

# TWAIN HARTE COMMUNITY SERVICES DISTRICT

WATER – SEWER – FIRE – PARK  
22912 Vantage Pointe Drive, Twain Harte, CA 95383  
Phone (209) 586-3172 Fax (209) 586-0424

## REGULAR MEETING OF THE BOARD OF DIRECTORS THCSD CONFERENCE ROOM 22912 VANTAGE POINTE DR., TWAIN HARTE May 8, 2024 - 9:00 A.M.

**NOTICE:** This meeting will be accessible via ZOOM for virtual participation.

- Videoconference Link: <https://us02web.zoom.us/j/86728630823>
- Meeting ID: 867 2863 0823
- Telephone: (669) 900-6833

## AGENDA

The Board may take action on any item on the agenda.

### 1. Call to Order

### 2. Pledge of Allegiance & Roll Call

### 3. Reading of Mission Statement

### 4. Public Comment

This time is provided to the public to speak regarding items not listed on this agenda.

### 5. Presentations

- A. CAL FIRE presentation on Standards of Coverage study.
- B. Twain Harte Area CERT presentation honoring years of service.
- C. Fire Division field save recognition awards.

### 6. Consent Agenda

- A. Presentation and approval of financial statements through April 30, 2024.
- B. Approval of the minutes of the Special Meeting held on April 10, 2024.
- C. Discussion/action to adopt Resolution #24-13 – Intention to Continue Assessments for Fiscal Year 2024-25, Approval of Preliminary Engineer's Report and Notice of Hearing for the Park and Recreation Maintenance District.

- D. Discussion/action to adopt Resolution #24-14 – Intention to Continue Assessments for Fiscal Year 2024-25, Approval of Preliminary Engineer’s Report and Notice of Hearing for the Fire Protection and Emergency Response Services Assessment District.
- E. Discussion/action to adopt Resolution #24-15 –Intention to Continue Assessments for Fiscal Year 2024-25, Approval of Preliminary Engineer’s Report and Notice of Hearing for the Fire and Rescue Assessment District.

**7. Public Hearing**

- A. Open public hearing.
- B. Presentation of the proposed Mitigated Negative Declaration for the Twain Harte Community Services District Water System Improvements Project.
- C. Review written comments.
- D. Receive public comment.
- E. Close public hearing.
- F. Discussion/action to adopt Resolution #24-16 – Adoption of a Mitigated Negative Declaration for the Twain Harte Community Services District (THCSD) Water System Improvements Project.

**8. New Business**

- A. Discussion/action to adopt the 20-Year Vehicle/Equipment Replacement Plan for Fiscal Year 2024-25.
- B. Update on District sewer relining program and high priority sewer system projects.
- C. Discussion/action to approve General Manager Employment Agreement Amendment #3.
- D. Discussion/action to approve proposed revisions to Policy #2004 - Alcohol-Tobacco-Vapor Products and Drug Abuse Policy.
- E. Discussion/action to adopt Policy #2005 - DOT Employee Substance Abuse and Testing.
- F. Discussion/action to approve proposed revisions to Policy #2031 — Vacation.
- G. Discussion/action to approve proposed revisions to Policy #2161 – Whistleblowers Policy.
- H. Discussion/action to approve an Agreement for Professional Services with Watershed Progressive for the Office and Training Parking Lot Stormwater Improvements Design.

**9. Reports**

- A. President and Board member reports.
- B. Fire Chief’s report.
- C. Water/Sewer Operations Manager’s report.

D. General Manager's report.

## 10. Adjourn

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### HOW TO VIRTUALLY PARTICIPATE IN THIS MEETING

The public can virtually observe and participate in a meeting as follows:

- **Computer:** Join the videoconference by clicking the videoconference link located at the top of this agenda or on our website. You may be prompted to enter your name and email. Your email will remain private and you may enter "anonymous" for your name.
- **Smart Phone/Tablet:** Join the videoconference by clicking the videoconference link located at the top of this agenda OR log in through the Zoom mobile app and enter the Meeting ID# and Password found at the top of this agenda. You may be prompted to enter your name and email. Your email will remain private and you may enter "anonymous" for your name.
- **Telephone:** Listen to the meeting by calling Zoom at (4669) 900-6833. Enter the Meeting ID# listed at the top of this agenda, followed by the pound (#) key.

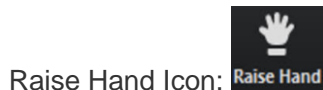
\* NOTE: your personal video will be disabled and your microphone will be automatically muted.

FOR MORE DETAILED INSTRUCTIONS, CLICK [HERE](#)

### SUBMITTING PUBLIC COMMENT

The public will have an opportunity to comment before and during the meeting as follows:

- **Before the Meeting:**
  - Email comments to [ksilva@twainhartecsd.com](mailto:ksilva@twainhartecsd.com), write "Public Comment" in the subject line. In the body of the email, include the agenda item number and title, as well as your comments.
  - Mail comments to THCSD Board Secretary: P.O. Box 649, Twain Harte, CA 95383
- **During the Meeting:**
  - Computer/Tablet/Smartphone: Click the "Raise Hand" icon and the host will unmute your audio when it is time to receive public comment. If you would rather make a comment in writing, you may click on the "Q&A" icon and type your comment. You may need to tap your screen or click on "View Participants" to make icons visible.



- Telephone: Press \*9 if to notify the host that you have a comment. The host will unmute you during the public comment period and invite you to share comments.
- In-Person: Raise your hand and the Board Chairperson will call on you.

\* NOTE: If you wish to speak on an item on the agenda, you are welcome to do so during consideration of the agenda item itself. If you wish to speak on a matter that does not appear on the agenda, you may do so during the Public Comment period. Persons speaking during the Public Comment will be limited to five minutes or depending on the number of persons wishing to speak, it may be reduced to allow all

members of the public the opportunity to address the Board. Except as otherwise provided by law, no action or discussion shall be taken/conducted on any item not appearing on the agenda. Public comments must be addressed to the board as a whole through the President. Comments to individuals or staff are not permitted.

### **MEETING ETIQUETTE**

Attendees shall make every effort not to disrupt the meeting. Cell phones must be silenced or set in a mode that will not disturb District business during the meeting.

### **ACCESSIBILITY**

Board meetings are accessible to people with disabilities. In compliance with the Americans with Disabilities Act, those requiring accommodations for this meeting should notify the District office 48 hours prior to the meeting at (209) 586-3172.

### **WRITTEN MEETING MATERIALS**

If written materials relating to items on this Agenda are distributed to Board members prior to the meeting, such materials will be made available for public inspection on the District's website:

[www.twainhartecsd.com](http://www.twainhartecsd.com)



# Board Meeting Agenda Item Summary

May 8, 2024

<b>ITEM #:</b>	05A	<b>ITEM TYPE:</b>	<input checked="" type="checkbox"/> Discussion <input type="checkbox"/> Action <input type="checkbox"/> Both
<b>SUBJECT:</b>	CAL FIRE Presentation on Standards of Coverage Study.		
<b>RELATION TO STRATEGIC PLAN:</b>	<input checked="" type="checkbox"/> N/A <input type="checkbox"/> Advances Goal/Objective #'s: _____		

**RECOMMENDED ACTION:**

None.

**SUMMARY:**

A representative from CAL FIRE and Tuolumne County Fire will provide a short presentation regarding the recent standards of coverage study completed by Tuolumne County. The report is intended to be used to establish data-driven recommendations to improve fire protection and emergency medical services response times throughout the county.

**FINANCIAL IMPACT:**

None.

**ATTACHMENTS:**

None.



# Board Meeting Agenda Item Summary

May 8, 2024

<b>ITEM #:</b>	05B	<b>ITEM TYPE:</b>	<input checked="" type="checkbox"/> Discussion <input type="checkbox"/> Action <input type="checkbox"/> Both
<b>SUBJECT:</b>	Twain Harte Area CERT presentation honoring years of service		
<b>RELATION TO STRATEGIC PLAN:</b>	<input checked="" type="checkbox"/> N/A <input type="checkbox"/> Advances Goal/Objective #'s: _____		

**RECOMMENDED ACTION:**

None.

**SUMMARY:**

Members of Twain Harte Area CERT (Community Emergency Response Team) will be presenting an award to a long standing member honoring excellence and years of service.

**FINANCIAL IMPACT:**

None.

**ATTACHMENTS:**

None.



# Board Meeting Agenda Item Summary

May 8, 2024

<b>ITEM #:</b>	05C	<b>ITEM TYPE:</b>	<input checked="" type="checkbox"/> Discussion <input type="checkbox"/> Action <input type="checkbox"/> Both
<b>SUBJECT:</b>	Fire Division field save recognition awards.		
<b>RELATION TO STRATEGIC PLAN:</b>	<input checked="" type="checkbox"/> N/A <input type="checkbox"/> Advances Goal/Objective #'s: _____		

**RECOMMENDED ACTION:**

None.

**SUMMARY:**

Chief Gamez will provide a short presentation in recognition of those individuals involved in a field save that took place within the District.

**FINANCIAL IMPACT:**

None.

**ATTACHMENTS:**

None.



# Board Meeting Agenda Item Summary

May 8, 2024

<b>ITEM #:</b>	06A	<b>ITEM TYPE:</b>	<input type="checkbox"/> Discussion <input type="checkbox"/> Action <input checked="" type="checkbox"/> Both
<b>SUBJECT:</b>	Presentation and Approval of Financial Statements through April 30, 2024		
<b>RELATION TO STRATEGIC PLAN:</b>	<input checked="" type="checkbox"/> N/A <input type="checkbox"/> Advances Goal/Objective #'s: _____		

## RECOMMENDED ACTION:

Receive and approve the financial statements through April 30, 2024

## SUMMARY:

This item presents the following Fiscal Year 2023-24 financial statements for all District Funds through April 30, 2024:

- Operating Expenditure Summary
- Capital Expenditure Summary
- Bank Balances – Including a summary of receipts and disbursements.

As a general summary of the financial statements:

- Operating expenses for all funds except Fire are at or below the target of 83.3% expended.
- Operating expenses for the Fire Fund is above the target level of 83.3% primarily due to unbudgeted, reimbursable strike team costs.
- Operating expenses for the Sewer fund are low because the Sewer Fund's largest expense is a quarterly wastewater treatment invoice from Tuolumne Utilities District. If that bill was provided monthly, the Sewer Fund expenses would be 77% of budget.
- Bank balances are healthy and in line with expectations. The month of April included large deposit from a grant reimbursement that covers the District's Million Gallon Tank #2 Rehabilitation Project. The District also received a large deposit for a portion of property taxes and special assessments. Large capital project payments related to the Twain Harte Meadows Park Project are included, which will be reimbursed later by state grant funding.

## FINANCIAL IMPACT:

None.

## ATTACHMENTS:

- Operating Expenditure Summary
- Capital Expenditure Summary
- Bank Balances – Including a summary of receipts and disbursements



**TWAIN HARTE COMMUNITY SERVICES DISTRICT  
23/24 OPERATING EXPENDITURE SUMMARY  
As of April 30, 2024**

<b>Fund</b>	<b>TOTAL Budget*</b>	<b>YTD Expended</b>	<b>Budget Balance</b>	<b>% Spent (Target 83.3%)</b>
Park	98,041	61,480	36,561	62.71%
Water	1,577,421	1,272,575	304,846	80.67%
Sewer	1,037,433	749,942	287,491	72.29%
Fire	1,352,603	1,165,962	186,641	86.20%
Admin	806,983	621,662	185,321	77.04%
<b>TOTAL</b>	<b>\$ 4,872,481</b>	<b>\$ 3,871,621</b>	<b>\$ 1,000,860</b>	<b>79.46%</b>

**TWAIN HARTE COMMUNITY SERVICES DISTRICT  
23/24 CAPITAL EXPENDITURE SUMMARY  
As of April 30, 2024**

<b>Fund</b>	<b>TOTAL Budget*</b>	<b>YTD Expended</b>	<b>Budget Balance</b>	<b>% Spent (Target 83.3%)</b>
Park	2,940,427	1,469,903	1,470,524	49.99%
Water	1,789,850	992,685	797,165	55.46%
Sewer	316,800	27,714	289,086	8.75%
Fire	450,900	23,083	427,817	5.12%
Admin		-	-	
<b>TOTAL</b>	<b>\$ 5,497,977</b>	<b>\$ 2,513,385</b>	<b>\$ 2,984,592</b>	<b>45.71%</b>

Reflects Budget Rev #6 - Approved 04/11/24

**TWAIN HARTE COMMUNITY SERVICES DISTRICT**  
**BANK BALANCES**  
As of April 30, 2024

<b>Account</b>	<b>Beginning Balance</b>	<b>Receipts</b>	<b>Disbursements</b>	<b>Transfers</b>	<b>Current Balance</b>
Five Star - Operating	686,137	1,391,680	(612,320)	(250,000)	1,215,497
US Bank - Operating	217,339	1,988	(41)	-	219,286
Five Star - Money Market	333,217	1,589		250,000	584,806
LAI - Investment	1,801,763	21,124		-	1,822,887
<b>TOTAL</b>	<b>\$ 3,038,456</b>	<b>\$ 1,416,381</b>	<b>\$ (612,361)</b>	<b>\$ -</b>	<b>\$ 3,842,476</b>



# Board Meeting Agenda Item Summary

May 8, 2024

<b>ITEM #:</b>	06B	<b>ITEM TYPE:</b>	<input type="checkbox"/> Discussion <input type="checkbox"/> Action <input checked="" type="checkbox"/> Both
<b>SUBJECT:</b>	Approval of the Minutes of the Special Meeting Held on April 11, 2024.		
<b>RELATION TO STRATEGIC PLAN:</b>	<input checked="" type="checkbox"/> N/A <input type="checkbox"/> Advances Goal/Objective #'s: _____		

## RECOMMENDED ACTION:

Approve the minutes of the Special Meeting held on April 11, 2024.

## SUMMARY:

The California Government Code and District Policy #5060 (Minutes of Board Meetings) requires the District to keep a record of all its actions. As such, the District's Board Secretary prepared draft minutes for the Board's Special Meeting held on April 11, 2024, in the format required by Policy #5060. The Board's responsibility is to review and approve the draft meeting minutes.

## FINANCIAL IMPACT:

None.

## ATTACHMENTS:

- Minutes of the Special Meeting held on April 11, 2024

**TWAIN HARTE COMMUNITY SERVICES DISTRICT**  
**Board of Directors Regular Meeting**  
**April 11, 2024**

**CALL TO ORDER:** President Sipperley called the meeting to order at 5:30 p.m. The following Directors, Staff, and Community Members were present:

**DIRECTORS:**

President Sipperley  
Director Mannix  
Director Dearborn

**STAFF:**

Tom Trott, General Manager  
Neil Gamez, Fire Chief  
Lewis Giambruno, Operations Manager

**AUDIENCE:** 1 Attendees

**PUBLIC COMMENT ON NON-AGENDIZED ITEMS:**

*Bruce Erikson made a public comment.*

**COMMUNICATIONS:**

- A. Comment Letter to California Department of Housing and Community Development – Surplus Land Act Guidelines.
- B. Letter of Support for HR 7525 – Special District Grant Accessibility Act.

**CONSENT AGENDA:**

- A. Presentation and approval of financial statements through March 31, 2024.
- B. Approval of the minutes of the Regular Meeting held on March 13, 2024.

***MOTION: Director Mannix made a motion to accept the consent agenda in its entirety.***

***SECOND: Director Dearborn***

***AYES: Sipperley, Dearborn, Mannix***

***NOES: None***

***ABSTAIN: None***

***ABSENT: Knudson, Bohlman***

**NEW BUSINESS:**

- A. Discussion/action to adopt Resolution #24-10 – Authorizing Application to the State Water Resources Control Board for Financial Assistance for the Sherwood Forest Water Main Replacement Project.

**MOTION: Director Dearborn made a motion to adopt Resolution #24-10 – Authorizing Application to the State Water Resources Control Board for Financial Assistance for the Sherwood Forest Water Main Replacement Project.**

**SECOND: Director Mannix**

**AYES: Sipperley, Dearborn, Mannix**

**NOES: None**

**ABSTAIN: None**

**ABSENT: Knudson, Bohlman**

- B. Discussion/action to adopt Resolution #24-11 – Authorizing Overtime and Portal to Portal Pay for the Fire Chief.

**MOTION: Director Mannix made a motion to adopt Resolution #24-11 – Authorizing Overtime and Portal to Portal Pay for the Fire Chief.**

**SECOND: Director**

**AYES: Sipperley, Dearborn, Mannix**

**NOES: None**

**ABSTAIN: None**

**ABSENT: Knudson, Bohlman**

- C. Discussion/action to adopt Resolution #24-12 - Approving Fiscal Year 2023-24 Water and Sewer Fund Budget Adjustments for Repair of Truck #2.

**MOTION: Director Dearborn made a motion to adopt Resolution #24-12 – Approving Fiscal Year 2023-24 Water and Sewer Fund Budget Adjustments for Repair of Truck #2.**

**SECOND: Director Mannix**

**AYES: Sipperley, Dearborn, Mannix**

**NOES: None**

**ABSTAIN: None**

**ABSENT: Knudson, Bohlman**

## **REPORTS:**

### **President and Board Member Reports**

- Director Mannix reported on attending the Twain Harte chamber of commerce mixer and the TCSDA meeting.
- President Sipperley reported on attending the LAFCO meeting.

### **Fire Chief Report by Chief Gamez**

- A verbal summary of the written report was provided.

### **Water/Sewer/Park Operations Report Provided by Operations Manager Giambruno**

- A verbal summary of the written report was provided.

### **General Manager Report Provided by General Manager Trott**

- A verbal summary of the written report was provided.

**CLOSED SESSION:** The Board of Directors convened into closed session at 6:43 p.m.

- A. With respect to every item of business to be discussed in closed session pursuant to Section 54957: Public Employee Performance Evaluation, General Manager.
- B. With respect to every item of business to be discussed in closed session pursuant to Section 54957.6: Conference with Labor Negotiators

Board Representatives: Gary Sipperley, Eileen Mannix, Mary Dearborn  
Unrepresented Employee: General Manager

*President Sipperley reconvened the meeting into regular session at 8:06 p.m. with an oral recommendation regarding possible proposed changes to salary and/or fringe benefits of the General Manager.*

**NEW BUSINESS (CONTINUED):**

- A. Oral recommendation regarding possible proposed changes to salary and/or fringe benefits of the General Manager.

*The Board made the following oral recommendation to be considered in open session at its next meeting:*

*Amend the General Manager Employment Agreement to increase the General Manager's base salary by 4%, effective July 1, 2024. This increase will not negate or take the place of any cost of living adjustments provided through the existing General Manager Employment Agreement for Fiscal Year 2024-25.*

**ADJOURNMENT:**

The meeting was adjourned at 8:07 p.m.

Respectfully submitted,

APPROVED:

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Kimberly Silva, Board Secretary

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Gary Sipperley, President



# Board Meeting Agenda Item Summary

May 8, 2024

<b>ITEM #:</b>	06C	<b>ITEM TYPE:</b>	<input type="checkbox"/> Discussion <input type="checkbox"/> Action <input checked="" type="checkbox"/> Both
<b>SUBJECT:</b>	Discussion/action to adopt Resolution #24-13 - Intention to Continue Assessments for Fiscal Year 2024-25, Approval of Preliminary Engineer's Report and Notice of Hearing for the Park and Recreation Maintenance District.		
<b>RELATION TO STRATEGIC PLAN:</b>	<input checked="" type="checkbox"/> N/A <input type="checkbox"/> Advances Goal/Objective #'s: _____		

## RECOMMENDED ACTION:

Adopt Resolution #24-13 – Intention to Continue Assessments for Fiscal Year 2024-25, Approval of Preliminary Engineer's Report and Notice of Hearing for the Park and Recreation Maintenance District.

## SUMMARY:

In 2006, the District's limited Park Fund revenue was insufficient to properly maintain and repair the District's aging park facilities. As a result, the District proposed the establishment of its Park and Recreation Maintenance District special benefit assessment (Park Assessment). The Park Assessment was approved by a majority vote of property owners and was levied by the District's Board of Directors on June 4, 2006, via Resolution #06-09. The voter-approved Park Assessment does not sunset and allows a maximum 3% annual adjustment based on the January Consumer Price Index (CPI) for the San Francisco Bay Area. The annual CPI adjustment is not automatic and is subject to the approval of the Board.

Since 2006, the Park Assessment has continued to provide annual revenue to the Park Fund to:

- Improve park maintenance
- Improve safety and security
- Improve children's playground equipment
- Maintain sports fields
- Maintain the Twain Harte Community Center

A Park Assessment Engineer's report is prepared each year to evaluate the Park Fund's budget requirements, the annual CPI adjustment, the maximum authorized assessment rate, and any changes to parcels within the assessment area. The Preliminary Engineer's Report this year recommends that Park Assessment Rates be increased by 3% based on combining January's CPI value of 2.62% with the unused CPI carried forward from the previous fiscal year of 3.71%.

Based on the Park Fund's projected revenue needs for the coming year, staff recommends that the Board hold a public hearing to consider continuing the Park Assessment with a 3% CPI adjustment.

## FINANCIAL IMPACT:

With a 3% CPI adjustment, the Park Assessment is projected to generate \$128,434 in revenue for the Park Fund in Fiscal Year 2024-25.

## ATTACHMENTS:

- Resolution #24-13 – Intention to Continue Assessments for Fiscal Year 2024-25, Approval of Preliminary Engineer's Report and Notice of Hearing for the Park and Recreation Maintenance District.



**TWAIN HARTE COMMUNITY SERVICES DISTRICT  
RESOLUTION NO. 24-13**

**INTENTION TO CONTINUE ASSESSMENTS FOR THE FISCAL YEAR 2024-25,  
APPROVAL OF PRELIMINARY ENGINEER'S REPORT AND NOTICE OF HEARING  
FOR THE PARK AND RECREATION MAINTENANCE DISTRICT**

**WHEREAS**, Twain Harte Community Services District's Park and Recreation Maintenance District was authorized by an assessment ballot proceeding conducted in 2006 and approved by 59.28% of the weighted ballots returned by property owners, and such assessments were levied by the Board of Directors by Resolution No. 06-09 passed on June 20, 2006; and

**WHEREAS**, the first Engineer's Report for Fiscal Year 2006-07 described how the assessment district would be established, determined the uses of the assessment funds, established the methodology by which the assessments would be applied to properties in the District, established that the assessment is subject to an annual adjustment tied to the annual change in the Consumer Price Index for the San Francisco Bay Area, and stated that the assessment would continue year-to-year until terminated by the District Board of Directors; and

**WHEREAS**, although the methodology by which the assessments are applied to properties in the District does not change from year to year, a new Engineer's Report is prepared each year in order to establish the CPI adjustment for that year; the new maximum authorized assessment rate for that year; the budget for that year; and the amount to be charged to each parcel in the District that year, subject to that year's assessment rate and any changes in the attributes of the properties in the District, including but not limited to use changes, parcel subdivisions, and/or parcel consolidations; and

**WHEREAS**, by on February 14, 2024, by Resolution No. 24-06, the Board ordered the preparation of an Engineer's Report for the Park and Recreation Maintenance District (the "District") for the fiscal year 2024-25; and

**WHEREAS**, pursuant to said Resolution, the Engineer's Report was prepared by SCI Consulting Group, Engineer of Work, in accordance with accordance with 22565, et seq., of the Streets and Highways Code (the "Report") and Article XIID of the California Constitution; and

**WHEREAS**, said Engineer's Report was filed with the Clerk of the Board of Directors and the Board of Directors has reviewed the Report and wishes to take certain actions relative to said Report.

**NOW, THEREFORE, BE IT RESOLVED**, by the Board of Directors of the Twain Harte Community Services District ("Board"), that:

1. The Report for the "Park and Recreation Maintenance District," on file with the Clerk of the Board, has been duly considered by the Board of Directors and is hereby deemed sufficient and approved. The Report shall stand as the Engineer's Report for all subsequent proceedings under, and pursuant to, the foregoing resolution.
2. It is the intention of this Board to continue and to collect assessments within the District for Fiscal Year 2024-25. Within the District, the existing and proposed improvements ("Improvements") are generally described as the acquisition, installation, maintenance and servicing of public areas and public facilities, property owned or property rights, easements and/or rights of entry, leases or dedications including, but not limited to, parks, recreation areas, recreation facilities, ground cover, shrubs, trees and other vegetation, greenbelts, playground equipment, trails, utility right-of-ways, signage, entry monuments, fencing, picnic areas, restrooms, lighting, other improvements such as irrigation or drainage and land preparation on (1) real property owned by, or encumbered by property rights held by, or maintained by, the District; or (2) on real property owned by, or encumbered by property rights held by, or maintained by any local agency or non-profit entity within the jurisdictional area of the District that participates with the Twain Harte Community Services District in any of the installations, maintenance and servicing described herein. Installation means the construction of recreational improvements, including, but not limited to, land preparation, such as grading, leveling, cutting and filling, sod, landscaping, irrigation systems, sidewalks and drainage, lights, playground equipment, play courts, recreational facilities and public restrooms. Maintenance means the furnishing of services and materials for the ordinary and usual maintenance, operation and servicing of said improvements, including repair, removal, or replacement of all or part of any improvement; providing for the life, growth, health and beauty of landscaping; and cleaning, sandblasting and painting of walls and other improvements to remove or cover graffiti. Servicing means the furnishing of electric current or energy for the operation or lighting of any improvements, and water for irrigation of any landscaping or the maintenance of any other improvements.
3. The District consists of the lots and parcels shown on the assessment diagram of the District on file with the Clerk of the Board, and reference is hereby made to such map for further particulars.
4. Reference is hereby made to the Report for a full and detailed description of the Improvements, the boundaries of the District and the proposed assessments upon assessable lots and parcels of land within the District. The Engineer's Report identifies all parcels which will have a special benefit conferred upon them and upon which an assessment will be imposed.
5. The authorized maximum assessment rate for the District includes an annual adjustment by an amount equal to the annual change in the San Francisco Bay

Area Consumer Price Index, not to exceed 3.00% per year. In the event that the annual change in the CPI exceeds 3.00%, any percentage change in excess of 3.00% can be cumulatively reserved and can be added to the annual change in the CPI for years in which the CPI change is less than 3.00%. The annual Bay Area CPI change as of December 2023 is 2.62%, and the Unused CPI carried forward from the previous fiscal year is 3.71%. Therefore, the maximum authorized increase that may be levied in the fiscal year 2024-25 is 3.00%.

6. The estimated Fiscal Year 2024-25 cost of providing the Services is \$128,434. This cost results in a proposed assessment rate of SEVENTY-NINE AND TWENTY-EIGHT CENTS (\$79.28) per single-family equivalent benefit unit for fiscal year 2024-25. Therefore, the maximum authorized assessment rate is \$79.28; the assessment rate proposed to be continued for Fiscal Year 2024-25 is \$79.28, which is the same as the maximum authorized rate.
7. The public hearing shall be held, before this Board at the Twain Harte Community Services District offices located at 22912 Vantage Pointe Drive, Twain Harte, California, 95383: on Wednesday, June 12, 2024, at the hour of 9:00 a.m. for the purpose of this Board's determination whether the public interest, convenience and necessity require the improvements and this Board's final action upon the Report and the assessments therein. The Clerk of the Board is hereby authorized and directed to cause a notice of the hearing to be given by publishing a notice once, at least ten (10) days prior to the date of the hearing above specified, in a newspaper circulated in the District

**PASSED AND ADOPTED** by the Governing Board of the Twain Harte Community Services District this 8th day of May 2024 by the following roll call vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

ATTEST:

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Gary Sipperley, Board President

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Kimberly Silva, Board Secretary

FY 2024-25

# ENGINEER'S REPORT

## Twain Harte Community Services District

Park and Recreation Maintenance District

April 2024

Final Report

Engineer of Work:



4745 Mangels Boulevard  
Fairfield, California 94534  
707.430.4300  
[www.sci-cg.com](http://www.sci-cg.com)

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## Twain Harte Community Services District

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### **Board of Directors**

Gary Sipperley, President  
Eileen Mannix, Vice President  
Charlotte Bohlman, Director  
Mary Dearborn, Director  
Richard Knudson, Director

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### **General Manager**

Tom Trott

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### **Operations Manager**

Lewis Giambruno

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### **Secretary of the Board**

Kim Silva

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### **Assessment Engineer**

SCI Consulting Group

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# Introduction

## Overview

The Twain Harte Community Services District (“District”) is a California governmental entity formed when the Tuolumne County Water District #1 was dissolved. Formed in 1996, the District provides water, sewer, and fire as well as recreation services. The district maintains Eproson Park and its amenities including the Rotary Stage, youth and tot playgrounds, a skate park, baseball field, and picnic and barbeque areas, the Twain Harte Community Center, Twain Harte Tennis Courts and Twain Harte Creek Trail. The map on page 25 depicts the area served by the District. The District is responsible for operating parks, recreation areas, and other recreation facilities and public resources in the community of Twain Harte. The District encompasses approximately 1,795 parcels within its boundaries, which are primarily of residential single-family and multi-family use.

Prior to 2006, the maintenance and upkeep of local park and recreation areas in the Twain Harte community were funded by a very small amount of property taxes allocated to the District. Since its formation the District’s costs for maintaining park services, such as insurance, fuel, electricity, supplies and maintenance, had increased significantly and the available revenues for park maintenance had actually declined. The District simply did not have sufficient revenues to properly maintain Twain Harte park and recreation facilities and to handle the repairs of aging facilities. Therefore, in absence of a new local revenue source, the baseline level of park and recreation facilities in the District (the “Baseline Service”) was poorly maintained park and recreation facilities.

As a result, the District proposed the establishment of a benefit assessment district that would allow property owners, in an assessment ballot proceeding, to decide if funding should be increased to:

- Improve Park Maintenance
- Improve Safety and Security
- Improve Children’s Playground Equipment
- Maintain Sports Fields
- Maintain the Twain Harte Community Center

The Assessments fund the continued improvements listed above that are provided throughout the District, extending above and beyond the baseline level of service.

## Assessment Process

In 2006, the Twain Harte Community Service District Board of Directors (the "Board") conducted an assessment ballot proceeding pursuant to the requirements of Article XIID of the California Constitution ("The Taxpayer's Right to Vote on Taxes Act") and the Landscaping and Lighting Act of 1972. During this ballot proceeding, property owners in the District were provided with a notice and ballot for the proposed Park and Recreation Maintenance District (the "Assessment District"). A 45-day period was provided for balloting and a public hearing was conducted on June 20, 2006. After the close of the public input portion of the public hearing, the returned ballots were tabulated. The results of the tabulation were announced at 7 p.m. the same evening.

It was determined at the public hearing that the assessment ballots submitted in opposition to the proposed assessments did not exceed the assessment ballots submitted in favor of the assessments (with each ballot weighted by the proportional financial obligation of the property for which ballot was submitted). The final weighted ballot result was 59.28% support for the proposed assessments.

As a result, the District Board (the "Board") gained the authority to approve the levy of the assessments for fiscal year 2006-07 and to continue to levy them in future years. The authority granted by the ballot proceeding includes an annual adjustment in the assessment levies equal to the annual change in the Consumer Price Index for the San Francisco Bay Area as of January of each succeeding year, with the maximum annual adjustment not to exceed 3%. In the event that the annual change in the CPI exceeds 3%, any percentage change in excess of 3% can be cumulatively reserved and can be added to the annual change in the CPI for years in which the CPI change is less than 3%.

In each subsequent year for which the assessments will be continued, the Board must direct the preparation of an Engineer's Report ("Report"), budgets and proposed assessments for the upcoming fiscal year. After the Report is completed, the Board may preliminarily approve the Report and proposed assessments and establish the date for a noticed public hearing on the continuation of the assessments.

This Engineer's Report ("Report") was prepared to establish the budget for the improvements, installation, and maintenance and servicing costs that would be funded by the proposed 2024-25 assessments, determine the benefits received by property from such improvements within the Assessment District and apportion the assessments to lots and parcels within the District. This Report and the proposed assessments have been made pursuant to the Landscaping and Lighting Act of 1972, Part 2 of Division 15 of the California Streets and Highways Code (the "Act") and Article XIID of the California Constitution (the "Article").

If the Board approves this Engineer's Report and the continuation of the assessments by resolution, a notice of public hearing must be published in a local paper at least 10 days prior to the date of the public hearing. The resolution preliminarily approving the Engineer's Report and establishing the date for a public hearing is used for this notice.

Following the minimum 10-day time period after publishing the notice, a public hearing must be held for the purpose of allowing public testimony about the proposed continuation of the assessments. This hearing is currently scheduled for June 12, 2024. At this hearing, the Board would consider approval of a resolution confirming the continuation of the assessments for fiscal year 2024-25. If so confirmed and approved, the assessments would be submitted to the County Auditor for inclusion on the property tax rolls for the fiscal year 2024-25.

## Legal Analysis

### Proposition 218

This assessment was formed consistent with Proposition 218, The Right to Vote on Taxes Act, which was approved by the voters of California on November 6, 1996, and is now codified as Articles XIIC and XIID of the California Constitution. Proposition 218 provides for benefit assessments to be levied to fund the cost of providing services, improvements, as well as maintenance and operation expenses to a public improvement which benefits the assessed property.

Proposition 218 describes a number of important requirements, including property-owner balloting, for the imposition, increase and extension of assessments, and these requirements were satisfied by the process used to establish this assessment.

### Silicon Valley Taxpayers Association, Inc. v Santa Clara County Open Space Authority

In July of 2008, the California Supreme Court issued its ruling on the Silicon Valley Taxpayers Association, Inc. v. Santa Clara County Open Space Authority ("SVTA vs. SCCOSA"). This ruling is the most significant legal document in further legally clarifying Proposition 218. Several of the most important elements of the ruling included further emphasis that:

- Benefit assessments are for special, not general, benefit
- The services and/or improvements funded by assessments must be clearly defined
- Special benefits are directly received by and provide a direct advantage to property in the assessment district

This Engineer's Report is consistent with the SVTA vs. SCCOSA decision and with the requirements of Article XIIC and XIID of the California Constitution because the improvements to be funded are clearly defined; the benefiting property in the Assessment District enjoys close and unique proximity, access and views to the Improvements; the Improvements serve as an extension of usable land area for benefiting properties in the Assessment District and such special benefits provide a direct advantage to property in the Assessment District that is not enjoyed by the public at large or other property. There have been a number of clarifications made to the analysis, findings and supporting text in this Report to ensure that this consistency is well communicated.

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#### **Dahms v. Downtown Pomona Property**

On June 8, 2009, the 4<sup>th</sup> Court of Appeal amended its original opinion upholding a benefit assessment for property in the downtown area of the City of Pomona. On July 22, 2009, the California Supreme Court denied review. On this date, Dahms became good law and binding precedent for assessments. In Dahms the court upheld an assessment that was 100% special benefit (i.e. 0% general benefit) on the rationale that the services and improvements funded by the assessments were directly provided to property in the assessment district. The Court also upheld discounts and exemptions from the assessment for certain properties.

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#### **Bonander v. Town of Tiburon**

On December 31, 2009, the 1<sup>st</sup> District Court of Appeal overturned a benefit assessment approved by property owners to pay for placing overhead utility lines underground in an area of the Town of Tiburon. The Court invalidated the assessments on the grounds that the assessments had been apportioned to assessed property based in part on relative costs within sub-areas of the assessment district instead of proportional special benefits.

Beutz v. County of Riverside

On May 26, 2010 the 4<sup>th</sup> District Court of Appeal issued a decision on the Steven Beutz v. County of Riverside ("Beutz") appeal. This decision overturned an assessment for park maintenance in Wildomar, California, primarily because the general benefits associated with improvements and services were not explicitly calculated, quantified and separated from the special benefits.

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#### **Golden Hill Neighborhood Association v. City of San Diego**

On September 22, 2011, the San Diego Court of Appeal issued a decision on the Golden Hill Neighborhood Association v. City of San Diego appeal. This decision overturned an assessment for street and landscaping maintenance in the Greater Golden Hill neighborhood of San Diego, California. The court described two primary reasons for its decision. First, like in Beutz, the court found the general benefits associated with services were not explicitly calculated, quantified and separated from the special benefits. Second, the court found that the City had failed to record the basis for the assessment on its own parcels.

## Compliance with Current Law

This Engineer's Report is consistent with the requirements of Article XIIC and XIID of the California Constitution and with the *SVTA* decision because the Improvements to be funded are clearly defined; the Improvements are directly available to and will directly benefit property in the Assessment District; and the Improvements provide a direct advantage to property in the Assessment District that would not be received in absence of the Assessments.

This Engineer's Report is consistent with *Beutz, Dahms and Greater Goldern Hill* because the Improvements will directly benefit property in the Assessment District and the general benefits have been explicitly calculated and quantified and excluded from the Assessments. The Engineer's Report is consistent with *Bonander* because the Assessments have been apportioned based on the overall cost of the Improvements and proportional special benefit to each property.

## Plans and Specifications

### DEFINITIONS AND DESCRIPTIONS

The improvements to be funded by the Assessment District (the “Improvements”) provide special benefit to parcels within the Assessment District as defined in the Method of Assessment herein. Improvements are legally defined by the Act (Streets & Highways Code §22525) and include, but are not limited to the following:<sup>1</sup>

Acquisition, installation, maintenance and servicing of public areas and public facilities, property owned or property rights, easements and/or rights of entry, leases or dedications including, but not limited to, parks, recreation facilities, open space lands, greenbelts, playground equipment, trails, hillsides, viewsheds and watersheds, utility right-of-ways, signage, fencing, fire breaks, picnic areas, restrooms, lighting and other improvements and land preparation such as grading, irrigation or drainage on (1) real property owned by, or encumbered by property rights held by, or maintained by, the Assessment District; or (2) on real property owned by, or encumbered by property rights held by, or maintained by any local agency or non-profit entity within the jurisdictional area of the Assessment District that participates with the Twain Harte Community Services District in any of the installations, maintenance and servicing described herein.

Maintenance means the furnishing of services and materials for the ordinary and usual maintenance, operation and servicing of any Improvement, including (a) repair, removal, or replacement of all or part of any Improvement; (b) providing for the life, growth, health and beauty of landscaping, including cultivation, irrigation, trimming, spraying, fertilizing, or treating for disease or injury; (c) the removal of trimmings, rubbish, debris, and other solid waste; and (d) the cleaning, sandblasting and painting of walls and other Improvements to remove or cover graffiti. (Streets & Highways Code §22531)

Servicing means the furnishing of (a) electric current or energy, gas or other illuminating agent for any public lighting facilities or for the lighting or operation of any other Improvements; and (b) water for irrigation of any landscaping, the operation of any fountains, or the maintenance of any other Improvements. (Streets & Highways Code §22538)

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<sup>1</sup>. Any Plans and specifications for the Improvements will be filed with the Twain Harte Community Services District and are incorporated herein by reference.

Incidental expenses include all of the following: (a) The costs of preparation of the report, including plans, specifications, estimates, diagram, and assessment; (b) the costs of printing, advertising, and the giving of published and posted notices; (c) compensation payable to the County for collection of assessments; (d) compensation of any engineer or attorney employed to render services in proceedings pursuant to this part; (e) any other expenses incidental to the construction, installation, or maintenance and servicing of the Improvements; (f) any expenses incidental to the issuance of bonds or notes pursuant to Streets & Highways Code Section 22662.5; and (g) costs associated with any elections held for the approval of a new or increased assessment. (Streets & Highways Code §22526)

The assessment proceeds will be exclusively used for Improvements within the District plus Incidental expenses. Reference is made to the plans and specifications, including specific expenditure and improvement plans by park/recreation site, which are on file with the District.

## Estimate of Costs And Budget

### Introduction

Following are the proposed Improvements, and resulting level of improved park and recreation facilities, for the Assessment District. As previously noted, the baseline level of service included minimal and inadequate maintenance of local park and recreation facilities due to shortages of funds for the District. Improvements funded by the assessments are over and above this baseline level of service. The formula below describes the relationship between the final level of Improvements, the existing baseline level of service, and the enhanced level of Improvements to be funded by the proposed assessment.

$$\text{Final Level of Improvements} = \text{Baseline Level of Improvements} + \text{Enhanced Level of Improvements}$$

### Estimate of Costs

The following is an estimate of the cost of the Improvements that would be funded by the Assessment District in Fiscal Year 2024-25. The expenditures would be governed by the policies and criteria established within this Report.



