo are composed of an array of documents that are not organized or connected to any particular Wishtoyo comment, making it extremely difficult for CDFW to meaningfully respond with regard to the attachments.

Comment No. 037-5:

Please note that Wishtoyo's full comments, with all attachments included that were too large to email, were mailed today via the US Postal Service.

Response No. 037-5:

CDFW acknowledges that Wishtoyo's attachments were not provided by email by the close of the public review/comment period.

Comment No. 037-6:

If you could confirm receipt of the two attachments in this email it would be much appreciated.

Response No. 037-6:

CDFW acknowledges receipt of two attachments to Wishtoyo's supplemental email, but notes that the attachments are often not connected to any Wishtoyo comment, therefore, making it extremely difficult for CDFW to meaningfully respond. However, in those cases where a direct connection to a specific attachment can be made, the content of the attachment was addressed in the response to the comment that references the attachment.

Comment No. 037-7:

Please accept and confirm receipt of Wishtoyo Foundation's Comments on the Newhall Ranch Draft AEA. This is email 1 of 2.

Response No. 037-7:

CDFW confirms receipt of Wishtoyo's supplemental email comments.

Comment No. 037-8:

Please note that Wishtoyo's full comments, with all attachments included that were too large to email, were mailed today via the US Postal Service.

Response No. 037-8:

The comment essentially repeats the issues and questions set forth previously in Comment No. 037-5. According, please refer to **Response to Comment No. 037-5**.

Comment No. 037-9:

If you could confirm receipt of the two attachments in this email it would be much appreciated.

Response No. 037-9:

The comment essentially repeats the issues and questions set forth previously in Comment No. 037-6. According, please refer to **Response to Comment No. 037-6**.

037. Letter from Jason Weiner, Wishtoyo Foundation & Ventura Coastkeeper, dated February 13, 2017

Comment No. 037-1:

Wishtoyo Foundation hereby supplements its 2/13/17 comments on the Newhall Ranch Draft AEA regarding the Unarmored Threespine Stickleback ("UTS") with the following content that we request be attached to and included in our 2/13/17 UTS letter:

Based on the scientific literature regarding Unarmored Threespine Stickleback ("UTS") habitat and water quality requirements and sensitivities, the Valencia WTP monitoring data of its effluent discharge and the Santa Clara River upstream and downstream of its discharge, and Wishtoyo Foundation monitoring data of the Santa Clara River upstream and downstream of the Valencia WTP effluent discharge, it is apparent that the Valencia WTP effluent discharge is impairing UTS habitat and causing adverse survival and reproductive impacts to the UTS in the Santa Clara River from the confluence of the Valencia WTP effluent discharge to the Dry Gap also due to:

Pollutants, including, but not limited to metals, chlorides, excessive nutrients causing oxygen starved conditions, and CECs (Contaminants of Emerging Concern such as caffeine, fire retardants, and pharmaceuticals) contained in the Valencia WTP effluent discharge. (see attachments in CD to Wishtoyo 2/13/17 letter).

Response No. 037-1:

The comment states that the comments to follow "supplements [Wishtoyo's] 2/13/17 comments on the Newhall Ranch Draft [AEA] regarding the unarmored threespine stickleback (UTS)," and requests that these supplemental comments be included in the 2/13/17 unarmored threespine stickleback letter. The comment then states that based on scientific literature and effluent monitoring data, "it is apparent that the Valencia WTP effluent discharge is impairing unarmored threespine stickleback habitat and causing adverse survival and reproductive impacts to the unarmored threespine stickleback in the Santa Clara River from the confluence of the Valencia WTP effluent discharge to the Dry Gap" due to pollutants, "including but not limited to metals, chlorides, excessive nutrients causing oxygen starved conditions, and CECs (Contaminants of Concern such as caffeine, fire retardants, and pharmaceuticals)" contained in the Valencia WRP effluent.

As stated in **Response to Comment No. 035-18** to Wishtoyo Foundation's Comments Regarding UTS (Comment Letter dated 2/13/17), the Valencia WRP is an existing facility that has been operating for many years pursuant to Waste Discharge Requirements (WDRs) and a National Pollution Discharge Elimination System (NPDES) permit issued by LARWQCB. It is not part of the project and thus is not within the scope of the Draft AEA. In addition, CDFW has no jurisdiction over the Valencia WRP's NPDES permit or WDRs nor does it have jurisdiction over the WRP's discharges. Nonetheless, for informational purposes, please refer to **Response to Comment No. 035-18**.

