

**Final  
INITIAL STUDY/  
MITIGATED NEGATIVE DECLARATION**

**for the**

**TANIMURA & ANTLE  
1298 ORCHARD ROAD  
VEGETABLE TRANSPLANT NURSERY PROJECT**

**SCH #2018111047**

Prepared for the County of San Benito, California  
Resource Management Agency

**January 2019**

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## **Chapter 1. Introduction**

### **1.1 BACKGROUND**

This document, together with the Draft Initial Study/Mitigated Negative Declaration (Draft IS/MND), constitutes the Final Initial Study/Mitigated Negative Declaration (Final IS/MND) for the Tanimura & Antle 1298 Orchard Road Vegetable Transplant Nursery Project (project or proposed project). The San Benito County Resource Management Agency (County - RMA) is the lead agency for the Project. The Final IS/MND consists of an introduction, comment letters received during the 30-day public review period, responses to comments, and revisions to the Draft IS/MND, if deemed applicable.

The Draft IS/MND was prepared to inform the public of the potential environmental effects of the project and identify possible ways to minimize project-related impacts.

### **1.2 PUBLIC PARTICIPATION**

Pursuant to the California Environmental Quality Act (CEQA) Guidelines Section 15073(a), the Draft IS/MND was circulated for a 30-day review period during which comments could be submitted. In accordance with CEQA, this document is included in the official public record for the Initial Study. On November 21, 2018, the Draft IS/MND was distributed for the public review period to responsible and trustee agencies, interested groups, and individuals. The review period ended on December 20, 2018. A San Benito County Planning Commission meeting is scheduled for January 16, 2019 to consider the adoption of the Final IS/ND and approval of the project.

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## Chapter 2. Response to Comments

### 2.1 INTRODUCTION

This chapter includes comments received from the public and public agencies during the circulation of the Draft IS/MND. This section contains all information available in the public record related to the Draft IS/MND as of January 9, 2019. Section 2.3 below responds to comments received during and after the review period.

### 2.2 LIST OF COMMENT LETTERS

The following is a list of comment letters/email comments received on the Draft IS/MND and the dates these letters were received:

#### Agency Comment Letters

A. State Clearinghouse, Office of Planning and Research (OPR)	December 21, 2018
B. Native American Heritage Commission (NAHC) letter and email	November 29, 2018
C. Monterey Bay Air Resources District (MBARD) email	December 21, 2018

### 2.3 RESPONSE TO COMMENTS

Each letter received on the Draft IS/MND is presented in this chapter, as identified in **Section 2.2** above. Attachments to each letter are included as well and are contained in Appendix A. Individual comments in each letter are numbered. Correspondingly numbered responses to each comment are provided in the discussion following the comment letter.

If comments raised environmental issues that required additions or deletions to the text, tables, or figures in the Draft IS/MND, a brief description of the change is provided, and the reader is directed to **Chapter 3, Revisions** to the Draft IS/MND.

The comments received on the Draft IS/MND did not result in a "substantial revision" of the IS/MND, as defined by CEQA Guidelines Section 15073.5, and the new information added to the IS/MND merely clarifies, amplifies, or makes insignificant modifications to the Draft IS/MND. No new, avoidable significant effects were identified since the commencement of the public review period that would require mitigation measures or project revisions to be added in order to reduce the effects to insignificant.

While responses to comments on a proposed IS/MND are not required by CEQA (Pub. Resources Code, § 21000 et seq.), this Response to Comments document is provided to demonstrate the County - RMA's careful consideration of the comments in compliance with CEQA. These responses provide the County - RMA's good faith, reasoned analysis on the major environmental issues raised in the comments.

Letter A



EDMUND G. BROWN JR.  
GOVERNOR

STATE OF CALIFORNIA  
GOVERNOR'S OFFICE of PLANNING AND RESEARCH  
RECEIVED  
SBC PUBLIC WORKS



KEN ALEX  
DIRECTOR

JAN 02 2019

December 21, 2018

2301 TECHNOLOGY PKWY  
HOLLISTER, CA 95023

Richard Felsing  
San Benito County Resource Management Agency  
2301 Technology Parkway  
Hollister, CA 95023

Subject: Tanimura & Antle 1298 Orchard Road Vegetable Transplant Nursery Project  
SCH#: 2018111047

Dear Richard Felsing:

The State Clearinghouse submitted the above named Mitigated Negative Declaration to selected state agencies for review. On the enclosed Document Details Report please note that the Clearinghouse has listed the state agencies that reviewed your document. The review period closed on December 20, 2018, and the comments from the responding agency (ies) is (are) enclosed. If this comment package is not in order, please notify the State Clearinghouse immediately. Please refer to the project's ten-digit State Clearinghouse number in future correspondence so that we may respond promptly.