Table 1 - Estimate of Costs

Twain Harte Community Services District Parks and Recreation Maintenance District Estimate of Cost Fiscal Year 2024-25			<i>Total Budget</i>
Beginning Fund Balance			\$0
Installation, Maintenance & Servicing Costs			
<b>Services Costs</b>			<b>\$89,623</b>
Salaries and Employee Benefits	\$29,373		
Maintenance and Repairs	\$19,350		
Materials and Supplies	\$1,900		
Outside and Debt Services	\$4,500		
Utilities, Prop/Liab Ins, TUD, etc.	\$34,500		
<b>Administrative Cost</b>			<b>\$78,547</b>
<b>Capital Expenses/Outlay</b>			<b>\$525,000</b>
Total Service, Administrative and Capital Expenditures			<b>\$693,170</b>
Additional Expenditures			
Allowance for Uncollectable Assessments			\$0
County Collection, Levy Administration, and Other Incidentals			\$4,280
Total Additional Expenditures			<b>\$4,280</b>
Total Service, Administrative, Capital and Additional Expenditures			<b>\$697,450</b>
Total Benefit of Services and Related Expenses			\$697,450
SFE Units			1620.00
Benefit received per Single Family Equivalent Unit			\$430.52
Less:			
District Contribution for General Benefits			(\$251,082)
District Contribution toward Special Benefits			(\$250,794)
Transfers to (from) reserves			(\$67,140)
Total Revenue from Other Sources			(\$569,016)
Net Cost of Installation, Maintenance and Servicing to Assessment District			<b>\$128,434</b>
Total Installation, Maintenance and Servicing to Assessment District (Net Amount to be Assessed)			<b>\$128,434</b>
Budget Allocation to Property			
	Total SFE Units	Assessment per SFE	Total Assessment
	1,620	\$79.28	\$128,434

## Method of Assessment Apportionment

### Method of Apportionment

This section of the Engineer's Report explains the special benefits to be derived from the Improvements, the criteria for the expenditure of assessment funds to ensure equal levels of benefit for properties of similar type and the methodology used to apportion the total assessments to properties within the Assessment District.

The Assessment District area consists of all Assessor Parcels within the District as defined by the State Board of Equalization tax rate areas. The method used for apportioning the assessments is based upon the proportional special benefits conferred to the properties over and above the general benefits conferred to real property in the Assessment District or to the public at large. Special benefit is calculated for each parcel in the Assessment District using the following process.

1. Identification of all benefit factors derived from the Improvements
1. Calculation of the proportion of these benefits that are general
2. Determination of the relative special benefit within different areas within the Assessment District
3. Determination of the relative special benefit per property type
4. Calculation of the specific assessment for each individual parcel based upon special vs. general benefit; location, property type, property characteristics, improvements on property and other supporting attributes.

### Discussion of Benefit

Assessments can only be levied based on the special benefit to property. Any and all general benefit, including benefit that is indirect or derivative, must be funded from another source. This special benefit is received by property over and above any general benefits from the Improvements. With reference to the requirements for assessments, Section 22573 of the Landscaping and Lighting Act of 1972 states:

*"The net amount to be assessed upon lands within an assessment district may be apportioned by any formula or method which fairly distributes the net amount among all assessable lots or parcels in proportion to the estimated benefits to be received by each such lot or parcel from the improvements."*

Proposition 218 (Article XIII D of the California Constitution), has confirmed that assessments must be based on the special benefit to property and that the value of the special benefits must reasonably exceed the cost of the assessment:

"No assessment shall be imposed on any parcel which exceeds the reasonable cost of the proportional special benefit conferred on that parcel."

Since assessments are levied on the basis of special benefit, they are not a tax and are not governed by Article XIII A of the California Constitution.

The SVTA v. SCCOSA decision also clarifies that a special benefit is a service or improvement that provides a direct advantage to a parcel and that indirect or derivative advantages resulting from the overall public benefits from a service or improvement are general benefits. The SVTA v. SCCOSA decision also provides specific guidance that park improvements are a direct advantage and special benefit to property that is proximate to a park that is improved by an assessment:

*The characterization of a benefit may depend on whether the parcel receives a direct advantage from the improvement (e.g. proximity to a park) or receives an indirect, derivative advantage resulting from the overall public benefits of the improvement (e.g. general enhancement of the district's property values).*

Finally, Proposition 218 twice uses the phrase "over and above" general benefits in describing special benefit. (Art. XIII D, sections 2(i) & 4(f).)

## Benefit Factors

### **Extension of a property's outdoor areas and green spaces for properties within close proximity to the Improvements**

The park and recreation facilities in the Assessment District provide larger outdoor areas that serve as an effective extension of the land area for proximate properties because the Improvements are uniquely proximate and accessible to property in the Assessment District. The Improvements, therefore, provide an important, valuable and desirable extension of usable land area for the direct advantage and special benefit of properties with good and close proximity to the Improvements.

According to the industry-standard guidelines established by the National Park and Recreation Association (the “NPRA”), neighborhood parks in urban areas have a service area radius of generally one-half mile and community parks have a service area radius of approximately two miles. The service radii for parks were specifically established to give all properties within this service radii close proximity and easy access to such public land areas. Eproson Park within the Assessment District is more similar to a community park, since it is larger and has a parking lot and restroom. However, given the somewhat enclosed nature of the properties and roads within the Assessment District, the service area radius for Eproson Park is determined to be approximately one mile. Since proximate and accessible parks serve as an extension of the usable land area for property in the service radii and since the service radii was specifically designed to provide close proximity and access, the parcels within this service area clearly receive a direct advantage and special benefit from the Improvements - and this advantage is not received by many other properties or the public at large. The parcels that are outside of the Assessment District but may also have good proximity and assess the Improvements are addressed in the following general versus special benefit section.

An analysis of the service radii for the Improvements finds that all properties in the Assessment District enjoy the distinct and direct advantage of being close and proximate to a park and recreation facilities within the Assessment District. The benefiting properties in the Assessment District therefore uniquely and specially benefit from the Improvements.

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#### **Proximity to improved park and recreational facilities**

Only the specific properties within close proximity to the Improvements are included in the Assessment District. Therefore, property in the Assessment District enjoys unique and valuable proximity and access to the Improvements that the public at large and property outside the Assessment District do not share.

In absence of the assessments, the Improvements would not be provided and Eproson Park would be degraded due to insufficient funding for maintenance, upkeep and repair. Therefore, the assessments provide Improvements that are over and above what otherwise would be provided. Improvements that are over and above what otherwise would be provided do not by themselves translate into special benefits but when combined with the unique proximity and access enjoyed by parcels in the Assessment District, they provide a direct advantage and special benefit to property in the Assessment District.

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#### **Access to improved park, open space and recreational areas**

Since the parcels in the Assessment District are nearly the only parcels that enjoy close access to the Improvements, they directly benefit from the unique close access to improved park, open space and recreation areas that are provided by the Assessments. This is a direct advantage and special benefit to property in the Assessment District.

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### Improved Views

The District, by maintaining the landscaping at its park, recreation and open space facilities provides improved views to properties with direct line-of-sight as well as other local properties which benefit from improved views when property is accessed. Therefore, the improved and protected views provided by the Assessments are another direct and tangible advantage that is uniquely conferred upon property in the Assessment District.

### Benefit Finding

In summary, real property located within the boundaries of the Assessment District distinctly and directly benefits from closer proximity, access and views of the Improvements funded by the Assessments. The Improvements are specifically designed to serve local properties in the Assessment District, not other properties or the public at large. The public at large and other properties outside the Assessment District receive only limited benefits from the Improvements because they do not have proximity, good access or views of the Improvements. These are special benefits to property in the Assessment District in much the same way that sewer and water facilities, sidewalks and paved streets enhance the utility and desirability of property and make them more functional to use, safer and easier to access.

### Criteria and Policies

This sub-section describes the criteria that shall govern the expenditure of assessment funds and ensure equal levels of benefit for properties of similar type. The criteria established in this Report, as finally confirmed, cannot be substantially modified; however, the Board may adopt additional criteria to further clarify certain criteria or policies established in this Report or establish additional criteria or policies that do not conflict with this Report.

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### Assessment Funds Must Be Expended Within the Assessment District

The net available assessment funds, after incidental, administrative, financing and other costs, shall be expended exclusively for Improvements within the boundaries of the Assessment District.

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### **Citizen’s Oversight Committee**

A Citizens’ Oversight Committee (the “Citizens’ Oversight Committee”) will be established for the Assessment District. The Citizens’ Oversight Committee shall review potential projects that may be funded by the assessments and shall make recommendations on the expenditure of assessment funds. Members of the Citizen’s Oversight Committee will be nominated by Twain Harte homeowners and/or other recognized organized citizen’s groups and appointed by the Twain Harte Community Services District Board. All members of the Citizens’ Oversight Committee shall own property within Twain Harte Community Services District and shall not have conflicts of interest with the Assessment District or the Improvements and Services funded by the Assessments.

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### **Matching Funds**

Matching funds and contributions from other sources are required, thereby maximizing the special benefits from the Assessment District and offsetting any general benefits from the Improvements funded by the Assessments. The District will continue its annual fundraising drives, seek grant funding and special donations towards projects.

## **General versus Special Benefit**

Article XIII C of the California Constitution requires any local agency proposing to increase or impose a benefit assessment to “separate the general benefits from the special benefits conferred on a parcel.” The rationale for separating special and general benefits is to ensure that property owners subject to the benefit assessment are not paying for general benefits. The assessment can fund special benefits but cannot fund general benefits. Accordingly, a separate estimate of the special and general benefit is given in this section.

In other words:

<b>Total Benefit</b>	<b>=</b>	<b>General Benefit</b>	<b>+</b>	<b>Special Benefit</b>
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There is no widely-accepted or statutory formula for general benefit. General benefits are benefits from improvements or services that are not special in nature, are not “particular and distinct” and are not “over and above” benefits received by other properties. SVTA vs. SCCOSA provides some clarification by indicating that general benefits provide “an indirect, derivative advantage” and are not necessarily proximate to the improvements.

In this report, the general benefit is conservatively estimated and described, and then budgeted so that it is funded by sources other than the assessment.

The starting point for evaluating general and special benefits is the current, baseline level of service. The assessment will fund Improvements “over and above” this general, baseline level and the general benefits estimated in this section are over and above the baseline.

A formula to estimate the general benefit is listed below:

$$\text{General Benefit} = \text{Benefit to real property outside of improvement district} + \text{Benefit to real property inside of improvement district} + \text{Benefit to public at large}$$

Special benefit, on the other hand, is defined in the state constitution as “a particular and distinct benefit over and above general benefits conferred on real property located in the district or to the public at large.” The SVTA v. SCCOSA decision indicates that a special benefit is conferred to a property if it “receives a direct advantage from the improvement (e.g., proximity to a park).” In this assessment, as noted, properties in the Assessment District have close and unique proximity, views and access to the Improvements and uniquely improved desirability from the Improvements and other properties and the public at large do not receive significant benefits because they do not have proximity, access or views of the Improvements. Therefore, the overwhelming proportion of the benefits conferred to property is special, and is only minimally received by property outside the Assessment District or the public at large.

In the 2009 Dahms case, the court upheld an assessment that was 100% special benefit on the rationale that the services funded by the assessments were directly provided within the assessment district. It is also important to note that the improvements and services funded by the assessments in Pomona are similar to the improvements and services funded by the Assessments described in this Engineer’s Report and the Court found these improvements and services to be 100% special benefit. Also similar to the assessments in Pomona, the Assessments described in this Engineer’s Report fund improvements and services directly provided within the Assessment District and every benefiting property in the Assessment District enjoys proximity and access to the Improvements. Therefore, Dahms establishes a basis for minimal or zero general benefits from the Assessments. However, in this Report, the general benefit is more conservatively estimated and described, and then budgeted so that it is funded by sources other than the Assessment.

### Calculating General Benefit

In this section, the general benefit is conservatively estimated and described, and then budgeted so that it is funded by sources other than the assessment.

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### **Benefit to Property Outside the Assessment District**

Properties within the Assessment District receive almost all of the special benefits from the Improvements because properties in the Assessment District enjoy unique close proximity and access to the Improvements that is not enjoyed by other properties or the public at large. However, certain properties within the proximity/access radius of the Improvements, but outside of the boundaries of the Assessment District, may receive some benefit from the Improvements. Since this benefit is conferred to properties outside the Assessment District boundaries, it contributes to the overall general benefit calculation and will not be funded by the Assessments.

The properties outside the Assessment District and within the proximity/access radii for park and recreation facilities in the Assessment District may receive benefits from the Improvements. Since these properties are not assessed for their benefits because they are outside of the area that can be assessed by the District, this is a form of general benefit to the public at large and other property. A 50% reduction factor is applied to these properties because they are over twice the average distance from the Improvements compared to properties in the Assessment District. The general benefit to property outside of the Assessment District is calculated as follows with the parcel and data analysis performed by SCI Consulting Group.

**Assumptions:**

450 parcels outside the district but with good proximity/access of the Improvements within the Assessment District

1,863 parcels in the Assessment District

50% relative benefit compared to property within the Assessment District

**Calculation**

General benefit to property outside the Assessment District =  $450/2,313 * .5 = 9.7\%$

Although it can reasonably be argued that Improvements inside, but near the District boundaries are offset by similar park and recreational improvements provided outside, but near the District's boundaries, we use the more conservative approach of finding that 9.7% of the Improvements may be of general benefit to property outside the Assessment District.

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### **Benefit to Property *Inside* the District that is *Indirect and Derivative and to the Public at Large***

The "indirect and derivative" benefit to property within the Assessment District is particularly difficult to calculate. A solid argument can be presented that all benefit within the Assessment District is special, because the Improvements are clearly "over and above" and "particular and distinct" when compared with the baseline level of service and the unique proximity, access and views of the Improvements enjoyed by benefiting properties in the Assessment District.



Nevertheless, the SVTA vs. SCCOSA decision indicates there may be general benefit “conferred on real property located in the district”. A measure of the general benefits to property within the Assessment area and/or to the public at large is the percentage of land area within the Assessment District that is publicly owned and used for regional purposes such as major roads, rail lines and other regional facilities because such properties used for regional purposes could provide general benefits. Approximately 5.8% of the land area in the Improvement District is used for such regional purposes, so this is a measure of the general benefits to property within the Improvement District and/or to the public at large.

The general benefit to the public at large can also be estimated by the proportionate amount of time that the District’s park and recreational facilities are used and enjoyed by individuals who are not residents, employees, customers or property owners in the District<sup>2</sup>. Research conducted by SCI Consulting Group of the park use in similar communities in California has found that between 5% and 10% of park and recreational facility usage in similar rural communities is by those who do not live, work or shop within the jurisdiction’s boundaries. For this Report, we shall use the average of 7.5%. When people outside the Assessment District use the park and recreation facilities, they diminish the availability of the park for people within the Assessment District. Therefore, another 5% of general benefits are allocated for people within the Assessment District.

Combining these measures of general benefits, we find that 18.3% of the benefits from the Improvements may be general benefits to the public at large and property in the Assessment District.

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### Total General Benefits

Using a sum of these three measures of general benefit, we find that approximately 30% of the benefits conferred by the Improvements may be general in nature and should be funded by sources other than the assessment.

<p>GENERAL BENEFIT =</p>
<p>9.7% (Outside the district)</p>
<p>+ 18.3% (Inside the district - indirect and derivative and Public at Large)</p>
<p>= <b>28%</b> (Total General Benefit)</p>

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<sup>2</sup> . When District facilities are used by those individuals, the facilities are not providing benefit to property within the District. Use under these circumstances is a measure of general benefit. For example, a non-resident who is drawn to utilize the District facilities and shops at local businesses while in the area would provide special benefit to business properties as a result of his or her use of the Improvements. Conversely, one who uses District facilities but does not reside, work, shop or own property within the District boundaries does not provide special benefits to any property and is considered to be a measure of the general benefits.

Although this analysis finds that 28% of the assessment may provide general benefits, the Assessment Engineer establishes a requirement for a minimum contribution from sources other than the assessments of 36%. This minimum contribution above the measure of general benefits will serve to provide additional coverage for any other general benefits.

The proposed Assessment District's total budget for installation, maintenance and servicing of the Improvements is \$697,450. Of this total budget amount, the District and other partner agencies and contributors will contribute \$501,876 from sources other than the assessments. This contribution equates to approximately 81.59% of the total budget for installation, maintenance and servicing and constitutes more than the 36% calculated above for general benefits.

### Zones of Benefit

The Assessment District is coterminous with the District boundaries. Eproson Park is centrally located so all parcels in the Assessment District are within close proximity to the Improvements. It therefore is appropriate to provide a District-wide Assessment District because all parcels benefit similarly.

In *SVTA v. SCCOSA*, the court noted that a local agency-wide assessment district is appropriate under the right conditions: "Thus, if an assessment district is narrowly drawn, the fact that a benefit is conferred throughout the district does not make it general rather than special. In that circumstance, the characterization of a benefit may depend on whether the parcel receives a direct advantage from the improvement (e.g., proximity to a park) or receives an indirect, derivative advantage resulting from the overall public benefits of the improvement (e.g., general enhancement of the district's property values)." The court therefore acknowledged the appropriateness of a District-wide assessment so long as each parcel receives a direct advantage from the assessment-funded improvement or service. As demonstrated in this engineer's report, in light of the small District size and the central location of the Improvements in the District, each parcel in the Assessment District receives a direct advantage and special benefit from the Improvements.

### Method of Assessment

As previously discussed, the assessments provide specific Improvements that confer direct and tangible special benefits to properties in the District. These benefits can partially be measured by the occupants on property in the District because such parcel population density is a measure of the relative benefit a parcel receives from the Improvements. Therefore, the apportionment of benefit is partially based the population density of parcels.

It should be noted that many other types of “traditional” assessments also use parcel population densities to apportion the assessments. For example, the assessments for sewer systems, roads and water systems are typically allocated based on the population density of the parcels assessed. Moreover, assessments have a long history of use in California and are in large part based on the principle that benefits from a service or improvement funded by assessments that is enjoyed by tenants and other non-property owners ultimately is conferred directly to the underlying property.<sup>3</sup>

The next step in apportioning assessments is to determine the relative special benefit for each property. This process involves determining the relative benefit received by each property in relation to a “benchmark” property, a single family detached dwelling on one parcel (one “Single Family Equivalent Benefit Unit” or “SFE”). This SFE methodology is commonly used to distribute assessments in proportion to estimated special benefits and is generally recognized as providing the basis for a fair and appropriate distribution of assessments. For the purposes of this Engineer’s Report, all properties are designated a SFE value, which is each property’s relative benefit in relation to a single family home on one parcel.

In the process of determining the appropriate method of assessment, the Engineer considered various alternatives. For example, an assessment only for residential improved property was considered but was determined to be inappropriate because commercial, industrial and other property also receive direct benefits from the Improvements.

Moreover, a fixed or flat assessment for all properties of similar type was deemed to be inappropriate because larger properties receive a higher degree of benefit than other similarly used properties that are significantly smaller. (For two properties used for commercial purposes, there is clearly a higher benefit provided to the larger property in comparison to a smaller commercial property because the larger property generally supports a larger building and has higher numbers of employees, customers and guests that would benefit from proximity and improved access to well maintained and improved parks and recreational facilities. So the potential population of employees or residents is a measure of the special benefits received by the property.) Larger parcels, therefore, receive an increased benefit from the assessments.

---

<sup>3</sup> For example, in *Federal Construction Co. v. Ensign* (1922) 59 Cal.App. 200 at 211, the appellate court determined that a sewer system specially benefited property even though the direct benefit was to the people who used the sewers: “Practically every inhabitant of a city either is the owner of the land on which he resides or on which he pursues his vocation, or he is the tenant of the owner, or is the agent or servant of such owner or of such tenant. And since it is the inhabitants who make by far the greater use of a city’s sewer system, it is to them, as lot owners or as tenants, or as the servants or agents of such lot owners or tenants, that the advantages of actual use will redound. But this advantage of use means that, in the final analysis, it is the lot owners themselves who will be especially benefited in a financial sense.”

Finally, the special benefits derived from the assessments are conferred on property and are not based on a specific property owner's use of the improvements, or a specific property owner's occupancy of property or the property owner's demographic status such as age or number of dependents. However, it is ultimately people who value the special benefits described above and use and enjoy the District's park and recreational facilities. In other words, the benefits derived to property are related to the average number of people who could potentially live on, work at, or otherwise could use a property, not how the property is currently used by the present owner. Therefore, the number of people who could or potentially live on, work at or otherwise use a property is one indicator of the relative level of benefit received by a property.

In conclusion, the Assessment Engineer determined that the appropriate method of assessment apportionment should be based on the type and use of property, the relative size of the property, its relative population and usage potential and its proximity to park and recreational facilities. This method is further described below.

---

### **Residential Properties**

Residential properties in the District that contain a single residential dwelling unit are assigned one Single Family Equivalent or 1.0 SFE. Detached or attached houses, zero-lot line houses and town homes are included in this category of single family residential property.

Properties with more than one residential unit are designated as multi-family residential properties. These properties benefit from the improvements in proportion to the number of dwelling units that occupy each property, the average number of people who reside in multi-family residential units versus the average number of people who reside in a single family home and the relative size of each type of residential dwelling unit. The population density factors for District, as depicted below, provide the basis for determining the SFE factors for residential properties. Using the total population in a certain property type in the area of the District from the 2000 Census and dividing it by the total number of such households, finds that approximately 2.50 persons occupy each single family residence, whereas an average of 2.33 persons occupy each condominium, 2.29 people per dwelling unit in a multi-family unit, and 2.06 persons per mobile home. These averages, shown in the table below, result in population density equivalent factors for each. Next the relative building areas are factored into the analysis because special benefits are related average size of a property, in addition to average population densities. For example, this calculation results in an SFE factor of 0.85 per dwelling unit for condominiums. As shown in Table 2 on the following page, a similar calculation is used for the SFE Rates for other the residential property types.

**Table 2 – Residential Population Factors**

	Total Population	Occupied Households	Persons per Household	Pop. Density Equivalent	SqFt Factor	SFE Rate
Single Family Residential	14,428	5,777	2.50	1.00	1.00	1.000
Condominium	543	233	2.33	0.93	0.92	0.8500
Multi-Family Residential	934	412	2.29	0.92	0.71	0.6500
Mobile Homes	1,737	844	2.06	0.82	0.50	0.4100

Source: 2000 Census, Tuolumne County Assessor

### Commercial/Industrial Properties

Commercial and industrial properties are generally open and operated for more limited times, relative to residential properties. Therefore, the relative hours of operation can be used as a measure of benefits, since employee density also provides a measure of the relative benefit to property. Since commercial and industrial properties are typically open and occupied by employees approximately one-half the time of residential properties, it is reasonable to assume that commercial land uses receive one-half of the special benefit on a land area basis relative to single family residential property.

The average size of a single-family home with 1.0 SFE factor in the District is 0.40 acres. Therefore, a commercial property with 0.40 acres receives one-half the relative benefit of a single-family home or a 0.50 SFE factor.

The SFE values for various commercial and industrial land uses are further defined by using average employee densities because the special benefit factors described previously are also related to the average number of people who work at commercial/industrial properties.

To determine employee density factors, this Report utilizes the findings from the San Diego County Association of Governments Traffic Generators Study (the "SANDAG Study") because these findings were approved by the State Legislature which determined the SANDAG Study to be a good representation of the average number of employees per acre of land area for commercial and industrial properties. As determined by the SANDAG Study, the average number of employees per acre for commercial and industrial property is 24. As presented in Table 2, the SFE factors for other types of businesses are determined relative to their typical employee density in relation to the average of 24 employees per acre of commercial property.

Commercial and industrial properties in excess of 5 acres generally involve uses that are more land intensive relative to building areas and number of employees (lower coverage ratios). As a result, the benefit factors for commercial and industrial property land area in excess of 5 acres is determined to be the SFE rate per .40 acres for the first 5 acres and the relevant SFE rate per each additional acre over 5 acres. Institutional properties that are used for residential, commercial or industrial purposes are also assessed at the appropriate residential, commercial or industrial rate.<sup>4</sup>

**Table 3 - Commercial/Industrial Density and Assessment Factors**

Type of Commercial/Industrial Land Use	Average Employees Per Acre <sup>1</sup>	SFE Units per Fraction Acre <sup>2</sup>	SFE Units per Acre After 5
Commercial	24	0.500	0.500
Office	68	1.420	1.420
Shopping Center	24	0.500	0.500
Industrial	24	0.500	0.500
Self Storage or Parking Lot	1	0.021	0.021
Golf Course	3	0.063	0.063

Notes:

<sup>1</sup> Source: San Diego Association of Governments Traffic Generators Study

<sup>2</sup> The SFE factors for commercial and industrial parcels are applied by 0.40 acre of commercial / industrial use land area or portion thereof. (Therefore, the minimum assessment for any assessable parcel in these categories is the SFE Units listed herein.)

### Vacant/Undeveloped Properties

The benefit to vacant properties is determined to be proportional to the corresponding benefits for similar type developed properties; however, at a lower rate due to the lack of Improvements on the property. A measure of the benefits accruing to the underlying land value of land in relation to Improvements for developed property. An analysis of the assessed valuation data from the County of Tuolumne found that approximately 30% of the assessed value of improved properties is classified as the land value. It is reasonable to assume, therefore, that approximately 30% of the benefits are related to the underlying land and 70% are related to the Improvements and the day-to-day use of the property. Using this ratio, the SFE factor for vacant/undeveloped parcels is 0.30 per parcel.

<sup>4</sup>. Benefits to commercial and industrial properties are deemed to be related to the area of parcels that are used for such purposes. In the event that a business/industrial parcel includes undeveloped land area that is clearly not related to the business/industrial use of the parcel, such unused land area shall not be included in the SFE benefit unit calculation.

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### Other Properties

Article XIID, Section 4 of the California Constitution states that publicly owned properties shall not be exempt from assessment unless there is clear and convincing evidence that those properties receive no special benefit.

All public properties that are specially benefited are assessed. Public right-of-way parcels, well, reservoir or other water rights parcels that cannot be developed into other improved uses offer similar public resource and open space benefits and/or typically do not generate employees, residents, customers or guests. Moreover, many of these parcels have limited economic value and, therefore, do not benefit from specific enhancement of property value. Such parcels are, therefore, not specially benefited and are not assessed.

Open space parcels, watershed parcels, parks, properties used for educational purposes, greenbelt lands without improvements and common areas typically offer open space and recreational areas on the property that serve to offset the benefits from the Assessment District. Therefore, these parcels receive minimal benefit and are assessed an SFE factor of 0. If such parcels are converted to residential or commercial use they shall be classified to such new use category and shall be assessed as previously described in this Report.

Other publicly owned property that is used for purposes similar to private residential, commercial, industrial or institutional uses is benefited and assessed at the same rate as such privately owned property.

### Appeals of Assessments Levied to Property

Any property owner who feels that the assessment levied on the subject property is in error as a result of incorrect information being used to apply the foregoing method of assessment may file a written appeal with the General Manager of the Twain Harte Community Services District or his or her designee. Any such appeal is limited to correction of an assessment during the then current fiscal year. Upon the filing of any such appeal, the General Manager or his or her designee will promptly review the appeal and any information provided by the property owner. If the General Manager or his or her designee finds that the assessment should be modified, the appropriate changes shall be made to the assessment roll. If any such changes are approved after the assessment roll has been filed with the County for collection, the General Manager or his or her designee is authorized to refund to the property owner the amount of any approved reduction. Any dispute over the decision of the General Manager or his or her designee shall be referred to the Board and the decision of the Board shall be final.

## Assessment

WHEREAS, this Engineer’s Report (the “Report”) has been prepared pursuant to the provisions of the Landscaping and Lighting Act of 1972 (the “Act”) and Article XIID of the California Constitution;

WHEREAS, the undersigned Engineer of Work has prepared and filed a report presenting an estimate of costs, a diagram for the assessment district and an assessment of the estimated costs of the Improvements upon all assessable parcels within the assessment district;

NOW, THEREFORE, the undersigned, by virtue of the power vested in me under the Act, Article XIID of the California Constitution and the order of the Board of the Twain Harte Community Services District, hereby make the following assessment to cover the portion of the estimated cost of the Improvements, and the costs and expenses incidental thereto to be paid by the assessment district.

The amount to be paid for the Improvements and the expenses incidental thereto, to be paid by the Assessment District for the fiscal year 2024-25 is generally as follows:

### Summary Cost Estimates

	<b>FY 2024-25 Budget</b>
Services Costs	\$89,623
Administrative Cost Allocation	\$78,547
Capital Expenses/Outlay	\$525,000
Incidental Expenses	\$4,280
<b>TOTAL BUDGET</b>	<b>\$697,450</b>
Less: District Contribution	(\$501,876)
Transfer To/(From) Reserve	(\$67,140)
<b>NET AMOUNT TO ASSESSMENTS</b>	<b>\$128,434</b>

As required by the Act, an Assessment Diagram showing the exterior boundaries of the Assessment District is hereto attached and incorporated herein by reference. The distinctive number of each parcel or lot of land in the Assessment District is its Assessor Parcel Number appearing on the Assessment Roll.



I do hereby assess and apportion the net amount of the cost and expenses of the Improvements, including the costs and expenses incident thereto, upon the parcels and lots of land within the Assessment District, in accordance with the special benefits to be received by each parcel or lot, from the Improvements, and more particularly set forth in the Estimate of Cost and Method of Assessment in the Report.

The assessment is subject to an annual adjustment tied to the Consumer Price Index-U for the San Francisco Bay Area as of December of each succeeding year (the "CPI"), with a maximum annual adjustment not to exceed 3%. Any change in the CPI in excess of 3% shall be cumulatively reserved as the "Unused CPI" and shall be used to increase the maximum authorized assessment rate in years in which the CPI is less than 3%. The maximum authorized assessment rate is equal to the maximum assessment rate in the first fiscal year the assessment was levied adjusted annually by the minimum of 1) 3% or 2) the change in the CPI plus any Unused CPI as described above.

The change in the CPI from December 2022 to December 2023 was 2.62% and the Unused CPI carried forward from the previous fiscal year is 3.71%. Therefore, the maximum authorized assessment rate for the fiscal year 2024-25 is increased by 3% which equates to \$79.28 per single-family equivalent benefit unit. The estimate of cost and budget in this Engineer's Report proposes assessments for the fiscal year 2024-25 at the rate of \$79.28, which is equal to the maximum authorized assessment rate.

The assessment is made upon the parcels or lots of land within the Assessment District in proportion to the special benefits to be received by the parcels or lots of land, from the Improvements.

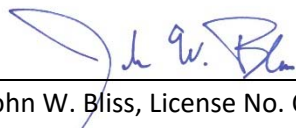
Each parcel or lot of land is described in the Assessment Roll by reference to its parcel number as shown on the Assessor's Maps of the County of Tuolumne for the fiscal year 2024-25. For a more particular description of the property, reference is hereby made to the deeds and maps on file and of record in the office of the County Recorder of the County.

I hereby place opposite the Assessor Parcel Number for each parcel or lot within the Assessment Roll, the amount of the assessment for the fiscal year 2024-25 for each parcel or lot of land within the Assessment District.

Dated: April 22, 2024



Engineer of Work

By  \_\_\_\_\_  
John W. Bliss, License No. C52091

## Exhibit A - Assessment Diagram

The Assessment District includes all properties within the boundaries of Twain Harte Community Services District, as defined by County Tax Rate Areas. The boundaries of the Assessment District are displayed on the following Assessment Diagram. The lines and dimensions of each lot or parcel within the Assessment District are those lines and dimensions as shown on the maps of the Assessor of the County of Tuolumne, for fiscal year 2024-25, and are incorporated herein by reference, and made a part of this Diagram and this Report.

FILED IN THE OFFICE OF THE SECRETARY OF THE BOARD OF THE TWAIN HARTE COMMUNITY SERVICES DISTRICT, COUNTY OF TUOLUMNE, CALIFORNIA, THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2024.

SECRETARY OF THE BOARD

RECORDED IN THE OFFICE OF THE SECRETARY OF THE BOARD OF THE TWAIN HARTE COMMUNITY SERVICES DISTRICT, COUNTY OF TUOLUMNE, CALIFORNIA, THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2024.

SECRETARY OF THE BOARD

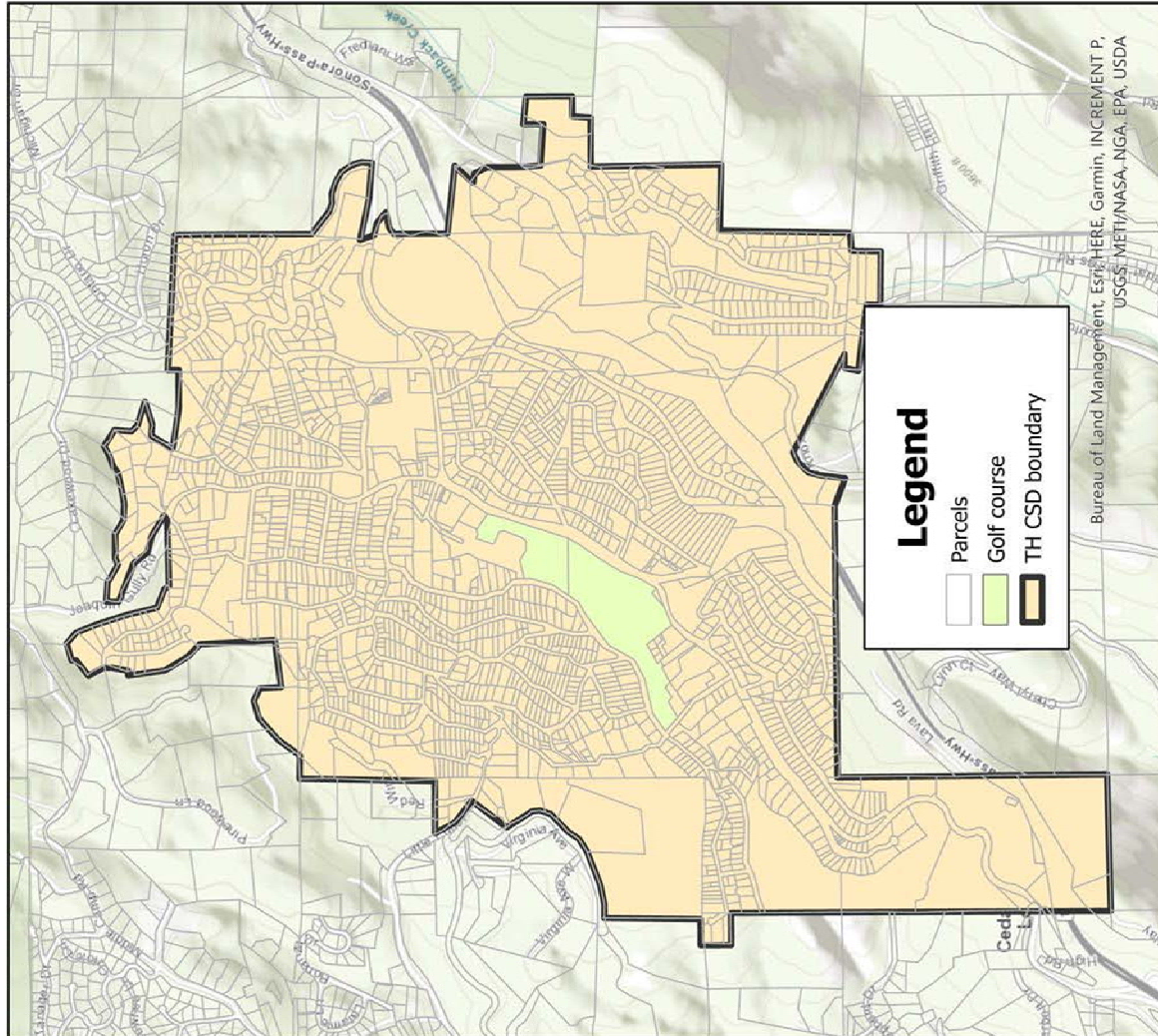
AN ASSESSMENT WAS CONFIRMED AND LEVIED BY THE BOARD OF THE TWAIN HARTE COMMUNITY SERVICES DISTRICT ON THE LOTS, PIECES AND PARCELS OF LAND ON THIS ASSESSMENT DIAGRAM ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2024 FOR THE FISCAL YEAR 2024-25 AND SAID ASSESSMENT DIAGRAM AND THE ASSESSMENT ROLL FOR SAID FISCAL YEAR WERE FILED IN THE OFFICE OF THE COUNTY AUDITOR OF THE COUNTY OF TUOLUMNE ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2024. REFERENCE IS HEREBY MADE TO SAID RECORDED ASSESSMENT ROLL FOR THE EXACT AMOUNT OF EACH ASSESSMENT LEVIED AGAINST EACH PARCEL OF LAND.

SECRETARY OF THE BOARD

FILED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2024 AT THE HOUR OF \_\_\_\_\_ O'CLOCK \_\_\_\_\_ M. IN THE COUNTY AUDITOR OF THE COUNTY OF TUOLUMNE, STATE OF CALIFORNIA, AT THE REQUEST OF THE BOARD OF DIRECTORS OF THE TWAIN HARTE COMMUNITY SERVICES DISTRICT.

COUNTY AUDITOR, COUNTY OF TUOLUMNE

Note: REFERENCE IS HEREBY MADE TO THE MAPS AND DEEDS OF RECORD IN THE OFFICE OF THE ASSESSOR OF THE COUNTY OF TUOLUMNE FOR A DETAILED DESCRIPTION OF THE LINES AND DIMENSIONS OF ANY PARCEL SHOWN HEREIN. THOSE MAPS SHALL GOVERN FOR ALL DETAILS CONCERNING THE LINES AND DIMENSIONS OF SUCH PARCELS. EACH PARCEL IS IDENTIFIED IN SAID MAPS BY ITS DISTINCTIVE ASSESSOR'S PARCEL NUMBER.



Bureau of Land Management, Esri, HERE, Garmin, INCREMENT P, USGS, METI/NASA, NGA, EPA, USDA

SCI Consulting Group  
4745 Nangele Blvd  
Fairfield, CA 94534

**TWAIN HARTE COMMUNITY SERVICES DISTRICT  
PARK AND RECREATION ASSESSMENT DISTRICT  
ASSESSMENT DIAGRAM**

## Exhibit B - Assessment Roll

An Assessment Roll (a listing of all parcels assessed within the Assessment District and the amount of the assessment) will be filed with the Secretary of the Board and is, by reference, made part of this Report and is available for public inspection during normal office hours.

Each lot or parcel listed on the Assessment Roll is shown and illustrated on the latest County Assessor records and these records are, by reference made part of this Report. These records shall govern for all details concerning the description of the lots or parcels.



# Board Meeting Agenda Item Summary

May 8, 2024

<b>ITEM #:</b>	<b>06D</b>	<b>ITEM TYPE:</b>	<input type="checkbox"/> Discussion <input type="checkbox"/> Action <input checked="" type="checkbox"/> Both
<b>SUBJECT:</b>	Discussion/action to adopt Resolution #24-14 - Intention to Continue Assessments for Fiscal Year 2024-25, Approval of Preliminary Engineer’s Report and Notice of Hearing for the Fire Protection and Emergency Response Services Assessment District.		
<b>RELATION TO STRATEGIC PLAN:</b>	<input checked="" type="checkbox"/> N/A <input type="checkbox"/> Advances Goal/Objective #'s: _____		

**RECOMMENDED ACTION:**

Adopt Resolution #24-14 – Intention to Continue Assessments for Fiscal Year 2024-25, Approval of Preliminary Engineer’s Report and Notice of Hearing for the Fire Protection and Emergency Response Services Assessment District.

**SUMMARY:**

In 2011, the District’s limited Fire Fund revenue was insufficient to provide adequate fire and emergency serves due to increased operational expenses and failing equipment. As a result, the District proposed the establishment of its Fire Protection and Emergency Response Services Assessment District special benefit assessment (Fire Protection Assessment). The Fire Protection Assessment was approved by a majority vote of property owners and was levied by the District’s Board of Directors on July 14, 2011, via Resolution #11-18. The voter-approved Fire Protection Assessment does not sunset and allows a maximum 4% annual adjustment based on the January Consumer Price Index (CPI) for the San Francisco Bay Area. The annual CPI adjustment is not automatic and is subject to the approval of the Board.

Since 2011, the Fire Protection Assessment has continued to provide annual Revenue to the Fire Fund to improve fire protection and emergency response services by helping to fund the cost of a full-time engine company.

A Fire Protection Assessment Engineer’s report is prepared each year to evaluate the Fire Fund’s budget requirements, the annual CPI adjustment, the maximum authorized assessment rate, and any changes to parcels within the assessment area. The Preliminary Engineer’s Report this year recommends that Fire Protection Assessment Rates be increased by 3.75% based combining January’s CPI value of 2.62% with the unused CPI carried forward from the previous fiscal year of 1.13%.

Based on the Fire Fund’s projected revenue needs for the coming year, staff recommends that the Board hold a public hearing to consider continuing the Fire Assessment with a 3.75% CPI adjustment.

**FINANCIAL IMPACT:**

With a 3.75% CPI adjustment, the Fire Protection Assessment is projected to generate \$389,586 revenue for the Fire Protection Fund in Fiscal Year 2024-25.

