

2.3.5 Tribal Comments and Responses

This section lists all comments received from Native American tribes on the DEIR for the proposed project, and presents written responses to any significant environmental issues raised in the comment letters, as required by Section 15132 of the State CEQA Guidelines. Except where noted, "DEIR" as used in this section refers to both the DEIR published in February 2017 and the Partially Revised DEIR published in August 2017.

Comments and Responses on the February 2017 DEIR

Table 2-8 lists the comments on the February 2017 DEIR received from Native American tribes during the public review period. (No comment letters were received from tribes on the August 2017 Partially Revised DEIR.) The table identifies authors, tribes, comment dates, and comment letter identification codes. Each comment letter received is reproduced in its entirety below. The responses to comments directly follow each letter.

**Table 2-8 List of Written Comments on the February 2017 DEIR
Received from Native American Tribes**

Author	Commenting Tribe	Date	Comment Letter ID
Robert Ledger, Chairman	Dumna Wo Wah Tribal Government	April 17, 2017	T-1

LETTER T-1:
Robert Ledger, Chairman, Dumna Wo Wah Tribal Government, April 17, 2017

T-1

Janah Wright

From: Melinda Marks
Sent: Monday, April 17, 2017 11:23 AM
To: Janah Wright
Subject: FW: Dumna Tribe Comments
Attachments: img004.jpg; img006.jpg

Follow Up Flag: Follow up
Flag Status: Flagged

Melinda S. Marks
Executive Officer
San Joaquin River Conservancy
5469 E. Olive, Fresno CA 93727
(559) 253-7324
Fax (559) 456-3194

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From: Robert Ledger [<mailto:ledgerrobert@ymail.com>]
Sent: Friday, April 14, 2017 10:15 PM
To: Melinda Marks
Subject: Dumna Tribe Comments

Mrs Marks The Dumna Wo Wah Tribal government is commenting on the San Joaquin River Conservancy River West Eaton Trail Extension Project Environmental Impact Report see attachments below

Tribal Chairman Robert G Ledger Sr
Dumna Wo-Wah Tribal Government
2216 E Hammond . Fresno, CA 93703
(559) 519-1742
ledgerrobert@ymail.com

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San Joaquin River Conservancy
5469 E. Olive, Fresno CA 93727
Attn: Melinda Marks, Executive Officer

Dear Ms. Marks,

The Dumna Wo Wah Tribal Government is responding to the River West Eaton Trail Extension Project Environmental Impact Report. It is unfortunate that our tribe was not notified of this project at an earlier date, we were only made aware of this through word of mouth 24hrs before the comment deadline. While we would like an extension of the comment period, we hope that we can communicate our concerns and work with you to protect our cultural resources within the project site in a timely manner going forward. We also hope that the rich cultural history of this Pitkatchi/Dumna habitation region is protected. Dave Singleton from the NAHC had given the SJR Conservancy our contact information and your archaeological consultants have identified our tribe as living descendants of the native inhabitants of this area, so it is not clear why we have not been included in the extensive outreach for the project. California Govt. Code 65040.12e requires fair treatment of people and consultation with Native American tribes. We were not contacted by phone, email, or letter.

A

The Ethnohistory section on Pg. 6 is a cursory and misleading characterization of our tribe and our cultural history. It basically reads that our ancestors were a small and poorly organized tribe named after "evil-smelling salts" gathered by our tribe. The report mentions several conflicting and inaccurate geographical descriptions of Yokut tribal territories, including the reference to the Dumna tribe occupying only the north side of the San Joaquin River, and the Pitkatchi mainly occupying sites from Herndon down river. The Dumna and Pitkatchi tribes were related in that within the 1851 treaty, it states that Tom Quit was the Principal Chief over the Pitkatchi, and that Pahmit's grandfather, Pahmit being the chief of the Dumna.

B

The grounds in this and the surrounding areas are rich with cultural resources and there are Dumna and Pitkatchi village and burial sites that are very important to the tribe throughout. The disclosure of confidential site locations in the report's Appendix E - Archaeological Survey (Appendix C -Site Record (CA-FRE-980)) puts sensitive resources in danger of removal or damage, and this information should not have been made available to the public. If on-site mitigations for cultural resources cannot be achieved here, other alternatives should be included in Chapter 5 that would consider project locations in other areas of the river under control of the San Joaquin River Conservancy that could avoid potential impacts to cultural resources.