Please note that Section 21104(c) of the California Public Resources Code states that:

"A responsible or other public agency shall only make substantive comments regarding those activities involved in a project which are within an area of expertise of the agency or which are required to be carried out or approved by the agency. Those comments shall be supported by specific documentation."

These comments are forwarded for use in preparing your final environmental document. Should you need more information or clarification of the enclosed comments, we recommend that you contact the commenting agency directly.

This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act. Please contact the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process.

A-1

Sincerely,

Scott Morgan  
Director, State Clearinghouse

Enclosures

cc: Resources Agency



**Document Details Report  
State Clearinghouse Data Base**

**SCH#** 2018111047  
**Project Title** Tanimura & Antle 1298 Orchard Road Vegetable Transplant Nursery Project  
**Lead Agency** San Benito County

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**Type** MND Mitigated Negative Declaration

**Description** The 1298 Orchard Road Vegetable Transplant Nursery Project is proposed by applicants Tanimura & Antle; the San Benito County Resource Management Agency is acting as the lead agency. The project is located at 1298 Orchard Road, Hollister in an unincorporated area of San Benito County, CA near Highway 156 and Fairview Rd. The project will be constructed in 6 separate phases over a six-year period. Upon completion, the project will include a vegetable transplant nursery consisting of greenhouses and related facilities with about 100,000 sf of office area and maintenance buildings, 700,000 sf of greenhouses, and 500,000 sf of outdoor growing and work area benches/tables holding plantings w/no overhead cover. There is no direct access on Highway 156 and the project will access via Orchard Road.

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**Lead Agency Contact**

**Name** Richard Felsing  
**Agency** San Benito County Resource Management Agency  
**Phone** (831) 902-2289 **Fax**  
**email**  
**Address** 2301 Technology Parkway  
**City** Hollister **State** CA **Zip** 95023

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**Project Location**

**County** San Benito  
**City** Hollister  
**Region**  
**Lat / Long** 36° 56' 36" N / 121° 22' 45" W  
**Cross Streets** Orchard Rd & Fairview Rd near hwy 156  
**Parcel No.** 016-090-018-000  
**Township** **Range** **Section** **Base**

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**Proximity to:**

**Highways** hwy 156  
**Airports**  
**Railways**  
**Waterways** Pacheco Creek  
**Schools**  
**Land Use** LU: Vacant (former Ag use); San Benito County 2035 GP: A; Z: AP

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**Project Issues** Aesthetic/Visual; Agricultural Land; Air Quality; Archaeologic-Historic; Biological Resources; Cumulative Effects; Drainage/Absorption; Flood Plain/Flooding; Forest Land/Fire Hazard; Geologic/Seismic; Landuse; Noise; Population/Housing Balance; Public Services; Schools/Universities; Septic System; Soil Erosion/Compaction/Grading; Toxic/Hazardous; Traffic/Circulation; Vegetation; Water Quality; Water Supply; Wetland/Riparian

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**Reviewing Agencies** Resources Agency; Department of Fish and Wildlife, Region 4; Office of Historic Preservation; Department of Parks and Recreation; Department of Water Resources; California Highway Patrol; Caltrans, District 5; Native American Heritage Commission; State Water Resources Control Board, Division of Water Quality; State Water Resources Control Board, Division of Water Rights; Regional Water Quality Control Board, Region 3; Department of Toxic Substances Control

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**Date Received** 11/21/2018 **Start of Review** 11/21/2018 **End of Review** 12/20/2018

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## **Letter A: State Clearinghouse, Office of Planning and Research (OPR)**

**Comment A-1:** The letter states that the State Clearinghouse submitted the Draft IS/MND to selected state agencies for review, and identified that no state agencies submitted comments to the State Clearinghouse during the public review period.

**Response A-1:** No further response is required.

Letter B

STATE OF CALIFORNIA

NATIVE AMERICAN HERITAGE COMMISSION

Environmental and Cultural Department  
1550 Harbor Blvd., Suite 100  
West Sacramento, CA 95691  
Phone (916) 373-3710

Edmund G. Brown Jr., Governor



clear  
12/20/18  
E

November 29, 2018

Governor's Office of Planning & Research

Richard Felsing  
San Benito County Resource Management Agency  
2301 Technology Parkway  
Hollister CA 95023

DEC 03 2018

STATE CLEARINGHOUSE

Also send via e-mail [rfelsing@cosd.us](mailto:rfelsing@cosd.us)

Re: SCH# 2018111047 Tanimura & Antle 1298 Orchard Road Vegetable Transplant Nursery Project, City of Hollister San Benito County California

Dear Mr. Felsing:

The Native American Heritage Commission (NAHC) has reviewed the Mitigated Negative Declaration (MND) prepared for the project referenced above. The review included the Introduction and Project Description; and the Initial Study Environmental Checklist, section 4.5, Cultural Resources and section 5.15 Tribal Cultural Resources, prepared by Denise Duffy & Associates/Holman & Associates for the San Benito County Resource Management Agency. We have the following concerns.