**ATTACHMENTS:**

- Resolution #24-14 – Intention to Continue Assessments for Fiscal Year 2024-25, Approval of Preliminary Engineer’s Report and Notice of Hearing for the Fire Protection and Emergency Response Services Assessment District.

**TWAIN HARTE COMMUNITY SERVICES DISTRICT  
RESOLUTION NO. 24-14**

**INTENTION TO CONTINUE ASSESSMENTS FOR FISCAL YEAR 2024-25,  
APPROVAL OF PRELIMINARY ENGINEER'S REPORT AND NOTICE OF HEARING  
FOR THE FIRE PROTECTION AND EMERGENCY RESPONSE SERVICES  
ASSESSMENT DISTRICT**

**WHEREAS**, on July 14, 2011, by its Resolution No. 11-18, after receiving a weighted majority of 54.85% of ballots in support of the proposed assessment, this Board ordered the formation of and levied the first assessment of the Twain Harte Community Services District Fire Protection and Emergency Response Assessment District within the Twain Harte Community Services District (the "District") pursuant to the provisions of Article XIID of the California Constitution, and Government Code Sections 50078 et. Seq.; and

**WHEREAS**, the first Engineer's Report for Fiscal Year 2011-12 described how the assessment district would be established, determined the uses of the assessment funds, established the methodology by which the assessments would be applied to properties in the District, established that the assessment is subject to an annual adjustment tied to the annual change in the Consumer Price Index for the San Francisco Bay Area, and stated that the assessment would continue year-to-year until terminated by the District Board of Directors; and

**WHEREAS**, although the methodology by which the assessments are applied to properties in the District does not change from year to year, a new Engineer's Report is prepared each year in order to establish the CPI adjustment for that year; the new maximum authorized assessment rate for that year; the budget for that year; and the amount to be charged to each parcel in the District that year, subject to that year's assessment rate and any changes in the attributes of the properties in the District, including but not limited to use changes, parcel subdivisions, and/or parcel consolidations; and

**WHEREAS**, SCI Consulting Group has filed with secretary of the Board of Directors of the Twain Harte Community Services District, a Preliminary Engineer's Report which contains: (a) a calculation of the portion of the services to be provided by the Assessment District that constitute a special benefit to the parcels in the District; (b) a methodology for assigning fire suppression, fire protection, fire prevention, emergency response and emergency services, basic hazardous materials response, and other services relating to the protection of lives and property ("Fire Services") to individual parcels; (c) a listing of each lot or parcel of property that would be subject to the Fire Services assessment including public parcels; (d) the amount of the proposed assessment for each lot or parcel for the 2024-25 fiscal year; and (e) an assessment diagram depicting the boundary of the Assessment District.

**NOW, THEREFORE, BE IT RESOLVED**, by the Board of Directors of the Twain Harte Community Services District, County of Tuolumne, State of California, that:

1. the Preliminary Engineer's Report is hereby received and filed; and

2. SCI Consulting Group, the Engineer of Work, has prepared an engineer's report in accordance with Article XIID of the California Constitution. The Report has been made, filed with the secretary of the board and duly considered by the Board and is hereby deemed sufficient and preliminarily approved. The Report shall stand as the Engineer's Report for all subsequent proceedings under and pursuant to the foregoing resolution.
3. It is the intention of this Board to continue and to collect assessments for the Fire Protection and Emergency Response Services Assessment for the fiscal year 2024-25. Within the Assessment District, the proposed services and equipment to be funded by the assessments ("Services") are generally described as including, but not limited to, the following: obtaining, furnishing, operating, and maintaining fire suppression, protection, and emergency services equipment and apparatus; payment of salaries, benefits and other compensation to fire fighting and fire prevention personnel; training and administration of volunteer personnel performing fire suppression, protection, and emergency services; hazardous material response; disaster preparedness; community fire prevention education and fire inspection.
4. The Assessments include a provision for an annual increase equal to the change in the San Francisco Bay Area Consumer Price Index ("CPI"), not to exceed 4% (four percent) per year without a further vote or balloting process. In the event that the annual change in the CPI exceeds 4.00%, any percentage change in excess of 4.00% can be cumulatively reserved and can be added to the annual change in the CPI for years in which the CPI change is less than 4.00%. The annual Bay Area CPI change as of December 2023 was 2.62% and the Unused CPI carried forward from the previous fiscal year is 1.13%. Therefore, the maximum authorized increase that may be levied in the fiscal year 2024-25 is 3.75%.
5. The estimated fiscal year 2024-25 cost of providing the Services is \$389,586. This cost results in a proposed assessment rate of TWO HUNDRED TWENTY-THREE AND NINTY CENTS (\$223.90) per single-family equivalent benefit unit for the fiscal year 2024-25. Therefore, the assessment rate proposed to be continued for Fiscal Year 2024-25 is \$223.90 which is the same as the maximum authorized rate. The maximum authorized assessment rate for Fiscal Year 2024-25 is \$223.90 per single-family equivalent benefit unit.
6. Notice is hereby given that on June 12, 2024, at 9:00 a.m. or as soon after as practical, at the Twain Harte Community Services District offices located at 22912 Vantage Pointe Drive, Twain Harte, California, 95383, the Board will hold a public hearing to consider the ordering of the continuation of the assessments for the fiscal year 2024-25.
7. The secretary of the board shall cause notice of the hearing to be given by publishing a notice, at least ten (10) days prior to the date of the hearing above specified, in a newspaper circulated in the District.

**PASSED AND ADOPTED** by the Governing Board of the Twain Harte Community Services District this 8th day of May 2024 by the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

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Gary Sipperley, Board President

---

Kimberly Silva, Board Secretary



FY 2024-25

# ENGINEER'S REPORT

## Twain Harte Community Services District Fire Protection and Emergency Response Services Assessment

May 2024  
Final Report

Engineer of Work:



4745 Mangels Boulevard  
Fairfield, California 94534  
707.430.4300  
[www.sci-cg.com](http://www.sci-cg.com)

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## Twain Harte Community Services District

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### **Board of Directors**

Gary Sipperley, President  
Eileen Mannix, Vice President  
Charlotte Bohlman, Director  
Mary Dearborn, Director  
Richard Knudson, Director

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### **General Manager**

Tom Trott

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### **Fire Chief**

Neil Gamez

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### **Secretary of the Board**

Kim Silva

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### **Assessment Engineer**

SCI Consulting Group

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## Introduction

The Twain Harte Community Services District (the "District") was formed in 1996 after the dissolution of the Tuolumne County Water District #1. The District maintains and operates one fire station, and currently has four full time employees and 17 volunteers. In addition to providing fire suppression and prevention, emergency response and emergency services, the District also provides basic hazardous materials response, and other services relating to the protection of lives and property.

The District is located in the rural foothills of Tuolumne County along Highway 108, and its service area encompasses approximately 3.6 square miles. The District includes the town of Twain Harte.

The District is governed by a five member Board of Directors that are elected by the general population within the District boundaries and serve four-year terms.

This Engineer's Report (the "Report") was prepared to:

- Describe the fire suppression, safety and emergency response services and equipment that would be funded by the assessments (the "Services")
- Establish a budget for the Services that would be funded by the proposed 2024-25 assessments
- Reiterate the benefits received from the Services by property within the Twain Harte Community Services District Fire Protection and Emergency Response Services Assessment (the "Assessment District") and
- Reiterate the method of assessment apportionment to lots and parcels within the Assessment District.

### Real Property Assessment Under Proposition 218

In 1996, Proposition 218 limited local government's ability to impose real property assessments in two significant ways. An assessment can be imposed only for a "special benefit" conferred on real property (art. XIII D, § 2, subd. (b)), and the assessment on any parcel must be in proportion to the special benefit conferred on the particular parcel. (Art. XIII D, § 4, subd. (a)) (*Silicon Valley Taxpayers Association, Inc. v. Santa Clara County Open Space Authority* (2008) 44 Cal.4<sup>th</sup> 431, 437.)

The special benefit and proportionality requirements are perhaps best understood as being interrelated, not separate, requirements. The proportionality requirement ensures that the *aggregate* assessment imposed on *all* parcels is distributed *among* all assessed parcels *in proportion* to the special benefits conferred on *each parcel*. (See *Town of Tiburon v. Bonander* (2009) 180 Cal.App.4th 1057, 1080–1085, 103 Cal.Rptr.3d 485 (*Tiburon*) [varying amounts assessed on district parcels for the costs of undergrounding utility lines violated the proportionality requirement because the amounts individually assessed were not based on the special benefits the undergrounding project would confer on each assessed parcel].) The special benefit requirement is thus part and parcel of the proportionality requirement. It is useful, however, to separately discuss special benefits in order to ascertain whether the public improvement or property related service underlying the assessment confers *any* special benefits on district parcels in the first place. (*Silicon Valley, supra*, 44 Cal.4th at pp. 450–456, 79 Cal.Rptr.3d 312, 187 P.3d 37 [discussing whether assessment to fund acquisition and maintenance of open space in County of Santa Clara conferred any special benefits on assessed properties].) (*Beutz v. County of Riverside* (2010) 184 Cal.App.4th 1516, 1522, 1523.)

## Special Benefits

The services provide both general benefits to the community and special benefits to particular properties, and the agency imposed an assessment based only on the special benefits. It separated the general benefits from the special benefits and secured other funding for the general benefits. (Art. XIID, § 4, subd. (a). (*Silicon Valley Taxpayers v. Santa Clara County Open Space Authority, supra*, 44 Cal.4th 431, 450.))

The assessment district was narrowly drawn; the fact that a benefit was conferred throughout the district did not make it general rather than special. The characterization of a benefit depended on whether the parcel received a direct advantage from the improvement (e.g., proximity to a park) or received an indirect, derivative advantage resulting from the overall public benefits of the improvement (e.g., general enhancement of the district's property values). (*Silicon Valley Taxpayers v. Santa Clara County Open Space Authority, supra*, 44 Cal.4th 431, 452, fn. 8.)

The purpose of an assessment was to require the properties which received a special benefit from a “public improvement” “to pay the cost of that improvement,” and not to fund an agency's ongoing budget. (*Silicon Valley Taxpayers v. Santa Clara County Open Space Authority, supra*, 44 Cal.4th 431, 457.)

A project confers a special benefit when the affected property receives a “direct advantage” from the improvement funded by the assessment. (*Silicon Valley, supra*, 44 Cal.4th at p. 452, fn. 8, 79 Cal.Rptr.3d 312, 187 P.3d 37.) By contrast, general benefits are “derivative and indirect.” (*Id.* at p. 453, 79 Cal.Rptr.3d 312, 187 P.3d 37.) The key is whether the asserted special benefits can be tied to particular parcels based on proximity or other relevant factors that reflect a direct advantage enjoyed by the parcel. (*Id.* at pp. 455–456, 79 Cal.Rptr.3d 312, 187 P.3d 37.) (*Tiburon v. Bonander* (2010) 180 Cal.App.4<sup>th</sup> 1057, 1077.)

The mere fact that a project or service has the effect of enhancing property values in a community does not necessarily mean those properties enjoy a special benefit. On the other hand, the prohibition against basing assessments on *general* property value enhancements does not mean any benefit that enhances property values is a general benefit. Nearly every assessment that confers a particular and distinct advantage on a specific parcel will also enhance the overall value of that property in some respect. Such an effect does not transform a special benefit into a general benefit. An increase in property value attributable to a project that provides a direct advantage to a particular property—instead of an indirect or derivative benefit—is a specific rather than a general enhancement in property value. Here, any enhancement in property values arises from specific benefits conferred on parcels in the Supplemental District. (*Tiburon v. Bonander, supra*, 180 Cal.App.4<sup>th</sup> 1057, 1079.)

When determining whether benefits are general or special, we must be mindful of the rationale for making the distinction. The purpose of limiting assessments to special benefits conferred on particular properties is to avoid having property owners in an assessment district pay for general benefits enjoyed by the public at large. Conversely, if a project confers particular and distinct benefits upon specific properties in an assessment district, it would be unfair to have taxpayers outside the assessment district pay for those benefits that specifically benefit only property owners within the district. (*Tiburon v. Bonander, supra*, 180 Cal.App.4<sup>th</sup> 1057, pp.1079-1080.)



Furthermore, the mere fact that properties throughout the District share the same special benefit does not render that benefit “general” and therefore an improper subject of an assessment. Section 2, subdivision (i) of article XIII D of the California Constitution specifies that a special benefit is a “particular and distinct benefit over and above general benefits conferred on real property located in the district....” As the court in *Silicon Valley* observed, in a properly drawn district—“limited to only parcels receiving special benefits from the improvement—every parcel within that district receives a shared special benefit.” (*Silicon Valley, supra*, 44 Cal.4th at p. 452, fn. 8, 79 Cal.Rptr.3d 312, 187 P.3d 37.) One might be tempted to characterize these shared special benefits as “general” because they are not “particular and distinct” or “over and above” the benefits conferred on other properties in the district. However, the Supreme Court stated it did not “believe that the voters intended to invalidate an assessment district that is narrowly drawn to include only properties directly benefitting from an improvement.” (*Ibid.*) As the court explained: “[I]f an assessment district is narrowly drawn, the fact that a benefit is conferred throughout the district does not make it general rather than special. In that circumstance, the characterization of a benefit may depend on whether the parcel receives a direct advantage from the improvement (e.g., proximity to a park) or receives an indirect, derivative advantage resulting from the overall public benefits of the improvement (e.g., general enhancement of the district’s property values).” (*Ibid.*) (*Tiburón v. Bonander, supra*, 180 Cal.App.4th 1057,1080.)

## Proportionality

“The proportionate special benefit derived by each identified parcel shall be determined in relationship to the entirety of the... property-related service being provided.” (*Silicon Valley Taxpayers v. Santa Clara County Open Space Authority, supra*, 44 Cal.4th 431, 443.)

Under subdivision (a) of section 4 of article XIII D, of the California Constitution, the assessment imposed on a parcel shall not “exceed the reasonable cost of the proportional special benefit conferred on that parcel.” But article XIII D does not require that the assessment *be no less than* the reasonable cost of the proportional special benefit conferred on that parcel. That is, article XIII D leaves local governments free to impose assessments that are less than the proportional special benefit conferred—in effect, to allow discounts. Moreover, nothing in article XIII D precludes local governments from allowing discounts across the board for all parcels in the assessment district or from allowing them selectively, for certain parcels in the district but not for others. (*Dahms v. Downtown Pomona Property* (2009) 174, Cal.App.4th 708, 716.)

“[A public entity must] meet its burden under article XIII D, section 4, subdivision (f) to demonstrate that the amounts of the contested assessments are proportional to, and no greater than, the benefits conferred on the properties in question.” (*Tiburón v. Bonander, supra*, 180 Cal.App.4th 1057,1080.)

For the sake of clarity, it must be emphasized that an assessment is not measured by the precise amount of special benefits enjoyed by the assessed property. (*White v. County of San Diego* (1980) 26 Cal.3d 897, 905, 163 Cal.Rptr. 640, 608 P.2d 728.) Instead, an assessment reflects costs allocated according to relative benefit received. As a general matter, an assessment represents the entirety of the cost of the improvement or property-related service, less any amounts attributable to general benefits (which may not be assessed), allocated to individual properties in proportion to the relative special benefit conferred on the property. (*Ibid.*; Art. XIII D, § 4, subd. (a).) Proportional special benefit is the “ ‘equitable, nondiscriminatory basis’ ” upon which a project's assessable costs are spread among benefited properties. (*White v. County of San Diego, supra*, at p. 905, 163 Cal.Rptr. 640, 608 P.2d 728.) Thus, the “reasonable cost of the proportional special benefit,” which an assessment may not exceed, simply reflects an assessed property's proportionate share of total assessable costs as measured by relative special benefits. (See Art. XIII D, § 4, subd. (a).) (*Tiburon v. Bonander, supra*, 180 Cal.App.4<sup>th</sup> 1057, 1081.)

The costs of an improvement project must be considered as a whole. A public improvement such as a utility undergrounding project is either undertaken in an entire district or not at all. In the hypothetical involving certain properties with higher construction costs, the neighboring properties enjoy the benefits of the undergrounding project *only* because the project was pursued in the entire assessment district, which necessarily includes the properties with higher construction costs. It is for this reason that the individual assessments for benefited properties must be apportioned in relation to the *entirety* of the project's assessable costs, as article XIII D requires. (Art. XIII D, § 4, subd. (a).) To reiterate, proportionate special benefit is the basis upon which a project's total assessable costs are apportioned among parcels within an assessment district. This method ensures that each property owner pays an equitable share of the overall assessable cost as measured by the relative special benefit conferred on the property. (*Tiburon v. Bonander, supra*, 180 Cal.App.4<sup>th</sup> 1057, 1083-1084.)

The court in *Dahms* stated that the formula for determining special benefit turned upon lot size and street frontage because some properties received “more special benefit than others.” (*Dahms v. Downtown Pomona Property* (2009) 174 Cal.App.4<sup>th</sup> 708, 720, 96 Cal.Rptr.3d 10.) Specifically rejecting an argument that the apportionment formula should have been based on the total length of streets bordering all sides of a business instead of the business's front street footage, the court explained that “[i]t makes sense to use front footage rather than total street length to determine the *proportional special benefit* that a parcel will derive from the services of the [business district] (e.g., increased security, litter removal, and graffiti removal). For example, a clean and safe front entrance to a commercial parcel is more likely to constitute a *special benefit* to that parcel than a clean and safe side or rear, where there may or may not be any entrance at all. At the same time, the City's formula also takes into account other measures (namely, building size and lot size) of each parcel's size and consequent *proportional special benefit*, and those other measures should compensate for any disproportionality that might have resulted from exclusive reliance on front footage.” (*Id.* at p. 721, 96 Cal.Rptr.3d 10, italics added.) The apportionment formula in *Dahms* turned on special benefits and not upon costs. (*Tiburon v. Bonander, supra*, 180 Cal.App.4<sup>th</sup> 1057, 1085.)

On September 22, 2011, the San Diego Court of Appeal issued a decision on the Golden Hill Neighborhood Association v. City of San Diego appeal. This decision overturned an assessment for street and landscaping maintenance in the Greater Golden Hill neighborhood of San Diego, California. The court described two primary reasons for its decision. First, like in *Beutz*, the court found the general benefits associated with services were not explicitly calculated, quantified and separated from the special benefits. Second, the court found that the City had failed to record the basis for the assessment on its own parcels.

### Compliance with Current Law

This assessment outlined in this Engineer’s Report is consistent current law because of the following elements of its design:

- The Assessment District (“District”) is narrowly drawn.
- Each parcel in the District receives a direct advantage from the improvement.
- The amount of the assessments has been calculated by and set at the amount of benefit to be received by each parcel.
- The special benefit derived by each identified parcel has been set as a proportional share of the entirety of the service being provided.
- General benefits (e.g., common roadways and indirect, derivative benefits to properties adjacent to but outside the District) have been segregated from special benefits to the parcels within the District, and specified other funding will be utilized for the general benefits.

## Baseline Level of Service

The District has been faced with difficulties in delivering its fire and emergency services primarily due to declining revenues and increasing operational expenses. In response to its decreased revenues, the District took several steps to decrease expenses, including keeping firefighters' salaries below average and using part-time staff whenever possible. In addition, the District had not replaced old equipment and vehicles that were in need of repair, and deferred some facility maintenance.

Even after taking these steps to reduce costs, expenses were still projected to exceed revenues. Therefore, the District projected that it would need to make additional cuts to its firefighting capabilities to bring its operational costs in line with revenues. The additional cuts that would be necessary, absent a new revenue source, were eliminating one full-time professional firefighter position starting in fiscal year 2011-12, and a second one in fiscal year 2012-13. This reduced level of service after these cuts, would be the level of service the District would be able to provide in future years, absent approval of the new assessment. In this Report, this reduced level of service, absent the new assessment, was defined as the "Baseline" level of Service.

## Assessment Process

In Fiscal Year 2010-11, the Twain Harte Community Service District Board of Directors (the "Board") by Resolution No. 11-09 passed on April 14, 2011, called for an assessment ballot proceeding and public hearing on the proposed establishment of a fire protection and emergency services assessment district. The new assessment was proposed in order to fund the cost of the engine company and thereby improve Services for property in the Assessment District. The Report was prepared to quantify a new benefit assessment that would provide funding for Services within the Assessment District.

On April 14, 2011, the Board approved Resolution No. 11-09, and a notice of assessment and assessment ballot was mailed to property owners within the proposed Assessment District boundaries. Such notice included a description of the Services to be funded by the proposed assessments, a proposed assessment amount for each parcel owned, and an explanation of the method of voting on the assessments. Each notice also included a postage prepaid ballot on which the property owner could mark his or her approval or disapproval of the proposed assessments as well as affix his or her signature.

After the ballots were mailed to property owners in the Assessment District, the required minimum 45 day time period was provided for the return of the assessment ballots. Following this 45 day time period, a public hearing was held on July 14, 2011 for the purpose of allowing public testimony regarding the proposed assessments. At the public hearing, the public had the opportunity to speak on the issue.

It was determined that the assessment ballots submitted in opposition to the proposed assessments did not exceed the assessment ballots submitted in favor of the assessments (weighted by the proportional financial obligation of the property for which ballots were submitted). Of the ballots received, 54.85% were in support of the proposed assessments.

As a result, Board gained the authority to approve the levy of the assessments for fiscal year 2011-12 and to continue to levy them in future years. The Board took action, by Resolution No. 11-18 passed on July 14, 2011, to approve the first year levy of the assessments for fiscal year 2011-12.

The authority granted by the ballot proceeding was for a maximum assessment rate of \$150.00 per single family home, increased each subsequent year by the San Francisco Bay Area Consumer Price Index (CPI) not to exceed 4% per year. In the event that the annual change in the CPI exceeds 4%, any percentage change in excess of 4% can be cumulatively reserved and can be added to the annual change in the CPI for years in which the CPI change is less than 4%.

In each subsequent year for which the assessments will be continued, the Board must preliminarily approve at a public meeting a budget for the upcoming fiscal year's costs and services, an updated annual Engineer's Report, and an updated assessment roll listing all parcels and their proposed assessments for the upcoming fiscal year. A new Engineer's Report is prepared each year in order to establish the CPI adjustment for that year; the new maximum authorized assessment rate for that year; the budget for that year; and the amount to be charged to each parcel in the District that year, subject to that year's assessment rate and any changes in the attributes of the properties in the District, including but not limited to use changes, parcel subdivisions, and/or parcel consolidations. At this meeting, the Board will also call for the publication in a local newspaper of a legal notice of the intent to continue the assessments for the next fiscal year and set the date for the noticed public hearing. At the annual public hearing, members of the public can provide input to the Board prior to the Board's decision on continuing the services and assessments for the next fiscal year.

If the assessments are so confirmed and approved, the assessments will be submitted to the Tuolumne County Auditor/Controller for inclusion on the property tax roll for Fiscal Year 2024-25. The assessments will continue year-to-year until terminated by the District Board of Directors.

The fiscal year 2024-25 assessment budget includes outlays for supplies, firefighter salaries, and other fire suppression and protection programs. If the Board approves this Engineer's Report for fiscal year 2024-25 and the assessments by Resolution, a notice of assessment must be published in a local paper at least 10 days prior to the date of the public hearing. Following the minimum 10-day time period after publishing the notice, a public hearing will be held for the purpose of allowing public testimony about the proposed continuation of the assessments for fiscal year 2024-25.

The public hearing is currently scheduled for June 12, 2024. At this hearing, the Board would consider approval of a resolution confirming the assessments for fiscal year 2024-25. If so confirmed and approved, the assessments would be submitted to the Tuolumne County Auditor/Controller for inclusion on the property tax rolls for Fiscal Year 2024-25.

## Description of Services

The Twain Harte Community Services District provides a range of fire suppression, protection, prevention, and educational services to its residents. The Services to be undertaken by the District and the cost thereof paid from the continued levy of the annual assessment will provide special benefit to Assessor Parcels within the Assessment District as defined in the Method of Assessment herein.

Following is a description of the Services that are provided for the direct benefit of property in the Assessment District. With the passage of this assessment, the fire protection and emergency medical services within the Assessment District were enhanced significantly above the Baseline level of service, and such Services are all over and above what otherwise would be provided. The formula below describes the relationship between the final level of services, the Baseline level of service if the assessment is not instituted, and the enhanced level of services funded by the assessment.

$$\text{Final Level of Improvements} = \text{Baseline Level of Improvements} + \text{Enhanced Level of Improvements}$$

In addition to the definitions provided by the Code, the Services to be funded by the Assessment District are generally described as follows: salaries and benefits of firefighting personnel, fire protection and emergency services equipment and apparatus; and direct costs, training and administration of volunteer firefighting personnel.

The Assessment District will also contribute to cover the general costs of administering the District, its facilities and operations, as well as the salaries and benefits of firefighting personnel who provide fire suppression, protection and emergency services to parcels, improvements or property in the Assessment District.

## Cost and Budget

The following budget lists the expenditures to be funded by the Assessment District in Fiscal Year 2024-25.

**Table 1 - Cost and Budget**

Twain Harte Community Services District Improved Fire Protection and Emergency Response Assessment Estimate of Cost Fiscal Year 2024-25			<i>Total Budget</i>
Beginning Fund Balance			\$0
Fire and Emergency Response Services Expenditures			
<b>Services Costs</b>			<b>\$1,315,603</b>
Salaries and Employee Benefits	\$1,038,803		
Maintenance and Repairs	\$118,600		
Materials and Supplies	\$10,800		
Outside Services	\$26,000		
Utilities, Prop/Liab Ins, TUD, etc.	\$121,400		
Debt Service	\$0		
<b>Administrative Cost</b>			<b>\$140,824</b>
<b>Capital Expenses/Outlay</b>			<b>\$311,000</b>
Total Service, Administrative and Capital Expenditures			<b>\$1,767,427</b>
Additional Expenditures <sup>1</sup>			
Allowance for Uncollectable Assessments		\$3,985	
County Collection, Levy Administration, and Other Incidentals		\$4,280	
Total Additional Expenditures			<b>\$8,265</b>
Total Service, Administrative, Capital and Additional Expenditures			<b>\$1,775,692</b>
Total Benefit of Services and Related Expenses			\$1,775,692
SFE Units			1740.00
Benefit received per Single Family Equivalent Unit			\$1,020.51
Less:			
District Contribution for General Benefits		(\$161,588)	
District Contribution toward Special Benefits		(\$1,083,060)	
Transfers to (from) reserves		(\$141,458)	
Total Revenue from Other Sources <sup>2</sup>			(\$1,386,106)
Net Cost of Fire Suppression & Protection Costs			<b>\$389,586</b>
Total Fire Suppression & Protection Costs to Assessment (Net Amount to be Assessed)			<b>\$389,586</b>
Budget Allocation to Property			
	Total SFE Units <sup>4</sup>	Assessment per SFE	Total Assessment
	1,740	\$223.90	\$389,586



## Method of Apportionment

### Method of Apportionment

This section includes an explanation of the special benefits to be derived from the Services, the criteria for the expenditure of assessment funds and the methodology used to apportion the total assessments to properties within the Assessment District.

The Assessment District area consists of all Assessor Parcels within the Twain Harte Community Services District, including all parcels within the Town of Twain Harte of Tuolumne County. The method used for apportioning the assessment is based upon the proportional special benefits from the Services to be received by the properties in the assessment area over and above general benefits conferred on real property not subject to assessment (such as public roads) or to the public at large. Special benefit is calculated for each parcel in the Assessment District using the following process:

1. Identification of all benefit factors derived from the Services
1. Calculation of the proportion of these benefits that are general
2. Determination of the relative special benefit within different areas within the Assessment District
3. Determination of the relative special benefit per property type
4. Calculation of the specific assessment for each individual parcel based upon special vs. general benefit; location, property type, property characteristics, improvements on property and other supporting attributes

### Discussion of Benefit

California Government Code Section 50078 et. seq. allows agencies which provide fire suppression services, such as Twain Harte Community Services District of Tuolumne County to levy assessments for fire suppression services. Section 50078 states the following:

*“Any local agency which provides fire suppression services directly or by contract with the state or a local agency may, by ordinance or by resolution adopted after notice and hearing, determine and levy an assessment for fire suppression services pursuant to this article.”*

In addition, California Government Code Section 50078.1 defines the term “fire suppression” as follows:

*"(c) "Fire suppression" includes firefighting and fire prevention, including, but not limited to, vegetation removal or management undertaken, in whole or in part, for the reduction of a fire hazard."*

Therefore, the Services to be provided by the Assessment District fall within the scope of services that may be funded by assessments under the Code.

The assessments can only be levied based on the special benefit to property. This benefit is received by property over and above any general benefits. Moreover, such benefit is not based on any one property owner's specific use of the Services or a property owner's specific demographic status. With reference to the requirements for assessments, Section 50078.5 of the California Government Code states:

*"(b) The benefit assessment shall be levied on a parcel, class of improvement to property, or use of property basis, or a combination thereof, within the boundaries of the local agency, zone, or area of benefit."*

*"The assessment may be levied against any parcel, improvement, or use of property to which such services may be made available whether or not the service is actually used."*

Proposition 218, as codified in Article XIID of the California Constitution, has confirmed that assessments must be based on the special benefit to property:

*"No assessment shall be imposed on any parcel which exceeds the reasonable cost of the proportional special benefit conferred on that parcel."*

Since assessments are levied on the basis of special benefit, they are not a tax and are not governed by Article XIII A of the California Constitution.

The following section describes how and why the Services specially benefit properties. This benefit is particular and distinct from its effect on property in general or the public at large.

## Benefit Factors

In order to allocate the assessments, the Engineer identified the types of special benefit arising from the Services that will be provided to property in the Assessment District. These benefit factors must confer a direct advantage to the assessed properties; otherwise they would be general benefit.

The following benefit categories have been established that represent the types of special benefit conferred to residential, commercial, industrial, institutional and other lots and parcels resulting from the improved fire protection and emergency response services that will be provided in the Assessment District. These types of special benefit, which clearly enhance the utility and desirability of property and make them more functional to use, are summarized as follows:

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### **Protection of real property assets and occupants from fires, fire damage and property loss**

The Assessments will fund improved fire protection and emergency response services, and thereby will reduce the risk of property damage associated with fires for property in the Assessment District. This is a direct and tangible special benefit to property in the Assessment District.

*“Over 140,000 wildfires occurred on average each year, burning a total of almost 14.5 million acres. And since 1990, over 900 homes have been destroyed each year by wildfires.”<sup>[i]</sup>*

*“Fire is the largest single cause of property loss in the United States. In the last decade, fires have caused direct losses of more than \$120 billion and countless billions more in related cost.”<sup>[ii]</sup>*

*“The strategies and techniques to address fire risks in structures are known. When implemented, these means have proven effective in the reduction of losses.”<sup>[iii]</sup>*

*“Statistical data on insurance losses bears out the relationship between excellent fire protection...and low fire losses.”<sup>[iv]</sup>*

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### **Prompt response to fires and emergencies directly to any property in the Assessment District and direct delivery of fire and emergency services to any property in the Assessment District**

The Enhanced Services funded by the Assessments will be directly provided for and received by property in the Assessment District. These Enhanced Services will result in an improved and more effective response to fires and other emergencies, thereby enhancing the protection of property and reducing the risk of property damage associated with fires. Such improved fire protection services are a tangible and direct advantage that will be received by properties in the Assessment District.

*“A reasonably disaster-resistant America will not be achieved until there is greater acknowledgment of the importance of the fire service and a willingness at all levels of government to adequately fund the needs and responsibilities of the fire service.”<sup>[v]</sup>*

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### **Protection of the use of property and use of improvements on property and protection of the life and safety of occupants of property**

The Enhanced Services funded by the Assessments will allow the District to respond to fires and emergencies much more promptly and with more appropriate levels of firefighters and resources in comparison to the Baseline Level of Service. Prompter and more effective responses will better protect the use of property and the life and safety of occupants. This is another direct special benefit from the Assessments.

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### **Enhanced access to properties in the Assessment District, and utility of such properties.**

As noted, the Assessments will fund improved fire protection and emergency response services in the Assessment District. In addition to preventing damage to property from fires, the Assessments will also protect access to property, because fires can impede or prevent access to property. Furthermore, the Enhanced Services will enhance the utility of the properties in the Assessment District because safer properties are more functional, usable and desirable. These are additional direct benefits to property in the Assessment District that are not received by other properties or the public at large because the Enhanced Services will be provided for properties in the Assessment District.

### **Benefit Finding**

In summary, real property located within the boundaries of the Assessment District distinctly and directly benefits from the availability and delivery as needed of the Enhanced Services to any property from fire damage; the increased safety of real property, protection of the use and utility of property; and enhanced access and utility of properties in the Assessment District. These are special benefits to property in much the same way that sewer and water facilities, sidewalks and paved streets enhance the utility and desirability of property and make them more functional to use, safer and easier to access for occupants.

### **General Versus Special Benefit**

Article XIII C of the California Constitution requires any local agency proposing to increase or impose a benefit assessment to “separate the general benefits from the special benefits conferred on a parcel.” The rationale for separating special and general benefits is to ensure that property owners subject to the benefit assessment are not paying for general benefits. The assessment can fund special benefits but cannot fund general benefits. Accordingly, a separate estimate of the special and general benefit is given in this section.

In other words:

<b>Total Benefit</b>	<b>=</b>	<b>General Benefit</b>	<b>+</b>	<b>Special Benefit</b>
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There is no widely-accepted or statutory formula for general benefit. General benefits are benefits from improvements or services that are not special in nature, are not “particular and distinct” and are not “over and above” benefits received by other properties. The decision in *SVTA vs. SCCOSA* provides some clarification by indicating that general benefits provide “an indirect, derivative advantage” and are not necessarily proximate to the improvements.

In this report, the general benefit is conservatively estimated and described, and then budgeted so that it is funded by sources other than the assessment.

The starting point for evaluating general and special benefits is the 2011 baseline level of service, if the assessment is not approved by the community. The assessment will fund Services “over and above” this general, baseline level and the general benefits estimated in this section are over and above the baseline.

A formula to estimate the general benefit is listed below:

<b>General Benefit</b>	=	<b>Benefit to real property outside of improvement district</b>	+	<b>Benefit to real property inside of improvement district</b>	+	<b>Benefit to public at large</b>
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Special benefit, on the other hand, is defined in the State Constitution as “a particular and distinct benefit over and above general benefits conferred on real property located in the district or to the public at large.” The *SVTA v. SCCOSA* decision indicates that a special benefit is conferred to a property if it “receives a direct advantage from the improvement (e.g., proximity to a park).” In this assessment, as noted, the improved Services will be available when needed to all properties in the Assessment District, so the overwhelming proportion of the benefits conferred to property is special, and there are only minimal benefits that will be received by property outside the Assessment District or the public at large.

It should be noted that in the 2009 *Dahms* case, the court ruled that an assessment was properly considered to be an 100% special benefit because the services funded by the assessments were directly provided only to property in the assessment district. Similar to the assessments in Pomona that were approved in *Dahms*, the Assessments described in this Engineer’s Report fund fire suppression services directly provided only to property in the assessment area. Moreover, every property within the Assessment District will receive the Services if and when a fire occurs. Although the court in *Dahms* found a zero general benefit determination to be acceptable, this report calculates the general benefit more conservatively and then that general benefit is budgeted so that it is funded by sources other than the Assessment.

In the 2010 *Beutz* Case, the Appellate Court overturned an assessment for parks in Wildomar, California based upon to the lack of a specific quantification of the general benefit(s) in the Engineer’s Report. As a part of this decision, the court indicated that “virtually all public improvement projects provide general benefits.” At first review, this statement and decision seem to contradict the 2009 *Dahms* decision which upheld an assessment with a 100% special benefit finding. However, the *Beutz* decision concludes by clarifying that the specific facts of *Dahms* are fundamentally different from *Beutz* – and the two decisions do not contradict one another. Essentially, in assessment(s), like in the *Dahms* case (and the Assessment described in this Report), the improvements and services provided within each District are specifically provided to and intended for the assessed parcels only. (The Wildomar assessment in the *Beutz* case, on the other hand, supports improvements and services for area parks only, which arguably have an inherent use by, and benefit to, the general public.)

Proposition 218 twice uses the phrase “over and above” general benefits in describing special benefit. (Art. XIID, sections 2(i) & 4(f).) Arguably, all of the Services being funded by the assessment would be a special benefit because the Services would particularly and distinctly benefit the properties in the Assessment District over an only to properties in the Assessment District.

Nevertheless, some of the Services could benefit the public at large and properties outside the Assessment District. In this report, the general benefit is conservatively estimated and described, and then budgeted so that it is funded by sources other than the assessment.

### Calculating General Benefit

This section provides a measure of the general benefits from the assessments.

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### Benefit to Property Outside the Assessment District

Properties within the Assessment District receive almost all of the special benefits from the Services because the Services will be provided solely in the Assessment District boundaries.<sup>1</sup> Properties proximate to, but outside of, the boundaries of the Assessment District receive some benefit from the Services due to some degree of indirectly reduced fire risk to their property. These parcels that are proximate to the boundaries of the Assessment District are estimated to receive less than 50% of the benefits relative to parcels within the Assessment District because they do not directly receive the improved fire protection resulting from the Services funded by the Assessments.

At the time the Assessment District was formed, the Assessment Engineer, using the Geographic Information System parcel map, counted the number of parcels proximate to the Assessment District boundary but outside the Assessment District, and thereby determined that there were approximately 130 of these “proximate” properties.

CRITERIA:

130 PARCELS OUTSIDE THE DISTRICT BUT PROXIMATE TO THE DISTRICT BOUNDARIES  
 1,863 PARCELS IN THE ASSESSMENT DISTRICT  
 50% RELATIVE BENEFIT COMPARED TO PROPERTY WITHIN THE ASSESSMENT DISTRICT

CALCULATION:

GENERAL BENEFIT TO PROPERTY OUTSIDE THE ASSESSMENT DISTRICT =  
 $130 / (1,863 + 130) * .5 = 3.3\%$

Although it can reasonably be argued that properties protected inside, but near the Assessment District boundaries are offset by similar fire protection provided outside the District boundaries, we use the more conservative approach of finding that 3.3% of the Services may be of general benefit to property outside the Assessment District.

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<sup>1</sup> It should be noted that the Services may, at times, be used outside the District boundaries. However, this use is part of a mutual aid agreement and would be offset by the provision of Services by other agencies within the Assessment District boundaries.

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### **Benefit to Property *Inside* the District that is *Indirect and Derivative***

The “indirect and derivative” benefit to property within the Assessment District is particularly difficult to calculate. A solid argument can be presented that all benefit within the Assessment District is special, because the Services are clearly “over and above” and “particular and distinct” when compared with the baseline level of fire suppression and fire protection services had the Assessment District not passed.

In determining the Assessment District area, the District has been careful to limit it to an area of parcels that will directly receive the benefit of the improved Services. All parcels will directly benefit from the use of the improved Services throughout the Assessment District in order to maintain the same improved level of fire suppression and protection throughout the area. Fire protection and suppression will be provided as needed throughout the area. The shared special benefit - reduced severity and number of fires - will be received on an equivalent basis by all parcels in the Assessment District. Furthermore, all parcels in the Assessment District would directly benefit from the ability to request service from the District and to have a District firefighter promptly respond directly to the parcel and address the owner’s or resident’s service need.

The *SVTA vs. SCCOSA* decision indicates that the fact that a benefit is conferred throughout the Assessment District area does not make the benefit general rather than special, so long as the Assessment District is narrowly drawn and limited to the parcels directly receiving shared special benefits from the service. This concept is particularly applicable in situations involving a landowner-approved assessment-funded extension or improvement of a local government service to benefit lands. Therefore, other than the small general benefit to properties outside the Assessment District (discussed above) and to the public at large (discussed below), all of the benefits of the Services to the parcels within the Assessment District are special benefits.

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### **Benefit to the Public At Large**

Because the Services will be available to and provide for all of the property in the Assessment District, the *Dahms* decision provides a clear basis for a finding of zero general benefit conferred on the public at large. Nevertheless, to establish a more conservative measure, any general benefit to the public at large is quantified in the following paragraph:



The public at large uses the public highways, streets and sidewalks, and when traveling in and through the Assessment District and they may benefit from the services without contributing to the assessment. Although the protection of this critical infrastructure is certainly a benefit to all the property within the district, it is arguably “indirect and derivative”. A reasonable and appropriate measure of the general benefit to the public at large therefore is the amount of highway, street and sidewalk area within the Assessment District relative to the overall land area. An analysis of maps of the Assessment District shows that approximately 5.8% of the land area in the Assessment District is covered by highways, streets and sidewalks. This 5.8% therefore is a reasonable quantified measure of the general benefit to the public at large within the Assessment District.

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### Summary of General Benefits

Using a sum of the measures of general benefit for the public at large and land outside the Assessment Area, we find that approximately 9.1% of the benefits conferred by the Fire Protection and Emergency Response Assessment may be general in nature and should be funded by sources other than the assessment.

