

APPENDIX N

TRIBAL OUTREACH CORRESPONDENCE

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Note: EPA sent the letter and enclosures provided in the subsequent pages to the following tribal representatives:

- Chairperson John Christman, Viejas Band of Kumeyaay Indians
 - Lisa Cumper, Jamul Indian Village
 - John Flores, San Pasqual Band of Diegueno Mission Indians
 - Vice Chairperson Michael Garcia, Ewiiapaayp Band of Kumeyaay Indians
 - Chairperson Ralph Goff, Campo Band of Diegueno Mission Indians
 - Chairperson Allen Lawson, San Pasqual Band of Diegueno Mission Indians
 - Clint Linton, Iipay Nation of Santa Ysabel
 - Chairperson Michael Linton, Mesa Grande Band of Diegueno Mission Indians
 - Carmen Lucas, Kwaaymii Laguna Band of Mission Indians
 - Chairperson Cody Martinez, Sycuan Band of the Kumeyaay Nation
 - Javaughn Miller, La Posta Band of Diegueno Mission Indians
 - Kristie Orosco, Sycuan Band of the Kumeyaay Nation
 - Chairperson Rebecca Osuna, Inaja-Cosmit Band of Indians
 - Chairperson Gwendolyn Parada, La Posta Band of Diegueno Mission Indians
 - Chairperson Virgil Perez, Iipay Nation of Santa Ysabel
 - Ernest Pingleton, Viejas Band of Kumeyaay Indians
 - Chairperson Erica Pinto, Jamul Indian Village
 - Chairperson Robert Pinto, Ewiiapaayp Band of Kumeyaay Indians
 - Chairperson Edwin Romero, Barona Group of the Capitan Grande
 - Chairperson Angela Elliott Santos, Manzanita Band of Kumeyaay Nation
-



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street
San Francisco, CA 94105-3901

John Christman
Chairperson
Viejas Band of Kumeyaay Indians
1 Viejas Grade Road
Alpine, CA 91901

Re: EPA Staff Notification on Finding of No Historic Properties Affected under Section 106 of the National Historic Preservation Act for the Proposed USMCA Mitigation of Contaminated Transboundary Flows Project, San Diego County, California

Dear Chairperson Christman:

The U.S. Environmental Protection Agency (EPA) submits this notification of a finding of “No Historic Properties Affected” for the United States-Mexico-Canada Agreement (USMCA) Mitigation of Contaminated Transboundary Flows Project (Proposed Action) following Section 106 of the National Historic Preservation Act (NHPA). Enclosed for your review is a copy of the *Class III Cultural Resource Inventory for the USMCA Mitigation of Contaminated Transboundary Flows Project in the Tijuana Watershed in San Diego, California*, ASM Affiliates, Inc. (ASM) (Enclosure 1). The Proposed Action is considered an official undertaking as defined in 26 CFR Section 800.15(y).

Proposed Action Purpose and Location

The Environmental Protection Agency (EPA) and the U.S. International Boundary and Water Commission (USIBWC), as joint lead agencies, are proposing to fund and implement the Proposed Action to reduce transboundary flows from Tijuana that cause adverse public health and environmental impacts in the Tijuana River watershed and adjacent coastal areas. The Proposed Action is located on City, County, and Federal lands in the Tijuana River Valley near the community of San Ysidro in the City of San Diego and in areas of Tijuana, Mexico. EPA and the USIBWC are leading the National Environmental Policy Act process for the Proposed Action through development of a Programmatic Environmental Impact Statement (PEIS) which will evaluate three alternatives: the No-Action Alternative, Alternative 1 (Core Projects), and Alternative 2 (Core and Supplemental Projects). For purposes of this consultation, the Proposed Action includes all projects (Core and Supplemental Projects) that comprise Alternatives 1 and 2 evaluated in the PEIS. Table 1 briefly identifies these projects, and Enclosure 2 provides more detailed descriptions and figures for each project.