1. There is no documentation of government-to-government consultation by the lead agency under AB-52 with Native American tribes traditionally and culturally affiliated to the project area as required by statute or that mitigation measures were developed in consultation with the tribes.

B-1

Please contact me at [gayle.totton@nahc.ca.gov](mailto:gayle.totton@nahc.ca.gov) or call (916) 373-3714 if you have any questions.

Sincerely,

*Gayle Totton*

Gayle Totton, B.S., M.A., Ph.D.  
Associate Governmental Project Analyst

Attachment

cc: State Clearinghouse

### **ADDITIONAL INFORMATION**

The California Environmental Quality Act (CEQA)<sup>1</sup>, specifically Public Resources Code section 21084.1, states that a project that may cause a substantial adverse change in the significance of a historical resource is a project that may have a significant effect on the environment.<sup>2</sup> If there is substantial evidence, in light of the whole record before a lead agency, that a project may have a significant effect on the environment, an environmental impact report (EIR) shall be prepared.<sup>3</sup> In order to determine whether a project will cause a substantial adverse change in the significance of a historical resource, a lead agency will need to determine whether there are historical resources with the area of project effect (APE).

CEQA was amended in 2014 by Assembly Bill 52. (AB 52).<sup>4</sup> AB 52 applies to any project for which a notice of preparation or a notice of negative declaration or mitigated negative declaration is filed on or after July 1, 2015. AB 52 created a separate category for "tribal cultural resources"<sup>5</sup>, that now includes "a project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource is a project that may have a significant effect on the environment."<sup>6</sup> Public agencies shall, when feasible, avoid damaging effects to any tribal cultural resource.<sup>7</sup> Your project may also be subject to Senate Bill 18 (SB 18) (Burton, Chapter 905, Statutes of 2004), Government Code 65352.3, if it also involves the adoption of or amendment to a general plan or a specific plan, or the designation or proposed designation of open space. Both SB 18 and AB 52 have tribal consultation requirements. Additionally, if your project is also subject to the federal National Environmental Policy Act (42 U.S.C. § 4321 et seq.) (NEPA), the tribal consultation requirements of Section 106 of the National Historic Preservation Act of 1966<sup>8</sup> may also apply.

Consult your legal counsel about compliance with AB 52 and SB 18 as well as compliance with any other applicable laws.

Agencies should be aware that AB 52 does not preclude agencies from initiating tribal consultation with tribes that are traditionally and culturally affiliated with their jurisdictions before the timeframes provided in AB 52. For that reason, we urge you to continue to request Native American Tribal Consultation Lists and Sacred Lands File searches from the NAHC. The request forms can be found online at: <http://nahc.ca.gov/resources/forms/>. Additional information regarding AB 52 can be found online at [http://nahc.ca.gov/wp-content/uploads/2015/10/AB52TribalConsultation\\_CalEPAPDF.pdf](http://nahc.ca.gov/wp-content/uploads/2015/10/AB52TribalConsultation_CalEPAPDF.pdf), entitled "Tribal Consultation Under AB 52: Requirements and Best Practices".

The NAHC recommends lead agencies consult with all California Native American tribes that are traditionally and culturally affiliated with the geographic area of your proposed project as early as possible in order to avoid inadvertent discoveries of Native American human remains and best protect tribal cultural resources.

A brief summary of portions of AB 52 and SB 18 as well as the NAHC's recommendations for conducting cultural resources assessments is also attached.

### **Pertinent Statutory Information:**

#### **Under AB 52:**

AB 52 has added to CEQA the additional requirements listed below, along with many other requirements:

Within fourteen (14) days of determining that an application for a project is complete or of a decision by a public agency to undertake a project, a lead agency shall provide formal notification to a designated contact of, or tribal representative of, traditionally and culturally affiliated California Native American tribes that have requested notice.

A lead agency shall begin the consultation process within 30 days of receiving a request for consultation from a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project,<sup>9</sup> and prior to the release of a negative declaration, mitigated negative declaration or environmental impact report. For purposes of AB 52, "consultation shall have the same meaning as provided in Gov. Code § 65352.4 (SB 18)."<sup>10</sup>

The following topics of consultation, if a tribe requests to discuss them, are mandatory topics of consultation:

- a. Alternatives to the project.
- b. Recommended mitigation measures.
- c. Significant effects.<sup>11</sup>

#### **1. The following topics are discretionary topics of consultation:**

- a. Type of environmental review necessary.
- b. Significance of the tribal cultural resources.

<sup>1</sup> Pub. Resources Code § 21000 et seq.