<p>GENERAL BENEFIT =</p> <p>3.3 % (OUTSIDE THE DISTRICT)</p> <p>+ 0.0 % (INSIDE THE DISTRICT - INDIRECT AND DERIVATIVE)</p> <p>+ 5.8 % (PUBLIC AT LARGE)</p> <p><b>= 9.1 % (TOTAL GENERAL BENEFIT)</b></p>
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Although this analysis supports the findings that 9.1% of the assessment may provide general benefits, this number is increased by the Assessment Engineer to 10% to conservatively ensure that no assessment revenue is used to support general benefit. This additional amount allocated to general benefit also covers general benefit to parcels in the Assessment Area if it is later determined that there is some general benefit conferred on those parcels.

The Assessment District’s budget for 2024-25 is \$1,775,692. The District will contribute approximately \$1,244,648 for fire suppression, fire protection and emergency response services and administrative services costs from revenue sources other than this Fire Protection and Emergency Response Services Assessment. This contribution constitutes significantly more than the 10% calculated above for general benefits, plus an additional 10% allocation for time used on non-fire related services as estimated by the Assessment Engineer.

## Zones of Benefit

The assessment area is small and is readily served by a single fire station. The National Fire Protection Association (NFPA) has adopted a standard of response time equal to six minutes. All parcels in the Assessment District will be served within this NFPA response standard. Therefore, all properties will receive substantially the same level of benefit and this Assessment District has been drawn to include the entire area; no zones within the district have been designated.

In *SVTA v. SCCOSA*, the court noted that a local agency-wide assessment district is appropriate under the right conditions: “Thus, if an assessment district is narrowly drawn, the fact that a benefit is conferred throughout the district does not make it general rather than special. In that circumstance, the characterization of a benefit may depend on whether the parcel receives a direct advantage from the improvement (e.g., proximity to a park) or receives an indirect, derivative advantage resulting from the overall public benefits of the improvement (e.g., general enhancement of the district's property values).” The court therefore acknowledged the appropriateness of a District-wide assessment so long as each parcel receives a direct advantage from the assessment-funded improvement or service.

As demonstrated in this engineer’s report, the assessments will fund improved fire suppression and protection services relatively uniformly throughout the Assessment District, and the Assessment District boundaries have been narrowly drawn to only include the parcels that directly receive the Services. It therefore is appropriate to provide a District-wide Assessment District without zones of benefit because all parcels of similar type and features benefit similarly and will receive a direct advantage from the Services.

## Assessment Apportionment

In the process of determining the appropriate method of assessment, the Assessment Engineer considered various alternatives. For example, an assessment only for all residential improved property was considered but was determined to be inappropriate because vacant, commercial, industrial and other properties also receive special benefits from the assessments.

Moreover, a fixed or flat assessment for all properties of similar type was deemed to be inappropriate because larger commercial/industrial properties and residential properties with multiple dwelling units receive a higher degree of benefit than other similarly used properties that are significantly smaller. For properties used for commercial purposes, there clearly is a higher benefit provided to a larger commercial property than to a smaller commercial property because the larger property generally supports a larger building and has higher numbers of employees, customers and guests that would benefit from improved fire protection and emergency response services. This benefit ultimately flows to the property. Larger parcels, therefore, receive an increased benefit from the assessments.

The Assessment Engineer determined that the appropriate method of assessment should be based on the type of property, the relative risk of fire by type of property, the relative size of the property, and the relative damage value of fires by property type. This method is further described below.

## Method of Assessment

The next step in apportioning assessments is to determine the relative special benefit for each property. This process involves determining the relative benefit received by each property in relation to a "benchmark" property, a single family detached dwelling on one parcel (one "Single Family Equivalent Benefit Unit" or "SFE"). This SFE methodology is commonly used to distribute assessments in proportion to estimated special benefits and is generally recognized as providing the basis for a fair and appropriate distribution of assessments. In this Engineer's Report, all properties are assigned an SFE value, which is each property's relative benefit in relation to a single family home on one parcel.

The relative benefit to properties from fire related services is:

### Equation 1 – Relative Benefit to Properties

$$\text{Benefit} \approx \sum (\text{Fire Risk Factors}) * \sum (\text{Structure Value Factors})$$

That is, the benefit conferred to property is the "sum" of the fire risk factors multiplied by the "sum" of the structure replacement factors, and then normalized by average areas.

### Fire Risk Factors

Typical fire assessments are evaluated based upon the fire risk of a certain property type. These evaluations consider factors such as use of structure (e.g. used for cooking), type of structure (centralized heating), etc.

In 2003, the National Fire Protection Association (“NFPA”), one of the pre-eminent authorities on fire protection in the United States, published the 2003 US Fire Problem Overview Report. This report comprehensively tabulates the number of fires for each property type within the United States in the year 1999, and serves as a reasonable and rational basis to determine fire risk.

The number of fires for each property type is then divided by the total number of that property type to determine un-normalized fire risk factor. Finally, the risk factors are normalized based upon a factor of 1.00 for a single family property. Table 2 below tabulates the Fire Risk Factors for each property type.

**Table 2 – Fire Risk Factors**

Property Type	Normalized Fire Risk Factors
Single Family	1.0000
Multi-Family & Condo	1.8769
Mobile Home	0.6028
Commercial/Industrial	0.9982
Office	0.3571
Institutional	0.9675
Storage	2.8916
Vacant	0.2221
Agriculture - Orchards & Vineyards	0.3796
Agriculture - Rice & Flood Irrigation	0.3796
Agriculture - Pasture & Row Crops	0.3451
Agriculture - Dairy, Livestock, Animals	0.3106
Range Land & Open Space	0.0598

Analysis based upon: 2003 US Fire Problem Overview Report, NFPA

**Structure Replacement Factors**

The relative replacement factors of different property types were evaluated within the District area to determine the Structure Replacement Factors according to the following formula:

**Equation 2 - Structure Replacement Factors**

$\sum (\text{Structure Replacement Factors})$	$\approx$	$f$ (Structure Weighting Factor, Average Improved Value, Structure Replacement Factor) $+f$ (Land Weighting Factor, Average Total Value) $*$ (Adjustment Factor)
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Where:

- “Structure Weighting Factor” = 10 to “weight” relative importance of structure over land.
- "Structure Replacement Factor" is based upon the replacement cost per property type, and the adjusted structure square footage per property type, as provided by the County Assessor records.
- “Average Improved Value” is average of value of all improvements (e.g. structures), per property type, as provided by County Assessor records. It is used as a reference only and the Structure Replacement Value is not derived from it.
- Land Weighting Factor = 1
- “Average Total Value” is average of value of all land + improvements (e.g. structures), per property type, as provided by County Assessor records. County assessor land values were not used directly because experience has shown total values to be more comprehensive. It is used as a reference only and the Structure Replacement Value is not derived from it.
- "Adjustment Factor" may be applied including real estate data, demographic data, economic data and other relevant data.

Table 3 is a tabulation of the Structure Replacement Factors for each property type as defined by Equation 2, above.

**Table 3 – Structure Replacement Factors**

Property Type	Replacement Factor
Single Family	1.0000
Multi-Family & Condo	0.6400
Mobile Home	0.8000
Commercial/Industrial	0.6400
Office	1.6000
Institutional	0.6400
Storage	0.2400
Vacant	0.1000
Agriculture - Orchards & Vineyards	0.0500
Agriculture - Rice & Flood Irrigation	0.0500
Agriculture - Pasture & Row Crops	0.0500
Agriculture - Dairy, Livestock, Animals	0.0500
Range Land & Open Space	0.0100

### An Example of Benefit Calculation

Below is an example of the benefit calculation per Equation 1 for Commercial/Industrial parcels to illustrate the methodology. (A summary of the results of all calculations is given in Table 4):

#### Commercial/Industrial Example

The benefit is the normalized Fire Risk Factor times the normalized Structure Replacement Factor, then normalized per average square footage.

Benefit = ((Fire Risk Factor) \* (Structure Replacement Factor)) \* ((Average Structure Sqft by type / Avg Structure Sqft for single family home))

The fire risk of commercial/industrial parcels is determined by taking the percentage of all fires in commercial/industrial parcels, and dividing it by the percentage of square footage area that are commercial/industrial. The fire percentages are taken from the NFPA 2003 US Fire Problem Overview Report. The resulting figure is normalized relative to the risk of a single family home by taking the percentage of fires in single family homes over the percentage of square footage area that are single family homes, and dividing that figure into the commercial/industrial fire risk figure.

Fire Risk  $\approx$  ((% of all fires) / (% of square footage area)) / (normalization factor versus Single Family Homes)

% of all fires = 9.222% for commercial/industrial, and 53.846% for single family homes

% of area = 10.664% for commercial/industrial, and 62.157% for single family homes

Fire Risk Factor = ((9.222% of all fires) / (10.644% of all square footage area)) / ((53.846% of all fires) / (62.157% of all square footage area))

Fire Risk Factor = 0.9982

The Structure Replacement Factor is determined by analyzing the County Assessor's data including the average structure square footage area. Also, the local average structure replacement cost is established for each structure type. The local average structure replacement cost is normalized and multiplied by the average square footage area for each property type. These values are then compared against the weighted average improved value, weighted average total value, real estate data, etc. and an Adjustment Factor is applied if necessary.

Structure Replacement Factor  $\approx$  Normalized Local Average Replacement Costs \* Adjustment Factor

Local Average Replacement Cost for commercial/industrial  $\approx$  \$80.00/sqft

Local Average Replacement Cost for single family homes  $\approx$  \$125.00/sqft

Structure Replacement Factor = (80.00/125.00) \* Adjustment Factor (if needed)

Structure Replacement Factor = 0.6400

Since the Benefit is the Fire Risk Factor times the Structure Replacement Factor, then normalized by average square footage, the Commercial/Industrial benefit is 6.884:

Benefit = (0.9982 \* 0.6400) \* (14,957/1,396) = 6.884/acre

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### Summary of Benefits for Each Property Type

Per Equation 1, the relative special benefit for each property type (the "SFE" or "Single Family Equivalent" Benefit Units) is determined as the product of the normalized Fire Risk Factors and the normalized Structure Replacement Factors. Table 4 below, summarizes the benefit for each property type.

**Table 4 – Benefit Summary per Property Type**

Property Type	Fire Risk Factors	Structure Replacement Factors	SFE Factors	Average Structure Sq Footage (From Previous Tab)	Flat Rate Converted SFE	Unit
Single Family	1.0000	1.0000	1.000000	1,396	<b>1.000</b>	per each
Multi-Family & Condo	1.8769	0.6400	1.201190	857	<b>0.737</b>	per unit
Mobile Home	0.6028	0.8000	0.482240	1,440	<b>0.497</b>	per each
Commercial/Industrial	0.9982	0.6400	0.638879	14,957	<b>6.844</b>	per acre
Office	0.3571	1.6000	0.571387	10,000	<b>6.670</b>	per acre
Institutional	0.9675	0.6400	0.619212	3,543	<b>1.523</b>	per each
Storage	2.8916	0.2400	0.693982	10,000	<b>0.464</b>	per acre
Vacant	0.3451	0.1000	0.034511		<b>0.173</b>	per each
Agriculture - Orchards & Vineyards	0.3796	0.0500	0.018981		<b>0.019</b>	per acre
Agriculture - Rice & Flood Irrigation	0.3796	0.0500	0.018981		<b>0.019</b>	per acre
Agriculture - Pasture & Row Crops	0.3451	0.0500	0.017255		<b>0.017</b>	per acre
Agriculture - Dairy, Livestock, Animals	0.3106	0.0500	0.015530		<b>0.016</b>	per acre
Range Land & Open Space	0.3451	0.0100	0.003451		<b>0.003</b>	per acre

\*SFE factor has been converted from “Per Acre” to “Per Each Parcel” by multiplying by effective average area.

### Residential Properties

All improved residential properties with a single residential dwelling unit are assigned one Single Family Equivalent or 1.0 SFE. Residential properties on parcels that are larger than one acre receive additional benefit and are assigned additional SFEs on an “Agricultural/Rangeland” basis. Detached or attached houses, zero-lot line houses and town homes are included in this category.

Properties with more than one residential unit are designated as multi-family residential properties. These properties benefit from the Services in proportion to the number of dwelling units that occupy each property. The relative benefit for multi-family properties was determined per Equation 1 to be 0.737 SFEs per residential unit. This rate applies to condominiums as well.

Mobile home properties are assigned 0.497 SFEs per residential unit. Parcels that are larger than one acre receive additional benefit and are assigned additional SFEs on an “Agricultural/Rangeland” basis.

### Commercial/Industrial & Office Properties

Commercial and industrial properties are assigned benefit units per acre, since there is a relationship between effective parcel size, structure size and relative benefits. The relative benefit for commercial and industrial properties was determined per Equation 1 to be 6.844 SFEs per acre. The relative benefit for office properties was determined per Equation 1 to be 6.670 SFEs per acre.

### Vacant and Undeveloped Properties

The relative benefit for vacant properties was determined per Equation 1 to be 0.173 SFEs per parcel.



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### **Rangeland, Open Space and Duck Club Properties**

The relative benefit for range land & open space properties was determined per Equation 1 to be 0.003 SFEs per acre.

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### **Agricultural Properties**

The relative benefit for agricultural properties requires additional analysis, as required by Government Code 50078 and the unique agricultural properties within the boundaries. This analysis considered how agricultural operations may mitigate risk, onsite or proximate water availability, response time, capability of the fire suppression service, and any other factors which reflect the benefit to the land resulting from the fire suppression service provided. Agricultural properties have been categorized as Agriculture - Orchards & Vineyards; Agriculture - Rice & Flood Irrigation; Agriculture - Pasture & Row Crops; and Agriculture - Dairy, Livestock, Animals according to use and other attributes, and have been analyzed for fire risk and structure replacement per Equation 1. The relative benefit for agricultural properties was determined per Equation 1 to be 0.019 SFEs per parcel for Agriculture - Orchards & Vineyards; 0.019 SFEs per parcel for Agriculture - Rice & Flood Irrigation; 0.017 SFEs per parcel for Agriculture - Pasture & Row Crops; and 0.016 SFEs per parcel for Agriculture - Dairy, Livestock, Animals. These SFE rates are doubled for parcels between 50 acres and 100 acres and are tripled for parcels greater than 100 acres.

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### **Other Properties**

Institutional properties such as publicly owned properties are assessed 1.523 SFEs. The relative benefit for storage properties was determined per Equation 1 to be 0.464 SFEs per acre.

Article XIID, Section 4 of the California Constitution states that publicly owned properties shall not be exempt from an assessment unless there is clear and convincing evidence that those properties receive no special benefit. Here, all public properties that are specially benefited are assessed. Publicly owned property that is used for purposes similar to private residential, commercial, industrial or institutional uses is benefited and assessed at the same rate as such privately owned property.

Miscellaneous, small and other parcels such as roads, right-of-way parcels, and common areas typically do not generate significant numbers of employees, residents, customers or guests and have limited economic value. These miscellaneous parcels receive no special benefit from the fire suppression Apparatus and Equipment and are assessed an SFE benefit factor of 0.

## Criteria and Policies

This sub-section describes the criteria that shall govern the expenditure of assessment funds and ensures equal levels of benefit for properties of similar type. The criteria established in this Report, as finally confirmed, cannot be substantially modified; however, the Board may adopt additional criteria to further clarify certain criteria or policies established in this Report or to establish additional criteria or policies that do not conflict with this Report.

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### Duration of Assessment

The Assessment was levied for fiscal year 2011-12 and may be continued every year thereafter, so long as the risk of fire on property in the Assessment District remains in existence and the Twain Harte Community Services District requires funding from the Assessment for its fire suppression Services. As noted previously, if the Assessment and the duration of the Assessment are approved by property owners in an assessment ballot proceeding, the Assessment can be imposed and levied annually after the Twain Harte Community Services District Board of Directors approves an annually updated Engineer's Report, budget for the Assessment, Services to be provided, and other specifics of the Assessment. In addition, the District Board of Directors must hold an annual public hearing to continue the Assessment.

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### Appeals of Assessments on Property

Any property owner who feels that the assessment on the subject property is in error as a result of incorrect information being used to apply the foregoing method of assessment or for any other reason may file a written appeal with the General Manager of the Twain Harte Community Services District or his or her designee. Any such appeal is limited to correction of an assessment during the then current fiscal year. Upon the filing of any such appeal, the General Manager or his or her designee will promptly review the appeal and any information provided by the property owner. If the General Manager or his or her designee finds that the assessment should be modified, the appropriate changes shall be made to the assessment roll. If any such changes are approved after the assessment roll has been filed with the County for collection, the General Manager or his or her designee is authorized to refund to the property owner the amount of any approved reduction. Any dispute over the decision of the General Manager or his or her designee shall be referred to the Twain Harte Community Services District Board of Directors and the decision of the Board shall be final.

## Assessment

**WHEREAS**, the Board of Directors of the Twain Harte Community Services District is proceeding with the Fire Protection and Emergency Response Services Assessment District and continuation of assessments under California Government Code sections 50078 et seq. (the “Code”) and Article XIID of the California Constitution (the “Article”);

**WHEREAS**, the undersigned Engineer of Work has prepared and filed a report presenting an estimate of costs, a diagram for the Assessment District and an assessment of the estimated costs of the Services upon all assessable parcels within the Assessment District;

**NOW, THEREFORE**, the undersigned, by virtue of the power vested in me under said Code and Article and the order of the Board of said District, hereby make the following assessment to cover the portion of the estimated cost of said Services, and the costs and expenses incidental thereto to be paid by the Assessment District.

The amount to be paid for said Services and the expense incidental thereto, to be paid by the Assessment District for the fiscal year 2024-25 is generally as follows:

**Table 5 – Summary Cost Estimate**

	FY 2024-25 Budget
Services Costs	\$1,315,603
Administrative Cost Allocation	\$140,824
Capital Expenses/Outlay	\$311,000
Incidental Expenses	\$8,265
TOTAL BUDGET	\$1,775,692
Less: District Contribution	(\$1,244,648)
Transfer To/(From) Reserve	(\$141,458)
NET AMOUNT TO ASSESSMENTS	\$389,586

An Assessment Diagram is hereto attached and made a part hereof showing the exterior boundaries of the Assessment District. The distinctive number of each parcel or lot of land in the Assessment District is its Assessor Parcel Number appearing on the Assessment Roll.

I do hereby assess and apportion the net amount of the cost and expenses of the Services, including the costs and expenses incident thereto, upon the parcels and lots of land within said Assessment District, in accordance with the special benefits to be received by each parcel or lot, from the Services, and more particularly set forth in the Cost Estimate and Method of Assessment hereto attached and by reference made a part hereof.

The assessment is subject to an annual adjustment tied to the Consumer Price Index-U for the San Francisco Bay Area as of December of each succeeding year (the "CPI"), with a maximum annual adjustment not to exceed 4%. Any change in the CPI in excess of 4% shall be cumulatively reserved as the "Unused CPI" and shall be used to increase the maximum authorized assessment rate in years in which the CPI is less than 4%. The maximum authorized assessment rate is equal to the maximum assessment rate in the first fiscal year the assessment was levied adjusted annually by the minimum of 1) 4% or 2) the change in the CPI plus any Unused CPI as described above.

The change in the CPI from December 2022 to December 2023 was 2.62% and the Unused CPI carried forward from the previous fiscal year is 1.13%. Therefore, the maximum authorized assessment rate for fiscal year 2024-25 is increased by 3.75% which equates to \$223.90 per single family equivalent benefit unit. The estimate of cost and budget in this Engineer's Report proposes assessments for fiscal year 2024-25 at the rate of \$223.90, which is equal to the maximum authorized assessment rate.

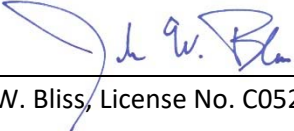
Since property owners in the Assessment District, in an assessment ballot proceeding, approved the initial fiscal year benefit assessment for special benefits to their property including the CPI adjustment schedule, the assessment may be continued annually and may be adjusted by up to the maximum annual CPI adjustment without any additional assessment ballot proceeding. In the event that in future years the assessments are assessed at a rate less than the maximum authorized assessment rate, the assessment rate in a subsequent year may be increased up to the maximum authorized assessment rate without any additional assessment ballot proceeding.

Each parcel or lot of land is described in the Assessment Roll by reference to its parcel number as shown on the Assessor's Maps of the County of Tuolumne for the fiscal year 2024-25. For a more particular description of said property, reference is hereby made to the deeds and maps on file and of record in the office of the County Recorder of Tuolumne County.

I hereby place opposite the Assessor Parcel Number for each parcel or lot within the Assessment Roll, the amount of the assessment for the fiscal year 2024-25 for each parcel or lot of land within the said Assessment District.

Dated: May 2, 2024

Engineer of Work

By   
John W. Bliss, License No. C052091



## Assessment Diagram

The Assessment District includes all properties within the boundaries of the Fire Protection and Emergency Response Services District. The boundaries of the Assessment District are displayed on the following Assessment Diagram. The lines and dimensions of each lot or parcel within the Assessment District are those lines and dimensions as shown on the maps of the Assessor of Tuolumne County, and are incorporated herein by reference, and made a part of this Diagram and this Report.

FILED IN THE OFFICE OF THE SECRETARY OF THE BOARD OF THE TWAIN HARTE COMMUNITY SERVICES DISTRICT, COUNTY OF TUOLUMNE, CALIFORNIA, THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2024.

SECRETARY OF THE BOARD

RECORDED IN THE OFFICE OF THE SECRETARY OF THE BOARD OF THE TWAIN HARTE COMMUNITY SERVICES DISTRICT, COUNTY OF TUOLUMNE, CALIFORNIA, THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2024.

SECRETARY OF THE BOARD

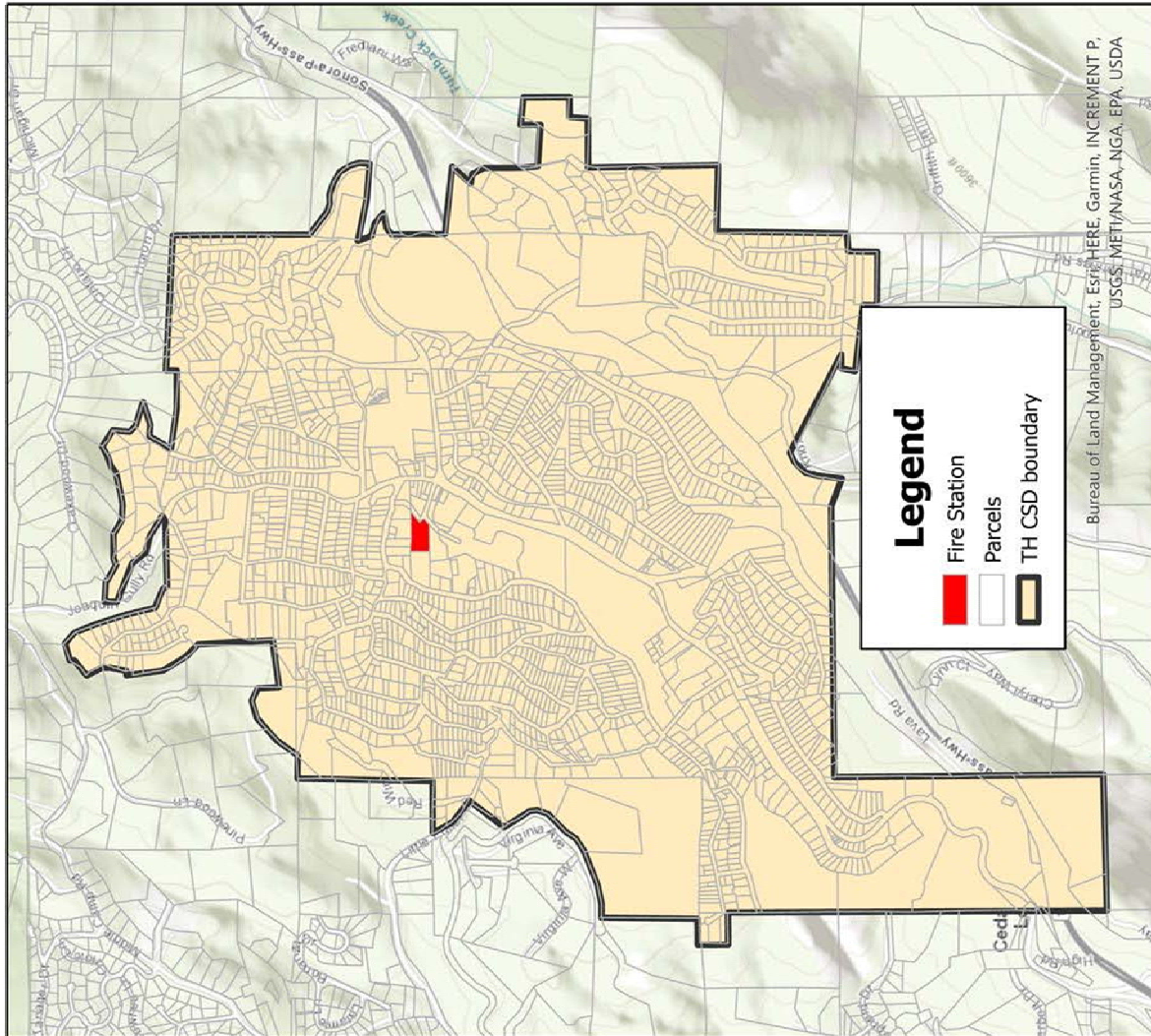
AN ASSESSMENT WAS CONFIRMED AND LEVIED BY THE BOARD OF THE TWAIN HARTE COMMUNITY SERVICES DISTRICT ON THE LOTS, PIECES AND PARCELS OF LAND ON THIS ASSESSMENT DIAGRAM ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2024 FOR THE FISCAL YEAR 2024-25 AND SAID ASSESSMENT DIAGRAM AND THE ASSESSMENT ROLL FOR SAID FISCAL YEAR WERE FILED IN THE OFFICE OF THE COUNTY AUDITOR OF THE COUNTY OF TUOLUMNE ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2024. REFERENCE IS HEREBY MADE TO SAID RECORDED ASSESSMENT ROLL FOR THE EXACT AMOUNT OF EACH ASSESSMENT LEVIED AGAINST EACH PARCEL OF LAND.

SECRETARY OF THE BOARD

FILED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ O'CLOCK \_\_\_\_\_ M. IN THE COUNTY AUDITOR OF THE COUNTY OF TUOLUMNE, STATE OF CALIFORNIA, AT THE REQUEST OF THE BOARD OF DIRECTORS OF THE TWAIN HARTE COMMUNITY SERVICES DISTRICT.

COUNTY AUDITOR, COUNTY OF TUOLUMNE

Note: REFERENCE IS HEREBY MADE TO THE MAPS AND DEEDS OF RECORD IN THE OFFICE OF THE ASSESSOR OF THE COUNTY OF TUOLUMNE FOR A DETAILED DESCRIPTION OF THE LINES AND DIMENSIONS OF ANY PARCEL SHOWN HEREIN. THOSE MAPS SHALL GOVERN FOR ALL DETAILS CONCERNING THE LINES AND DIMENSIONS OF SUCH PARCELS. EACH PARCEL IS IDENTIFIED IN SAID MAPS BY ITS DISTINCTIVE ASSESSOR'S PARCEL NUMBER.



**TWAIN HARTE COMMUNITY SERVICES DISTRICT  
FIRE PROTECTION AND EMERGENCY SERVICES ASSESSMENT DISTRICT  
ASSESSMENT DIAGRAM**

SCI Consulting Group  
4745 Menlo Park Blvd  
Fairfield, CA 94534

## Appendices

### Appendix A – Assessment Roll, Fiscal Year 2024-25

The Assessment Roll is made part of this report and is available for public inspection during normal office hours. Each lot or parcel listed on the Assessment Roll is shown and illustrated on the latest County Assessor records and these records are, by reference, made part of this report. These records shall govern for all details concerning the description of the lots of parcels.



## End Notes

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<sup>[i]</sup> Institute for Business & Home Safety, “Protect Your Home Against Wildfire Damage,”  
<http://www.ibhs.org/publications/view.asp?id=125>

<sup>[ii]</sup> Insurance Services Offices Inc.  
<http://www.rockwall.com/FireDepartment/Insurance%20Services%20Office%20Rating%20Information.pdf>

<sup>[iii]</sup> U.S. Fire Administration, Department of Homeland Security, “America Burning, Re-commissioned: Principal Findings and Recommendations,” p.2,  
<http://www.usfa.fema.gov/downloads/pdf/abr-rep.PDF>

<sup>[iv]</sup> Insurance Services Offices Inc., p. 1,  
<http://www.rockwall.com/FireDepartment/Insurance%20Services%20Office%20Rating%20Information.pdf>

<sup>[v]</sup> U.S. Fire Administration, Department of Homeland Security, “America Burning, Re-commissioned: Principal Findings and Recommendations,” p.1,  
<http://www.usfa.fema.gov/downloads/pdf/abr-rep.PDF>



# Board Meeting Agenda Item Summary

May 8, 2024

<b>ITEM #:</b>	<b>06E</b>	<b>ITEM TYPE:</b>	<input type="checkbox"/> Discussion <input type="checkbox"/> Action <input checked="" type="checkbox"/> Both
<b>SUBJECT:</b>	Discussion/action to adopt Resolution #24-15 - Intention to Continue Assessments for Fiscal Year 2024-25, Approval of Preliminary Engineer's Report and Notice of Hearing for the Fire and Rescue Assessment District.		
<b>RELATION TO STRATEGIC PLAN:</b>	<input checked="" type="checkbox"/> N/A <input type="checkbox"/> Advances Goal/Objective #'s: _____		

## RECOMMENDED ACTION:

Adopt Resolution #24-15 – Intention to Continue Assessments for Fiscal Year 2024-25, Approval of Preliminary Engineer's Report and Notice of Hearing for the Fire and Rescue Assessment District.

## SUMMARY:

In 2002, the District's limited Fire Fund revenue was insufficient to provide adequate fire protection and suppression services. As a result, the District proposed the establishment of its Fire and Rescue Assessment District special benefit assessment (Rescue Assessment). The Rescue Assessment was approved by a majority vote of property owners and was levied by the District's Board of Directors on April 16, 2002, via Resolution #02-13. The voter-approved Rescue Assessment does not sunset and allows a maximum 3% annual adjustment based on the January Consumer Price Index (CPI) for the San Francisco Bay Area. The annual CPI adjustment is not automatic and is subject to the approval of the Board.

Since 2002, the Rescue Assessment has continued to provide annual Revenue to the Fire Fund to provide improved fire suppression, safety and emergency services to the 1,756 properties within its boundaries.

A Rescue Assessment Engineer's report is prepared each year to evaluate the Fire Fund's budget requirements, the annual CPI adjustment, the maximum authorized assessment rate, and any changes to parcels within the assessment area. The Preliminary Engineer's Report this year recommends that Rescue Assessment Rates be increased by 3% based on combining January's CPI value of 2.62% with the unused CPI carried forward from the previous fiscal year of 3.71%.

Based on the Fire Fund's projected revenue needs for the coming year, staff recommends that the Board hold a public hearing to consider continuing the Fire Assessment with a 3% CPI adjustment.

## FINANCIAL IMPACT:

With a 3% CPI adjustment, the Fire Rescue Assessment is projected to generate \$171,532 in revenue for the Fire and Rescue Fund in Fiscal Year 2024-25.

## ATTACHMENTS:

- Resolution #24-15 – Intention to Continue Assessments for Fiscal Year 2024-25, Approval of Preliminary Engineer's Report and Notice of Hearing for the Fire and Rescue Assessment District.

**TWAIN HARTE COMMUNITY SERVICES DISTRICT  
RESOLUTION NO. 24-15**

**INTENTION TO CONTINUE ASSESSMENTS FOR THE FISCAL YEAR 2024-25,  
APPROVAL OF PRELIMINARILY ENGINEER'S REPORT AND NOTICE OF  
HEARING FOR THE FIRE AND RESCUE ASSESSMENT DISTRICT**

**WHEREAS**, on April 16, 2002, by its Resolution No. 02-13, after receiving a weighted majority of 90% of ballots in support of the proposed assessment, this Board ordered the formation of and levied the first assessment of the Twain Harte Community Services District Fire Suppression District within the Twain Harte Community Services District (the "District") pursuant to the provisions of Article XIID of the California Constitution, and Government Code Sections 50078 et. Seq.; and

**WHEREAS**, the first Engineer's Report for Fiscal Year 2002-03 described how the assessment district would be established, determined the uses of the assessment funds, established the methodology by which the assessments would be applied to properties in the District, established that the assessment is subject to an annual adjustment tied to the annual change in the Consumer Price Index for the San Francisco Bay Area, and stated that the assessment would continue year-to-year until terminated by the District Board of Directors; and

**WHEREAS**, although the methodology by which the assessments are applied to properties in the District does not change from year to year, a new Engineer's Report is prepared each year in order to establish the CPI adjustment for that year; the new maximum authorized assessment rate for that year; the budget for that year; and the amount to be charged to each parcel in the District that year, subject to that year's assessment rate and any changes in the attributes of the properties in the District, including but not limited to use changes, parcel subdivisions, and/or parcel consolidations; and

**WHEREAS**, SCI Consulting Group has filed with secretary of the Board of Directors of the Twain Harte Community Services District, a Preliminary Engineer's Report which contains: (a) a calculation of the portion of the services to be provided by the Assessment District that constitute a special benefit to the parcels in the District; (b) a methodology for assigning fire suppression assessments to individual parcels; (c) a listing of each lot or parcel of property that would be subject to the fire suppression assessment including public parcels; (d) the amount of the proposed assessment for each lot or parcel for the 2024-25 Fiscal Year; and (e) an assessment diagram depicting the boundary of the Assessment District.

**NOW, THEREFORE, BE IT RESOLVED**, by the Governing Board of the Twain Harte Community Services District that:

1. The Preliminary Engineer's Report is hereby received and filed; and

2. It is the intention of this Board to continue and to collect assessments within the District for the Fiscal Year 2024-25.
3. The authorized maximum assessment rate for the District includes an annual adjustment by an amount equal to the annual change in the San Francisco Bay Area Consumer Price Index, not to exceed 3% per year. In the event that the annual change in the CPI exceeds 3%, any percentage change in excess of 3% can be cumulatively reserved and can be added to the annual change in the CPI for years in which the CPI change is less than 3%. The annual Bay Area CPI change as of December 2023 is 2.62%, and the Unused CPI carried forward from the previous Fiscal Year is 3.71%. Therefore, the maximum authorized increase that may be levied in the Fiscal Year 2024-25 is 3.00%.
4. The estimated Fiscal Year 2024-25 cost of providing the Services is \$171,532. This cost results in a proposed assessment rate of ONE HUNDRED ONE DOLLARS AND EIGHTY-SIX CENTS (\$101.86) per single-family equivalent benefit unit for the Fiscal Year 2024-25. Therefore, the assessment rate proposed to be continued for the Fiscal Year 2024-25 is \$101.86, which is the same as the maximum authorized rate. The maximum authorized assessment rate for 2024-25 is \$101.86 per single-family equivalent benefit unit.
5. A Public Hearing regarding the continuation of the Assessment District shall be held on June 12, 2024, at 9:00 a.m. or as soon after as practical, at the Twain Harte Community Services District offices located at 22912 Vantage Pointe Drive, Twain Harte, California, 95383. The Clerk of the Board is hereby authorized and directed to cause a notice of the hearing to be given by publishing a notice once, at least ten (10) days prior to the date of the hearing above specified, in a newspaper circulated in the District.

**PASSED AND ADOPTED** by the Governing Board of the Twain Harte Community Services District this 8th day of May 2024 by the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

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Gary Sipperley, Board President

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Kimberly Silva, Board Secretary

FY 2024-25

# ENGINEER'S REPORT

## Twain Harte Community Services District

Fire Rescue Assessment District

April 2024

Final Report

Engineer of Work:



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Fairfield, California 94534  
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# Twain Harte Community Services District

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**Board of Directors**

Gary Sipperley, President  
Eileen Mannix, Vice President  
Charlotte Bohlman, Director  
Mary Dearborn, Director  
Richard Knudson, Director

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**General Manager**

Tom Trott

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**Fire Chief**

Neil Gamez

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**Secretary of the Board**

Kim Silva

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**Assessment Engineer**

SCI Consulting Group

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## Introduction

The Twain Harte Community Services District ("District") currently provides fire suppression services for approximately 1,795 properties within its boundaries.

This Engineer's Report (the "Report") was prepared to:

- Describe the fire suppression, safety and emergency response services and equipment that would be funded by the assessments (the "Services")
- Establish a budget for the Services that would be funded by the proposed 2024-25 assessments
- Determine the benefits received from the Services by property within the Twain Harte Community Services District Fire and Rescue Assessment (the "Assessment District") and
- Determine and assign a method of assessment apportionment to lots and parcels within the Assessment District.

This Report and the proposed assessments have been made pursuant to the California Government Code Section 50078 et seq. (the "Code") and Article XIID of the California Constitution (the "Article").

The Assessment District is narrowly drawn to include only properties that will benefit from the additional fire protection services that are provided by the assessment funds. The Assessment Diagram included in this report shows the boundaries of the Assessment District.

## Legal Analysis

### Proposition 218

This assessment is formed consistent with Proposition 218, The Right to Vote on Taxes Act, which was approved by the voters of California on November 6, 1996 and is now Article XIIC and XIID of the California Constitution. Proposition 218 provides for benefit assessments to be levied to fund the cost of providing services, improvements, as well as maintenance and operation expenses to a public improvement which benefits the assessed property.

Proposition 218 describes a number of important requirements, including a property-owner balloting, for the formation and continuation of assessments, and these requirements are satisfied by the process used to establish this assessment.

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### **Silicon Valley Taxpayers Association, Inc. v Santa Clara County Open Space Authority**

In July of 2008, the California Supreme Court issued its ruling on the Silicon Valley Taxpayers Association, Inc. v. Santa Clara County Open Space Authority (“SVTA vs. SCCOSA”). This ruling is the most significant legal document in further legally clarifying Proposition 218. Several of the most important elements of the ruling included further emphasis that:

- Benefit assessments are for special, not general benefit
- The services and/or improvements funded by assessments must be clearly defined
- Special benefits are directly received by and provide a direct advantage to property in the Assessment District

This Engineer’s Report is consistent with the SVTA vs. SCCOSA decision and with the requirements of Article XIII C and XIII D of the California Constitution because the Services to be funded are clearly defined; the Services are available to all benefiting property in the Assessment District, the benefiting property in the Assessment District will directly and tangibly benefit from improved protection from fire damage, increased safety of property and other special benefits and such special benefits provide a direct advantage to property in the Assessment District that is not enjoyed by the public at large or other property. There have been a number of clarifications made to the analysis, findings and supporting text in this Report to ensure that this consistency is well communicated

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### **Dahms v. Downtown Pomona Property**

On June 8, 2009, the 4<sup>th</sup> Court of Appeal amended its original opinion upholding a benefit assessment for property in the downtown area of the City of Pomona. On July 22, 2009, the California Supreme Court denied review. On this date, Dahms became good law and binding precedent for assessments. In Dahms the court upheld an assessment that was 100% special benefit (i.e. 0% general benefit) on the rationale that the services and improvements funded by the assessments were directly provided to property in the assessment district. The Court also upheld discounts and exemptions from the assessment for certain properties.

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### **Bonander v. Town of Tiburon**

On December 31, 2009, the 1<sup>st</sup> District Court of Appeal overturned a benefit assessment approved by property owners to pay for placing overhead utility lines underground in an area of the Town of Tiburon. The Court invalidated the assessments on the grounds that the assessments had been apportioned to assessed property based in part on relative costs within sub-areas of the assessment district instead of proportional special benefits.

Beutz v. County of Riverside

On May 26, 2010, the 4<sup>th</sup> District Court of Appeal issued a decision on the Steven Beutz v. County of Riverside (“Beutz”) appeal. This decision overturned an assessment for park maintenance in Wildomar, California, primarily because the general benefits associated with improvements and services were not explicitly calculated, quantified and separated from the special benefits.

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### **Golden Hill Neighborhood Association v. City of San Diego**

On September 22, 2011, the San Diego Court of Appeal issued a decision on the Golden Hill Neighborhood Association v. City of San Diego appeal. This decision overturned an assessment for street and landscaping maintenance in the Greater Golden Hill neighborhood of San Diego, California. The court described two primary reasons for its decision. First, like in Beutz, the court found the general benefits associated with services were not explicitly calculated, quantified and separated from the special benefits. Second, the court found that the City had failed to record the basis for the assessment on its own parcels.

### **Compliance with Current Law**

This Engineer’s Report is consistent with the requirements of Article XIIC and XIID of the California Constitution and with the *SVTA* decision because the Services to be funded are clearly defined; the Services are available to and will be directly provided to all benefiting property in the Assessment District; and the Services provide a direct advantage to property in the Assessment District that would not be received in absence of the Assessments.