Table 1. Projects Comprising the Proposed Action

PEIS Alternative		Project Title	Project Location
Alternative 1: Core Projects	Alternative 2: Core + Supplemental Projects	A. Expanded ITP Option A1: Expand to 40 MGD Option A2: Expand to 50 MGD Option A3: Expand to 60 MGD	U.S. only
		B. Tijuana Canyon Flows to ITP Option B1: Trenching via Smuggler’s Gulch and Monument Rd Option B2: Trenchless via Smuggler’s Gulch and Under Mesa Option B3: Connect to Existing Canyon Collector System	U.S. and Mexico
		C. Tijuana Sewer Repairs	Mexico only
		D. APTP Phase 1	U.S. and Mexico
		E. APTP Phase 2	U.S. only
		F. U.S.-side River Diversion to APTP	U.S. only
		G. New SABTP	Mexico only
		H. Tijuana WWTP Treated Effluent Reuse	Mexico only
		I. ITP Treated Effluent Reuse	U.S. and Mexico
		J. Trash Boom(s)	U.S. only

Area of Potential Effects (APE)

A preliminary APE of approximately 336 acres is considered for this Class III cultural resource inventory. It encompasses areas in the U.S. that could potentially experience disturbance during the construction, operation, and maintenance of the following infrastructure being considered for the Proposed Action:¹

- **Project A (Expanded ITP):** Project A includes the expansion of the existing 25-MGD South Bay International Wastewater Treatment Plant (ITP) for secondary treatment of wastewater at one of three different average daily flow capacity options. The primary purpose of expanding the ITP is to reduce impacts to the U.S. coast by treating wastewater from the International Collector (a pipeline in Mexico) that otherwise would be discharged to the Pacific Ocean via San Antonio de los Buenos Creek (SAB Creek) without adequate treatment, or any treatment at all.
- **Project B (Tijuana Canyon Flows to ITP):** Project B includes the installation of a wastewater conveyance system from Matadero Canyon and Los Laureles Canyon in Mexico to the expanded ITP for treatment, with three options being considered for the pipeline route and method of installation in the U.S. The primary purpose of the conveyance system is to reduce the amount of dry-weather wastewater flows that are currently discharged with little to no treatment to the Pacific Ocean via SAB Creek.
- **Project C (Tijuana Sewer Repairs):** Project C includes rehabilitating or replacing targeted sewer collectors in the Tijuana metropolitan area. The primary purpose of the sewer repairs is to reduce the amount of untreated wastewater that currently leaks from the sanitary sewer system in Tijuana and enters the Tijuana River, which would improve downstream water quality in the Tijuana River Valley and estuary.

¹ The preliminary APE of approximately 336 acres, as defined and surveyed in the Class III cultural resource inventory, purposefully overrepresents the scope of the Proposed Action to accommodate the uncertainty in the locations of certain project elements such as the U.S.-side river diversion (Project F) and the trash booms (Project J). Also, while the surveyed APE includes portions of Goat Canyon, the Proposed Action no longer includes any project elements at that location.

- **Project D (APTP Phase 1):** Project D includes the construction and operation of a 35-MGD Advanced Primary Treatment Plant (APTP) for advanced primary treatment of diverted water from the existing Comisión Internacional de Límites y Aguas pump station (PB-CILA) diversion in Mexico; rehabilitation and extension of the existing force main from PB-CILA to the new APTP; installation of other new supporting facilities; and associated site modifications. The primary purpose of Phase 1 of the proposed APTP is to reduce impacts to the U.S. coast by treating diverted river water that otherwise would be discharged to the Pacific Ocean via SAB Creek without adequate treatment, or any treatment at all.
- **Project E (APTP Phase 2):** Project E includes the expansion of the 35-MGD APTP to an average daily flow capacity of up to 60-MGD capacity to treat river water from either PB-CILA (during dry-weather flows) and/or a new river diversion farther downstream in the U.S. (see Project F). The primary purpose of Phase 2 of the proposed APTP is to reduce downstream impacts in the Tijuana River and estuary by providing additional capacity to treat contaminated river water.
- **Project F (U.S.-side River Diversion to APTP):** Project F includes construction of a U.S.-side diversion system in the Tijuana River to convey transboundary river flows to the APTP for treatment. The primary purpose of Project F is to improve water quality in the Tijuana River Valley, estuary, and coastal communities in southern San Diego County by diverting transboundary river flows from the Tijuana River in the U.S.
- **Project G (New SABTP):** Project G includes the construction of a new 5-MGD conventional activated sludge plant at the existing San Antonio de los Buenos Treatment Plant (SABTP) site in Mexico for secondary treatment of untreated wastewater that is currently discharged to the Pacific Ocean via SAB Creek. The primary purpose of Project G is to improve the quality of wastewater discharged from SAB Creek and reduce the associated water quality impacts along the Pacific Ocean coastline near the international border.
- **Project H (Tijuana WWTP Treated Effluent Reuse):** Project H includes installation of conveyance pipelines to route between 10.3 and 16.2 MGD of treated effluent from the Arturo Herrera and La Morita wastewater treatment plants (WWTPs) (which currently discharge to the Tijuana River) in Mexico to the Rodriguez Dam impoundment. The primary purpose of Project H is to improve water quality in the Tijuana River Valley and estuary by reducing the frequency of dry-weather transboundary flows caused by river flow rates that exceed the PB-CILA diversion capacity.
- **Project I (ITP Treated Effluent Reuse):** Project I includes construction of a new pump station in the northwest corner of the ITP parcel with a force main to Pump Station 1B (PB1-B) in Mexico. The primary purpose Project I is to convey treated effluent from the ITP to Mexico for potential beneficial reuse.
- **Project J (Trash Boom[s]):** Project J includes the installation of one or more trash booms in the Tijuana River channel in the U.S. between the U.S.-Mexico border and Dairy Mart Road to capture trash and allow for its removal from the river. The primary purpose of Project J is to reduce downstream trash-related impacts in the Tijuana River Valley and estuary, particularly due to wet-weather transport of trash to downstream areas.