<sup>2</sup> Pub. Resources Code § 21084.1, Cal. Code Regs., tit. 14, § 15064.5 (b); CEQA Guidelines Section 15064.5 (b)

<sup>3</sup> Pub. Resources Code § 21080 (d); Cal. Code Regs., tit. 14, § 15084 subd.(a)(1); CEQA Guidelines § 15084 (a)(1)

<sup>4</sup> Government Code 65352.3

<sup>5</sup> Pub. Resources Code § 21074

<sup>6</sup> Pub. Resources Code § 21084.2

<sup>7</sup> Pub. Resources Code § 21084.3 (a)

<sup>8</sup> 154 U.S.C. 300101, 36 C.F.R. § 800 et seq.

<sup>9</sup> Pub. Resources Code § 21080.3.1, subds. (d) and (e)

<sup>10</sup> Pub. Resources Code § 21080.3.1 (b)

<sup>11</sup> Pub. Resources Code § 21080.3.2 (a)

c. Significance of the project's impacts on tribal cultural resources.

If necessary, project alternatives or appropriate measures for preservation or mitigation that the tribe may recommend to the lead agency.<sup>12</sup>

With some exceptions, any information, including but not limited to, the location, description, and use of tribal cultural resources submitted by a California Native American tribe during the environmental review process shall not be included in the environmental document or otherwise disclosed by the lead agency or any other public agency to the public, consistent with Government Code sections 6254 (r) and 6254.10. Any information submitted by a California Native American tribe during the consultation or environmental review process shall be published in a confidential appendix to the environmental document unless the tribe that provided the information consents, in writing, to the disclosure of some or all of the information to the public.<sup>13</sup>

If a project may have a significant impact on a tribal cultural resource, the lead agency's environmental document shall discuss both of the following:

- a. Whether the proposed project has a significant impact on an identified tribal cultural resource.
- b. Whether feasible alternatives or mitigation measures, including those measures that may be agreed to pursuant to Public Resources Code section 21082.3, subdivision (a), avoid or substantially lessen the impact on the identified tribal cultural resource.<sup>14</sup>

Consultation with a tribe shall be considered concluded when either of the following occurs:

- a. The parties agree to measures to mitigate or avoid a significant effect, if a significant effect exists, on a tribal cultural resource; or
- b. A party, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached.<sup>15</sup>

Any mitigation measures agreed upon in the consultation conducted pursuant to Public Resources Code section 21080.3.2 shall be recommended for inclusion in the environmental document and in an adopted mitigation monitoring and reporting program, if determined to avoid or lessen the impact pursuant to Public Resources Code section 21082.3, subdivision (b), paragraph 2, and shall be fully enforceable.<sup>16</sup>

If mitigation measures recommended by the staff of the lead agency as a result of the consultation process are not included in the environmental document or if there are no agreed upon mitigation measures at the conclusion of consultation, or if consultation does not occur, and if substantial evidence demonstrates that a project will cause a significant effect to a tribal cultural resource, the lead agency shall consider feasible mitigation pursuant to Public Resources Code section 21084.3 (b).<sup>17</sup>

An environmental impact report may not be certified, nor may a mitigated negative declaration or a negative declaration be adopted unless one of the following occurs:

- a. The consultation process between the tribes and the lead agency has occurred as provided in Public Resources Code sections 21080.3.1 and 21080.3.2 and concluded pursuant to Public Resources Code section 21080.3.2.
- b. The tribe that requested consultation failed to provide comments to the lead agency or otherwise failed to engage in the consultation process.
- c. The lead agency provided notice of the project to the tribe in compliance with Public Resources Code section 21080.3.1 (d) and the tribe failed to request consultation within 30 days.<sup>18</sup>

*This process should be documented in the Tribal Cultural Resources section of your environmental document.*

**Under SB 18:**

Government Code § 65562.3 (a) (1) requires consultation with Native Americans on general plan proposals for the purposes of "preserving or mitigating impacts to places, features, and objects described § 5097.9 and § 5091.993 of the Public Resources Code that are located within the city or county's jurisdiction. Government Code § 65560 (a), (b), and (c) provides for consultation with Native American tribes on the open-space element of a county or city general plan for the purposes of protecting places, features, and objects described in Sections 5097.9 and 5097.993 of the Public Resources Code.

- SB 18 applies to local governments and requires them to contact, provide notice to, refer plans to, and consult with tribes prior to the adoption or amendment of a general plan or a specific plan, or the designation of open space. Local governments should consult the Governor's Office of Planning and Research's "Tribal Consultation Guidelines," which can be found online at: [https://www.opr.ca.gov/docs/09\\_14\\_05\\_Updated\\_Guidelines\\_922.pdf](https://www.opr.ca.gov/docs/09_14_05_Updated_Guidelines_922.pdf)
- **Tribal Consultation:** If a local government considers a proposal to adopt or amend a general plan or a specific plan, or to designate open space it is required to contact the appropriate tribes identified by the NAHC by requesting a "Tribal Consultation List." If a tribe, once contacted, requests consultation the local government must consult with the tribe on the plan proposal. A tribe has 90 days from the date of receipt of notification to request consultation unless a shorter timeframe has been agreed to by the tribe.<sup>19</sup>
- There is no Statutory Time Limit on Tribal Consultation under the law.