This Engineer’s Report is consistent with *Dahms* because, similar to the Downtown Pomona assessment validated in *Dahms*, the Services will be directly provided to property in the Assessment District. Moreover, while *Dahms* could be used as the basis for a finding of 0% general benefits, this Engineer’s Report establishes a more conservative measure of general benefits.

The Engineer’s Report is consistent with *Bonander* because the Assessments have been apportioned based on the overall cost of the Services and proportional special benefit to each property. Finally, the Assessments are consistent with *Beutz* because the general benefits have been explicitly calculated and quantified and excluded from the Assessments.

## Assessment Process

In 2002, to address the District's shortfall in fire suppression services funding and the need for improved fire protection and suppression services, the Board proposed an assessment for the Assessment District. In October 2001, the Board conducted an assessment ballot proceeding pursuant to the requirements of Article XIII D of the California Constitution ("The Taxpayer's Right to Vote on Taxes Act") and the Government Code Section 50078 et. seq. During this ballot proceeding, property owners in the Assessment District were provided with a notice and ballot for the proposed fire assessment ("the Twain Harte Fire and Rescue Assessment District"). A 45-day period was provided for balloting and a public hearing was conducted March 19, 2002. At the public hearing, all ballots returned within the 45-day balloting period were tabulated.

It was determined at the public hearing that the assessment ballots submitted in opposition to the proposed assessments did not exceed the assessment ballots submitted in favor of the assessments (with each ballot weighted by the proportional financial obligation of the property for which ballot was submitted). In fact, the final balloting result was 90% support for the "Assessment District").

As a result, the Board gained the authority to approve the levy of the assessments for fiscal year 2002-03 and to continue to levy them in future years. The authority granted by the ballot proceeding includes an annual adjustment in the assessment levies equal to the annual change in the Consumer Price Index for the San Francisco Bay Area, not to exceed 3%.

In each subsequent year for which the assessments will continue to be levied, the Board must direct the preparation of an Engineer's Report, budgets and proposed assessments for the upcoming fiscal year. After the Engineer's Report is completed, the Board may preliminarily approve the Engineer's Report and proposed assessments and establish the date for a public hearing on the continuation of the assessments.

This Engineer's Report ("Report") was prepared to establish the budget for the services that would be funded by the proposed 2024-25 assessments, determine the benefits received from the fire suppression services by property within the District and the method of assessment apportionment to lots and parcels within the District. This Report and the proposed assessments have been made pursuant to the California Government Code Section 50078 et. seq. (the "Code") and Article XIII D of the California Constitution (the "Article").

If the Board approves this Engineer's Report and the proposed assessments by resolution, a notice of assessment levies must be published in a local paper at least 10 days prior to the date of the public hearing. The resolution preliminarily approving the Engineer's Report and establishing the date for a public hearing is used for this notice.

Following the minimum 10-day time period after publishing the notice, a public hearing is held for the purpose of allowing public testimony about the proposed continuation of the assessments. This hearing is currently scheduled for June 12, 2024. At this hearing, the Board will consider approval of a resolution confirming the assessments for fiscal year 2024-25. If so confirmed and approved, the assessments will be submitted to the County Auditor/Controller for inclusion on the property tax rolls for fiscal year 2024-25.

## Description of Services

Following is a description of the Services that are provided for the direct benefit of property in the Assessment District. With the passage of this assessment, the fire protection and fire suppression services within the Assessment District were enhanced significantly and such Services are all over and above what otherwise would be provided. The formula below describes the relationship between the final level of services, the baseline level of service had the assessment not been instituted, and the enhanced level of services funded by the assessment.

<b>Final Level of Improvements</b>	<b>=</b>	<b>Baseline Level of Improvements</b>	<b>+</b>	<b>Enhanced Level of Improvements</b>
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The budget to be financed from the Assessment District levies is based on the needs of the Twain Harte Community Services District as well as the results of an independent survey conducted for the District, which indicated the community's priorities for various Services. The Assessment District is responsible for obtaining, furnishing, operating, and maintaining fire suppression equipment or apparatus and for the purpose of paying the salaries and benefits of firefighting personnel who provide fire suppression services to parcels, improvements or property in the Assessment District, or both, whether or not fire suppression services are actually used by or upon a parcel, improvement, or property. Other services include, but are not limited to, fire prevention and fire education.

In addition to the definitions provided by the Code, the Services to be funded by the Assessment District are generally described as follows: obtaining, furnishing, operating, and maintaining fire suppression, protection and emergency services equipment and apparatus; payment of salaries, benefits and other compensation to fire fighting and fire prevention personnel; training and administration of volunteer personnel performing fire suppression, protection and emergency services; hazardous material response; disaster preparedness; community fire prevention education and fire inspection.

The Assessment District will also contribute to cover the general costs of administering the District, its facilities and operations, as well as the salaries and benefits of firefighting personnel who provide fire suppression, protection and emergency services to parcels, improvements or property in the Assessment District.

## Cost and Budget

### Budget for Fiscal Year 2024-25

The following budget lists the elements proposed to be funded by the Assessment District in Fiscal Year 2024-25.

**Figure 1 – Estimate of Cost**

Twain Harte Community Services District Fire and Rescue Assessment District Estimate of Cost Fiscal Year 2024-25			<i>Total Budget</i>
Beginning Fund Balance			\$0
Fire and Rescue Expenses Services Expenditures			
<b>Services Costs</b>			<b>\$1,315,603</b>
Salaries and Employee Benefits	\$1,038,803		
Maintenance and Repairs	\$118,600		
Materials and Supplies	\$10,800		
Outside Services	\$26,000		
Utilities, Prop/Liab Ins, TUD, etc.	\$121,400		
Debt Service	\$0		
<b>Administrative Cost Allocation</b>			<b>\$144,809</b>
<b>Capital Expenses/Outlay</b>			<b>\$311,000</b>
Total Service, Administrative and Capital Expenditures			<b>\$1,771,412</b>
Additional Expenditures			
Allowance for Uncollectable Assessments			\$0
County Collection, Levy Administration, and Other Incidentals			\$4,280
Total Additional Expenditures			<b>\$4,280</b>
Total Service, Administrative, Capital and Additional Expenditures			<b>\$1,775,692</b>
Total Benefit of Services and Related Expenses			\$1,775,692
SFE Units			1684.00
Benefit received per Single Family Equivalent Unit			\$1,054.45
Less:			
District Contribution for General Benefits			(\$161,588)
District Contribution toward Special Benefits			(\$1,301,114)
Transfers to (from) reserves			(\$141,458)
Total Revenue from Other Sources			(\$1,604,160)
Net Cost of Fire and Rescue Costs			\$171,532
<b>Total Fire and Rescue Assessment District Budget</b> (Net Amount to be Assessed)			<b>\$171,532</b>
Budget Allocation to Property			
	Total SFE Units	Assessment per SFE	Total Assessment
	1,684	\$101.86	\$171,532



## Method of Apportionment

### Method of Apportionment

This section of the Engineer's Report includes an explanation of the benefits to be derived from providing the Services throughout the Assessment District, and the methodology used to apportion the total assessment to properties within the Assessment District.

The Assessment District consists of all Assessor Parcels within the boundaries of the Twain Harte Community Services District as defined by the County of Tuolumne, and the attached assessment diagram. The method used for apportioning the assessment is based upon the proportional special benefits to be derived by the properties in the Assessment District over and above general benefits conferred on real property or to the public at large. Special benefit is calculated for each parcel in the Assessment District using the following process:

1. Identification of all benefit factors derived from the Improvements
  1. Calculation of the proportion of these benefits that are general
  2. Determination of the relative special benefit within different areas within the Assessment District
  3. Determination of the relative special benefit per property type
  4. Calculation of the specific assessment for each individual parcel based upon special vs. general benefit; location, property type, property characteristics, improvements on property and other supporting attributes

### Discussion of Benefit

California Government Code Section 50078 et. seq. allows agencies which provide fire suppression services, such as Twain Harte Community Services District of Tuolumne County to levy assessments for fire suppression services. Section 50078 states the following:

*“Any local agency which provides fire suppression services directly or by contract with the state or a local agency may, by ordinance or by resolution adopted after notice and hearing, determine and levy an assessment for fire suppression services pursuant to this article.”*

In addition, California Government Code Section 50078.1 defines the term “fire suppression” as follows:

*“(c) “Fire suppression” includes firefighting and fire prevention, including, but not limited to, vegetation removal or management undertaken, in whole or in part, for the reduction of a fire hazard.”*

Therefore, the Services to be provided by the Assessment District fall within the scope of services that may be funded by assessments under the Code

The assessments can only be levied based on the special benefit to property. This benefit is received by property over and above any general benefits. Moreover, such benefit is not based on any one property owner's use of the District's services or a property owner's specific demographic status. With reference to the requirements for assessments, Section 50078.5 of the Government Code states:

"(b) The benefit assessment shall be levied on a parcel, class of improvement to property, or use of property basis, or a combination thereof, within the boundaries of the local agency, zone, or area of benefit."

"The assessment may be levied against any parcel, improvement, or use of property to which such services may be made available whether or not the service is actually used."

Proposition 218, as codified in Article XIID of the California Constitution, has confirmed that assessments must be based on the special benefit to property:

"No assessment shall be imposed on any parcel which exceeds the reasonable cost of the proportional special benefit conferred on that parcel."

Since assessments are levied on the basis of special benefit, they are not a tax and are not governed by Article XIII A of the California Constitution.

The following section describes how and why the Services specially benefit properties. This benefit is particular and distinct from its effect on property in general or the public at large.

## Benefit Factors

In order to allocate the assessments, the Engineer identified the types of special benefit arising from the Services that will be provided to property in the Assessment District. These benefit factors must confer a direct advantage to the assessed properties; otherwise they would be general benefit.

The following benefit categories have been established that represent the types of special benefit to residential, commercial, industrial, institutional and other lots and parcels resulting from the fire suppression services to the District with the assessment proceeds. These categories of special benefit are derived from the statutes passed by the California Legislature and other studies, which describe the types of special benefit received by property from fire suppression services such as those provided by the District. These types of special benefit are summarized as follows:

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### **Increased safety and protection of health for real property assets for all property owners within the District**

The Assessments will fund improved emergency, educational and prevention services, and thereby can reduce significantly the risk of property damage associated with fires. Clearly, fire mitigation helps to protect and specifically benefits both improved properties and vacant properties in the Assessment District.

*"Fire is the largest single cause of property loss in the United States. In the last decade, fires have caused direct losses of more than \$120 billion and countless billions more in related costs."*<sup>i</sup>

*"Over 140,000 wildfires occurred on average each year, burning a total of almost 14.5 million acres. And since 1990, over 900 homes have been destroyed each year by wildfires."*<sup>ii</sup>

*"A reasonably disaster-resistant America will not be achieved until there is greater acknowledgment of the importance of the fire service and a willingness at all levels of government to adequately fund the needs and responsibilities of the fire service."*<sup>iii</sup>

*"The strategies and techniques to address fire risks in structures are known. When implemented, these means have proven effective in the reduction of losses."*<sup>iv</sup>

*"Statistical data on insurance losses bears out the relationship between excellent fire protection...and low fire losses."*<sup>v</sup>

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### **Protection of views, scenery and other resource values for property in the District**

The Assessment District will provide funding for improved fire protection and suppression services to protect public and private resources in the Assessment District. This benefits even those properties that are not directly damaged by fire by maintaining and improving the aesthetics and attractiveness of public and private resources in the community, as well as ensuring that such resources remain safe and well maintained.

*"Smoke affects people...for example, in producing haze that degrades the visual quality of a sunny day...The other visual quality effect is that of the fire on the landscape. To many people, burned landscapes are not attractive and detract from the aesthetic values of an area."*<sup>vi</sup>

*"A visually preferred landscape can be the natural outcome of fuels treatments."*<sup>vii</sup>

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### **Enhanced access to properties in the Assessment District, and utility and desirability of such properties**

The Assessments will fund improved fire suppression services in the District. In addition to preventing damage to property from fires, the assessments will also protect access to property, because fires can impede or prevent access to property. In addition, the Services will enhance the utility and desirability of the properties in the Assessment District. This is a benefit to residential, commercial, industrial and other properties.

*"A Community committed to saving lives and property needs trained firefighters, proper equipment, and adequate supplies of water. Insurance companies consider it good public policy and good business to promote and encourage the efforts of individual communities to improve their fire-protection services." <sup>viii</sup>*

## State Responsibility Area

The boundaries of the Twain Harte Fire and Rescue Assessment District fall within a State Responsibility Area (SRA). The Twain Harte Fire and Rescue Division responds to all calls within the District regardless of a parcels inclusion in a SRA. Government Code Section 50078.2 (b) states:

*"A benefit assessment shall not be levied for wildland or watershed fire suppression on land located in a state responsibility area as defined in Section 4102 of the Public Resources Code."*

Therefore, the assessments are not being levied for wildland or watershed fire protection. Those parcels within the State Responsibility Area zoned for development, which receive a special benefit from the services will be assessed according to the use of the parcel, while parcels designated as "wildland or watershed" will not be assessed.

## Summary of Benefits

In summary, real property located within the boundaries of the Assessment District distinctly and directly benefits from increased safety and protection of real property, increased protection of scenery and views, and enhanced access and utility of properties in the Assessment District. These are special benefits to property in much the same way that sewer and water facilities, sidewalks and paved streets enhance the utility and desirability of property and make them more functional to use, safer and easier to access.

### General versus Special Benefit

Article XIII C of the California Constitution requires any local agency proposing to increase or impose a benefit assessment to "separate the general benefits from the special benefits conferred on a parcel." The rationale for separating special and general benefits is to ensure that property owners subject to the benefit assessment are not paying for general benefits. The assessment can fund special benefits but cannot fund general benefits. Accordingly, a separate estimate of the special and general benefit is given in this section.

In other words:

$$\text{Total Benefit} = \text{General Benefit} + \text{Special Benefit}$$

There is no widely-accepted or statutory formula for general benefit. General benefits are benefits from improvements or services that are not special in nature, are not “particular and distinct” and are not “over and above” benefits received by other properties. SVTA vs. SCCOSA provides some clarification by indicating that general benefits provide “an indirect, derivative advantage” and are not necessarily proximate to the improvements.

In this report, the general benefit is conservatively estimated and described, and then budgeted so that it is funded by sources other than the assessment.

The starting point for evaluating general and special benefits is the 2002 baseline level of service, had the assessment not been approved by the community. The assessment will fund Services “over and above” this general, baseline level and the general benefits estimated in this section are over and above the baseline.

A formula to estimate the general benefit is listed below:

<b>General Benefit</b>	<b>=</b>	<b>Benefit to real property outside of improvement district</b>	<b>+</b>	<b>Benefit to real property inside of improvement district</b>	<b>+</b>	<b>Benefit to public at large</b>
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Special benefit, on the other hand, is defined in the state constitution as “a particular and distinct benefit over and above general benefits conferred on real property located in the district or to the public at large.” The SVTA v. SCCOSA decision indicates that a special benefit is conferred to a property if it “receives a direct advantage from the improvement (e.g., proximity to a park).” In this assessment, as noted, the improved Services are available when needed to all properties in the Assessment District, so the overwhelming proportion of the benefits conferred to property is special, and are only minimally received by property outside the Assessment District or the public at large.

Proposition 218 twice uses the phrase “over and above” general benefits in describing special benefit. (Art. XIID, sections 2(i) & 4(f).) Arguably, all of the Services being funded by the assessment would be a special benefit because the Services would particularly and distinctly benefit the properties in the Assessment District over and above the baseline benefits.

Nevertheless, arguably some of the Services would benefit the public at large and properties outside the Assessment District. In this report, the general benefit is conservatively estimated and described, and then budgeted so that it is funded by sources other than the assessment.

## Calculating General Benefit

This section provides a measure of the general benefits from the assessments

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### **Benefit to Property Outside the Assessment District**

Properties within the Assessment District receive almost all of the special benefits from the Services because the Services will be provided solely in the Assessment District boundaries. (It should be noted that this Services may, at times, be used outside the District boundaries. However, this use is part of a mutual aid agreement and should be exactly offset by use of Services from other agencies within the District boundaries.) Properties proximate to, but outside of, the proposed boundaries of the Assessment District receive some benefit from the proposed Services due to some degree of indirectly reduced fire risk to their property. These parcels that are proximate to the boundaries of the Assessment District are estimated to receive less than 50% of the benefits relative to parcels within the Assessment District because they do not directly receive the improved fire protection resulting from the Services funded by the Assessments.

At the time the Assessment District was formed, there were approximately 130 of these “proximate” properties.

**CRITERIA:**

130 parcels outside the district but proximate to the District Boundaries  
 1,863 parcels in the Assessment District  
 50% relative benefit compared to property within the Assessment district

**CALCULATION:**

General benefit to property outside the Assessment District =  
 $130/1,993 * .5 = 3.3\%$

Although it can reasonably be argued that properties protected inside, but near the Assessment District boundaries are offset by similar fire protection provided outside, but near the Assessment District’s boundaries, we use the more conservative approach of finding that 3.3% of the Services may be of general benefit to property outside the Assessment District.

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### **Benefit to Property *Inside* the District that is *Indirect and Derivative***

The “indirect and derivative” benefit to property within the Assessment District is particularly difficult to calculate. A solid argument can be presented that all benefit within the Assessment District is special, because the Services are clearly “over and above” and “particular and distinct” when compared with the 2002 baseline level of Services, had the assessment district not passed.

In determining the proposed Assessment District area, the District has been careful to limit it to an area of parcels that will directly receive the benefit of the improved Services. All parcels will directly benefit from the use of the improved Services throughout the Assessment District in order to maintain the same improved level of fire suppression and protection throughout the area. Fire protection and suppression will be provided as needed throughout the area. The shared special benefit - reduced severity and number of fires - will be received on an equivalent basis by all parcels in the Assessment District. Furthermore, all parcels in the Assessment District will directly benefit from the ability to request service from the District and to have a District firefighter promptly respond directly to the parcel and address the owner's or resident's service need.

The SVTA vs. SCCOSA decision indicates that the fact that a benefit is conferred throughout the Assessment District area does not make the benefit general rather than special, so long as the Assessment District is narrowly drawn and limited to the parcels directly receiving shared special benefits from the service. We therefore conclude that, other than the small general benefit to properties outside the Assessment District (discussed above) and to the public at large (discussed below), all of the benefits of the Services to the parcels within the Assessment District are special benefits and it is not possible or appropriate to separate any general benefits from the benefits conferred on parcels in the Assessment District.

---

### **Benefit To The Public At Large**

With the type and scope of Services to be provided to the Assessment District, it is very difficult to calculate and quantify the scope of the general benefit conferred on the public at large. Because the Services directly serve and benefit all of the property in the Assessment District, any general benefit conferred on the public at large would be small. Nevertheless, there may be some indirect general benefit to the public at large.

The public at large uses the public highways, streets and sidewalks, and when traveling in and through the Assessment District and they may benefit from the services without contributing to the assessment. Although the protection of this critical infrastructure is certainly a benefit to all the property within the district, it is arguably "indirect and derivative" and possibly benefits people rather than property. A fair and appropriate measure of the general benefit to the public at large therefore is the amount of highway, street and sidewalk area within the Assessment District relative to the overall land area. An analysis of maps of the Assessment District shows that approximately 5.8% of the land area in the Assessment District is covered by highways, streets and sidewalks. This 5.8% therefore is a fair and appropriate measure of the general benefit to the public at large within the Assessment District.

---

### Summary of General Benefits

Using a sum of the measures of general benefit for the public at large and land outside the Assessment Area, we find that approximately 9.3% of the benefits conferred by the Fire and Rescue Assessment may be general in nature and should be funded by sources other than the assessment.

<p>General Benefit =</p> <p>3.3 % (Outside the district)</p> <p>+ 0.0 % (Inside the district - indirect and derivative)</p> <p>+ 5.8 % (Public at Large)</p> <p>= 9.1 % (Total General Benefit)</p>
---

The Assessment District's total budget for 2024-25 is \$1,775,692. Of this total budget amount, the District will contribute approximately \$1,462,702 or 90.34% of the total budget from sources other than this assessment. This contribution constitutes significantly more than 9.1% percent general benefits measured by the Assessment Engineer.

### Benefit Finding

As noted, the assessment funds will be used to improve fire protection and suppression services throughout the Assessment District. This Engineer's Report finds that the Services are a significant, tangible benefit that should reasonably and rationally confer more special benefit to properties in the Assessment District than the assessment cost of \$98.88 per benefit unit.

### Zones of Benefit

As noted, the assessments will fund improved fire suppression and protection services relatively uniformly throughout the Assessment District and the Assessment District boundaries have been narrowly drawn to only include the parcels that directly receive the Services. It therefore is appropriate to provide a District-wide Assessment District without zones of benefit because all parcels of similar type and features benefit similarly.



In *SVTA v. SCCOSA*, the court noted that a local agency-wide assessment district is appropriate under the right conditions: “Thus, if an assessment district is narrowly drawn, the fact that a benefit is conferred throughout the district does not make it general rather than special. In that circumstance, the characterization of a benefit may depend on whether the parcel receives a direct advantage from the improvement (e.g., proximity to a park) or receives an indirect, derivative advantage resulting from the overall public benefits of the improvement (e.g., general enhancement of the district's property values).” The court therefore acknowledged the appropriateness of a District-wide assessment so long as each parcel receives a direct advantage from the assessment-funded improvement or service. As demonstrated in this engineer’s report, each parcel in the Assessment District receives a direct advantage and special benefit from the Services.

### Assessment Apportionment

In the process of determining the appropriate method of assessment, the Engineer considered various alternatives. For example, an assessment exclusively for residential improved property was considered but was determined to be inappropriate because commercial, industrial and other properties also receive benefits from the assessments.

Moreover, a fixed or flat assessment for all properties of similar type was deemed to be inappropriate because larger properties receive a higher degree of benefit than other similarly used properties that are significantly smaller. For two properties used for commercial purposes, there is clearly a higher benefit provided to the larger property in comparison to a smaller commercial property because the larger property generally supports a larger building and has higher numbers of employees, customers and guests that would benefit from fire suppression services. This benefit ultimately flows to the property. Larger parcels, therefore, receive an increased benefit from the assessments.

As stated previously, the special benefits derived from the assessments are conferred on property and are not based on a specific property owner’s use of the improvements, or a specific property owner’s occupancy of property or the property owner’s demographic status such as age or number of dependents. However, it is ultimately people who value the special benefits described above, use the community’s services, and control property values by placing a value on the special benefits to be provided by the services.<sup>1</sup> In other words, the benefits derived to property are related to the average number of people who could potentially live on, work at, or otherwise could use a property, not how the property is currently used by the present owner. Therefore, the number of people who could or potentially live on, work at, or otherwise use a property is an indicator of the relative level of benefit received by a property.

The Assessment Engineer determined that the appropriate method of assessment should be based on the type of property, the relative size of the property, and the potential use of property by residents and employees. This method is further described below.

## Method of Assessment

The next step in apportioning assessments is to determine the relative special benefit for each property. This process involves determining the relative benefit received by each property in relation to a "benchmark" property, a single family detached dwelling on one parcel (one "Single Family Equivalent Benefit Unit" or "SFE"). This SFE methodology is commonly used to distribute assessments in proportion to estimated special benefits and is generally recognized as providing the basis for a fair and appropriate distribution of assessments. In this Engineer's Report, all properties are assigned an SFE value, which is each property's relative benefit in relation to a single-family home on one parcel.

The relative benefit to properties from fire related services is:

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### Residential Properties

All improved residential properties that represent a single residential dwelling unit are assigned one Single Family Equivalent or 1.0 SFE. Detached or attached houses, zero-lot line houses and townhomes are included in this category.

Properties with more than one residential unit are designated as multi-family residential properties. These properties benefit from the improvements in proportion to the number of dwelling units that occupy each property. The relative benefit for multi-family properties with two units receives twice the benefit of a single family home, and would receive 2 Single family equivalents (2 SFE). Likewise, each condominium unit receives 1.00 SFE and each mobile home receives 1.00 SFE. Single-family residences and mobile homes on parcels greater than one acre receive greater benefit from the services than do such properties on parcels equal to or less than one acre. Therefore, the benefits are deemed to be 1.00 SFE for the first acre and 0.10 SFE per each additional acre over 1 acre.

The single-family equivalency factor of 1.00 per dwelling unit for multifamily residential properties applies to such properties with 5 or fewer units. Moreover, the Engineer's experience with property owners of larger multifamily units has consistently found these owners place a lower level of benefit per dwelling unit to their property from the services relative to owners of single-family residences. Therefore, the benefits for multi-family properties are deemed to reach a maximum benefit of 5.0 SFE.

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## Commercial/Industrial Properties

SFE values for commercial and industrial land uses are based on the equivalence of special benefit on a land area basis between single family residential property and the average commercial/industrial property. The SFE values for various commercial and industrial land uses are further defined by using average employee densities because the special benefit factors described previously are also related to the average number of people who work at commercial/industrial properties.

In order to determine employee density factors, the findings from the San Diego Association of Governments Traffic Generators Study (the "SANDAG Study") are used because these findings were approved by the State Legislature as being a good representation of the average number of employees per acre of land area for commercial and industrial properties. As determined by the SANDAG Study, the average number of employees per acre for commercial and industrial property is 24.

In comparison, the average number of people residing in a single-family home in the area is 2.53. Since the average lot size for a single-family home in the Assessment district is approximately 0.50 acres, the average number of residents per acre of residential property is 5.06.

The employee density per acre is generally 4.70 times the population density of single-family residential property per acre (24 employees per acre / 5.06 residents per acre). Therefore, the average employee density can be used as the basis for allocating benefit to commercial or industrial property since a commercial/industrial property with 4.7 employees receives generally similar special benefit to a residential property with 1 resident. This factor of equivalence of benefit between 1 resident to 4.7 employees is the basis for allocating commercial/industrial benefit. Figure 2 shows the average employees per acre of land area or portion thereof for commercial and industrial properties and lists the relative SFE factors per half acre for properties in each land use category.

Commercial and industrial properties in excess of 5 acres generally involve uses that are more land intensive relative to building areas and number of employees (lower coverage ratios). As a result, the benefit factors for commercial and industrial property land area in excess of 5 acres is determined to be the SFE rate per half acre for the first 5 acres and the relevant SFE rate per each additional acre over 5 acres.

Institutional properties that are used for residential, commercial or industrial purposes are also assessed at the appropriate residential, commercial or industrial rate.

**Figure 2 – Commercial/Industrial Density and Assessment Factors**

Type of Commercial/Industrial Land Use	Average Employees Per Acre <sup>1</sup>	SFE Units per 1/2 Acre <sup>2</sup>
Commercial	24	1.00
Office	68	2.83
Shopping Center	24	1.00
Industrial	24	1.00
Self Storage or Parking Lot	1	0.04

<sup>1</sup> Source: San Diego Association of Governments Traffic Generators Study.

<sup>2</sup> The SFE factors for commercial and industrial parcels are applied by the half acre of land area or portion thereof. Therefore, the minimum assessment for any assessable parcel in these categories is the SFE Units listed herein.

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### Vacant Properties

The benefit to vacant properties is determined to be proportional to the corresponding benefits for similar type developed properties; however, at a lower rate due to the minimal improvements that can be damaged by fire on vacant properties. Using Assessor data, the average value of improvements on developed properties is approximately 70% of the total value, with land value comprising the remaining 30%. Since land has intrinsic value or utility that is unaffected by fire, it is estimated that a fire could reduce land value or utility by approximately 1/3<sup>rd</sup>. Therefore, the SFE factor for vacant parcels is deemed to be 0.10 SFE per acre (1 SFE \* 30% \* 33%).

---

### Other Properties

Article XIID stipulates that publicly owned properties must be assessed unless there is clear and convincing evidence that those properties receive no special benefit from the assessment.

All properties that are specially benefited are assessed. Public right-of-way parcels, well, reservoir or other water rights parcels that cannot be developed into other improved uses, limited access open space parcels, wildland parcels, watershed parcels and common area parcels typically do not generate employees, residents, customers or guests. Moreover, many of these parcels have limited economic value and, therefore, do not benefit from specific enhancement of property value. Such parcels are, therefore, not specially benefited and are not assessed.

Other publicly owned property that is used for purposes similar to private residential, commercial, industrial or institutional uses is benefited and assessed at the same rate as such privately owned property.

## Appeals and Interpretation

Any property owner who feels that the assessment levied on the subject property is in error as a result of incorrect information being used to apply the foregoing method of assessment, may file a written appeal with the Twain Harte Community Services District or her or his designee. Any such appeal is limited to correction of an assessment during the then-current fiscal year or, if before July 1, the upcoming fiscal year. Upon the filing of any such appeal, the District or his or her designee will promptly review the appeal and any information provided by the property owner. If the District or her or his designee finds that the assessment should be modified, the appropriate changes shall be made to the assessment roll. If any such changes are approved after the assessment roll has been filed with the County for collection, the District or his or her designee is authorized to refund to the property owner the amount of any approved reduction. Any dispute over the decision of the District or her or his designee, shall be referred to the Board of Directors and the decision of the Board shall be final.

## Assessment

WHEREAS, the Board of Directors of the Twain Harte Community Services District formed the Fire and Rescue Assessment District and is proceeding with the continuation of assessments under California Government Code sections 50078 et seq. (the “Code”) and Article XIID of the California Constitution (the “Article”);

WHEREAS, the undersigned Engineer of Work has prepared and filed a report presenting an estimate of costs, a diagram for the Assessment District and an assessment of the estimated costs of the Services upon all assessable parcels within the Assessment District;

NOW, THEREFORE, the undersigned, by virtue of the power vested in me under said Act and the order of the Board of the District, hereby makes the following assessment to cover the portion of the estimated cost of the improvements, and the costs and expenses incidental thereto to be paid by the Assessment District.

The amount to be paid for the improvements and the expense incidental thereto, to be paid by the Assessment District for the fiscal year 2024-25 is generally as follows:

**Figure 3 – Summary of Cost Estimate**

	FY 2024-25 Budget
Fire and Rescue Expenses	\$1,315,603
Administrative Cost Allocation	\$144,809
Capital Expenses/Outlay	\$311,000
Incidental Expenses	\$4,280
TOTAL BUDGET	<u>\$1,775,692</u>
Less: District Contribution	(\$1,462,702)
Transfer To/(From) Reserve	(\$141,458)
NET AMOUNT TO ASSESSMENTS	<u>\$171,532</u>

As required by the Article, an Assessment Diagram is hereto attached and made a part hereof showing the exterior boundaries of the Assessment district. The distinctive number of each parcel or lot of land in the Assessment district is its Assessor Parcel Number appearing on the Assessment Roll.

I do hereby assess and apportion the net amount of the cost and expenses of the improvements, including the costs and expenses incident thereto, upon the parcels and lots of land within the Assessment district, in accordance with the special benefits to be received by each parcel or lot, from the improvements, and more particularly set forth in the Cost Estimate and Method of Assessment hereto attached and by reference made a part hereof.

The assessment is subject to an annual adjustment tied to the Consumer Price Index-U for the San Francisco Bay Area as of December of each succeeding year (the "CPI"), with a maximum annual adjustment not to exceed 3%. Any change in the CPI in excess of 3% shall be cumulatively reserved as the "Unused CPI" and shall be used to increase the maximum authorized assessment rate in years in which the CPI is less than 3%. The maximum authorized assessment rate is equal to the maximum assessment rate in the first fiscal year the assessment was levied adjusted annually by the minimum of 1) 3% or 2) the change in the CPI plus any Unused CPI as described above.

The change in the CPI from December 2022 to December 2023 was 2.62% and the Unused CPI carried forward from the previous fiscal year is 3.71%. Therefore, the maximum authorized assessment rate for fiscal year 2024-25 is increased by 3% which equates to \$101.86 per single family equivalent benefit unit. The estimate of cost and budget in this Engineer's Report proposes assessments for fiscal year 2024-25 at the rate of \$101.86, which is equal to the maximum authorized assessment rate.

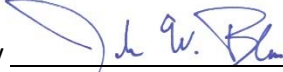
Since property owners in the Assessment District, in an assessment ballot proceeding, approved the initial fiscal year benefit assessment for special benefits to their property including the CPI adjustment schedule, the assessment may continue to be levied annually and may be adjusted by up to the maximum annual CPI adjustment without any additional assessment ballot proceeding. In the event that in future years the assessments are levied at a rate less than the maximum authorized assessment rate, the assessment rate in a subsequent year may be increased up to the maximum authorized assessment rate without any additional assessment ballot proceeding.

Each parcel or lot of land is described in the Assessment Roll by reference to its parcel number as shown on the Assessor's Maps of the County of Tuolumne for the fiscal year 2024-25. For a more particular description of the property, reference is hereby made to the deeds and maps on file and of record in the County Recorder's office.

I hereby place opposite the Assessor Parcel Number for each parcel or lot within the Assessment Roll, the amount of the assessment for the fiscal year 2024-25 for each parcel or lot of land within the Assessment District.

Dated: April 22, 2024

Engineer of Work

By   
John Bliss, License No. C52091





## Assessment Diagram

The Assessment District includes all properties within the boundaries of Twain Harte Community Services District. The boundaries of the Assessment District are displayed on the following Assessment Diagram. The lines and dimensions of each lot or parcel within the Assessment District are those lines and dimensions as shown on the maps of the Assessor of the County of Tuolumne, for fiscal year 2024-25, and are incorporated herein by reference, and made a part of this Diagram and this Report.

FILED IN THE OFFICE OF THE SECRETARY OF THE BOARD OF THE TWIN HARTE COMMUNITY SERVICES DISTRICT, COUNTY OF TUOLUMNE, CALIFORNIA, THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2024.

SECRETARY OF THE BOARD

RECORDED IN THE OFFICE OF THE SECRETARY OF THE BOARD OF THE TWIN HARTE COMMUNITY SERVICES DISTRICT, COUNTY OF TUOLUMNE, CALIFORNIA, THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2024.

SECRETARY OF THE BOARD

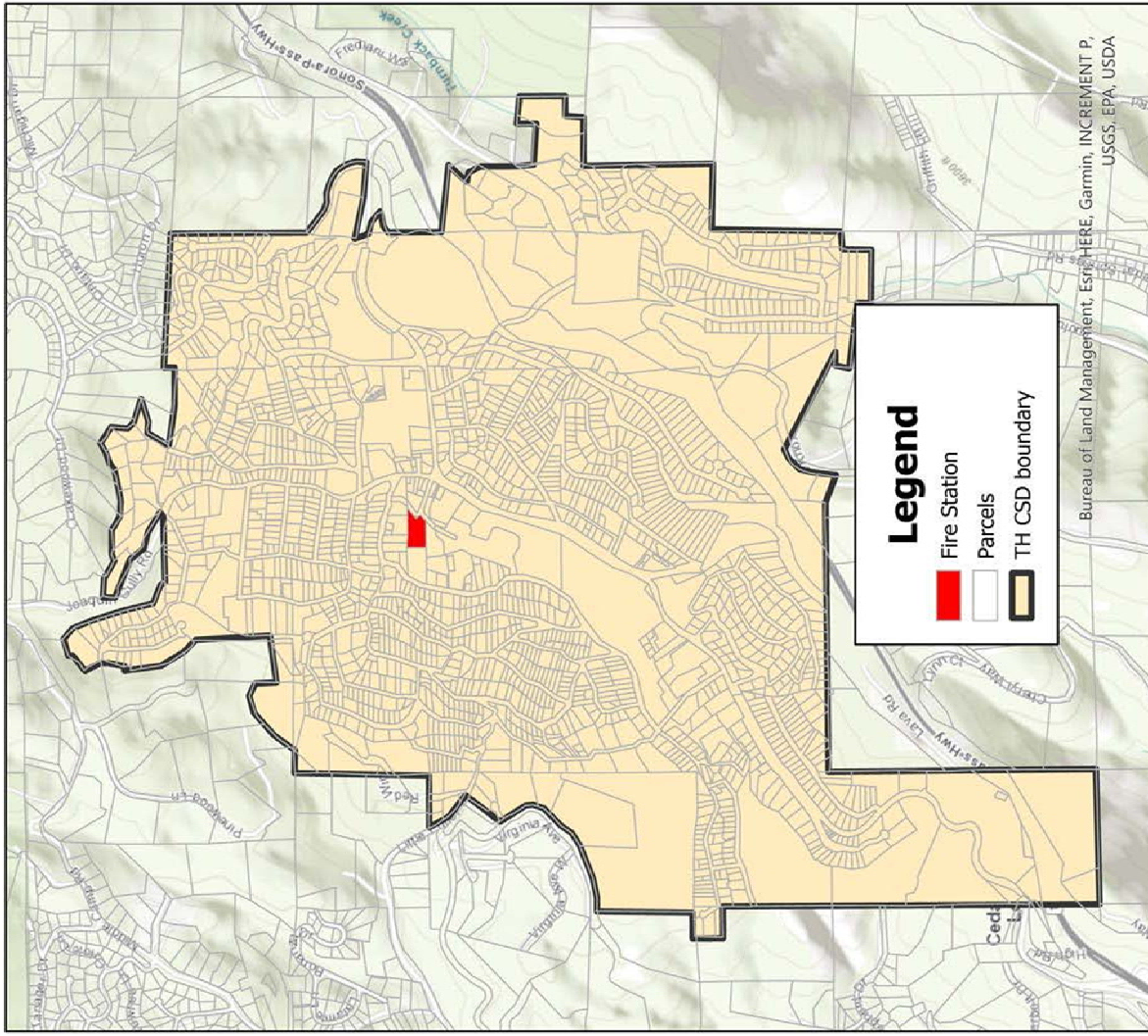
AN ASSESSMENT WAS CONFIRMED AND LEVIED BY THE BOARD OF THE TWIN HARTE COMMUNITY SERVICES DISTRICT ON THE LOTS, PIECES AND PARCELS OF LAND ON THIS ASSESSMENT DIAGRAM ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2024 FOR THE FISCAL YEAR 2024-25 AND SAID ASSESSMENT DIAGRAM AND THE ASSESSMENT ROLL FOR SAID FISCAL YEAR WERE FILED IN THE OFFICE OF THE COUNTY AUDITOR OF THE COUNTY OF TUOLUMNE ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2024. REFERENCE IS HEREBY MADE TO SAID RECORDED ASSESSMENT ROLL FOR THE EXACT AMOUNT OF EACH ASSESSMENT LEVIED AGAINST EACH PARCEL OF LAND.

SECRETARY OF THE BOARD

FILED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ O'CLOCK \_\_\_\_\_ M. IN THE COUNTY AUDITOR OF THE COUNTY OF TUOLUMNE, STATE OF CALIFORNIA, AT THE REQUEST OF THE BOARD OF DIRECTORS OF THE TWIN HARTE COMMUNITY SERVICES DISTRICT.

COUNTY AUDITOR, COUNTY OF TUOLUMNE

Note: REFERENCE IS HEREBY MADE TO THE MAPS AND DEEDS OF RECORD IN THE OFFICE OF THE ASSESSOR OF THE COUNTY OF TUOLUMNE FOR A DETAILED DESCRIPTION OF THE LINES AND DIMENSIONS OF ANY PARCEL SHOWN HEREIN. THOSE MAPS SHALL GOVERN FOR ALL DETAILS CONCERNING THE LINES AND DIMENSIONS OF SUCH PARCELS. EACH PARCEL IS IDENTIFIED IN SAID MAPS BY ITS DISTINCTIVE ASSESSOR'S PARCEL NUMBER.



**TWIN HARTE COMMUNITY SERVICES DISTRICT  
FIRE AND RESCUE ASSESSMENT DISTRICT  
ASSESSMENT DIAGRAM**

Bureau of Land Management, Escondido, CA  
USGS, EPA, USDA

## Assessment Roll

An Assessment Roll (a listing of all parcels assessed within the Assessment district and the amount of the assessment) will be filed with the Secretary of the Board and is, by reference, made part of this report and is available for public inspection during normal office hours.

Each lot or parcel listed on the Assessment Roll is shown and illustrated on the latest County Assessor records and these records are, by reference made part of this report. These records shall govern for all details concerning the description of the lots or parcels.

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<sup>i</sup> Insurance Services Offices Inc.