Additional information about the projects and their locations can be found in Enclosure 2.

Class III Cultural Resource Inventory

To comply with 36 CFR Section 800.4(b), ERG subcontracted ASM to complete the Class III Cultural Resource Inventory, which included a records search of the California Historical Resources Information System (CHRIS) at the South Coastal Information Center (SCIC) located at San Diego State University. The records search identified seven previously recorded cultural resources that intersect the Proposed Action APE. An additional multicomponent site, CA-SDI-23075, brought to attention during early consultation with the SHPO, intersects the APE along Dairy Mart Road. The site was recorded during a 2020 investigation by SWCA and was not yet on file at the SCIC. With the addition of CA-SDI-23075, eight previously recorded resources intersect the APE.

ASM conducted a pedestrian survey of the APE on November 8 – 10, 2021, as part of the Class III inventory. The survey was conducted by three archaeologists accompanied by a Native American monitor from the Viejas Band of Kumeyaay Indians. Site visibility ranged from excellent to poor, with approximately 60 percent of the APE being either fully developed or covered in dense vegetation.

Description of Findings and Significance

All eight previously recorded resources intersecting the APE were revisited during the survey, and one new cultural resource, P-37-039926, a historic period site consisting of a cobblestone wall associated with the Windover Ranch established in 1928. Four of the cultural resources are prehistoric and have previously been evaluated and recommended ineligible for listing in the National Register of Historic Places (NRHP). Site CA-SDI-23075 has not yet been formally evaluated. Two of the previously recorded resources are historic period sites and have not yet been formally evaluated, and one of the resources is an isolated shell fragment that is categorically not eligible for listing in the NRHP. The newly recorded resource is also not yet evaluated.

The unevaluated sites CA-SDI-11096H, CA-SDI-11948H, CA-SDI-23075, and P-37-039926 are not associated with important historical events (Criterion A) or individuals (Criterion B); they do not represent distinctive examples of structural types or works of master craftsmen (Criterion C); and lack integrity and research potential (Criterion D). The sites are thus preliminarily recommended as not eligible for listing in the NRHP. Nonetheless, to ensure the Proposed Action does not adversely affect cultural resources, earth-disturbing activities under the Proposed Action will avoid work within these four unevaluated sites.

Native American Consultation

ASM sent a request to the Native American Heritage Commission (NAHC) for a search of their Sacred Lands File. The NAHC responded and indicated the presence of Native American traditional places in the vicinity of the Proposed Action area and provided a list of Native American contacts who might have interest or concern regarding the Proposed Action. EPA sent letters to the Tribal contacts provided by the NAHC and other Tribal contacts in Northern San Diego County seeking early engagement. The Rincon Band of Luiseño Indians (“Rincon Band”) responded in a letter dated April 28, 2021, stating that they have no additional information concerning potential impacts on cultural resources. The Rincon Band recommended that EPA coordinate with the Kumeyaay Nation to address and mitigate impacts to cultural resources and requested to be included in future correspondence for the Proposed Action. No other tribal contacts responded to EPA’s outreach letter. Separately, in response to the Notice of Intent to prepare an EIS, the Viejas Band of Kumeyaay Indians (“Viejas”) commented on April 8, 2021, that the Proposed Action site has cultural significance or ties to Viejas and requested that a Kumeyaay Cultural Monitor be on-site for ground-disturbing activities. A Native American monitor from the Viejas Band of Kumeyaay Indians accompanied the archaeologists during the pedestrian survey for the Class III inventory.