<sup>12</sup> Pub. Resources Code § 21080.3.2 (a)

<sup>13</sup> Pub. Resources Code § 21082.3 (c)(1)

<sup>14</sup> Pub. Resources Code § 21082.3 (b)

<sup>15</sup> Pub. Resources Code § 21080.3.2 (b)

<sup>16</sup> Pub. Resources Code § 21082.3 (a)

<sup>17</sup> Pub. Resources Code § 21082.3 (e)

<sup>18</sup> Pub. Resources Code § 21082.3 (d)

<sup>19</sup> (Gov. Code § 65562.3 (a)(2)).

- **Confidentiality:** Consistent with the guidelines developed and adopted by the Office of Planning and Research,<sup>20</sup> the city or county shall protect the confidentiality of the information concerning the specific identity, location, character, and use of places, features and objects described in Public Resources Code sections 5097.9 and 5097.993 that are within the city's or county's jurisdiction.<sup>21</sup>
- **Conclusion Tribal Consultation:** Consultation should be concluded at the point in which:
  - The parties to the consultation come to a mutual agreement concerning the appropriate measures for preservation or mitigation; or
  - Either the local government or the tribe, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached concerning the appropriate measures of preservation or mitigation.<sup>22</sup>

#### **NAHC Recommendations for Cultural Resources Assessments:**

- Contact the NAHC for:
  - A Sacred Lands File search. Remember that tribes do not always record their sacred sites in the Sacred Lands File, nor are they required to do so. A Sacred Lands File search is not a substitute for consultation with tribes that are traditionally and culturally affiliated with the geographic area of the project's APE.
  - A Native American Tribal Contact List of appropriate tribes for consultation concerning the project site and to assist in planning for avoidance, preservation in place, or, failing both, mitigation measures.
    - The request form can be found at <http://nahc.ca.gov/resources/forms/>.
- Contact the appropriate regional California Historical Research Information System (CHRIS) Center ([http://ohp.parks.ca.gov/?page\\_id=1068](http://ohp.parks.ca.gov/?page_id=1068)) for an archaeological records search. The records search will determine:
  - If part or the entire APE has been previously surveyed for cultural resources.
  - If any known cultural resources have been already recorded on or adjacent to the APE.
  - If the probability is low, moderate, or high that cultural resources are located in the APE.
  - If a survey is required to determine whether previously unrecorded cultural resources are present.
- If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.
  - The final report containing site forms, site significance, and mitigation measures should be submitted immediately to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum and not be made available for public disclosure.
  - The final written report should be submitted within 3 months after work has been completed to the appropriate regional CHRIS center.

#### **Examples of Mitigation Measures That May Be Considered to Avoid or Minimize Significant Adverse Impacts to Tribal Cultural Resources:**

- Avoidance and preservation of the resources in place, including, but not limited to:
  - Planning and construction to avoid the resources and protect the cultural and natural context.
  - Planning greenspace, parks, or other open space, to incorporate the resources with culturally appropriate protection and management criteria.
- Treating the resource with culturally appropriate dignity, taking into account the tribal cultural values and meaning of the resource, including, but not limited to, the following:
  - Protecting the cultural character and integrity of the resource.
  - Protecting the traditional use of the resource.
  - Protecting the confidentiality of the resource.
- Permanent conservation easements or other interests in real property, with culturally appropriate management criteria for the purposes of preserving or utilizing the resources or places.
- Please note that a federally recognized California Native American tribe or a non-federally recognized California Native American tribe that is on the contact list maintained by the NAHC to protect a California prehistoric, archaeological, cultural, spiritual, or ceremonial place may acquire and hold conservation easements if the conservation easement is voluntarily conveyed.<sup>23</sup>
- Please note that it is the policy of the state that Native American remains and associated grave artifacts shall be repatriated.<sup>24</sup>

The lack of surface evidence of archaeological resources (including tribal cultural resources) does not preclude their subsurface existence.

- Lead agencies should include in their mitigation and monitoring reporting program plan provisions for the identification and evaluation of inadvertently discovered archaeological resources.<sup>25</sup> In areas of identified

<sup>20</sup> pursuant to Gov. Code section 85040.2,

<sup>21</sup> (Gov. Code § 85352.3 (b)).

<sup>22</sup> (Tribal Consultation Guidelines, Governor's Office of Planning and Research (2005) at p. 18).

<sup>23</sup> (Civ. Code § 815.3 (c)).

<sup>24</sup> (Pub. Resources Code § 5097.991).

<sup>25</sup> per Cal. Code Regs., tit. 14, section 15064.5(f) (CEQA Guidelines section 15064.5(f)).

archaeological sensitivity, a certified archaeologist and a culturally affiliated Native American with knowledge of cultural resources should monitor all ground-disturbing activities.

- Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the disposition of recovered cultural items that are not burial associated in consultation with culturally affiliated Native Americans.
- Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the treatment and disposition of inadvertently discovered Native American human remains. Health and Safety Code section 7050.5, Public Resources Code section 5097.98, and Cal. Code Regs., tit. 14, section 15064.5, subdivisions (d) and (e) (CEQA Guidelines section 15064.5, subds. (d) and (e)) address the processes to be followed in the event of an inadvertent discovery of any Native American human remains and associated grave goods in a location other than a dedicated cemetery.

**From:** Totton, Gayle@NAHC <[Gayle.Totton@nahc.ca.gov](mailto:Gayle.Totton@nahc.ca.gov)>

**Sent:** Monday, January 7, 2019 12:59 PM

**To:** John Schlagheck <[jps\\_indoj@hotmail.com](mailto:jps_indoj@hotmail.com)>; [rfelsing@cosb.us](mailto:rfelsing@cosb.us)

**Cc:** Denise Duffy <[Dduffy@ddaplanning.com](mailto:Dduffy@ddaplanning.com)>

**Subject:** Re: Tanimura and Antle Project MND Comments via State Clearinghouse\_San Benito County

Good afternoon all,

Thank you John for providing the documents. After our phone conversation today, I believe that you have done your due diligence for cultural resources on this project. No further action is requested at this time.

Thank you for the good work.

Sincerely,

Gayle Totton, M.A., Ph.D.  
Associate Governmental Program Analyst  
Native American Heritage Commission  
(916) 373-3714



## Letter B: Native American Heritage Commission (NAHC)

**Comment B-1:** The commenter requests documentation of government-to-government consultation by the lead agency as required by Assembly Bill 52 (AB-52) and provides information under AB-52 on consultation.

**Response B-1:** The letter from the NAHC was sent without the benefit of the NAHC having reviewed the Cultural Report or having seen the consultation letter that was sent. The County - RMA provided the full report to the NAHC and followed-up separately to further outline the consultation process.

Holman & Associates (H&A) conducted the project notification and conducted Native American consultation under AB-52, as documented in the Cultural Report. The results of the consultation were presented in detail in the Cultural Report and summarized in the Draft IS/MND. The results noted that none of the four contacts requested ongoing consultation under AB-52 beyond submitting their initial input as shown in the report.

The NAHC responded after reviewing the full report and confirmed the County had done the due diligence for cultural resources on this project. No further action is requested at this time. The NAHC response email is included above for the record.

## Letter C

**From:** Hanna Muegge [<mailto:HMuegge@mbard.org>]  
**Sent:** Friday, December 21, 2018 4:09 PM  
**To:** [rich.felsing@gmail.com](mailto:rich.felsing@gmail.com); Richard Felsing  
**Cc:** David Frisbey  
**Subject:** Additional Questions

Hi Richard,

We ended up playing phone tag after all. My main question in regards to GHG emission is that it is stated as being insignificant (1,014 MT/yr CO<sub>2</sub>e) in the report, but the CalEEMod results actually show the Overall Mitigated Operational GHG emissions 5,555.39 MT CO<sub>2</sub>e. I don't see how the conclusion was drawn that the GHG contributions of this project is only 1,014 MT/yr CO<sub>2</sub>e.

C-1

I will be back in the office next week Wednesday if you'd like to discuss or shoot me an email to explain.

Feel free to send me your questions about traffic impacts about this project.

Merry Christmas, Happy Holidays!

Hanna Muegge, Air Quality Planner



24580 Silver Cloud Court  
Monterey, CA 93940  
Office: 831-647-9411; Direct: 831-718-8021  
[www.mbard.org](http://www.mbard.org)

## Letter C: Monterey Bay Air Resources District (MBARD)

**Comment C-1:** The commenter noted a discrepancy with the air quality modeling results and asked that they be reviewed. The question raised was on the project's greenhouse gas emissions (GHG). The letter noted that they appear to be reported incorrectly.

**Response C-1:** The County RMA and DD&A conferred with the MBARD on the comment. After review, it was determined that the California Emissions Estimator Model (CalEEMod) modeling output included a calculation error. The CalEEMod is a modeling tool recommended by the California Air Resources Board and accepted by the MBARD which provides an estimate of the proposed project's existing and proposed criteria air pollutant and GHG emissions. A corrected model run was conducted, and the revised model results are attached to this Final IS/MND. The model was originally run in August 2018 and the updated model run also incorporates the Traffic Report assumptions into the model and further specifies project-level assumptions as discussed below. The updated modeling results do not affect the conclusions contained in the Draft IS/MND. All project-related impacts would remain less than significant with the incorporation of recommended mitigation. Significance conclusions from the Draft IS/MND are not changed with the updated model.