<http://www.rockwall.com/FireDepartment/Insurance%20Services%20Office%20Rating%20Information.pdf>

<sup>ii</sup> Institute for Business & Home Safety, "Protect Your Home Against Wildfire Damage,"

<http://www.ibhs.org/publications/view.asp?id=125>

<sup>iii</sup> U.S. Fire Administration, Department of Homeland Security, "America Burning, Recommissioned: Principal Findings and Recommendations," p.1,

<http://www.usfa.fema.gov/downloads/pdf/abr-rep.PDF>

<sup>iv</sup> U.S. Fire Administration, Department of Homeland Security, "America Burning, Recommissioned: Principal Findings and Recommendations," p.2,

<http://www.usfa.fema.gov/downloads/pdf/abr-rep.PDF>

<sup>v</sup> Insurance Services Offices Inc., p. 1,

<http://www.rockwall.com/FireDepartment/Insurance%20Services%20Office%20Rating%20Information.pdf>

<sup>vi</sup> Weldon, Leslie A. C., "Dealing with Public Concerns in Restoring Fire to the Forest," General Technical Report INT-GTR-341 The Use of Fire in Forest Restoration, U.S. Forest Service, June 1996, p. 3

<sup>vii</sup> U.S. Forest Service, Department of Agriculture, "Social Science to Improve Fuels Management: A Synthesis of Research on Aesthetics and Fuels Management," p. 1,

[http://ncrs.fs.fed.us/pubs/gtr/gtr\\_nc261.pdf](http://ncrs.fs.fed.us/pubs/gtr/gtr_nc261.pdf)

<sup>viii</sup> Insurance Services Offices Inc., p. 1,

<http://www.rockwall.com/FireDepartment/Insurance%20Services%20Office%20Rating%20Information.pdf>



# Board Meeting Agenda Item Summary

May 8, 2024

<b>ITEM #:</b>	07A	<b>ITEM TYPE:</b>	<input type="checkbox"/> Discussion <input type="checkbox"/> Action <input checked="" type="checkbox"/> Both
<b>SUBJECT:</b>	Discussion/action to adopt Resolution #24-16 – Adoption of a Mitigated Negative Declaration for the Twain Harte Community Services District (THCSD) Water System Improvements Project.		
<b>RELATION TO STRATEGIC PLAN:</b>	<input type="checkbox"/> N/A <input checked="" type="checkbox"/> Advances Goal/Objective #'s: <u>1.5</u>		

## RECOMMENDED ACTION:

Adopt Resolution #24-16 – Adoption of a Mitigated Negative Declaration for the Twain Harte Community Services District (THCSD) Water System Improvements Project.

## SUMMARY:

The District recently completed a grant-funded condition assessment of its water system. Among other things, the assessment identified and prioritized capital projects to address portions of the system that posed the biggest risk of failure due to age and condition. Replacing the Sherwood Forest Water System was determined to be the highest priority project for the system. As a result, design for the Sherwood Forest Water Main Replacement Project, also known as the Twain Harte Community Services District Water System Improvements Project (Project), and an initial study/mitigated negative declaration (IS/MND) was developed and proposed for the Project in accordance with the California Environmental Quality Act (CEQA).

The Project proposes to replace the entire Sherwood Forest water system, including approximately 3,938± linear feet (lf) of new six-inch pipeline, and removal and replacement of 7,836± linear feet of existing pipeline (approximately 2.2 miles in total). Most of the improvements will occur within roadways including Tuolumne Road North, East Avenue, Twain Harte Drive, Little John Road, Robin Hood Drive, King Arthur’s Court, and portions of Fallen Leaf and Broken Bough Lanes with stub outs to existing residences.

A Mitigation and Monitoring and Reporting Plan was prepared and incorporated into the IS/MND to establish mitigation measures for the Project. The mitigation measures ensure that the Project will not have a significant effect on the environment.

The IS/MND was submitted to the State Clearinghouse and was made available for public review for the timeframes required by CEQA. The District received comments from Caltrans, the State Water Resources Control Board, the Central Valley Regional Water Quality Control Board, and the California Department of Fish and Wildlife. Responses to their comments have been incorporated into the IS/MND.

## FINANCIAL IMPACT:

This IS/MND was prepared with grant funds through a planning grant from the State Water Resources Control Board. Adopting the Project’s MND has no financial impact and is necessary to proceed with application for grant funding for construction of the Project.

## ATTACHMENTS:

- Resolution #24-16 – Adoption of a Mitigated Negative Declaration for the Twain Harte Community Services District (THCSD) Water System Improvements Project.

**DRAFT INITIAL STUDY / MITIGATED  
NEGATIVE DECLARATION Twain Harte  
Community Services District Water  
System Improvements Project**

Prepared for: Kennedy/Jenks Consultants, Inc.

Draft Initial Study/  
Mitigated Negative  
Declaration  
January 2024  
**Revised 5/1/24**

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## Abbreviations and Acronyms

<i>Abbreviations and Acronyms</i>	
AB	Assembly Bill
amsl	Above mean sea level
APN	Assessor's Parcel Number
BMP	Best Management Practice
CAAQS	California Ambient Air Quality Standards
CARB	California Air Resources Board
CCR	California Code of Regulations
CDFW	California Department of Fish and Wildlife
CDMG (CGS)	California Division of Mines and Geology (now California Geological Survey)
CEQA	California Environmental Quality Act
CESA	California Endangered Species Act
CFGC	California Fish and Game Code
CNDDDB	California Natural Diversity Database
CNPS	California Native Plant Society
County	Tuolumne County
Corps	U.S. Army Corps of Engineers
CRHR	California Register of Historic Resources
CRLF	California Red-Legged Frog
CVRWQCB	Central Valley Regional Water Quality Control Board
CWA	Federal Clean Water Act
DTSC	California Department of Toxic Substance Control
DWR	California Department of Water Resources
ESA	Environmentally Sensitive Areas
FEMA	Federal Emergency Management Agency
FESA	Federal Endangered Species Act
FIRM	Flood Insurance Rate Maps
FYLF	Foothill yellow-legged frog
GHG	Greenhouse Gas
HCP	Habitat Conservation Plan
HSC	California Health and Safety Code
lf	Linear feet

## *Abbreviations and Acronyms*

MBTA	Migratory Bird Treaty Act
MM	Mitigation Measure
MTCO <sub>2e</sub>	Metric tons of carbon dioxide equivalent
NAAQS	National Ambient Air Quality Standards
NAHC	Native American Heritage Commission
NCCP	Natural Community Conservation Plan
NEPA	National Environmental Policy Act
NOA	Naturally Occurring Asbestos
NPDES	National Pollution Discharge Elimination System
NRCS	National Resource Conservation Service
NRHP	National Register of Historic Places
PRC	Public Resources Code
Project	Twain Harte Community Services District Water System Improvements
PSA	Project Study Area
ROW	Right of way
RTP	Regional Transportation Plan
RWQCB	Regional Water Quality Control Board
SCC	Species of Special Concern
SOIS	Secretary of the Interior Standards
SR	State Route
SWPPP	Storm Water Pollution Prevention Plan
SWRCB	State Water Resources Control Board
TCAPCD	Tuolumne County Air Pollution Control District
TCOC	Tuolumne County Zoning Ordinance/Ordinance Code
THCSD	Twain Harte Community Services District
USFWS	United States Fish and Wildlife Service
USGS	United States Geological Survey
WDRs	Waste Discharge Requirements

## INITIAL STUDY

**DATE:** January 2024

**OWNER:** Twain Harte Community Services District (THCSD or District)

**APPLICANT:** Twain Harte Community Services District

**LOCATION:** See **Figures 1-4**.

**ASSESSOR'S  
PARCEL NOS:** See below.

Public road rights of way (Portions of Tuolumne Road North, East Avenue, Twain Harte Drive, Little John Road, Robin Hood Drive, King Arthur's Court, and portions of Fallen Leaf and Broken Bough Lanes) and portions of:

APN	Owner	Use
048-351-008	Criado	22463 North Tuolumne Road
048-351-009	Coon	22451 North Tuolumne
048-353-008	Potter	22464 North Tuolumne
048-353-009	Eggers	22452 North Tuolumne
048-410-007	Twain Harte CSD	Water tank
048-410-020	BLM	Vacant, Tuolumne Road, East Ave (work within road ROWs)
048-410-022	Hansen	22862 N. Tuolumne Road
048-410-025	Delenikus	22866 N. Tuolumne Road
048-410-028	Ewell	22828 N. Tuolumne Road
048-410-029	Thompson	Vacant
048-461-012	Martin	22353 Broken Bough
048-461-030	Liu	22350 Broken Bough
048-461-036	Dempsey	22377 Robin Hood
048-463-002	Marion	22452 Little John
048-463-003	Patton	22464 Little John
048-463-008	Martinez	22534 Little John
048-463-009	Stampro	22536 Little John
048-474-001	Zukal	22658 Robin Hood
048-474-002	Waterfall Lodge Improvement Company	Lake (work area is adjacent to 22622 and 22626 Robin Hood)
048-481-003	Twain Harte CSD	Utilities
048-482-001	Ohara	22626 Robin Hood
048-482-002	Juhlin	22622 Robin Hood
048-610-015	Longoria	22787 East Avenue

**Expanded Project Alternative:**

Includes the preceding project plus the following:

APN	Owner	Use
906-000-103	Melvin	Vacant, Misc.
048-420-010	Fickel and Prusack	22823 N. Tuolumne Road
048-420-013	Fickel and Prusack	Vacant

## 1.0 PROJECT AND SETTING

### 1.1 Project Location

The project extends through portions of Sections 9 and 16, T2N, R16E, Mount Diablo Base and Meridian (MDB&M) in Tuolumne County, CA in the central Sierra Nevada foothills (**Figure 1**). The project footprint is entirely located within the Twain Harte USGS 7.5' Quadrangle and includes a portion of the Twain Harte Community and most of the Sherwood Forest subdivision (**Figures 2-3**). Most of the improvements will occur within roadways including Tuolumne Road North, East Avenue, Twain Harte Drive, Little John Road, Robin Hood Drive, King Arthur's Court, and portions of Fallen Leaf and Broken Bough Lanes with stub outs to existing residences (**Figure 3**). A portion will occur in roadways, parking areas and behind the Twain Harte Shopping Center below Twain Harte Drive.

### 1.2 PROJECT DESCRIPTION / PURPOSE AND NEED

The Twain Harte Community Services District (THCSD) proposes to improve water system fire flow in the Pressure Zones 4 and 6 referred to as the Sherwood Distribution System in the community of Twain Harte, Tuolumne County, California (the Project) through pipeline replacement, upsizing, relocation into road ROWs and/or pipeline abandonment through existing residential lots and the Twain Harte Shopping Center as detailed in **Figures 2-3**. The Project includes 3,938± linear feet (lf) of new six-inch pipeline, and removal and replacement of 7,836± linear feet of existing pipeline. The Project proposes using State Water Resources Control Board (SWRCB) State Revolving Funds (SRF).

THCSD will act as the Lead Agency for the California Environmental Quality Act (CEQA). The State Water Resources Control Board, Division of Financial Assistance will act as a CEQA Responsible Agency and ensure compliance with federal regulations outside of the CEQA process.

#### Construction Schedule and Equipment

Construction of the Twain Harte CSD project is expected to begin in the spring of 2025 and be completed in late summer or early fall of 2025 (Rocha pers. comm.). Anticipated equipment to be used includes: excavators, loaders, dump trucks, backhoes, graders, water trucks, compactors, concrete trucks, pavers, and similar construction vehicles.

#### **Alternatives**

Project alternatives are evaluated in **Section 2.20** herein. Those alternatives, described in detail in Section 2.20, include:

No Build Alternative. In addition to the Project, a No-Build Alternative is evaluated herein. Under the No-Build Alternative, no changes would be made to the existing water system.

Expanded Project Alternative. This alternative includes the Project plus a waterline extension through the northern portion of the project site from the cul-de-sac on King Arthur's Court across land through APN 906-000-103 and to APNs 048-420-010 and -013.

### **1.3 Site Description/Setting**

The proposed improvements will occur primarily within existing public road rights-of-way and existing easements within and around the Twain Harte Community and Sherwood Forest subdivision and within the Twain Harte Shopping Center. Site elevations range from approximately 3,600 to 4,200 feet above mean sea level (amsl).

East Avenue connects the project areas beneath SR 108.

Turnback enters the northeast corner of the Project within the Sherwood Forest Subdivision, crosses beneath Robin Hood where it continues to flow northeast to southwest through the center of the subdivision forming a small lake and a small downstream pond emptying into a central open space / common area before the creek continues southwesterly (crossing beneath Robin Hood/Little John) and on towards Tuolumne City. Little John and Robin Hood Drives create a circle around the central open space serving single-family residential homes on lots ranging in average size from 0.2 to 0.4 acre with isolated lots of 0.8 to 3 acres.

A short segment of the Sugar Pine Railroad Grade and Section IV ditch cross East Avenue within the project boundaries.

Figure 1: Regional Setting

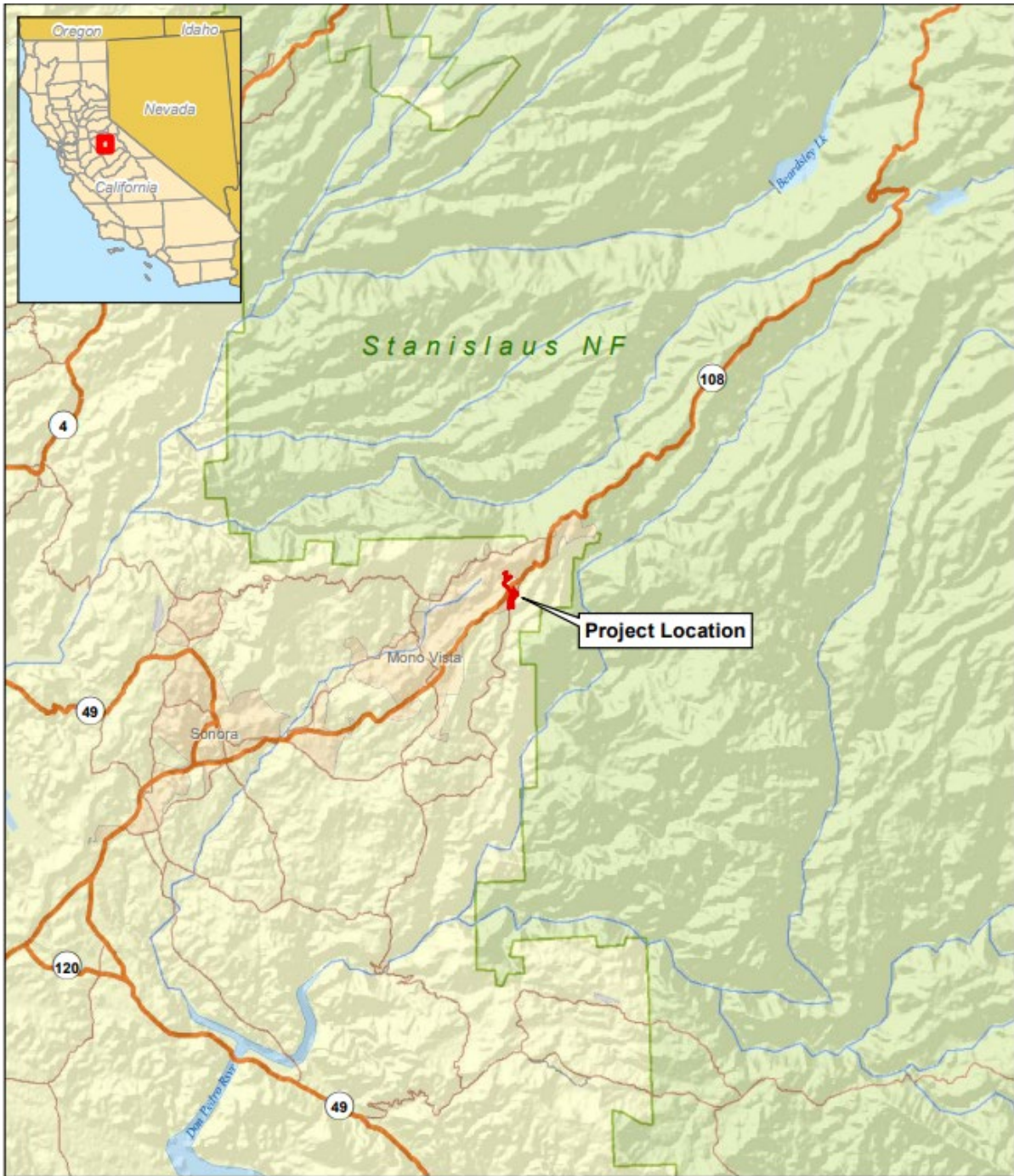


Figure 1. Project Vicinity Map.

— Twain Harte CSD Sherwood Distribution Improvements Project

1:250,000

0 3 Miles

0 6 Kilometers





Figure 2: Project (topographic map)

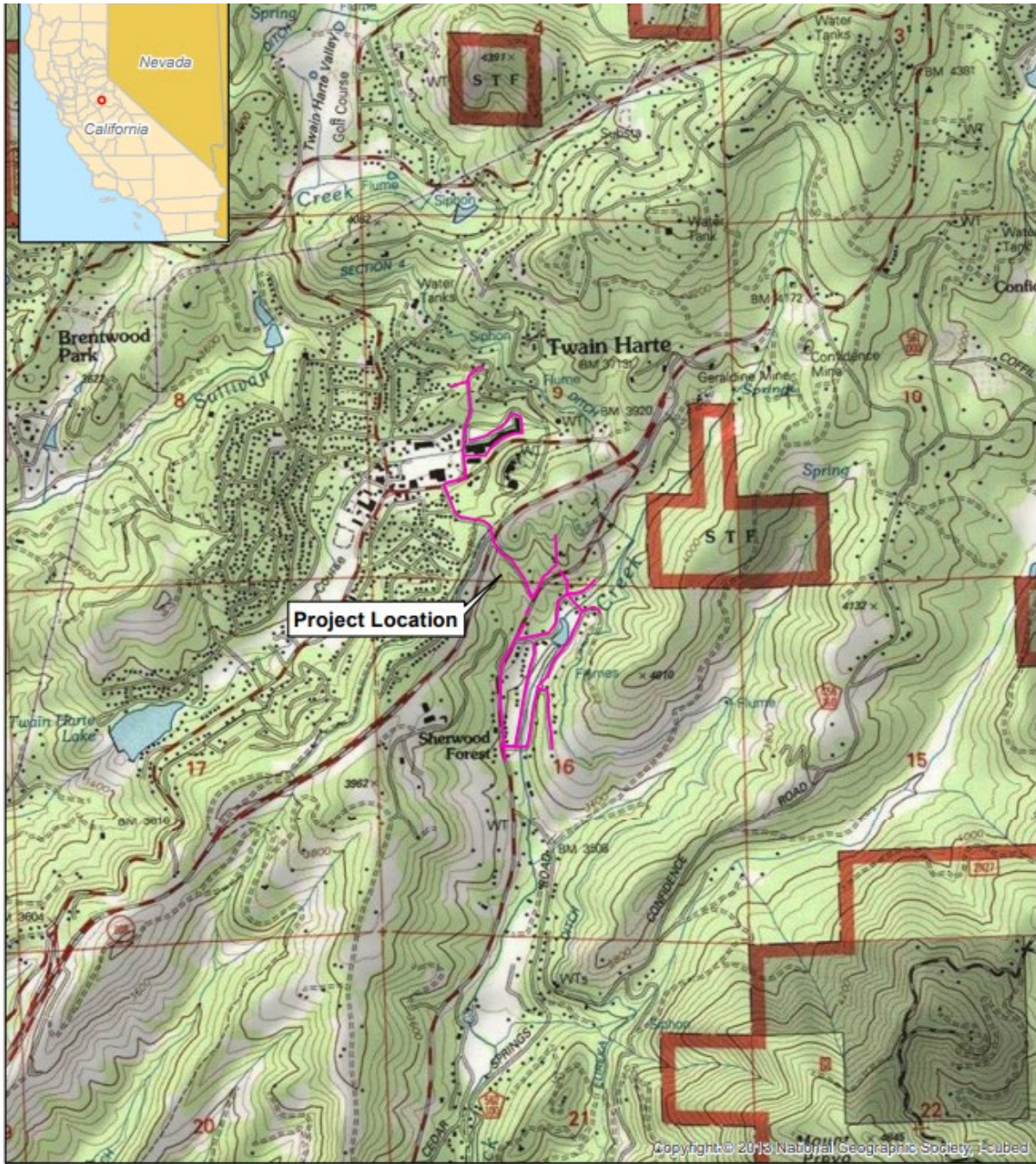


Figure 2. Project Location Map. 1:24,000

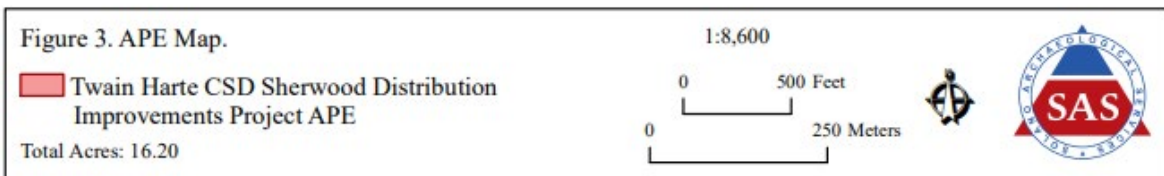
█ Twain Harte CSD Sherwood Distribution Improvements Project APE

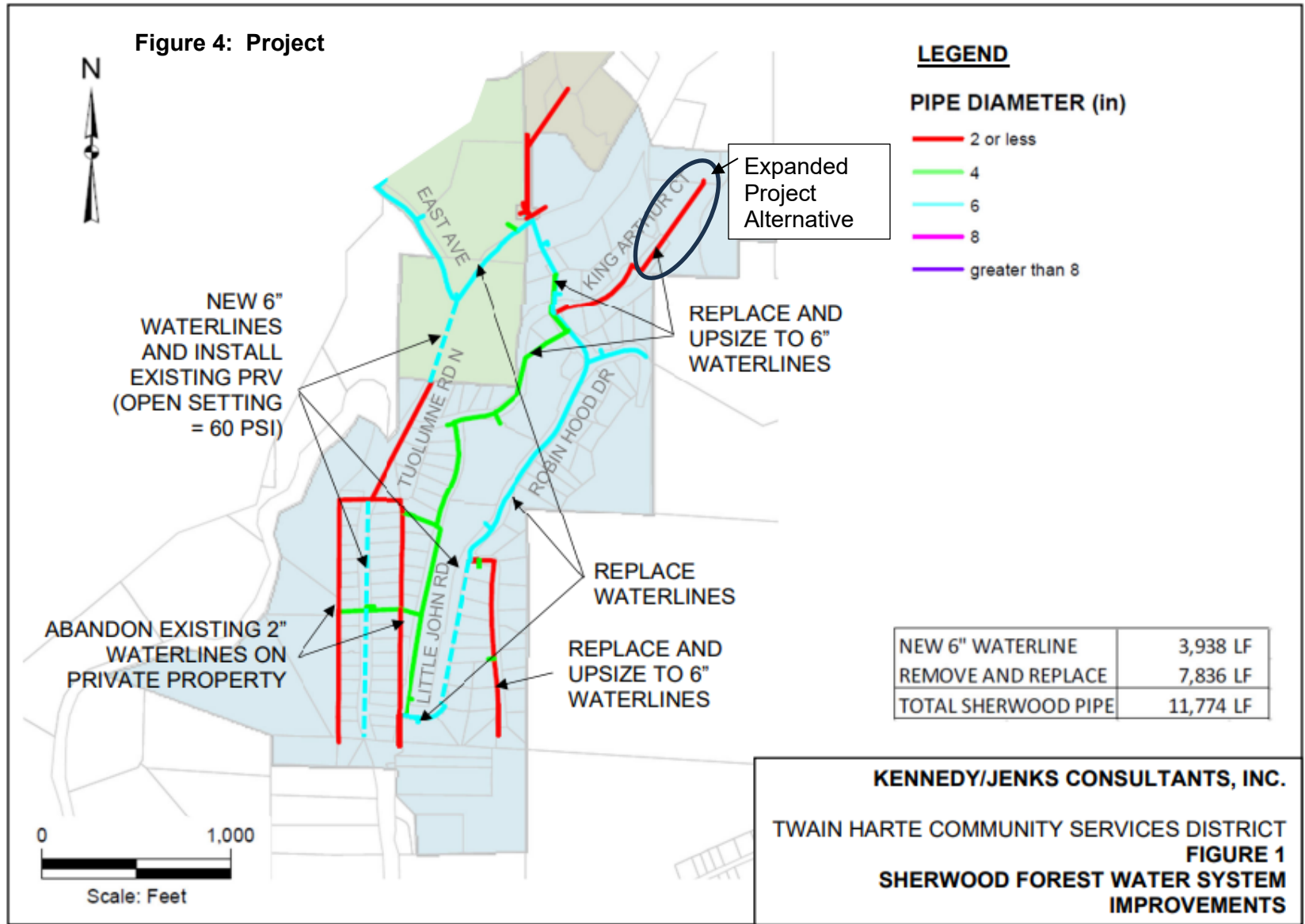
T02N, R16E, Sections 9 & 16.  
Twain Harte 7.5' Series Quadrangle, USGS, 1980.

0.5 Miles  
1 Kilometers



Figure 3: Project (Aerial)





#### 1.4 Public Resources Code Section 21080.3.1 Consultation

Assembly Bill (AB) 52 (Chapter 532, Statutes of 2014) establishes a formal consultation process for California tribes as part of CEQA. Under AB 52, tribes requesting formal consultation from the Lead Agency are notified of the project prior to the preparing the CEQA document.

Consultations were conducted in conjunction within a nearly identical project footprint in 2012. The results of that consultation are as follows:

Native American consultation consisted of a Native American Heritage Commission (NAHC) sacred lands file search request, notification letters, coordination, and monitoring. The sacred lands file search by the NAHC on August 16, 2012, failed to indicate the presence of Native American cultural resources. On August 31, 2012, project notification letters describing the project were sent to seven individuals provided by the NAHC. Responses and contacts were as follows:

Tribe	Tribal Contact	Result
Tuolumne Band of Me-Wuk	Stanley Cox, Cultural Resource Director	No response
Tuolumne Band of Me-Wuk	Kevin Day, Chairperson	No response
Tuolumne Band of Me-Wuk	Reba Fuller	No response
California Valley Miwok Tribe	Briana Creekmore, Cultural Committee	No response
Chicken Ranch Rancheria of Me-Wuk	Lloyd Mathiesen, Chairperson	No response
Chicken Ranch Rancheria of Me-Wuk	Melissa Powell, Cultural Resources Coordinator	No response
Buena Vista Rancheria	Rhonda Morningstar Pope, Chairperson	No response

Due to staffing shortages at the NAHC, a revised list of contacts remains pending. Due to the lapse in time since the prior notification and delayed response from NAHC, re-notification of *local* tribal contacts was reinitiated as follows:

- Chicken Ranch Rancheria - Stephanie Suess, Monica Fox  
Notification sent 1/6/24, response not received to date.
- Tuolumne Band of Me-Wuk - Tuolumne MeWuk Tribal Council, Vicky Stone  
Notification sent 1/6/24, response not received to date.

In accordance with AB 52, these tribes will be provided copies of the draft IS/MND for any further comments. Comments will be incorporated into the final draft IS/MND.

## 1.5 CEQA Process

This document has been prepared to satisfy the requirements of CEQA (Public Resources Code Section 21000 et seq.) and the State CEQA Guidelines (14 California Code of Regulations [CCR] 15000 et seq.). CEQA requires that all state and local government agencies consider the environmental consequences of projects over which they have discretionary authority before they approve or implement those projects.

The Initial Study is a public document used by the decision-making lead agency to determine whether a project may have a significant effect on the environment. In the case of the proposed Project, the Twain Harte Community Services District is the lead agency and will use the Initial Study to determine whether the proposed Project has a significant effect on the environment.

If the lead agency finds substantial evidence that any aspect of the proposed Project, either alone or in combination with other projects, may have a significant effect on the environment, that agency is required to prepare an Environmental Impact Report (EIR), a supplement to a previously prepared EIR, or a subsequent EIR to analyze the proposed Project at hand. If the agency finds no substantial evidence that the proposed Project or any of its aspects may cause a significant impact on the environment, a negative declaration may be prepared. If, over the course of the analysis, the proposed Project is found to have a significant impact on the environment that, with specific mitigation measures, can be reduced to a less-than-significant level, a supplemental mitigated negative declaration may be prepared. In the case of this proposed Project, all significant or potentially significant impacts on the environment would be reduced to less-than-significant levels with incorporation of specific mitigation measures. Therefore, this document is a mitigated negative declaration.

## 1.6 Incorporation by Reference

The following studies applicable to the proposed Project are hereby incorporated by reference. Copies of these studies may be viewed at the Twain Harte Community Services District offices located at 22912 Vantage Pointe Drive, Twain Harte, CA 95383 during regular business hours.

**Table 1: Project Studies Incorporated by Reference**

Study Title	Author	Date
<i>Twain Harte Community Services District Water Distribution System Improvements Biological Study Report/b/</i>	Augustine Planning Associates, Inc. by Amy Augustine, AICP	January 2024
<i>Cultural Resources Inventory and Evaluation Report Twain Harte Community Services District – Sherwood Distribution Improvements Project Twain Harte, Tuolumne County, California /b/</i>	Solano Archaeological Services, LLC	June 2023
<i>Twain Harte Community Services District Sherwood Distribution System Improvements Project Air Quality and Greenhouse Gas Analysis</i>	WK Shijo	November 6, 2023
<i>/b/</i> Cultural Resources reports contain confidential cultural resource location information; report distribution may be restricted. Cultural resources are nonrenewable, and their scientific, cultural, and aesthetic value can be significantly impaired by disturbance. To prevent vandalism, artifact hunting, and other activities which can damage cultural resources, and to protect the landowner from trespass, the locations of cultural resources should be kept confidential. California Government Code 6254.1 exempts archaeological site information		

Study Title	Author	Date
from the California Public Records Act. Biological Study Report contains confidential biological resources location information, report distribution is restricted.		

### 1.7 Other Public Agency Approvals

Other public agency approvals that may be required for the Project are summarized in the following table.

**Table 2: Other Public Agency Approvals or Reviews that *May* be Required**

Permitting Agency	Permit (or Approval)
Tuolumne County	Road encroachment permit
State Water Resources Control Board	Stormwater Pollution Prevention Plan (SWPPP)
California Department of Fish and Wildlife	1600 Lake or Streambed Alteration Agreement (LSAA) <i>/a/</i>
U.S. Army Corps of Engineers	Section 404 Clean Water Act Wetlands Permit/ <i>a/</i>
State Water Resources Control Board	Section 401 Clean Water Act Water Quality Certification <i>/a/</i>
State Water Resources Control Board, Division of Financial Assistance	CEQA Responsible Agency, Ensure compliance with federal regulations outside of the CEQA process
<b><i>All other applicable local, state and federal permits required by law.</i></b>	

*/a/* May be eliminated through project design (i.e., eliminating Expanded Project Alternative)

## 2.0 ENVIRONMENTAL EVALUATION

**TERMINOLOGY DEFINITIONS:** The following terminology is used in this environmental analysis to describe the level of significance of potential impacts to each resource area:

- **Potentially Significant Impact.** This term applies to adverse environmental consequences that have the potential to be significant according to the threshold criteria identified for the resource, even after mitigation strategies are applied and/or an adverse effect that could be significant and for which no mitigation has been identified. If any potentially significant impacts are identified, an Environmental Impact Report (EIR) must be prepared consistent with the California Environmental Quality Act (CEQA).
- **Less-than-Significant Impact with Mitigation.** This term applies to adverse environmental consequences that have the potential to be significant, but can be reduced to less-than-significant levels through the application of identified mitigation strategies that have not already been incorporated into the proposed Project.
- **Less-than-Significant Impact.** This term applies to potentially adverse environmental consequences that do not meet the significance threshold criteria for that resource. Therefore, no mitigation measures are required.
- **No Impact.** This term means no adverse environmental consequences have been identified for the resource or the consequences are negligible or undetectable. Therefore, no mitigation measures are required.

### ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED

The environmental factors checked below would be potentially affected by this Project (excluding Project Alternatives), involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklists and report on the following pages.

<input type="checkbox"/> Aesthetics	<input type="checkbox"/> Agriculture and Forestry Resources	<input checked="" type="checkbox"/> Air Quality
<input checked="" type="checkbox"/> Biological Resources	<input checked="" type="checkbox"/> Cultural Resources	<input type="checkbox"/> Geology /Soils
<input type="checkbox"/> Greenhouse Gas Emissions	<input type="checkbox"/> Hazards and Hazardous Materials	<input checked="" type="checkbox"/> Hydrology / Water Quality
<input type="checkbox"/> Land Use / Planning	<input type="checkbox"/> Mineral Resources	<input checked="" type="checkbox"/> Noise
<input type="checkbox"/> Population / Housing	<input type="checkbox"/> Public Services	<input type="checkbox"/> Recreation
<input checked="" type="checkbox"/> Transportation / Traffic	<input checked="" type="checkbox"/> Tribal Cultural Resources	<input type="checkbox"/> Utilities/Service Systems
<input checked="" type="checkbox"/> Mandatory Findings of Significance		

**DETERMINATION:**

- I find that the proposed Project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
- I find that although the proposed Project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the Project have been made by or agreed to by the Project proponent and a MITIGATED NEGATIVE DECLARATION will be prepared.
- I find that the proposed Project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
- I find that the proposed Project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
- I find that although the proposed Project could have a significant effect on the environment, because all potentially significant effects 1) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and 2) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed Project, nothing further is required.

---

Tom Trott, General Manager  
Twain Harte Community Services District

---

Date



## EVALUATION OF ENVIRONMENTAL IMPACTS:

- 1) A brief explanation is required for all answers except "No Impact" answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A "No Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A "No Impact" answer should be explained where it is based on project-specific factors as well as general standards (e.g., the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).
- 2) All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.
- 3) Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. "Potentially Significant Impact" is appropriate if there is substantial evidence that an effect may be significant. If there are one or more "Potentially Significant Impact" entries when the determination is made, an EIR is required.
- 4) "Negative Declaration: Less Than Significant With Mitigation Incorporated" applies where the incorporation of mitigation measures has reduced an effect from "Potentially Significant Impact" to a "Less Than Significant Impact." The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level (mitigation measures from "Earlier Analyses," as described in (5) below, may be cross-referenced).
- 5) Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration. Section 15063(c)(3)(D). In this case, a brief discussion should identify the following:
  - a) Earlier Analysis Used. Identify and state where they are available for review.
  - b) Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.
  - c) Mitigation Measures. For effects that are "Less than Significant with Mitigation Measures Incorporated," describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.
- 6) Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g., general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.
- 7) Supporting Information Sources: A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.

## 2.1 AESTHETICS

I. AESTHETICS. Would the Project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Have a substantial adverse effect on a scenic vista?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings? If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

### 2.1.1 Background and Setting

The Project involves trenching within public road rights-of-way, along Tuolumne Road North, East Avenue, Twain Harte Drive, Little John Road, Robin Hood Drive, King Arthur's Court, and portions of Fallen Leaf and Broken Bough Lanes (Sherwood Forest Subdivision).

Upon completion, all work will be restored to pre-Project conditions by re-paving or re-graveling. No above-surface structures will be present.

### 2.1.2 Analysis

#### a. *Have a substantial adverse effect on a scenic vista?*

**No Impact.** No scenic vistas exist within the Project area; therefore, no substantial adverse effects on scenic vistas are anticipated.

**Mitigation Measure:** None required.

**Mitigation Monitoring:** Not applicable.

#### b. *Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?*

**No Impact.** The project is not located along or within view of a state scenic highway; therefore, no substantial adverse impacts to scenic resources within a state scenic highway are anticipated.

**Mitigation Measure:** None required.

**Mitigation Monitoring:** Not applicable.

c. *In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from publicly accessible vantage points). If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?*

**Less Than Significant with Mitigation Incorporated** Proposed improvements will occur primarily within existing road rights-of-way and along existing public easements through existing developed areas. Work will be underground.

Large individual native oaks, primarily black oaks (*Quercus kelloggii*), line Robin Hood Drive and portions of Little John Road surrounding Turnback Creek. Damage to the root zones and/or branches of these trees could occur during construction activities within the road ROWs resulting in substantially weakening and hastened death of the tree, a potentially significant adverse visual impact. The following mitigation measure is proposed to minimize or reduce this impact to a level of less-than-significant:

**Mitigation Measure AES-1: Large Native Oak Tree Protection**

To the maximum extent feasible and practicable, throughout project construction activities occurring within one and one-half times the driplines of native oaks (e.g., black oaks, *Quercus kelloggii*) measuring 24" or greater in diameter at breast height:

- Limit ground-disturbing activities to outside the dripline of native oaks and preferably outside one and one-half times the dripline;
- No storage equipment, supplies, vehicles, debris, construction wastewater, paint, stucco, concrete or any other clean-up waste, and temporary or permanent structures shall be placed within the driplines
- Avoid cutting oak roots
- Use boring or trenchless installation rather than open trenching within driplines where possible
- Avoid equipment damage to limbs, trunks, and roots of oaks trees
- Do not attach signs, ropes, cables or other items to trees

**Mitigation Monitoring AES-1:** The required mitigation measure will be implemented throughout project construction activities occurring within the one and one-half times the driplines of native oaks (primarily black oaks) measuring 24" or greater in diameter at breast height. The measure is the responsibility of the construction contractor.

Proper implementation of the preceding measure will reduce the potential visual impacts to a level of less-than-significant.

d) *Create a new source of substantial light or glare, which would adversely affect day or nighttime views in the area?*

**No Impact.** The Project consists of underground pipes. No new lighting is proposed in conjunction with the proposed project. Therefore, no new source of substantial light or glare will occur and no substantial adverse effects are anticipated.

**Mitigation Measure:** None required.

**Mitigation Monitoring:** Not applicable.

## 2.2 AGRICULTURE AND FORESTRY RESOURCES

II. Agriculture and Forestry Resources: Would the Project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on <a href="#">the maps prepared pursuant to the Farmland Mapping and Monitoring Program</a> of the California Resources Agency, to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with existing zoning for agricultural use, or a <a href="#">Williamson Act</a> contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in <a href="#">Public Resources Code section 12220(g)</a> ), timberland (as defined by <a href="#">Public Resources Code section 4526</a> ), or timberland zoned Timberland Production (as defined by <a href="#">Government Code section 51104(g)</a> )?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Result in the loss of forest land or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

### 2.2.1 Background and Setting

The project is located within the developed Twain Harte community and Sherwood Forest subdivision.

Pursuant to the USDA NRCS Soils Survey Reports, on site soils north of SR 108 are summarized in the following table and **Figure 5**.