C

The Dumna tribe hopes that the San Joaquin River Conservancy will work with us to see that our tribal lands are protected. It is common practice to mitigate the impacts based on the nature of the specific resources on the site. It is very clear from this report that a Dumna Cultural Monitor should be in place

D

before and during any grading or ground disturbing activity on this site, and that further archaeological survey is needed to establish the extent of existing known and unknown cultural resources within the project site. We look forward to further discussions that will clarify our concerns.

Y
E
I

Robert Ledger, Chairman



Dumna Wo Wah Tribal Government

Letter	Robert Ledger, Chairman
T-1	Dumna Wo Wah Tribal Government
Response	April 17, 2017

T-1A *This comment questions why the Tribe was never notified of the project.*

The Conservancy provided notice for the EIR consistent with the requirements outlined in State CEQA Guidelines Section 15082. The Conservancy prepared and released a notice of preparation (NOP) in June 2014 that was submitted to the State Clearinghouse along with a notice of completion (NOC) that listed the agencies to which the NOP should be distributed for input. The Native American Heritage Commission was listed on the NOC as an agency to receive a copy of the NOP for distribution. A public scoping meeting was held June 1, 2014, to solicit input on the topics to be evaluated in the EIR. A summary of the comments received is contained in Volume III, Appendix A of this FEIR.

Further, the Conservancy's consultants attempted to contact the Dumna Wo Wah Tribal government during their investigation, but no response was provided (see Appendix D of the Cultural Resource Report found in Volume III for the contact log). Please note that the NOP was released before enactment of Assembly Bill (AB) 52, which requires a lead agency to consult with a tribe regarding any proposed project subject to CEQA in the geographic area with which the tribe is traditionally and culturally affiliated. AB 52 applies to all NOPs and notices of intent to prepare a negative or mitigated negative declaration filed on or after July 1, 2015. In the case of the proposed project, the NOP was filed in June 2014.

T-1B *This comment clarifies a description of the cultural territory of the Tribe and relationship to the Pitkatchi.*

Thank you for the clarification to the ethno-history contained in the cultural resources report. As noted in that report, little archaeological work has been conducted in the central San Joaquin Valley generally or in the project vicinity specifically. The information provided in the comment letter by a tribal representative has been added to DEIR Section 3.6 (see Volume I of this FEIR). However, sufficient information has been provided to conduct a reasoned analysis of the potential for project-related impacts.

T-1C *This comment states that a map depicting the location of site CA-FRE-980 contained in the appendices to the EIR should not be made public. The comment also encourages locating the project at another site if on-site mitigation cannot be achieved.*

The maps in the archeological record depicting the location of cultural resources site have been removed from the appendices to the FEIR and the DEIR and Partially Revised DEIR as well. Mitigation Measure Cultural Resources-1 requires the Conservancy to perform subsurface testing along the trail alignment to determine the boundary of site CA-FRE-980 and route the alignment to avoid disturbance to the resource. Sufficient land is available within the study area to avoid direct disturbance to this resource. No unavoidable impacts are expected.

T-1D *This comment suggests that a tribal monitor should be present during trail construction in the event artifacts are uncovered by grading and that further investigation is needed.*

See response to comment 3. Mitigation measure Cultural Resource-1 requires the Conservancy to conduct subsurface investigations to accurately determine the boundary of site CA-FRE-980. The following Mitigation Measure has been added to the Final EIR:

Mitigation Measure Cultural Resources-2

After completing the cultural resources investigations as described in Mitigation Measure Cultural Resources-1, and prior to commencing grading, earthwork, or other disturbance of native soil, the Conservancy shall retain and enter into a service contract with a qualified professional for monitoring. The cultural resources monitor shall provide monitoring for all initial ground-disturbing activities and earth disturbance on portions of the project site that have not been mined for gravel, including clearing, grubbing, tree removal, grading, trenching, stockpiling materials, rock crushing, etc. The monitor shall have the authority to temporarily divert, redirect, or halt the ground-disturbance activities to allow identification, evaluation, and potential recovery of cultural resources. The Conservancy shall provide an opportunity for an appropriate tribal monitor to also enter a service agreement to be on-site during these activities to supplement the project monitor's service for advisory purposes and to serve the tribe's interests.

Also, Mitigation Measure Cultural Resources-3 in the Final EIR provides for stop work if construction activity were to uncover human remains or bones of unknown origin.