As stated in the Draft IS/MND, the project site is located within the jurisdiction of the MBARD, which, to date, has not adopted significance criteria or thresholds for land use projects. Additionally, neither the State nor San Benito County have adopted GHG emissions thresholds or a GHG emissions reduction plan that would apply to the project. Other air districts in the State have adopted a threshold of 1,100 to 1,150 MT CO<sub>2</sub>e per year for land-use projects, including the Bay Area Air Quality Management District (BAAQMD) and San Luis Obispo County Air Pollution Control District (SLOCAPCD). In the past, the air district recommended that thresholds of significance adopted by SLOCAPCD may be used as a reference for assessing impacts of land use projects planned within the local air district. This reference was made due to the air district's belief that conditions within the SLOCAPCD were similar to those within the local air district.

Given that the MBARD has not adopted any recommended GHG significance thresholds, the threshold of 1,150 MT CO<sub>2</sub>e per year for land use projects was utilized for the proposed project. For the purposes of this analysis, project-generated emissions in excess of 1,150 MT CO<sub>2</sub>e/year would be considered to have a potentially significant impact. Construction and operational phase GHG emissions projections for the project were quantified and compared to the emissions threshold of 1,150 MT CO<sub>2</sub>e/year. Projects whose sum of operational and construction emissions (construction emissions being amortized over a 30-year period to identify annual construction emissions) exceed this threshold would have a significant impact from generation of a significant volume of GHG emissions. The project's estimated GHG emissions would not exceed the significance threshold for development projects (see **Table 4.7-1** below).

Construction and operational GHG emissions for the project were modeled using CalEEMod (**Appendix A**). Unless otherwise noted, model inputs are based upon project information provided by the applicant regarding proposed construction and operational activities (model assumptions are provided below in **Section 3. Revisions to the Draft IS/MND**). **Table 4.7-1** below, shows the updated results of the CalEEMod modeling. As indicated in **Table 4.7-1** the project would have less than significant impacts, as net GHG emission would be below 1,150 MT CO<sub>2</sub>e/year. See the updated text in **Chapter 3, Revisions to the Draft IS/MND**; updated air quality emissions are also shown below. As noted above, the revised GHG emissions would not result in an additional adverse environmental effect beyond those previously identified in the Draft IS/MND. All project impacts would remain less than significant.

Table 4.7-1 GHG Emissions From Project		
	Mitigated	Unmitigated
Construction Emissions	262.02 MT CO <sub>2</sub> e	262.02 MT CO <sub>2</sub> e
Amortized Emissions Over 30 Years	8.73 MT CO <sub>2</sub> e/yr	8.73 MT CO <sub>2</sub> e/yr
Operational Emissions	756.04 MT CO <sub>2</sub> e/yr	1,121.21 MT CO <sub>2</sub> e/yr
<b>Project Emissions<sup>1</sup></b>	<b>764.77 MT CO<sub>2</sub>e/yr</b>	<b>1,129.94 MT CO<sub>2</sub>e/yr</b>
Threshold	1,150 MT CO <sub>2</sub> e/yr	
<b>Exceed Threshold</b>	<b>No</b>	
1. Project assumptions are outlined in the Final IS/MND Section 3. Revisions to the Draft IS/MND. Source: T&A Transplant Nursery CalEEMod Annual Emissions, January 10, 2019		

## Chapter 3 Revisions to the Draft IS/MND

The following section includes revisions to the text of the Draft IS/MND, in amendment form. The revisions are listed numerically by page number. All additions to the text are shown underlined and all deletions from the text are shown ~~stricken~~.

### Chapter 4. Initial Study Environmental Checklist

Page 34, Table 4.3-2 is edited as follows:

Table 4.3-2 Unmitigated Construction & Operational Air Quality Emissions			
Pollutant	Construction (lbs/day)	Operation (lbs/day)	Exceed Threshold?
PM <sub>10</sub>	<u>22.49</u>	<u>0.43</u>	No
PM <sub>2.5</sub>	<u>6.87</u>	<u>0.16</u>	No
CO	<u>32.24</u>	<u>2.47</u>	No
NO <sub>x</sub>	<u>50.23</u>	<u>3.20</u>	No
SO <sub>2</sub>	<u>0.06</u>	<u>0.01</u>	No
<b>Notes:</b> Source: <u>Attachment A, Air Quality and GHG Calculations Spreadsheets, Winter, January 10, 2019</u> Significance Threshold Source: MBARD, 2016			

Page 53, Section 4.3.7 Explanation is edited as follows:

- a) **Less than Significant Impact.** As previously stated, the project is located in the NCCAB, where air quality is regulated by MBARD. Neither the State, MBARD, nor San Benito County have adopted GHG emissions thresholds or a GHG emissions reduction plan that would apply to the project. However, it is important to note that other air districts within the State of California have recently adopted recommended CEQA significance thresholds for GHG emissions. For instance, on March 28, 2012 the San Luis Obispo Air Pollution Control District (SLOAPCD) Board approved thresholds of significance for the evaluation of project-related increases of GHG emissions. The SLOAPCD's significance thresholds include both qualitative and quantitative threshold options, which include a bright-line threshold of 1,150 MTCO<sub>2</sub>e/year. On October 23, 2014, the Sacramento Metropolitan Air Quality Management District (SMAQMD) adopted a similar significance threshold of 1,100 MTCO<sub>2</sub>e/year. The GHG significance thresholds are based on AB 32 GHG emission reduction goals, which take into consideration the emission reduction strategies outlined in the ARB's Scoping Plan. Development projects located within these jurisdictions that would exceed these thresholds would be considered to have a potentially significant impact on the environment which could conflict with applicable GHG-reduction plans, policies and regulations. Projects with GHG emissions that do not exceed the applicable threshold would be considered to have a less than significant impact on the environment and would not be anticipated to conflict with AB 32 GHG emission reduction goals. Given that the MBARD has not yet adopted recommended GHG significance thresholds, the above thresholds were relied upon for evaluation of the proposed project. For purposes of this analysis, project-generated emissions in excess of 1,150 MTCO<sub>2</sub>e/year would be considered to have a potentially significant impact.

Construction and operational GHG emissions for each project were modeled using CalEEMod (Appendix A). Unless otherwise noted, model inputs are based upon the information provided by the applicant regarding proposed construction and operational activities. Data inputs for the project model are based on the following primary assumptions:

1. The assumed operational date for the proposed project is 2021.
2. The model's default CO<sub>2</sub> intensity factor of 641 pounds/megawatt hour was reduced to 307 pounds/megawatt hour to reflect Pacific Gas & Electric energy projections for 2019 and the anticipated intensity factor for project's operational year. The intensity factor has been falling, in significant part due to the increasing percentage of Pacific Gas & Electric's energy portfolio obtained from renewable energy. Emissions intensity data was obtained from Pacific Gas & Electric's Greenhouse Gas Factors: Guidance for PG&E Customers, dated November 2015.
3. Emissions generated by greenhouses, agricultural processing, storage and related office uses are assumed to be generally less than emissions that would be generated by the CalEEMod default land use subtype "Warehouse", which consists of areas where the primary activity is the conversion of raw materials or parts into finished products. The office space was incorporated into the warehouse use. In addition, parking area is refined from original model run to more accurately reflect the smaller parking surface to serve the 50 employee-facility at buildout.
4. Project-specific data inputs such as construction schedule, construction workers and trips, construction equipment etc. are listed in the model results contained in **Appendix A**.
5. The default vehicle trip generation value for warehouse uses was adjusted using the Institute of Traffic Engineers 9th Edition employee-based trip generation for manufacturing uses, and applied to the proposed warehouse uses. This rate better reflects the nature of the project where much of the internal building space is planned for a passive activity (e.g. greenhouses) that is managed by a relatively small number of employees. Further, the updated vehicle trip rate is consistent with the trip count provided in the Traffic Impact Analysis provided for the project and found in **Appendix H** of the Draft IS/MND.
6. The covered greenhouse structures have automated environmental controls built into the structure to allow the control of the environment within the greenhouse. The automated control system allows you to adjust shades, fans, air vents, adjust humidity, and temperature settings. Each greenhouse has shade curtains, roof vents, side wall curtains which go up and down to let air in, air circulation fans, misting systems, and radiant heat systems to allow control of the interior environment. These environmental controls allow for more efficient energy usage. In addition, the greenhouse energy consumption is seasonal by nature, with reduced usage in the summer months.
7. Project emissions are based on the "Mitigated" CalEEMod outputs in order to incorporate the 2016 Title 24 standards (i.e., residences and commercial uses that comply with 2016 Title 24 are 28% and 5% more efficient than 2013 Title 24, respectively), high efficiency outdoor lighting, construction best management practices, water conservation strategies, and the 75% waste diversion consistent with State standards (Assembly Bill 341), even though compliance with these standards would not be considered actual mitigation.

**Table 4.7-1** below, shows the updated results of the CalEEMod modeling. As indicated in **Table 4.7-1** the project would have less than significant impacts, as net GHG emissions would be below 1,150 MT CO<sub>2</sub>e/year.

Table 4.7-1 GHG Emissions From Project		
	Mitigated	Unmitigated
Construction Emissions	262.02 MT CO <sub>2</sub> e	262.02 MT CO <sub>2</sub> e
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Project Emissions	764.77 MT CO <sub>2</sub> e/yr	1,129.94 MT CO <sub>2</sub> e/yr
Threshold	1,150 MT CO <sub>2</sub> e/yr	
Exceed Threshold	No	
Source: T&A Transplant Nursery CalEEMod Annual Emissions, January 10, 2019		

**Appendix A CalEEMod Air Quality Modeling** has been updated with the most recent CalEEMod output as attached.

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