Map symbol	Soil Name	Parent Materials	Farmland Classification	Acres	Approx % of Study Area
3020	Iron Mountain-Rock Outcrop complex 3-15% slopes	Residuum weathered from volcanic conglomerate or tuff breccia	Not prime farmland	0.3	0.6%
3033	Redapple-Lilygap complex, 15-30% slopes	Ashy colluvium over residuum derived from tuff breccia; Medial colluvium over residuum derived from tuff breccia	Not prime farmland	6.1	12.0
3038	Devilsnose-Lilygap complex 30-60% slopes	Medial colluvium over residuum derived from tuff breccia; Medial colluvium over residuum derived from tuff breccia	Not prime farmland	2.1	4.0
6036	Musick-Wukusick complex, 15-30% slopes	Colluvium over residuum derived from diorite; Residuum weathered from diorite	Not prime farmland	5.0	9.8%
6038	Musick-Wukusick complex 30-60% slopes	Colluvium over residuum derived from diorite; Residuum weathered from diorite	Not prime farmland	4.1	7.9%
9014	Urban land – Musick-Hotaw complex 3-30% slopes/a/	Colluvium over residuum derived from diorite	Not prime farmland	33.7	65.7%
<b>Total North Side of SR 108</b>				<b>51.3</b>	<b>100%</b>

/a/ Minor components: Fluventic endoaquepts Percent of map unit: 2 percent Landform: Flood plains Hydric soil rating: Yes

Pursuant to the USDA NRCS Soils Survey Reports, on site soils south of SR 108 are as summarized in the following table and **Figure 6**:

Map symbol	Soil Name	Parent material	Farmland classification	Acres	Approx % of Study Area
3020	Iron Mountain-Rock outcrop complex 3-15%	Residuum weathered from volcanic	Not prime farmland	0.4	0.2%

Map symbol	Soil Name	Parent material	Farmland classification	Acres	Approx % of Study Area
		conglomerate or tuff breccia			
3021	Iron Mountain-Crozier-Rock outcrop complex 14-60% slopes	Colluvium and/or residuum derived from volcanic conglomerate or tuff breccia; Ashy colluvium over residuum derived from tuff breccia	Not prime farmland	15.6	8.1%
3038	Devilsnose-Lilygap complex, 30-60% slope	Medial colluvium over residuum derived from tuff breccia	Not prime farmland	146.7	76.3%
6202	Musick-Ultic Haploxeralfs, moderately well drained complex 1-8% slopes/a/	Colluvium over residuum derived from diorite; Colluvium and/or slope alluvium over residuum derived from diorite	Not prime farmland	28.5	14.8%
9014	Urban land-Musick-Hotaw complex 3-30% slopes/b/	Colluvium over residuum derived from diorite	Not prime farmland	1.1	0.6%
Total South Side of SR 108				192.3	100%

/a/ Minor Components include Aquepts Percent of map unit: 6 percent Landform: Drainageways, Hydric soil rating: Yes

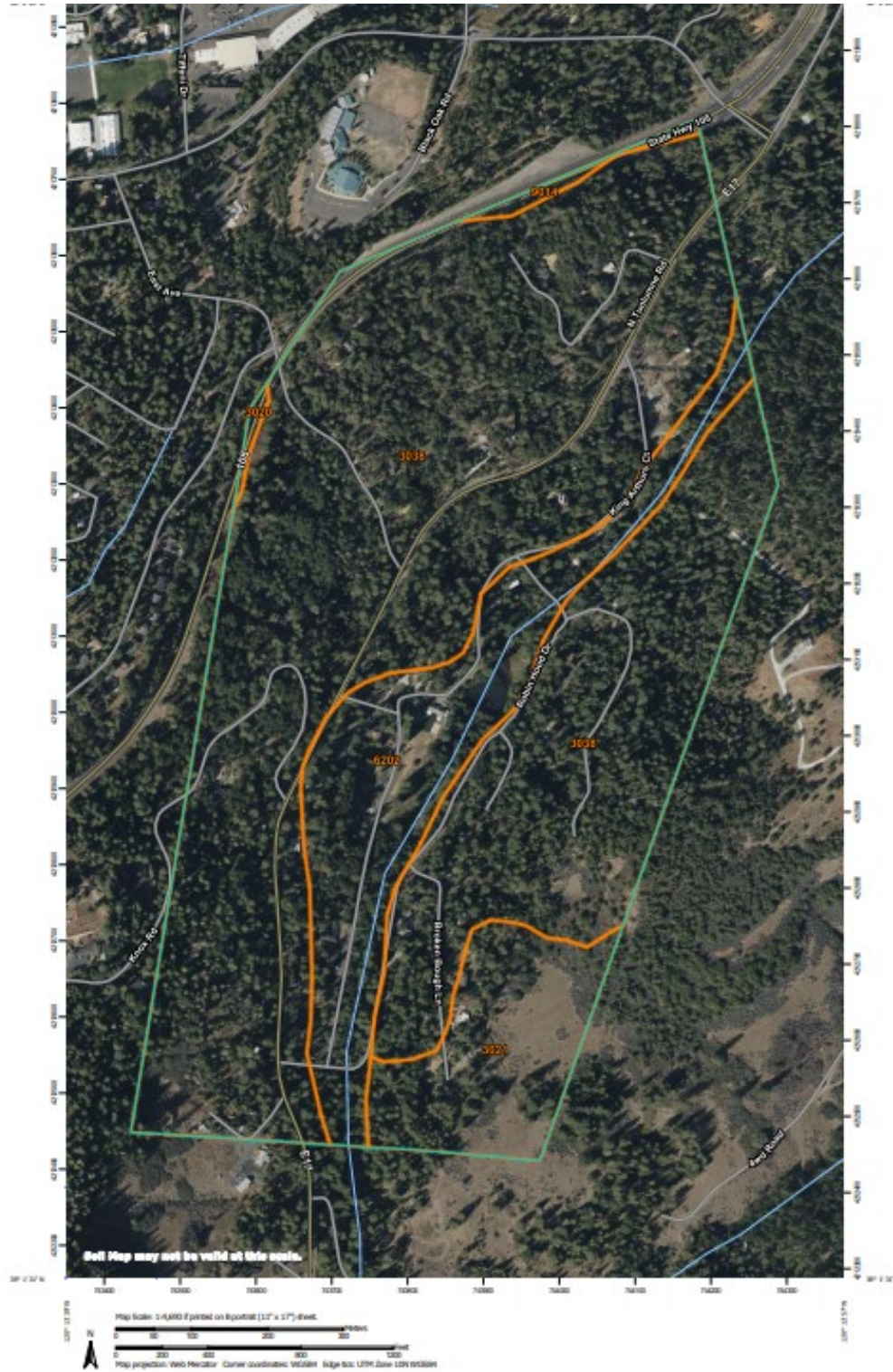
/b/ Minor components - Fluventic endoaquepts Percent of map unit: 2 percent Landform: Flood plains Landform position (three-dimensional): Hydric soil rating: Yes

All of the preceding soils are classified as Non-prime agricultural land. No agricultural-zoned lands or lands in agricultural production are within the project boundaries.

Figure 5: Soils north of SR 108



Figure 6: Soils South of SR 108





## 2.2.2 Analysis

- a) *Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?*
- b) *Conflict with existing zoning for agricultural use, or a Williamson Act contract?*

### **Less Than Significant Impact.**

No commercial agricultural uses are located within the Project Study Area. No portions of the PSA are under a Williamson Act Land Conservation Contract and none are within an agricultural preserve.

Therefore, no significant adverse impacts associated with the conversion of agricultural lands to non-agricultural use.

**Mitigation Measure:** None required.

**Mitigation Monitoring:** Not applicable.

- c) *Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?*
- d) *Result in the loss of forest land or conversion of forest land to non-forest use?*
- e) *Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?*

**No Impact.** No timberland production lands exist on or adjacent to the proposed Project. Therefore, no conversion of forest land to non-forest use and no impacts to timberland production or parcels zoned for such use are anticipated.

**Mitigation Measure:** None required.

**Mitigation Monitoring:** Not applicable.

## 2.3 AIR QUALITY

**III. AIR QUALITY.** Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the Project:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Conflict with or obstruct implementation of the applicable air quality plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Result in a cumulatively considerable net increase of any criteria pollutant for which the Project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d) Result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

### 2.3.1 Background and Setting

The following study was conducted for the project and previously incorporated by reference:

Shijo, Wayne. November 2023. *Twain Harte Community Services District Sherwood Distribution System Improvements Project Air Quality and Greenhouse Gas Analysis*

The following summarizes the report's findings.

The Project site is located within the Mountain Counties Air Basin under the jurisdiction of the Tuolumne County Air Pollution Control District (TCAPCD). Based on data from the EPA (U.S. Environmental Protection Agency 2023a), Tuolumne County is designated a "marginal" nonattainment area for ozone.

Project implementation will result in construction activity which generates air pollutant emissions. Construction activities such as grading, excavation and travel on unpaved surfaces may generate dust, and can lead to elevated concentrations of inhalable particulate matter smaller than 10 microns in diameter (PM10). The operation of construction equipment results in exhaust emissions. A substantial portion of the construction equipment is powered by diesel engines, which produce relatively high levels of nitrogen oxide (NOx) emissions. Construction activity could also potentially entrain naturally occurring asbestos (NOA) if present in the soil.

To evaluate the significance of pollutant emissions impacts, the Tuolumne County Air Pollution Control District (TCAPCD) has established significance thresholds for emissions of ozone precursors reactive organic gas (ROG) and NO<sub>x</sub>, PM<sub>10</sub>, and carbon monoxide (CO). These types of emissions are referred to as “criteria” pollutants. Significance thresholds used in this analysis are from the *TCAPCD CEQA Thresholds of Significance* (Tuolumne County Air Pollution Control District 2023).

The TCAPCD significance thresholds in the following table are used to evaluate criteria pollutant impacts associated with the Proposed Project.

**Table 3: Significant Thresholds for Pollutants - Tuolumne County**

Type of Pollutant Emissions	Amount of Pollutant Emissions in Pounds per Day	Amount of Pollutant Emissions in Tons per Year
Reactive Organic Gases (ROG)	1,000	100
Nitrogen Oxides (NO <sub>x</sub> )	1,000	100
Inhalable Particulate Matter (PM <sub>10</sub> )	1,000	100
Carbon Monoxide (CO)	1,000	100
<p>Note: These thresholds are applied to both construction-related and operational emissions.            Source: Tuolumne County Air Pollution Control District 2020.</p>		

If the proposed project’s criteria pollutant emissions exceed the above pollutant thresholds, the project will be considered to have a significant effect on air quality.

Federal Clean Air Act Conformity

Projects that involve federal funding may be required to comply with Federal Clean Air Act

Conformity regulations. In these cases, a project is required to demonstrate it is in conformance with plans prepared to comply with the Federal Clean Air Act. Conformity regulations are divided into two types: Transportation Conformity, which applies to transportation projects; and General Conformity, which applies to non-transportation projects. The SWRCB recommends that California Environmental Quality Act (CEQA) documents address Federal General Conformity, and indicate if a project is subject to a conformity determination (California State Water Resources Control Board 2018).

To address Federal General Conformity for this project, two steps are applied:

- Identifying if the project is subject to a conformity determination, and
- Comparing project-related emissions to mass-emission thresholds.

To identify whether the Project is subject to a conformity determination, guidance from the U.S. Environmental Protection Agency (EPA) (U.S. Environmental Protection Agency 2023a.) will be used in this report.

If the proposed project is subject to a conformity determination, *de minimis* mass-emissions thresholds from EPA will be used to identify if the project would result in a significant impact. EPA defines *de minimis* levels as the minimum threshold for which a conformity determination must be performed, for various criteria pollutants in various areas (U.S. Environmental Protection Agency 2023b). For areas designated “marginal” nonattainment areas for ozone, 40 CFR 93 § 153 sets the *de minimis* thresholds as:

- 100 tons per year of volatile organic compounds (VOC), which in this report will be measures as ROG; and
- 100 tons per year of NOx.

The Road Construction Emissions Model was used to quantify criteria pollutant for this project.

#### Naturally occurring asbestos (NOA)

Naturally occurring asbestos is identified as a toxic air contaminant (TAC) by the California Air Resources Board (ARB). No quantitative significance thresholds have been set for NOA. However, the California Department of Conservation website (<https://www.conservation.ca.gov/cgs/minerals/mineral-hazards/asbestos>) provides a map that may be used as a screening-level indicator of the likelihood of NOA being present on the proposed project site.

The map, *A General Location Guide for Ultramafic Rocks in California – Areas More Likely to Contain Naturally Occurring Asbestos* (California Department of Conservation 2000) shows the locations considered to be subject to elevated risk of containing NOA. If a project site is located outside of areas considered to be subject to elevated risk of containing NOA, it may be considered to have a relatively lower probability of containing NOA and, in this analysis, will be considered to have a less-than-significant impact. If a project site is located within an area considered to be subject to elevated risk of containing NOA, it may be considered to have an

elevated probability of containing NOA and, in this report, will be considered to have a significant impact.

### 2.3.2 Analysis

#### *a) Conflict with or obstruct implementation of the applicable air quality plan?*

**No Impact.** The county is not subject to an applicable air quality plan. Therefore, the Project will not conflict with any such a plan.

**Mitigation Measure:** None required.

**Mitigation Monitoring:** Not applicable.

#### *b) Result in a cumulatively considerable net increase of any criteria pollutant for which the Project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?*

The air quality analysis for Criteria Pollutant Emissions Construction of the proposed project identifies maximum emissions per day for all construction phases and components as follows:

**Table 4: Project Criteria Pollutant Emissions Per Day**

Sherwood Distribution System Project Phases and Components		Maximum Emissions in Pounds Per Day for Each Phase and Component			
		Reactive Organic Gases	Carbon Monoxide	Nitrogen Oxide	Inhalable Particulate Matter (PM <sub>10</sub> )
<b><u>Phase 1: Mobilization</u></b>					
Component 1	Equipment Transport	0.58	10.12	4.27	0.23
Component 2	Supplies Delivery	1.20	10.44	7.41	0.31
Component 3	Staging Area	1.48	15.14	10.10	0.43
<b><u>Phase 2: Pipeline Installation</u></b>					
Component 1	Site Layout	0.25	4.15	1.68	22.61
Component 2	Potholing	0.59	9.38	4.65	22.75
Component 3	Pipeline Installation	0.52	8.88	9.44	22.90
Component 4	Disinfection and Pressure Testing	0.27	4.39	1.70	0.12
<b><u>Phase 3: Restoration</u></b>					
Component 1	Final Grading	0.25	4.43	3.77	22.66
Component 2	Paving	0.46	7.88	13.05	22.97
<b><u>Phase 4: Demobilization</u></b>					
Component 1	Staging Area Demobilization	1.48	15.14	10.10	0.43
Component 2	Equipment Transport	1.20	10.44	7.41	0.31
Component 3	Supplies Cleanup and Demobilization	1.20	10.44	7.41	0.31
<b>Maximum Emissions (in Pounds per Day) for All Phases and Components</b>		1.48	15.14	13.05	22.97
<b>Significance Threshold (in Pounds per Day)</b>		1,000	1,000	1,000	1,000
<b>Significant Impact?</b>		No	No	No	No

**Table 5: Project Criteria Pollutant Emissions Per Year**

Sherwood Distribution System Project Phase	Emissions in Tons Per Year			
	Reactive Organic Gases	Carbon Monoxide	Nitrogen Oxide	Inhalable Particulate Matter (PM <sub>10</sub> )
Phase 1: Mobilization	0.01	0.10	0.06	< 0.01
Phase 2: Pipeline Installation	0.02	0.26	0.24	0.67
Phase 3: Restoration	< 0.01	0.04	0.05	0.13
Phase 4: Demobilization	0.01	0.10	0.07	< 0.01
<b>Total of All Phases</b>	0.04	0.50	0.42	0.80
<b>Significance Threshold (in Tons per Year)</b>	100	100	100	100
<b>Significant Impact?</b>	No	No	No	No

As shown above, during a daily period, construction activity would generate a maximum of:

- 1.48 ppd of ROG,
- 13.05 ppd of NOx,
- 22.97 ppd of PM10, and
- 15.14 ppd of CO.

As shown above, construction activity annually would generate:

- 0.04 tpy of ROG,
- 0.42 tpy of NOx,
- 0.80 tpy of PM10, and
- 0.50 tpy of CO.

None of the above values would exceed the TCAPCD significance thresholds in **Table 3**. Therefore, this impact is considered less than significant, and no mitigation measures are required.

As noted in the Project Description, the Project would not result in a long-term change in system capacity. As a result, the project would not result in a change in long-term operational criteria pollutant emission. This impact is considered less than significant and no mitigation measures are required.

**Mitigation Measure:** None required.

**Mitigation Monitoring:** Not applicable.

#### Federal conformity

Based on data from the EPA (U.S. Environmental Protection Agency 2023a), Tuolumne County is designated a “marginal” nonattainment area for ozone. As a result, the Twain Harte CSD project is subject to a Federal Clean Air Act conformity determination.

As shown in **Table 5**, the Twain Harte CSD project would result in 0.04 tons per year of ROG emissions and 0.42 tons per year of NOx emissions. These amounts of emissions are less than the *de minimis* thresholds of 100 tons per year of VOC (applied in this report to ROG emissions), and 100 tons per year of NOx. Therefore, the impact of the project on Federal Clean Air Conformity is considered less than significant. No mitigation measures are required.

#### Naturally Occurring Asbestos (NOA)

The map, *A General Location Guide for Ultramafic Rocks in California – Areas More Likely to Contain Naturally Occurring Asbestos* shows areas more likely to contain NOA. Soil-disturbing construction activity in these areas would result in an elevated risk of entraining NOA. The asbestos map shows the project site is located approximately 14 miles away from the nearest area considered more likely to contain NOA (southwest of the Jamestown area). Because of the distance between the project site and the nearest area considered more likely to contain NOA, this impact is considered less than significant. No mitigation measures are required.

**Mitigation Measure:** None required.

**Mitigation Monitoring:** Not applicable

#### *c) Expose sensitive receptors to substantial pollutant concentrations?*

**Less Than Significant with Mitigation Incorporated.** One of the most important reasons for



air quality standards is the protection of those members of the population who are most sensitive to the adverse health effects of air pollution, termed "sensitive receptors." The term sensitive receptors refers to specific population groups, as well as the land uses where individuals would reside for long periods. Commonly identified sensitive population groups are children, the elderly, the acutely ill, and the chronically ill. Commonly identified sensitive land uses include facilities that house or attract children, the elderly, people with illnesses, or others who are especially sensitive to the effects of air pollutants. Residential dwellings, schools, parks, playgrounds are examples of sensitive land uses.

Potentially sensitive land uses in the Project area include an elementary school (adjacent to the Twain Harte shopping center) and residences throughout the project area.

The Project has the potential to expose, temporarily, these receptors to air emissions including dust and equipment emissions during construction activities, a potentially significant impact. The following mitigation measures are included to minimize the potential for exposing sensitive receptors to construction dust and equipment emissions.

**Mitigation Measure AQ-1: Dust Control**

The construction contractor shall be responsible for dust abatement during construction and development operations. A water truck or other watering device shall be on the construction site on all working days when natural precipitation does not provide adequate moisture for complete dust control. Said watering device shall be used to spray water on the site at the end of each day and at all other intervals, as need dictates, to control dust. All land clearing, grubbing, scraping, excavation, land leveling, grading, cut & fill, and demolition activities shall be effectively controlled of fugitive dust emissions using application of water. A water truck shall be present on site throughout construction activities.

**Mitigation Monitoring AQ-1:** The required mitigation measure will be implemented throughout Project construction. The measure is the responsibility of the construction contractor.

**Mitigation Measure AQ-2: Equipment Emissions**

Throughout Project construction:

- A. Properly tune and maintain construction equipment and vehicles. Use low-sulfur fuel in all construction equipment as provided in California Code of Regulations (CCR) Title 17, Section 93114 (Compliance with Caltrans' Standard Specifications, Section 14-9).
- B. The extended idling of heavy-duty diesel-powered construction equipment within 500 feet of nearby sensitive receptors (i.e., residential dwellings) is prohibited during periods when the equipment is not in use.

**Mitigation Monitoring AQ-2:** The required mitigation measure will be implemented throughout Project construction. The measure is the responsibility of the construction contractor.

Proper implementation of these measures is expected to reduce temporary impacts on sensitive receptors to a level of less-than-significant.

*d) Result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?*

**Less Than Significant.** Minor sources of odors would be present during construction. The predominant source of power for construction equipment is diesel engines. Exhaust odors from diesel engines, as well as emissions associated with paving may be considered offensive to some individuals. However, because odors would be temporary and would disperse rapidly with distance from the source, construction-generated odors would not be anticipated to result in the frequent exposure of a substantial number of receptors to objectionable odorous emissions and is considered a less-than-significant impact.

**Mitigation Measure:** None required.

**Mitigation Monitoring:** Not applicable.

## 2.4 BIOLOGICAL RESOURCES

IV. BIOLOGICAL RESOURCES: Would the Project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the <a href="#">California Department of Fish and Wildlife</a> or <a href="#">U.S. Fish and Wildlife Service</a> ?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the <a href="#">California Department of Fish and Wildlife</a> or <a href="#">US Fish and Wildlife Service</a> ?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Conflict with the provisions of an adopted <a href="#">Habitat Conservation Plan</a> , <a href="#">Natural Community Conservation Plan</a> , or other approved local, regional, or state habitat conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

### 2.4.1 Background and Setting

The following biological study was prepared for this Project and previously incorporated by reference as follows:

Study Title	Author	Date
<i>Twain Harte Community Services District Water Distribution System Improvements Biological Study Report</i>	Augustine Planning Associates, Inc.	January 2024

Natural resources were identified through a review of databases and species lists from the United States Fish and Wildlife Service (USFWS), California Natural Diversity Database (CNDDDB), California Native Plant Society (CNPS) and CalFlora databases. Biological field surveys were conducted 4/23/23, 5/13/23, and 6/11/23.

Site elevations range from approximately 3,600 to 4,200 feet above mean sea level (amsl).

On-site and adjacent and vegetation/habitat types are illustrated in **Figure 7**.

### 2.4.2 Methodology

#### Review of existing data and previous surveys

Prior to commencing field surveys, APA reviewed the California Natural Diversity Database/Rarefind, obtained a USFWS species lists, reviewed the National Wetlands Inventory, CalFlora plant list, and California Native Plant Society (CNPS) plant list. The Twain Harte USGS 7.5' Topographic Map and Google Earth were reviewed to determine the potential for drainages, wetlands, clearings, and access points. Species lists were obtained from the CNDDDB and USFWS and are included in the Biological Study **Appendices B and C**.

#### Site Surveys:

Site surveys were conducted by foot on the following dates: 4/23/23, 5/13/23, and 6/11/23. Surveys were conducted using Nikon Monarch M7 8 X 42 binoculars, Nikon D3300 digital camera (18- 55mm and 70-300mm lens), and standard field and collection supplies.

#### Botanical surveys

Surveys were conducted on foot. Photos of representative vegetation were taken throughout the surveys. Where species were not readily identified in the field, plant specimens were inspected with a hand lens, sketched and, if necessary, collected and preserved then keyed in-house using a dissecting microscope and Jepson Manual.

Botanical surveys were surveyed a minimum of three times throughout the blooming period of potentially occurring special status plant species. Blooming periods were determined based on biologist experience, CalFlora, the California Native Plant Society Rare Plant Inventory, and observations of blooming periods of known populations of the

same species in the project vicinity by the project biologist. All suitable habitats were surveyed on foot on multiple occasions. The USDA NRCS Soils maps were studied to determine potential soils supporting special status plants.

#### Animal surveys

Live and dead trees were inspected with special attention to potential nesting opportunities. Potential roosts and structures were inspected for whitewash.

Mud and sand were inspected for animal tracks and structures were examined for whitewash, scat, hair and presence/absence of spider webs across openings. Dirt trails also were observed for tracks. Matted grasses indicating potential bedding areas were inspected for hair and scat.

#### Special Conditions:

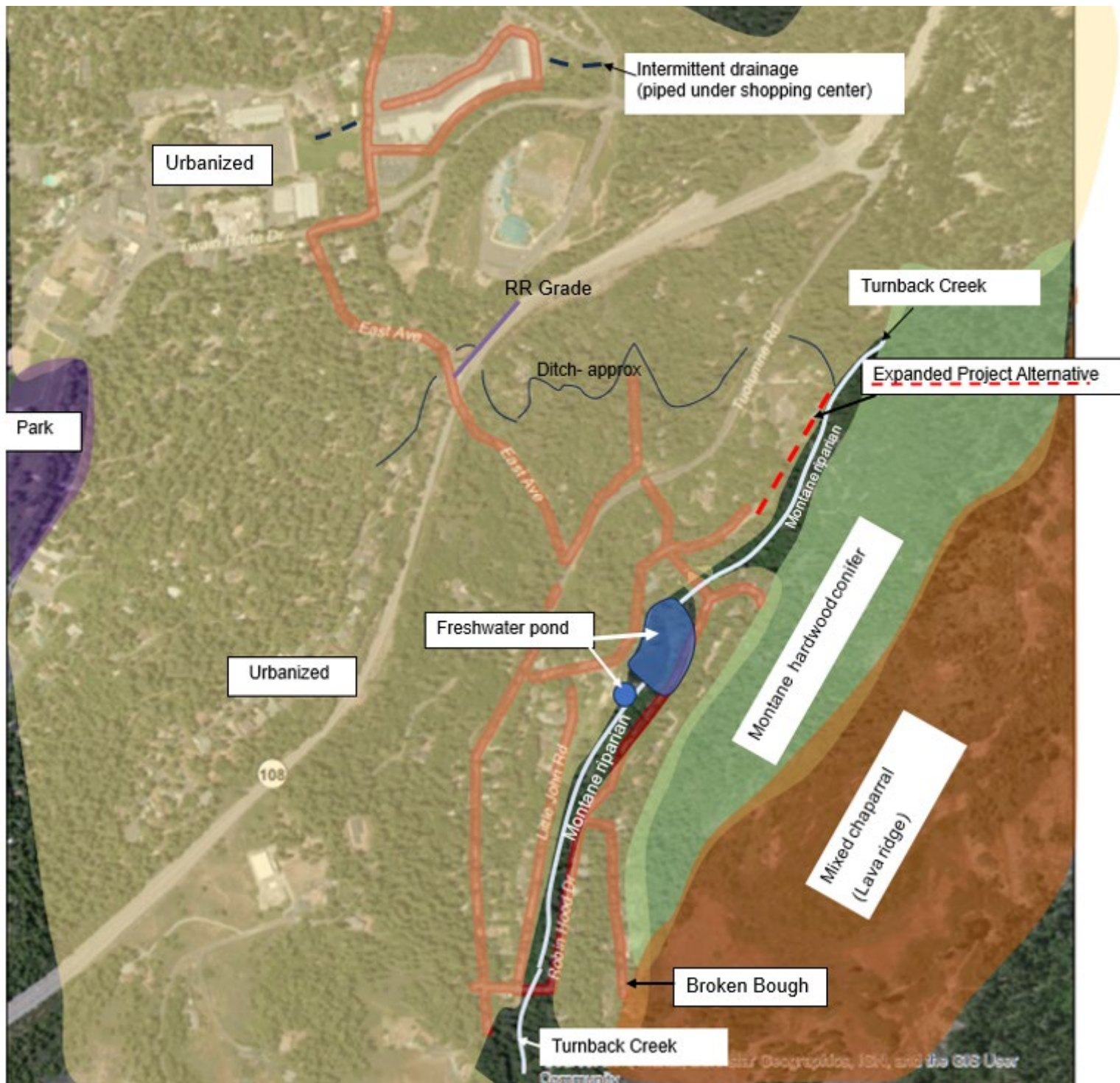
Surveys were conducted during optimal blooming periods for special status plants and for identification of special status amphibians.

#### Definitions

For the purposes of this analysis, a species was considered “Special Status” if it met one or more of the following:

- Listed pursuant to the California Endangered Species Act (CESA)
- A candidate for listing pursuant to CESA
- A species petitioned for listing pursuant to CESA
- Listed pursuant to the Federal Endangered Species Act (FESA)
- A candidate for listing pursuant to FESA
- A species petitioned for listing pursuant to FESA
- Designated by the CDFW as a Species of Special Concern (SSC)
- Designated by the CDFW as a Special Animal (SA)
- Designated by the CDFW as a Fully Protected Species (FPS)
- Designated by CNPS as List 1A (Presumed extinct in California), List 1B (Rare, threatened, or endangered in California and elsewhere), or List 2 Plant (Plants rare, threatened, or endangered in California but more common elsewhere)
- Identified by the US Forest Service as Sensitive (USFS-S)
- Identified by the US Bureau of Land Management as Sensitive (BLM-S)
- Identified by the International Union for Conservation of Nature (IUCN) as vulnerable
- Identified by the Western Bat Working Group (WBWG) as High Priority
- Identified by the WBWG as Moderate Priority
- Birds identified by the US Fish and Wildlife Service as Birds of Conservation Concern (USFWS BCC)

Figure 7: Project Vegetation



### 2.4.3 Analysis

- a) *Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?*

#### **Less Than Significant With Mitigation Incorporated.**

Per the Biological Study, the following State and/or Federally Listed and Candidate Species identified by state and federal agencies as potentially occurring in the Project area were determined Unlikely to be Present:

#### **A. State and/or Federally Listed and Candidate Species Unlikely to be Present**

##### **Monarch butterfly (*Danaus plexippus*)**

The monarch butterfly is a candidate for listing under the federal endangered species act for California overwintering populations.

Adults require a diversity of blooming nectar resources, fed on throughout migration routes and breeding grounds (spring through fall). The butterfly requires milkweed (primarily *Asclepias* spp.) for both laying eggs and feeding larvae and uses a variety of roosting trees along the fall migration route. Monarchs primarily overwinter in groves along the coast of California and Baja CA in trees including blue gum eucalyptus (*Eucalyptus globulus*), Monterey pine (*Pinus radiata*), and Monterey cypress (*Hesperocyparis macrocarpa*), that all serve as roost trees. Preferred locations receive indirect sunlight for overwintering, moisture for hydration, defense against freezing temperatures, and protection against strong winds with a mild winter climate which must be warm enough to prevent freezing yet cool enough to prevent lipid depletion.

The BSA lacks the species' preferred milkweed. Winter temperatures within the project area can drop below freezing and the area receives snow making the site unsuitable for wintering populations of the species. Therefore, it is not expected to occur in overwintering populations in the project area.

##### **California red-legged frog (*Rana draytonii*)**

The species is federally listed as threatened and is a California Department of Fish and Wildlife Species of Special Concern.

The species prefers quiet pools of streams, marshes, and occasionally ponds. Lowlands and foothills in or near permanent sources of deep water with dense, shrubby or emergent riparian vegetation. CNDDDB records for the species in Tuolumne County place its range here between 1,500± and 5,030± feet in elevation. The species requires 11-20 weeks of permanent water and access to estivation habitat. The species was not present during surveys.

The nearest CNDDDB record is more than 5 miles from the project site dating to 1975, the most recent occurrence in Tuolumne County. The site lacks the suitable habitat combination of quiet, relatively deep pools with permanent water for 11-20 weeks with dense or shrubby riparian vegetation (the on-site ponds are relatively shallow). Large bullfrogs were abundant within the large and small ponds in the central Sherwood Forest subdivision. The species was not found during site surveys.

A review of the *History and Status of the California Red-Legged Frog (Rana draytonii) in the Sierra Nevada California, USA* (Barry and Fellers 2013) confirms that the BSA is not historically or currently known to support CRLF.

Based on the preceding, the species is not expected to occur within the project boundaries.

Per the Biological Study, the following State and/or Federally Listed and Candidate Species identified by state and federal agencies as potentially occurring in the Project area were determined potentially Present:

## **B. State and/or Federally Listed and Candidate Species with Potential to be Present**

### **Tompkins' sedge (*Carex tompkinsii*)**

This plant is a candidate for listing as rare pursuant to the California endangered species act. It is listed as a California Native Plant Society List 4 Species (plant of limited distribution).

The sedge prefers chaparral, cismontane woodland, lower and upper montane coniferous forests. It sometimes occurs in association with granitic soils and blooms between May and July across a wide elevational range (1,380'-6,005').

The California Native Plant Society (CNPS) rare plant inventory identifies the species more than five miles from the project site. Potentially suitable habitat exists within the wet, granitic soils located within the project's Expanded Project Alternative site boundaries (**Figure 7**). The species was not identified during project surveys; but the suitable moist granitic soils in the Expanded Project Alternative boundaries should be re-surveyed to ensure that the species does not occur if the Expanded Project Alternative is pursued:

#### **Expanded Alternative Project BIO-A**

If the Expanded Alternative Project is pursued, a qualified biologist shall conduct a preconstruction survey for special-status plant species within 30 days prior to construction, during the appropriate blooming period within areas of suitable habitat within the Expanded Alternative Project area. If Tompkins sedge (*Carex tompkinsii*) or Mountain lady's slipper (*Cypripedium montanum*) or any other special-status plant species are not found, then no further measures are necessary. If Tompkins sedge or Mountain lady's slipper or other special-status plant species are observed, consultation with CDFW will occur. For species listed pursuant to the California Endangered Species Act and Native Plant Protection Act; if take cannot be avoided, the project will obtain an incidental take permit pursuant to Fish and Game Code Section 2018(b) and/or California Code of Regulations, Title 14, Section 786.9(b) to comply with CESA and the NPPA.



**Mitigation Monitoring Expanded Alternative BIO-A:** The measure shall be implemented by a qualified biologist (See MM-1) during the appropriate bloom period for Tompkins's sedge (May – July) or Mountain lady's slipper (March – August) occurring prior to site disturbances.

Proper implementation of the preceding is expected to minimize any potential impact to the species to a less-than-significant level.

### **Foothill yellow-legged frog (FYLF)**

The FYLF is listed as threatened under the California endangered species act (CESA). The species is also a U.S. Bureau of Land Management and U.S. Forest Service sensitive species and a California Department of Fish and Wildlife Species of Special Concern.

FYLFs occur in or near rocky streams in valley-foothill hardwood, valley-foothill hardwood-conifer, valley-foothill riparian, ponderosa pine, mixed conifer, mixed chaparral, and wet meadow types. Per the CDFW, unlike most other ranid frogs in California, FYLFs are rarely encountered (even on rainy nights) far from permanent water—not even seasonally or to and from breeding areas. Normal ranges are believed to be less than 33 feet with only occasional “long” distance movements up to 165 feet during periods of high water. In California, breeding and egg laying may commence any time from mid-March to May depending on local water conditions. Bullfrogs are implicated in the reduction of foothill yellow-legged frog populations in the Sierra. (California Wildlife Habitat Relationships System California Department of Fish and Wildlife California Interagency Wildlife Task Group, <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=1500&inline=1>).

The nearest CNDDDB record is within 2± miles of the project site. Potential habitat exists within Turnback Creek for the species in the Expanded Project Alternative boundaries where the stream substrate is rocky (**Figure 7**). Downstream, the habitat becomes marginal with only patches of rocky substrate and relatively heavy siltation. Large bullfrogs were identified and are abundant within the ponds in the central Sherwood Forest subdivision in association with Turnback Creek (**Figure 7**). The species was not identified during surveys. However, given the potential good habitat in the Expanded Project Alternative area and marginal habitat in the remainder of the biological study area, the species could occur.

Turnback Creek outside of the Expanded Project Alternative area flows through a common central open space area within the Sherwood Forest subdivision encompassing a floodplain with steep banks on either side and surrounded by roadways providing setbacks from Turnback Creek of more than 50 feet except in limited locations (e.g., adjacent to the northeast portion of the upper pond, and the northern and southern Little John Road creek crossings). Proposed project activities will occur outside of the potential FYLF habitat area within this protected open space area minimizing the likelihood of direct impacts to the species with minor exceptions. However, indirect impacts to the species could occur in association with changes to water quality, equipment storage, or erosion adjacent to the potential habitat area that could adversely impact the species. The following mitigation measures are proposed to minimize this potential impact to a level of less-than significant:

### **Avoidance and Minimization Measure BIO-1: Project Biologist**

The project proponent shall submit the name and credentials of the project's biologist(s) to CDFW for review and approval no less than 15 days prior to the onset of construction activities.

#### **Mitigation Monitoring BIO-1**

The Project Biologist shall be contracted to THCS D rather than the contractor. THCS D is responsible for contracting with a project biologist prior to allowing the construction contractor to commence site disturbances. THCS D is responsible, with the assistance of the Project Biologist, for submitting the Project Biologist's credentials to CDFW for review and approval no less than 15 days prior to commencing construction.

#### **Avoidance and Minimization Measure BIO-2: Preconstruction FYLF Surveys**

Preconstruction surveys should be conducted prior to site disturbance to re-confirm absence of FYLF within 24 hours of commencing site disturbances (including staging). The THCS D, or its representative, shall have a qualified biologist survey for FYLF within all potential habitats. If surveys are negative (i.e., no FYLF), measures BIO 3 through BIO -8 shall be implemented. If surveys are positive (FYLF are identified), BIO-2 through BIO-8 shall be implemented *and* a qualified biologist shall be present on site during all construction activities within 200 feet of Turnback Creek. The qualified biologist shall have the authority to stop work at any time as may be necessary to protect FYLFs or their habitat.

**Mitigation Monitoring BIO-2:** The measure shall be implemented by a qualified biologist (See MM-1) within 24 hours of commencing site disturbances (including staging). If construction is delayed or occurs in phases, a re-survey must be completed prior to recommencing work after a shut-down period of more than three months. The construction contractor is responsible for ensuring that the Project Biologist is notified with ample time to complete the survey and consult with CDFW, if necessary. If on-site biological monitoring is required throughout project construction for any activity within 200 feet of Turnback Creek, a monitoring schedule shall be executed prior to commencing construction between the Project Biologist and the contractor.

#### **Avoidance and Minimization Measure BIO-3: ESA Fencing**

Prior to commencing staging, construction, ground-disturbing or other project activities, install Environmentally Sensitive Area (ESA) fencing in the locations shown in **Figure 8**: to ensure protection of wetlands (creek, ponds, ditch), foothill yellow-legged frog habitat, and turtle habitat. Fencing shall remain in place until all project activities are completed. Any fencing falling down during construction shall be re-installed immediately. No parking shall occur adjacent to ESA fencing. No construction-related materials, equipment, trash or other related debris shall be allowed, stored, or staged within the fenced area. ESA fencing shall be shown on the final construction documents.

#### **Mitigation Monitoring BIO-3:**

ESA fencing shall be shown on final construction documents. ESA fencing shall be installed prior to commencing any staging, construction, ground disturbances or other project activities in the locations identified. The Project Biologist shall be notified by the construction contractor to confirm that ESA fencing has been properly installed prior to

commencing site disturbances. Unannounced site visits by THCS D and/or the Project Biologist will occur to confirm fencing remains in place throughout project construction. The construction contractor is responsible for maintaining the fencing throughout project construction and reinstalling any fencing that is knocked down during construction immediately.

#### **Avoidance and Minimization Measure BIO-4: Staging and Spill Prevention**

Staging areas as well as fueling and maintenance activities shall be a minimum of 100 feet from riparian or aquatic habitats. Staging areas less than 100 feet from Turnback Creek will only be allowed with authorization of the project biologist. The project proponent will prepare a spill prevention and clean-up plan.

**Mitigation Monitoring BIO-4:** Prior to commencing site disturbance or staging equipment, the construction contractor shall provide a staging and spill prevention plan to THCS D for compliance with this measure. Reduced setbacks must be approved prior to staging by the Project Biologist.

#### **Avoidance and Minimization Measure BIO-5: Erosion Control**

Where and if bare ground will be exposed or disturbed in conjunction with project activities, the Contractor shall prepare an Erosion Control Plan for THCS D review and approval to address soil erosion within those areas. All soils disturbed by grading shall be reseeded or hydromulched or otherwise stabilized 48 hours in advance of a rain event. A likely rain/precipitation event is any weather pattern that is forecasted to have a 30% or greater chance of producing precipitation in the project area. The discharger shall obtain likely precipitation forecast information from the National Weather Service Forecast Office (e.g., by entering the zip code of the project's location at <https://www.weather.gov/forecastmaps>). A qualifying rain event is one that produces 0.5 inch or more of precipitation within a 48 hour or greater period between rain events. Emergency erosion control measures shall be used as reasonably requested by THCS D.

#### **Mitigation Monitoring BIO-5**

The required plan will be implemented prior to site disturbance and implemented 48 hours in advance of any rain event. A likely rain/precipitation event is any weather pattern that is forecasted to have a 30% or greater chance of producing precipitation in the project area. The discharger shall obtain likely precipitation forecast information from the National Weather Service Forecast Office (e.g., by entering the zip code of the project's location at <https://www.weather.gov/forecastmaps>). A qualifying rain event is one that produces 0.5 inch or more of precipitation within a 48 hour or greater period between rain events. The measure is the responsibility of the construction contractor.

#### **Avoidance and Minimization Measure BIO-6: NPDES/SWPPP**

If necessary, submit to the State Water Resources Control Board Storm Water Permitting Unit, a Notice of Intent (NOI) to obtain coverage under the General Construction Activity Storm Water Permit - California's National Pollution Discharge Elimination System (NPDES) general permit for construction related storm water discharges for the disturbance of one acre or more. Disturbances of less than one acre may also require an NOI for coverage under the NPDES General Permit for construction-related storm water discharge and the State Water Resources Control Board Permitting Unit shall be contacted for determination of permit requirements.

Commercial and Industrial developments may require an NOI even if less than one acre is to be disturbed. Obtain coverage or an exemption from these requirements. [Federal Water Pollution Control Act, Section 401, California Clean Water Act]. The permit may include preparation of a Stormwater Pollution Prevention Plan (SWPPP).

Silt fencing or other materials, as required, will be installed consistent with the applicable water quality requirements specified in the Project's Storm Water Pollution Prevention Plan (SWPPP) or Water Pollution Control Plan (WPCP). Fencing or other erosion control materials or devices shall be shown on the final construction documents. Erosion control devices will be avoided throughout Project construction and shall be monitored and maintained by the project manager throughout construction.

**Mitigation Monitoring BIO-6**

The Notice of Intent to obtain Coverage shall be submitted prior to any site disturbances. The measure is the responsibility of the construction contractor.

**Avoidance and Minimization Measure BIO-7: Environmental Awareness Training**

All contractors involved in site development, affected THSD personnel, will attend a mandatory Environmental Awareness Training prior to any site disturbances, including staging. A training log sign-in sheet will be maintained. The program will address proper implementation of minimization and avoidance measures contained herein. A video shall be prepared and is mandatory viewing prior to entering the project site for contractors or personnel not participating in initial training. Construction personnel shall be informed that if a FYLF is encountered in the work area, construction will stop and CDFW will be contacted for guidance.

**Mitigation Monitoring BIO-7**

The required mitigation measure will be implemented prior to site disturbance and for new employees prior to commencing site work. The Project Biologist or other environmental consultant may be contracted by THCS D to accomplish this task. THCS D is responsible for contracting with a qualified entity to provide Environmental Awareness Training. Ensuring that all on-site workers have received training prior to working on site is the responsibility of the construction contractor.