Moreover, the discharges from the Valencia WRP are not generated by any aspect of the project's modifications evaluated in the Draft AEA. Said differently, the Valencia WRP discharges are not generated by the project's modified design and construction approach to the bridges and bank stabilization, which approach is required by, and in response to, the corrective action required by the Supreme Court's decision with regard to unarmored threespine stickleback. In addition, the discharges are not generated by the project's GHG analysis, nor the new mitigation measures reducing the project's GHG impacts to net zero in response to the Supreme Court's decision. In short, the project's modified approaches evaluated in the AEA with regard to the bridges, bank stabilization, and GHG analysis do not generate any discharge, nor impact Valencia WRP operations. Thus, the issues concerning the Valencia WRP discharges are issues that were raised or could have been raised in response to the 2010 Final EIR and no further response is required. For further responsive information, please refer to **Topical Response 1: Scope of the Additional Environmental Analysis**.

Comment No. 037-2:

Baskin 2000 (see attachments in CD to Wishtoyo 2/13/17 letter) provides:

Two features of the stickleback's habitat appear to be essential for the survival of the young. First a slow flow of clear water is necessary for the proper development of the eggs. Any form of pollution or even small amounts of turbidity may interfere with normal development.

Because of the presence of the Valencia WTP effluent discharge containing CECs, excessive nutrients, chlorides, metals, and other pollutants that dominates the amount of flow in the Santa Clara River from its confluence with the Santa Clara River to the Dry Gap, and because the EIR has now revealed that UTS are not present in this stretch, the EIR must prevent any discharge of effluent from the Proposed Newhall POTW, as doing so would expose the UTS to additional CECs, chlorides, metals, excessive nutrients and other pollutants that would interfere with normal UTS egg and juvenile development, and UTS survival. Unless, the EIR can demonstrate that the pollutants in the proposed Newhall POTW will not harm UTS, because of the new information that UTS are no longer present downstream of the Valencia WTP, the EIR must prohibit any discharges of effluent from the proposed Newhall POTW containing levels of CECs, chlorides, nutrients, metals, and other pollutants that are greater than the levels naturally found in an unimpaired Santa Clara River.

Response No. 037-2:

The comment states that, because the Valencia WRP effluent contains pollutants such as those listed in Comment No. 037-1, and “because the EIR [sic] has now revealed that UTS are not present” in that portion of the Santa Clara River between the WRP and the Dry Gap, the AEA must prevent any discharge of effluent from the Proposed Newhall WRP to protect unarmored threespine stickleback from exposure “to additional CECs, chlorides, metal, excessive nutrients and other pollutants that would interfere with normal UTS egg and juvenile development, and UTS survival.” The comment then states that, due to the “new information that UTS are no longer present downstream” of the Valencia WRP, the AEA “must prohibit any discharges of effluent from the proposed Newhall [WRP] containing levels of CECs, chlorides, nutrients, metals, and other pollutants that are greater than the levels naturally found in an unimpaired Santa Clara River.”

In response, CDFW makes the following five points:

First, as stated in **Response to Comment No. 035-18** and in **Response to Comment No. 037-1**, the Valencia WRP is not part of the project and, in fact, is an existing facility that operates pursuant to existing permits that regulate its effluent discharges. Thus, any issue pertaining to the Valencia WRP is beyond the scope of the AEA.

Second, the comment asserts that the Valencia WRP’s discharges contain pollutants that adversely affect unarmored threespine stickleback, disrupt its reproductive behaviors, and impair its survival; however, the comment provides no evidence in support of this assertion.

Third, as explained in **Response to Comment No. 035-17**, the fact that recent surveys did not detect unarmored threespine stickleback in the project reach of the Santa Clara River does not mean that the species does not exist there or has been extirpated. To the contrary, surveys going back many years indicate that unarmored threespine stickleback presence is variable at any given location. For this reason, the AEA assumes unarmored threespine stickleback presence in the project reach of the river and, more particularly, assumes presence at the proposed bridge and bank stabilization locations. Simply put, none of the data that CDFW has received and reviewed indicates that unarmored threespine stickleback have been extirpated from the project reach of the river. For further responsive information, please refer to **Response to Comment No. 035-18**.

Fourth, the Newhall Ranch WRP is not part of the project’s proposed modifications evaluated in the Draft AEA. The Newhall Ranch WRP was approved in 2003 by the County of Los Angeles, pursuant to a certified project-level EIR. Although it has not yet been constructed, it is nevertheless subject to an existing NPDES

permit and WDRs issued by LARWQCB. CDFW has no jurisdiction over the Newhall Ranch WRP's discharges and cannot impose restrictions on those discharges. For further responsive information, please refer to **Response to Comment No. 035-19**.

Fifth, the comment provides no evidence that effluent from the Newhall Ranch WRP would contain any pollutant at concentrations high enough to adversely affect unarmored threespine stickleback. In any case, the Newhall Ranch WRP NPDES permit and related waste discharge requirements impose restrictions on pollutant concentrations protective of beneficial uses within the Santa Clara River.