Finding of Effect


The Proposed Action design plans include the flexibility to avoid the unevaluated resources. EPA agrees with the conclusions of the Class III Cultural Resources and has determined that this undertaking constitutes a finding of no historic properties in accordance with 36 CFR § 800.4(d)(1). EPA seeks your concurrence within 30 days of receiving this letter. If an objection to the finding is raised, EPA will initiate consultation with the objecting tribe in order to resolve any differences.

Please contact me or Elizabeth Borowiec, of my staff, at 415-962-3419 or borowiec.elizabeth@epa.gov if you have any questions or concerns about the Proposed Action.

Sincerely,

**KENNETH
WYSOCKI**

Tomás Torres, Director
Water Division

 Digitally signed by KENNETH
WYSOCKI
Date: 2022.05.27 15:08:29
-07'00'

Enclosures:

Enclosure 1: *Class III Cultural Resource Inventory for the USMCA Mitigation of Contaminated Transboundary Flows Project in the Tijuana Watershed in San Diego, California (ASM Affiliates, Inc., February 2022)*

Enclosure 2: Description of the Proposed Action

ENCLOSURE 1

***CLASS III CULTURAL RESOURCE INVENTORY FOR THE USMCA MITIGATION OF
CONTAMINATED TRANSBOUNDARY FLOWS PROJECT IN THE TIJUANA
WATERSHED IN SAN DIEGO, CALIFORNIA (ASM AFFILIATES, INC., FEBRUARY
2022)***

Note: The cultural resources report provided in Enclosure 1 included confidential information that is not suitable for public release. See Appendix C (Class III Cultural Resource Inventory [Public Version]) for a public version of the final report.

ENCLOSURE 2

DESCRIPTION OF THE PROPOSED ACTION

Note: See PEIS Appendix M (NHPA Section 106 Correspondence), Enclosure 2
(Description of the Proposed Action)

Note: EPA sent the letter and enclosures provided in the subsequent pages to the following tribal representatives:

- Chairperson Temet Aguilar, Pauma Band of Luiseno Indians
- Chairperson Ray Chapparosa, Los Coyotes Band of Cahuilla and Cupeno Indians
- Shasta Gaughen, Pala Band of Mission Indians
- Cheryl Madrigal, Rincon Band of Luiseno Indians
- Chairperson Bo Mazzetti, Rincon Band of Luiseno Indians
- Chairperson Fred Nelson, La Jolla Band of Luiseno Indians



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

Temet Aguilar
Chairperson
Pauma Band of Luiseno Indians
P.O. Box 369
Pauma Valley, CA 92061

Re: EPA Staff Notification on Finding of No Historic Properties Affected under Section 106 of the National Historic Preservation Act for the Proposed USMCA Mitigation of Contaminated Transboundary Flows Project, San Diego County, California.

Dear Chairperson Aguilar:

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Finding of Effect

The Proposed Action design plans include the flexibility to avoid the unevaluated resources. EPA agrees with the conclusions of the Class III Cultural Resources and has determined that this undertaking constitutes a finding of no historic properties in accordance with 36 CFR § 800.4(d)(1). EPA seeks your concurrence within 30 days of receiving this letter. If an objection to the finding is raised, EPA will initiate consultation with the objecting tribe in order to resolve any differences.

Please contact me or Elizabeth Borowiec, of my staff, at 415-962-3419 or borowiec.elizabeth@epa.gov if you have any questions or concerns about the Proposed Action.