Lastly, as stated in **Response to Comment No. 037-1**, above, the project's modified approaches evaluated in the AEA with regard to the bridges, bank stabilization, and greenhouse gas analysis do not generate any discharge, nor impact the Valencia WRP or the Newhall Ranch WRP operations. Thus, the issues concerning the Valencia WRP and the Newhall Ranch WRP discharges are issues that were raised or could have been raised in response to the 2010 Final EIR and no further response is required. For further responsive information, please refer to **Topical Response 1: Scope of the Additional Environmental Analysis**.

Comment No. 037-3:

Thank you for considering our supplemental comments.

Response No. 037-3:

The comment thanks CDFW for considering Wishtoyo's supplemental comments.

CDFW has considered the supplemental comments and will include them in the record prior to any decision with regard to the project as modified. No further response is required.

Comment No. 037-4:

Please accept and confirm receipt of Wishtoyo Foundation's Comments on the Newhall Ranch Draft AEA. This is email 2 of 2, and contains only attachments for Wishtoyo's cultural resources comments.

Response No. 037-4:

CDFW confirms receipt of Wishtoyo's supplemental comments; however, the attachments provided by Wishtoyo are composed of an array of documents that are not organized or connected to any particular Wishtoyo comment, making it extremely difficult for CDFW to meaningfully respond with regard to the attachments.

Comment No. 037-5:

Please note that Wishtoyo's full comments, with all attachments included that were too large to email, were mailed today via the US Postal Service.

Response No. 037-5:

CDFW acknowledges that Wishtoyo's attachments were not provided by email by the close of the public review/comment period.

Comment No. 037-6:

If you could confirm receipt of the two attachments in this email it would be much appreciated.

Response No. 037-6:

CDFW acknowledges receipt of two attachments to Wishtoyo's supplemental email, but notes that the attachments are often not connected to any Wishtoyo comment, therefore, making it extremely difficult for CDFW to meaningfully respond. However, in those cases where a direct connection to a specific attachment

can be made, the content of the attachment was addressed in the response to the comment that references the attachment.

Comment No. 037-7:

Please accept and confirm receipt of Wishtoyo Foundation's Comments on the Newhall Ranch Draft AEA. This is email 1 of 2.

Response No. 037-7:

CDFW confirms receipt of Wishtoyo's supplemental email comments.

Comment No. 037-8:

Please note that Wishtoyo's full comments, with all attachments included that were too large to email, were mailed today via the US Postal Service.

Response No. 037-8:

The comment essentially repeats the issues and questions set forth previously in Comment No. 037-5. According, please refer to **Response to Comment No. 037-5**.

Comment No. 037-9:

If you could confirm receipt of the two attachments in this email it would be much appreciated.

Response No. 037-9:

The comment essentially repeats the issues and questions set forth previously in Comment No. 037-6. According, please refer to **Response to Comment No. 037-6**.

038. Letter from Western Golf, dated January 25, 2017

Comment No. 038-1:

Western Golf Properties provides golf course management and consulting services to a variety of golf courses and private golf clubs across the nation. This includes day to day golf course management and related restaurant and banquet operations for Tournament Players Club at Valencia (a Five Point property) as well as golf course maintenance operations for Friendly Valley's golf course. Both of these golf properties are located within the Santa Clarita Valley and, in total, employ an estimated 100 Western Golf employees locally.

Response No. 038-1:

This comment provides information regarding the organization that authored **Letter No. 038**. No further response is required.

Comment No. 038-2:

I am familiar with the Net Zero Newhall initiative and am writing to express my full support for the entire Newhall Ranch plan, including the first two villages, Landmark Village and Mission Village.

The Net Zero Newhall plan to create Newhall Ranch as the most environmentally sustainable master planned community of its size in the nation with zero net greenhouse gas emissions is an exciting proposal worthy of our full support and is consistent with the healthy lifestyles we promote at the golf courses and private golf clubs we manage across the nation.

Furthermore, Santa Clarita would greatly benefit from the tremendous jobs created by Newhall Ranch, which would also provide much needed new housing to a very supply constrained market.

It is this kind of thoughtful, environmentally-sensitive development that Santa Clarita needs and it has our full support.

We urge our elected officials to quickly approve Newhall Ranch, including Landmark Village and Mission Village. Newhall Ranch is good for the local economy and has our full support.

Response No. 038-2:

The comment expresses support for the Landmark and Mission Village developments proposed for the Newhall Ranch Specific Plan site, which is located within the RMDP/SCP project area. The comment also expresses specific support for the commitment being made for the Net Zero Newhall proposal and its programs to achieve net zero GHG emissions and to provide housing. This comment is noted for the record and is included in this Final AEA for review and consideration by the decision-makers.

This page intentionally left blank.