Sincerely,

**KENNETH
WYSOCKI**

Tomás Torres, Director
Water Division

Digitally signed by
KENNETH WYSOCKI
Date: 2022.05.27 15:11:19
-07'00'

Enclosures:

- Enclosure 1: *Class III Cultural Resource Inventory for the USMCA Mitigation of Contaminated Transboundary Flows Project in the Tijuana Watershed in San Diego, California* (ASM Affiliates, Inc., February 2022)
- Enclosure 2: Description of the Proposed Action

ENCLOSURE 1

***CLASS III CULTURAL RESOURCE INVENTORY FOR THE USMCA MITIGATION OF
CONTAMINATED TRANSBOUNDARY FLOWS PROJECT IN THE TIJUANA
WATERSHED IN SAN DIEGO, CALIFORNIA (ASM AFFILIATES, INC., FEBRUARY
2022)***

**Note: See PEIS Appendix C (Class III Cultural Resource Inventory [Public Version])
for a final version of the cultural resources report.**

ENCLOSURE 2

DESCRIPTION OF THE PROPOSED ACTION

Note: See PEIS Appendix M (NHPA Section 106 Correspondence), Enclosure 2
(Description of the Proposed Action)

Patrick Goodwin

From: Borowiec, Elizabeth <Borowiec.Elizabeth@epa.gov>
Sent: Thursday, July 7, 2022 3:00 PM
To: Patrick Goodwin
Subject: US-Mexico-Canada Agreement (USMCA) Mitigation of Contaminated Transboundary Flows Project
Attachments: ATT00001.txt

CAUTION: Don't open links or attachments unless you recognize the sender and know they are safe.

Elizabeth Borowiec
Water Division, Infrastructure Section (W-3-3)
USEPA Region 9
75 Hawthorne Street
San Francisco, California 94105
Phone: 415-972-3419
Email: borowiec.elizabeth@epa.gov

From: Cheryl Madrigal <CMadrigal@rincon-nsn.gov>
Sent: Thursday, July 7, 2022 1:00 PM
To: Borowiec, Elizabeth <Borowiec.Elizabeth@epa.gov>
Cc: Deneen Pelton <DPelton@rincon-nsn.gov>
Subject: RE: US-Mexico-Canada Agreement (USMCA) Mitigation of Contaminated Transboundary Flows Project

Ms. Borowiec,

Thank you for providing the Tribe with the finding of “No Historic Properties Affected” notification.

The project location is not within the traditional use area of the Rincon Band, however; as wastewater pollution might impact resources within our traditional use area, we ask to be kept comprised of the project. We understand that previously recorded archaeological sites are within the Area of Potential Effect and a pedestrian survey was conducted in presence of a Tribal monitor from the Vejas Band. We will defer the review of the proposed “no adverse effect” finding to the Kumeyaay Nation including the Vejas Band.

Thank you so much,

Cheryl

Cheryl Madrigal

Cultural Resources Manager

Tribal Historic Preservation Officer

Cultural Resources Department

Rincon Band of Luiseño Indians

1 West Tribal Road | Valley Center, CA 92082

Mailing address: One Government Center Ln. | Valley Center, CA 92082

Office: (760) 749 1092 ext. 323 | Cell: 760-648-3000

Fax: 760-749-8901

Email: cmadrigal@rincon-nsn.gov



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From: Borowiec, Elizabeth <Borowiec.Elizabeth@epa.gov>
Sent: Wednesday, June 1, 2022 9:12 PM
To: Cultural Resources Department <CRD@rincon-nsn.gov>
Subject: US-Mexico-Canada Agreement (USMCA) Mitigation of Contaminated Transboundary Flows Project

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Good Evening!

Ms. Madrigal:

The Environmental Protection Agency (EPA) and the U.S. International Boundary and Water Commission (USIBWC), as joint lead agencies, are proposing to fund and implement a set of projects (Proposed Action) to reduce transboundary sewage flows from Tijuana, Mexico. The Proposed Action is located within the Tijuana River Valley near the community of San Ysidro in the City of San Diego and in areas of Tijuana, Mexico.

Attached is a notification of a finding of “*No Historic Properties Affected*” for the Proposed Action. Enclosure 1 (Cultural Inventory) of the notification is too large to send via a single email. If you are interested in reviewing a copy of the enclosure, please reply to this email and a copy of the Cultural Inventory will be provided to you.

EPA is seeking your concurrence within 30 days of the date of this email. If you have questions or comments about EPA’s finding, please reply to this email or contact me directly at (415) 972-3419.

Cordially,

Elizabeth Borowiec

Elizabeth Borowiec

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