**Avoidance and Minimization Measure BIO-8: Stop Work**

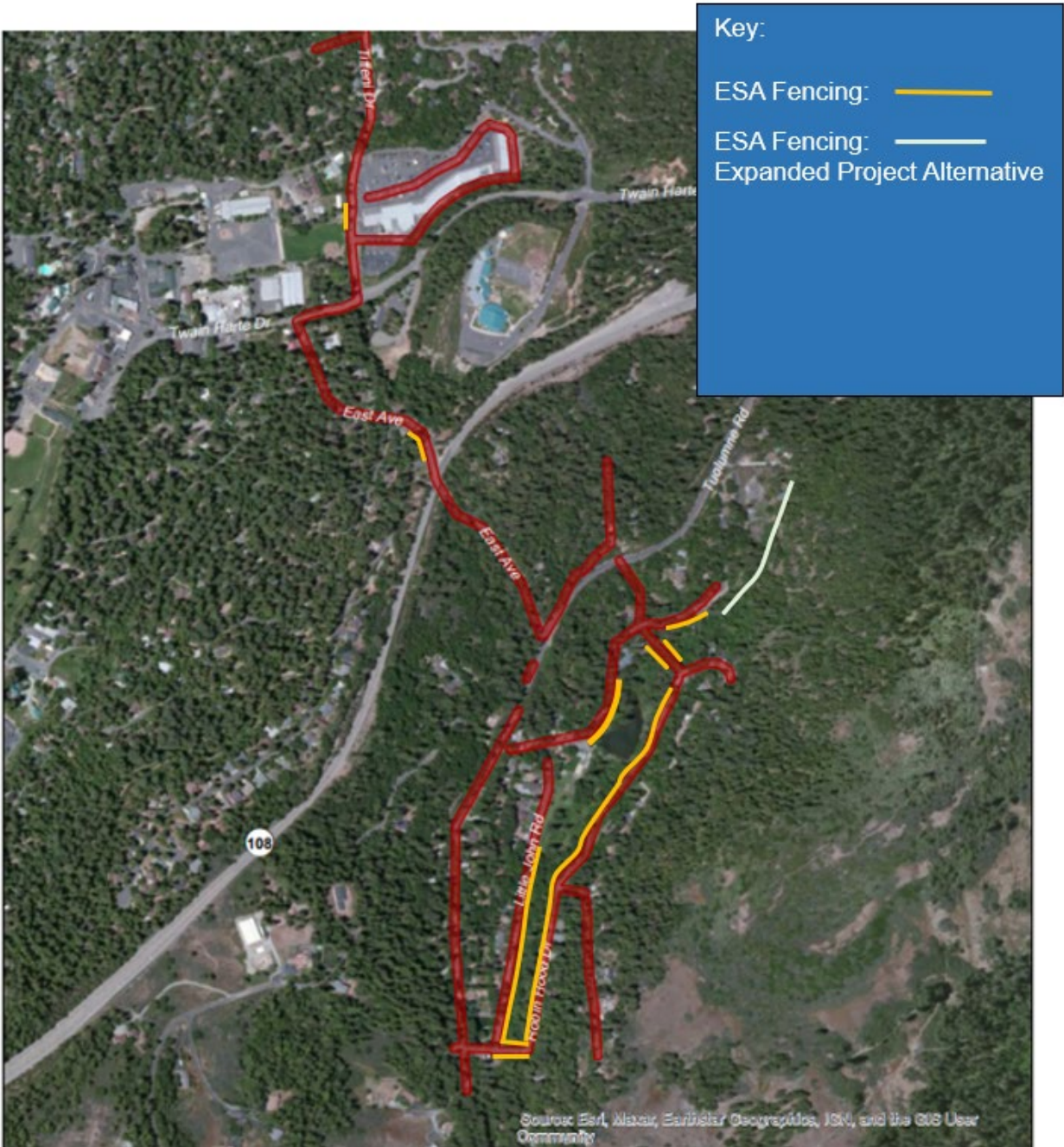
If FYLFs are found at any time during project work, construction will stop and CDFW will be contacted immediately for further guidance.

**Mitigation Monitoring BIO-8**

The measure shall be implemented throughout project construction and is the responsibility of the construction contractor. The project biologist has the authority to issue a stop work order pursuant to this measure.

Proper implementation of the preceding is expected to minimize the potential direct and indirect impacts to the species to a level of less than significant.

Figure 8: ESA Fencing Locations



Within the Expanded Project Alternative Area high value FYLF habitat occurs which lacks the open space “buffer” found in the remainder of the project area through Sherwood Forest. Activities would occur within 50 feet of Turnback Creek and could directly impact FYLF, a potentially significant adverse impact. The following mitigation measure is required in addition to those identified in the preceding paragraphs:

#### **Expanded Alternative Project BIO-B – FYLF Avoidance**

Prior to site disturbance in the Expanded Alternative Project boundaries, a qualified biologist shall survey for FYLF 24 hours or less before construction, including staging, commences. At least one day-time and one night-time survey is required. If findings are negative, ESA fencing shall be installed as shown in **Figure 8**. Fencing shall remain in place until all project activities are completed. Any fencing falling down during construction shall be re-installed immediately. No parking or material storage shall occur adjacent to ESA fencing. If findings are positive, work will not proceed until a formal consultation is undertaken with the United States Fish and Wildlife Service.

**Mitigation Monitoring BIO-B:** The measure shall be implemented by a qualified biologist (See MM-1) within 24 hours of commencing site disturbances (including staging). If construction is delayed or occurs in phases, a re-survey must be completed prior to recommencing work after a shut-down period of more than three months. The construction contractor is responsible for ensuring that the Project Biologist is notified with ample time to complete the survey and consult with CDFW, if necessary. If on-site biological monitoring is required throughout project construction, a monitoring schedule shall be executed prior to commencing construction between the Project Biologist and the contractor. Applicant shall comply with monitoring provisions of **BIO-3** for ESA Fencing.

#### ***Western pond turtle (WPT)***

The WPT is a U.S. Forest Service Sensitive species and a Priority 3 CDFW Species of Special Concern. It is also a U.S. BLM Sensitive Species in the southern portion of its range and has been petitioned for listing under the federal endangered species act (where it remains under review since 2015). The species is not listed pursuant to either the state or federal endangered species acts. The species is not a fully protected animal pursuant to Fish and Game Code Sections 3511, 4700, 5050 and 5515.

WPTs occur in a broad range of habitats include flowing streams, permanent lakes, ponds, reservoirs, settling ponds, marshes and other wetlands. The species may remain active year-round; however, this tends to occur only in the southern part of its range. WPTs require upland habitat suitable for nesting and overwintering. The species can persist, at least over moderate periods of time, in modified habitats with high human traffic (i.e. mill ponds).

Western pond turtles mate throughout the spring, summer, and fall. Nesting usually occurs in the spring or early summer normally within 300 feet of water, but may be located up to 1500 feet from water. Eggs hatch in the fall in the northern range and hatchlings often remain in the nest through the first winter. Soils for nesting must be loose enough to allow for excavation with disturbances infrequent enough to avoid nest disturbance. (Thomson, 2016).

The species was identified in the on-site pond/lake in prior years, but was absent during project surveys (perhaps due to relatively cool temperatures). It is assumed to be present. Given the proximity of the on-site ponds (**Figure 7**) to proposed construction activities, the potential for direct impacts to pond turtles could occur. Any potential nesting sites would be confined to the central open space area surrounding the creek and ponds given the presence of a well-traveled roadway circling the open space and surrounding residential development.

To ensure that no turtles are nesting near the proposed construction area or present during construction, the following minimization and avoidance measures are included:

#### **Avoidance and Minimization Measure BIO-9: Preconstruction Survey/Relocation for Western Pond Turtles**

Within 48 hours of commencing site disturbances, the THCS D, or its representative, shall have a qualified biologist survey for western pond turtles in the on-site ponds within Sherwood Forest Subdivision. If no WPT are found, Mitigation and Minimization Measures BIO- 2 through BIO-5 will be implemented. If WPT are identified, environmental training shall include and the following specific measures will be implemented to avoid WPT:

If found within project construction areas where harm to the turtle may occur from project activities, contractors shall contact the project biologist. The turtle first will be given the opportunity to leave the site on its own if the turtle actively is in the process of attempting to leave the site and is likely to successfully do so within the hour in the opinion of the qualified biologist. Otherwise, the qualified biologist will relocate the turtle downstream of the work area along the creek where permanent or nearly permanent water is pooled or present. At the discretion of the qualified biologist, turtles may be located upstream if higher quality pools with permanent or nearly permanent pools are identified. [California Code of Regulations, Title 14, Division 1, Chapter 5, Subsection 40(b)]<sup>1</sup>.

**Mitigation Monitoring BIO-9:** The measure shall be implemented within 48 hours of commencing site disturbances by a qualified biologist (See **MM-1**). The construction contractor is responsible for ensuring that the Project Biologist is notified immediately when a WPT is found within the construction boundaries during construction. The Project Biologist is responsible for WPT relocation, if necessary.

#### **Avoidance and Minimization Measure BIO-3: ESA Fencing**

#### **Avoidance and Minimization Measure BIO-4: Staging and Spill Prevention**

#### **Avoidance and Minimization Measure BIO-5: Erosion Control**

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<sup>1</sup> Pursuant to California Fish and Game Code Title 14, Subsection 40(b) the capture, temporary collection, or temporary possession of native amphibians done to avoid mortality or injury in connection with lawful activities is permitted and such live capture and release of native amphibians done to avoid death or injury may occur with the permission of the CDFW. Because WPTs are not listed species pursuant to the state or federal endangered species act, neither an incidental take permit nor consultation beyond securing permission from CDFW to capture and release the individuals, is required.

## Avoidance and Minimization Measure BIO-6: NPDES/SWPPP

## Avoidance and Minimization Measure BIO-7: Environmental Awareness Training

Proper implementation of the preceding is expected to minimize or avoid impacts to the species to a level of less than significant.

### **California spotted owl (Sierra Nevada population) *Strix occidentalis ssp. occidentalis***

The owl is petitioned for listing as threatened under the federal endangered species act (as of February 2023), is a U.S. Bureau of Land Management sensitive species, CDFW species of special concern, U.S. Forest Service sensitive species and USFWS Bird of conservation concern.

The owl prefers mixed conifer forests, often with an understory of black oaks & other deciduous hardwoods with a canopy closure of greater than 40%. It is most often found in deep-shaded canyons, on north-facing slopes, and within 300 meters of water. The species also occupies broadleaved upland forest, lower montane coniferous forest, and upper montane coniferous forest.

The nearest CNDDDB likely nesting location for the species is less than two miles east of the project area with one isolated sighting of a deceased owl approximately 0.2 miles southeast of the southern-most portion of the project site. Suitable habitat exists within the southern portion of the project site east of the dead-end off Broken Bough (upper-most reach of the project area, **Figure 7**). Given the existence of small-lot residential development within the project boundaries, it is unlikely that the species would nest within the project boundaries. However, it is possible that the species could forage within the project boundaries, especially within a 300-foot buffer of the southeastern-most portion of the project boundaries. The species was not identified during surveys; however, given the presence of marginal habitat, it could be present in the future or prior to construction. Therefore, preconstruction surveys should be conducted prior to site disturbance to re-confirm absence as follows:

### **Avoidance and Minimization Measure BIO-10: Preconstruction Survey Birds**

Prior to construction occurring between February 1<sup>st</sup> and September 30<sup>th</sup> (e.g., excavation, ground disturbance, or vegetation removal) a preconstruction survey for nesting birds, including bald eagles and great grey owls, will be conducted in accordance with the CDFW guidelines by a qualified biologist familiar with bald eagle and great grey owls, and a no-disturbance buffer will be established, if necessary.

If equipment staging, site preparation, vegetation removal, grading, excavation or other project-related construction activities are scheduled during the avian nesting season (generally February 1 through September 30), a focused survey for active nests would be conducted by a qualified biologist within 14 days prior to the beginning of project-related activities.

Surveys shall be conducted in all suitable habitats in the BSA.

If the pre-construction surveys identify nesting bird species within areas that are within 500 feet of construction activities for non-raptors and within 0.5 mile for raptors (including bald eagles and great grey owls), the following shall be implemented:



- A. Project-related construction impacts shall be avoided by establishment of appropriate no-work buffer zones to limit construction activities near the nest site. The no-work buffer zone shall be delineated by highly visible temporary construction fencing and shall be a minimum of 500 feet from non-raptor nests and 0.5 mile from raptor nests (including bald eagles and great grey owls), unless a qualified biologist, in consultation with CDFW, determines that alternative buffers are permissible due to the nature and location of the specific species, its nest, and existing conditions to which the species has been habituated. Alternative buffers shall be established for special status non-raptor nests in consultation with CDFW.
- B. In consultation with CDFW, monitoring of nest activity by a qualified biologist shall be required if the construction activity has potential to adversely affect the nest or nesting behavior of the bird.
- C. No construction activity shall commence within the no-work buffer zone until a CDFW-approved qualified biologist confirms that the nest is no longer active (e.g., young have fledged). For bald eagles, this period extends beyond fledging to a period when the young are no longer reliant on parental care for survival.
- D. Canada geese depredation is an exception to these provisions per measure BIO-11.

**Mitigation Monitoring BIO-10:** The measure shall be implemented prior to any constructing occurring between February 1<sup>st</sup> and September 30<sup>th</sup> of the construction year. If construction is delayed or occurs in phases, a re-survey must be completed prior to recommencing work after a shut-down period of more than three months if construction occurs between February 1<sup>st</sup> and September 30<sup>th</sup> of the construction year. The construction contractor is responsible for ensuring that the Project Biologist is notified with ample time to complete the survey and consult with CDFW, if necessary.

#### **Avoidance and Minimization Measure BIO-7: Environmental Awareness Training**

### **C. Special Status Species (Non-Listed, non-candidates) Present or Potentially Present**

#### **Mariposa clarkia (*Clarkia biloba ssp. australis*)**

The plant is a California Native Plant Society listed 1B.2 (Fairly/Moderately endangered in California) plant and a U.S. Forest Service Sensitive species. It prefers chaparral and cismontane woodlands at elevations between 3,200 and 4,850 feet. The species blooms between April and July.

The nearest CNDDDB record is from 1958 and is mapped approximately within ½ mile. The species was identified within the Expanded Project Alternative boundaries in somewhat rocky soils near the road and above rock outcrops in association with buckbrush (**the exact location is identified in the Biological Study, but is withheld here for confidentiality to protect the species**). Project activities could impact the species during staging and project operations, although the proposed waterline expansion avoids the population. Therefore, avoidance is possible with the installation of ESA fencing. The following mitigation is proposed if the Expanded Project Alternative is pursued.

### **Expanded Alternative Project BIO-C**

If the Expanded Alternative Project is pursued, a qualified biologist shall conduct a preconstruction survey for Mariposa clarkia (*Clarkia biloba ssp. australis*) within 30 days prior to construction, during the appropriate blooming period within areas of suitable habitat within the Expanded Alternative Project area. A buffer of at least 25 feet shall be established around identified populations through the installation of Environmentally Sensitive Area (ESA) fencing to remain throughout project construction. If full avoidance is infeasible, those populations that can be protected will be protected through the installation of ESA fencing. For populations that cannot be avoided, CDFW shall be notified at least 10 days prior to construction activities, in accordance with the California Native Plant Protection Act of 1977 (CFGCA Section 1900-1913) to allow sufficient time to allow for seed collection.

**Mitigation Monitoring Expanded Alternative Project BIO-C:** The measure shall be implemented by a qualified biologist (See MM-1) during the appropriate bloom period for Mariposa clarkia (May – July) occurring prior to site disturbances.

### **Mountain lady's slipper (*Cypripedium montanum*)**

This orchid species is a California Native Plant Society List 4 (limited distribution plant) and a U.S. Bureau of Land Management sensitive species. It prefers broad-leafed upland forest, cismontane woodland, and lower montane coniferous forest at elevations between 605' and 7,300' feet blooming between March and August.

There are no records in the CNDDDB for this species. Calflora identifies a 1944 record near downtown Twain Harte. The species was not identified during surveys during the bloom period for the species; however, suitable habitat exists near Turnback Creek in the recommended project area and will be avoided during construction pursuant to already identified project mitigation measures as follows:

#### **Avoidance and Minimization Measure BIO-3: ESA Fencing**

However, near Turnback Creek within the Expanded Alternative Project area, project activities may occur within suitable habitat for the species, therefore, additional mitigation is required in the Expanded Alternative Project area as follows:

#### **Expanded Alternative Project BIO-A**

Proper implementation of the preceding is expected to minimize or avoid impacts to these plant species to a level of less than significant.

### **Oak titmouse (*Baleophus inornatus*)**

The oak titmouse is a USFWS Bird Species of Conservation Concern. No CNDDDB records are currently maintained for the species. It is a common resident in a variety of habitats, but is primarily associated with oaks. And occurs in montane hardwood-conifer, montane hardwood, blue, valley, and coastal oak woodlands, and montane and valley foothill riparian habitats in cismontane California. The species' range encircles San Joaquin Valley onto the western slope of the Sierra Nevada. While not observed during surveys, the species is widespread throughout the project area and is expected to occupy the

BSA's oak woodlands. The following measures are proposed to ensure no impacts to the species will occur:

**Avoidance and Minimization Measure BIO-7: Environmental Awareness Training**

**Avoidance and Minimization Measure BIO-10: Preconstruction Survey Birds**

**Evening grosbeak (*Coccothraustes vespertinus*)**

This bird species is a US Fish and Wildlife Service bird species of conservation concern. Preferred breeding and foraging habitats include dense (mixed) coniferous forests dominated by firs (especially red fir). In the non-breeding season, it apparently depends upon an ample supply of buds, seeds, berries or other fruits, in trees and shrubs, rather than on any particular habitat. The grosbeak also forages in oaks, willows, and aspens, sometimes at a distance from nest. The species breeds approximately May 15 to August 10. Given the relatively broad habitat requirements for the species, marginal suitable habitat exists for this species on the project site. The species wasn't identified during surveys, but could occur prior to construction. Therefore, preconstruction surveys should be conducted prior to site disturbance to re-confirm absence as follows:

**Avoidance and Minimization Measure BIO-7: Environmental Awareness Training**

**Avoidance and Minimization Measure BIO-10: Preconstruction Survey Birds**

**Olive-sided flycatcher (*Contopus cooperi*)**

This bird species is a US Fish and Wildlife Service bird species of conservation concern. It is most numerous in montane conifer forests where tall trees overlook canyons, meadows, lakes or other open terrain. Extent and density of forest habitat is less important than the amount of air space that can be scanned from its highest perches. The flycatcher breeds approximately May 20 – August 31. Marginal habitat exists in proximity to the lake in Sherwood Forest subdivision. The species was not identified during surveys; however, given the presence of marginal habitat, it could be present in the future or prior to construction. Therefore, preconstruction surveys should be conducted prior to site disturbance to re-confirm absence as follows:

**Avoidance and Minimization Measure BIO-7: Environmental Awareness Training**

**Avoidance and Minimization Measure BIO-10: Preconstruction Survey Birds**

**Nuttall's woodpecker**

The Nuttall's woodpecker is a USFWS Bird Species of Conservation Concern. The species is a common, permanent resident of low-elevation riparian deciduous and oak habitats and surveys in oak woodlands. While not identified as having the potential to occur per the USFWS species list, a pair was found on the project site in suitable habitat (Figure 5).

**Avoidance and Minimization Measure BIO-7: Environmental Awareness Training**

**Avoidance and Minimization Measure BIO-10: Preconstruction Survey Birds**

Proper implementation of the preceding is expected to minimize or avoid impacts to these bird

species to a level of less than significant.

## **Birds**

The Migratory Bird Treaty Act (MBTA) makes it illegal for anyone to take, possess, import, export, transport, sell, purchase, barter, or offer for sale, purchase, or barter, any migratory bird, or the parts, nests, or eggs of such a bird except under the terms of a valid permit issued pursuant to Federal regulations. The migratory bird species protected by the Act are listed in 50 CFR 10.13. Most bird species are protected pursuant to the MBTA. Some birds have additional protections under state and federal laws.

The special status oak titmouse, evening grosbeak, olive-sided flycatcher and California spotted owl are identified in Table 2 as having the potential to occur within the project boundaries. A pair of Nuttall's woodpeckers was identified within the BSA during surveys. All of these are USFWS bird species of conservation concern. The California spotted owl is also petitioned for listing as threatened under the federal endangered species act. These species are addressed in the preceding paragraphs. In addition to these special status bird species, most native bird species are protected pursuant to the MBTA that could or do occur in the BSA (See **Appendix A** for species identified on site during surveys). In addition to those birds listed in Appendix A, the following species found on site are of note:

### ***Canada geese***

Canada geese were observed on site foraging throughout the BSA and with goslings on the pond within the BSA. Although unlikely to be necessary, as it appears that nesting is occurring in project open space, it is noted that while Canada Geese are protected pursuant to the Migratory Bird Treaty Act; but unlike many other MBTA-protected species, 50 Code of Federal Regulations Section 21.50 allows some flexibility for depredation under specific circumstances for resident Canada geese by registering online with the USFWS<sup>2</sup>. Depredation normally occurs in the form of a qualified biologist treating unhatched eggs to ensure that they do not hatch. To ensure that this option is included for this project should nesting occur outside of existing open space boundaries, the following measure is incorporated:

#### **Avoidance and Minimization Measure BIO-11 Canada Geese Depredation**

Pursuant to 50 Code of Federal Regulations Section 21.50, should a nesting Canada goose be identified within proposed work boundaries (i.e., outside of subdivision common area surrounding Turnback Creek), depredation may occur by registering online with the USFWS<sup>3</sup>. Depredation will occur, if necessary, in the form of a qualified biologist treating unhatched eggs to ensure that they do not hatch.

#### **Mitigation Monitoring BIO-11:**

The measure shall be implemented based on preconstruction surveys conducted by the

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<sup>2</sup> <https://epermits.fws.gov/eRCGR/> and <https://www.fws.gov/forms/3-200-13.pdf>

<sup>3</sup> <https://epermits.fws.gov/eRCGR/> and <https://www.fws.gov/forms/3-200-13.pdf>

Project Biologist. Because the species can nest post-surveys, the construction contractor is responsible for reporting any new nesting activity to the Project Biologist if it is observed within the work area. The Project Biologist is responsible for determining the appropriate measures and implementing them.

In addition to the special status bird species noted above, other bird species protected pursuant to the Migratory Bird Treaty Act could or do occur in the BSA (See **Appendix A** for species identified on site during surveys). To minimize or avoid potential disturbances to nesting and/or breeding bird species protected pursuant to the MBTA, the following measures also apply to all MBTA protected bird species:

#### **Avoidance and Minimization Measure BIO-7: Environmental Awareness Training**

#### **Avoidance and Minimization Measure BIO-10: Preconstruction Survey Birds**

Proper implementation of the preceding is expected to minimize or avoid impacts to the species to a level of less than significant.

### **Bats**

The following bat species has the potential to occur within the BSA (see Table 2):

#### **Spotted bat (*Euderma maculatum*)**

This bat is a CDFW species of special concern and at high-risk per the Western Bat Working Group. It occupies a wide variety of habitats from arid deserts and grasslands through mixed conifer forests. The bat feeds over water and along washes almost entirely on moths. The species needs rock crevices or caves for roosting. The nearest CNDDDB record occurs more than seven miles from the project site. The species was not identified during surveys; however, given the wide variety of habitats suited to the species (mixed conifer, and presence of lake for foraging), it could roost and/or forage within the project boundaries. To ensure that no impacts to this species may occur, the following is required:

CDFW further recommends that the following be extended to include, in addition to the spotted bat; Western mastiff bats, pallid bats, and Townsend's big-eared bats; although evaluations indicate they are unlikely to occur. The following mitigation therefore, is applicable to spotted bats, Western mastiff bats, pallid bats, and Townsend's big-eared bats:

#### **Avoidance and Minimization Measure BIO-12: Preconstruction Surveys Suitable Bat Roosting (or Nursery) Areas & Provisions for Protection, if Identified**

At least 15 days before commencing ground-disturbing activities between April and September of the construction year, a qualified biologist will survey snags, trees, rock crevices and other suitable cavities and structures in the BSA for roosting bats or bat nurseries. If bats are not found and there is no evidence of bat use, construction may proceed. If bats are found or evidence of use by bats is present, CDFW shall be consulted for guidance on measures to avoid or minimize disturbance to the colony or

nursery. Subject to CDFW approval, measures may include excluding bats from roosts before construction begins.

**Mitigation Monitoring BIO-12:**

The measure shall be implemented at least 15 days prior to ground disturbance occurring between April and September of the construction year. The construction contractor is responsible for ensuring that the Project Biologist is notified with ample time to complete the survey and consult with CDFW, if necessary.

**Avoidance and Minimization Measure BIO-13: Hours of Construction.**

Project construction shall be limited to 7:00 a.m. to 7:00 p.m. unless an emergency situation exists.

**Mitigation Monitoring BIO-13:**

The measure shall be implemented throughout project construction and is the responsibility of the construction contractor. THCS D has the authority to determine if an emergency situation exists and alternative hours may be implemented. THCS D is responsible for enforcing the measure if complaints are received.

**Avoidance and Minimization Measure BIO-7: Environmental Awareness Training**

Proper implementation of the preceding is expected to minimize or avoid impacts to bat species to a level of less than significant.

- b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Wildlife or US Fish and Wildlife Service?*
- c) Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?*

**Less Than Significant with Mitigation Incorporated.**

As shown in **Figure 7**, the project area:

- A. Crosses a man-made ditch (which is piped below the roadway in the project area and will not be impacted by the project)
- B. Will occur surrounding an upper and lower pond within a central open space within the Sherwood Forest Subdivision
- C. Will occur around a central open space containing Turnback Creek (a USGS perennial stream) within the Sherwood Forest Subdivision
- D. Will cross Turnback Creek in two locations within the Sherwood Forest Subdivision over existing roadways without furthering encroachments into the creek
- E. Could encroach within 25 feet of Turnback Creek in the Alternative Expanded Project Area.
- F. Will avoid an intermittent drainage near the Twain Harte Shopping Center where the drainage is piped beneath the shopping center.

No fill of the identified drainages, ponds, or ditch (**Figure 7**) or alterations within the banks of streams is proposed or anticipated in conjunction with the proposed Project. The introduction of machinery and construction materials to the site has the potential to introduce non-native invasive species and runoff from site construction could indirectly impact water quality in the on-site ponds, ditch and creek adjacent to the construction area—a potentially significant adverse impact. To avoid inadvertent encroachment within these sensitive habitats, and to ensure that non-native invasive species are not spread to these habitats and the protection of water quality, the following measures are included:

**Avoidance and Minimization Measure BIO-14: Minimize the Spread of Invasive Plant Species**

Throughout project construction:

- All hay, straw, hay bales, straw bales, seed, mulch or other material used for erosion control on the project site shall be free of noxious weed<sup>4</sup> seeds and propagules (Food and Agriculture Code Sections 6305, 6341 and 6461).
- All equipment brought to the project site shall be thoroughly cleaned of all dirt and vegetation prior to entering the site to prevent importing noxious weeds and shall be cleaned of all dirt and vegetation prior to exiting the site to prevent exporting noxious weeds. (Food and Agriculture Code Section 5401).
- All material brought to the site, including rock, gravel, road base, sand, and topsoil, shall be free of noxious weeds<sup>5</sup> and propagules. (Food and Agriculture Code Sections 6305, 6341 and 6461).

**Mitigation Monitoring BIO-14:**

The measure shall be implemented throughout project construction and is the responsibility of the construction contractor.

**Avoidance and Minimization Measure BIO-3: ESA Fencing**

**Avoidance and Minimization Measure BIO-4: Staging and Spill Prevention**

**Avoidance and Minimization Measure BIO-5: Erosion Control**

**Avoidance and Minimization Measure BIO-6: NPDES/SWPPP**

**Avoidance and Minimization Measure BIO-7: Environmental Awareness Training**

*d) Interfere substantially with the movement of any native resident or migratory fish or wildlife*

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<sup>4</sup> Noxious weeds are as defined in Title 3, Division 4, Chapter 6, Section 4500 of the California Code of Regulations and the California Quarantine Policy - Weeds (Food and Agriculture Code, Sections 6305, 6341, and 6461).

<sup>5</sup> Ibid.

*species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?*

**Less Than Significant with Mitigation**

No migratory deer habitat occurs in the study area which is bisected with numerous high-volume roadways and fragmented by residential development. Turnback Creek provides a wildlife corridor; however, that corridor will be maintained during project construction and after the project completion with project activities confined to existing roadways. Therefore, no long-range alternations to habitat will occur.

However, movements of native or resident wildlife may be impeded during construction activities as a result of open trenching or construction materials (e.g., pipes) within road ROWs that could inadvertently trap wildlife, a potentially significant adverse impact. The following mitigation measure is proposed to minimize or avoid this impact and ensure the protection of both wildlife and construction workers:

**Avoidance and Minimization Measure BIO-7: Environmental Awareness Training**

**Avoidance and Minimization Measure BIO-15: Avoid Inadvertent Animal Trapping During Construction**

To avoid inadvertently trapping special status or common animal species during construction, all excavated steep-walled holes or trenches more than two feet deep shall be covered at the end of each working day with plywood or similar material, or provided with one or more escape ramps constructed of earth fill or wooden planks, or equivalent, at each end of the trench. Before such holes or trenches are filled, they will be thoroughly inspected for trapped animals. If at any time a trapped animal is discovered, the contractor shall place an escape ramp or other appropriate structure to allow the animal to escape. Alternatively, the contractor shall contact the project biologist or California Department of Fish and Wildlife for assistance. Similarly, stored pipes or other materials providing potential cover for animals will be inspected prior to installation or use to ensure that they are unoccupied.

**Mitigation Monitoring BIO-15:** The measure shall be implemented throughout project construction. The project biologist and/or THCS D staff are responsible for making unannounced inspections to ensure that the measure is being properly implemented and maintained. It is the responsibility of the construction contractor to implement the measure.

Proper implementation of the preceding measure is expected to reduce the potential impact to species movements to a level of less-than-significant.

**e) *Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?***

**Less than Significant.** Tuolumne County does not have a tree preservation ordinance, per se. It has an anticipatory tree removal ordinance. No trees have been removed in anticipation of the proposed Project, therefore, the local tree ordinance is inapplicable.

The state adopted Public Resources Code 21083.4 addressing the conversion of oak



woodlands statewide. Impacts to oak woodlands protected pursuant to PRC 21083.4 are considered potentially significant pursuant to CEQA. No native oak trees are proposed for removal within the Project boundaries; however, work within the public ROW may impact the roots zones of native black oaks. However, black oaks are not subject to PRC 21083.4 as they are commercially harvested oaks. Therefore, no impacts to oak woodlands in this urban setting are anticipated.

It is noted, however, that impacts to black oaks are addressed in conjunction with minimizing visual impacts that could occur if black oaks are weakened during construction activities due to construction within the root zones of these trees (See this study, [Aesthetics](#)).

**Mitigation Measure:** None required.

**Mitigation Monitoring:** Not applicable.

***f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?***

Neither a Habitat Conservation Plan (HCP) nor a Natural Community Conservation Plan (NCCP) exists for the area within the Project boundaries or the vicinity. Therefore, no impacts are anticipated.

**Mitigation Measure:** None required.

**Mitigation Monitoring:** Not applicable.

## 2.5 CULTURAL RESOURCES

V. CULTURAL RESOURCES. Would the Project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Cause a substantial adverse change in the significance of a <a href="#">historical resource</a> as defined in <a href="#">§ 15064.5</a> ?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to <a href="#">§ 15064.5</a> ?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Disturb any human remains, including those interred outside of dedicated cemeteries?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

### 2.5.1 Background and Setting

The following cultural resources studies, analyses, and determinations were prepared for this Project and previously incorporated by reference as follows:

Solano Archaeological Services (SAS), June 2023. *Cultural Resources Inventory and Evaluation Report Twain Harte Community Services District – Sherwood Distribution Improvements Project Twain Harte, Tuolumne County, California*

Because project funding could involve federal funds (e.g., SWRCB State Revolving Fund); this project was evaluated to address the requirements of both the California Environmental Quality Act (CEQA) and Section 106 of the National Historic Preservation Act and its implementing regulations in Title 36 Code of Federal Regulations Part 800 (36 CFR 800).

The Area of Potential Effect (APE) consists of approximately 11,700 linear ft. of water pipeline corridor located largely within the prism of local roads in the community of Twain Harte (**Figure 3**). The APE has been established to encompass the maximum limits of potential future ground-disturbing activities that would reasonably be expected from the proposed Project, including but not limited to, all existing parcels, pipeline installation, potential access routes, and equipment staging and laydown areas.

SAS was tasked with updating information on previously-documented sites and features within the Area of Potential Effect (APE), identifying previously undocumented cultural resources, and evaluating potentially affected resources per National Register of Historic Places (NRHP), and California Register of Historical Resources (CRHR) criteria.

A record search conducted through the Central California Information Center of the California Historical Resources Information System indicated that four historic-era cultural resources have been documented within the APE—all north of SR 108:

**Table 6: Cultural Resources Identified in the APE**

Identifier	Description	Eligibility	Potential Project Effects
P-55-000006	Small segment of abandoned rail grade originally built and used by the Madera Sugar Pine Lumber Company (MSPLC) in the early 20th century and last recorded in 1993 (Paved segment of Sugar Pine RR Grade trail crossing East Avenue)	SAS recommends the segment of P-55-000006 in the APE not eligible for NRHP/CRHR listing under Criterion C/3. Also, the history of the Sugar Pine Railroad is well known and documented. It is unlikely that any additional research on the line would result in the small abandoned and modified segment in the APE being raised to a significant level. Consequently, SAS recommends that the data potential of P-55- 000006 has been exhausted through the current level of research and that it is not eligible for NRHP/CRHR listing under Criterion D/4.	Determined ineligible.
P-55-000054	Sonora-Mono Road segment in the APE consists of a stretch of present-day Twain Harte Drive extending to the west from Tiffeni Drive to East Avenue, a distance of approximately 350 ft.	The Sonora-Mono Road was recommended eligible for NRHP listing in 1996. It is unlikely that further research into the specific segment in the APE would result in data that would elevate this minor portion to a level of historical significance. Therefore, SAS recommends that the data potential of the segment of P-55-000054 situated within the APE has been exhausted and it is not eligible for NRHP/CRHR listing under Criterion D/4.	Determined ineligible. Due to the configuration of the APE and the nature of the Project, the resource would not be subject to adverse effects or significant impacts (i.e., it is avoided by the project)
P-55-005959	A segment of the Soulsbyville Ditch. The segment of P-55-008270 within the current APE converged with the alignment of the Soulsbyville Ditch (P-55-005959) and occupy the same channel.	Per Marvin and Francis (2011) the Soulsbyville Ditch appears to be eligible for NRHP. SAS concurs.	Due to the configuration of the APE and the nature of the Project, the resource would not be subject to adverse effects or significant impacts (i.e., it is avoided by the project)
P-55-008270	See above. The segment of the TUD's ditch within and adjacent to the APE passes under East	Per Marvin and Francis (2011) the Soulsbyville Ditch appears to be eligible for NRHP. SAS concurs.	Due to the configuration of the APE and the nature of the Project, the

Identifier	Description	Eligibility	Potential Project Effects
	Avenue, eventually turns south, and passes under SR-108 in a concrete box culvert. The alignment appears unchanged from its original documentation in 2011, and partial update in 2019. The SAS field team specifically examined and mapped a portion of the ditch (which is the same ditch as delineated P-55-005959) extending approximately 125 ft. to the northeast of the centerline of East Avenue, and about 79 ft. to the southwest.		resource would not be subject to adverse effects or significant impacts (i.e., it is avoided by the project).

On June 1st, 2023, SAS archaeologists conducted an intensive pedestrian survey walking a single transect along the proposed Project alignments due to the narrow configuration of the APE. Digital photographs were taken of the APE and surrounding vicinity, and observations were recorded in detail. A Trimble Geo 7x GPS unit was utilized to verify the APE alignment locations and boundaries (NAD 83), and plot recorded cultural resources. The locations of previously documented resources along the APE were revisited and existing information on these resources was updated as necessary. Note: The locations of all resources are identified in the Cultural Resources Study but are withheld here due to confidentiality and protection of the sites.

An intensive survey did not identify any previously undocumented prehistoric or historic-era cultural resources or archaeologically sensitive landforms within the APE but did update information on the four previously identified historic-era resources.

Expanded Alternative Project

The Expanded Alternative Project area was not surveyed or evaluated for this analysis. However, it is apparent that historical artifacts of unknown origin that have not been recorded are located within this area. Therefore, the following measure is included for the Expanded Alternative Project described in the Cultural Resources section of this study:

**Expanded Alternative Project – CULT-A**

Prior to undertaking the Expanded Alternative Project, a cultural resources survey of the expansion area shall be undertaken. Known historical artifacts in the area shall be evaluated and recorded and an addendum or subsequent IS/MND shall be prepared in accordance with the State CEQA Guidelines Sections 15162- 15164.

**Mitigation Monitoring Expanded Project Alternative CULT-A**

Prior to approving environmental document for Expanded Project Alternative, the cultural resources survey shall be conducted by a qualified archaeologist. An addendum or

subsequent environmental study shall be conducted in accordance with CEQA Guidelines Sections 15162- 15164, as necessary.

## 2.5.2 Analysis

- a) *Cause a substantial adverse change in the significance of a historical resource as defined in the Government Code, State CEQA Guidelines Section 15064.5?*
- b) *Cause a substantial adverse change in the significance of an archaeological resource pursuant to § 15064.5?*

### **Less Than Significant with Mitigation Incorporated.**

Based on the cultural resources study performed for the project, the APE has four historical resources identified in the APE. Two were determined ineligible for listing under a local, state or federal register. Two are outside the potential areas that may be impacted by the project and are therefore not subject to adverse effects or significant impacts. In short, no new resources were identified and the proposed Project would not affect any of the sites previously identified and as such the proposed Project would have no effect on historic properties per Section 106, and no impact on historical resources per CEQA.

Surveys were conducted for surface evidence of resources. Site disturbances could uncover additional resource features below surface that could be damaged or destroyed prior to assessing their importance—a potentially significant adverse impact. The following Mitigation Measure is proposed to reduce that impact:

#### **Mitigation Measure CULT-1: Inadvertent Discoveries**

If a cultural resource is discovered during construction activities, the contractor shall comply with the following provisions:

- A. The Contractor's project manager shall notify the Twain Harte Community Services District by telephone within 1 hour of the discovery or the next working day if the department is closed. The THCS D shall promptly notify their qualified professional archaeologist.
- B. When the cultural resource is located outside the area of disturbance, a qualified professional shall be allowed to photodocument and record the resource and construction activities may continue during this process.
- C. When the cultural resource is located within the area of disturbance, all activities that may impact the resource shall cease immediately upon discovery of the resource. All activity that does not affect the cultural resource as determined by a qualified professional may continue. A qualified professional archaeologist shall be allowed to do a site survey to ascertain the need for evaluation work.
- D. When the cultural resource is determined to not be significant, the qualified professional shall be allowed to photodocument and record the resource. Construction activities may resume after authorization from the qualified professional.
- E. When a resource is determined to be significant, the resource shall be avoided with said

resource having boundaries established around its perimeter by a qualified professional or a cultural resource management plan shall be prepared by a qualified professional to establish measures formulated and implemented in accordance with Sections 21083.2 and 21084.1 of the California Environmental Quality Act (CEQA) to address the effects of construction on the resource. The qualified professional shall be allowed to photodocument and record the resource. Construction activities may resume after authorization from the qualified professional.

For the purposes of implementing this measure, a “qualified professional” is an individual previously determined to be a qualified professional by the Tuolumne County Community Development Department Planning Division (<https://www.tuolumnecounty.ca.gov/DocumentCenter/View/9984>) and a “cultural resource” is any building, structure, object, site, district, or other item of cultural, social, religious, economic, political, scientific, agricultural, educational, military, engineering or architectural significance to the citizens of Tuolumne County, the State of California, or the nation which is 50 years of age or older or has been listed on or is eligible for listing on the National Register of Historic Places, the California Register of Cultural Resources, or any local register.

**Mitigation Monitoring CULT-1:** The required mitigation measure will be implemented throughout project construction. The measure is the responsibility of the construction contractor with input from a qualified cultural resources professional, if necessary.

Proper implementation of this mitigation measure will result in a less-than-significant impact.

*c) Disturb any human remains, including those interred outside of formal cemeteries?*

**Less Than Significant With Mitigation Incorporated.** Based on the cultural resources study performed for the project, there are no cemeteries located in close proximity to the Project site and no burials are known to have occurred on the site. However, grading and excavation in conjunction with site development has the low potential to uncover unanticipated subsurface resources—a potentially significant adverse impact. The following Mitigation Measure is proposed to reduce that impact:

**Mitigation Measure CULT-2 Treatment of Human Remains and Sacred Objects**

No human remains or sacred objects have been identified in the project area, but there is always a possibility that excavation, or other actions could expose human burials previously unknown. Such remains are protected by state and federal laws and all project personnel must comply fully with applicable laws regarding the treatment of human remains including contacting the County coroner. The policies set forth in the American Indian Religious Freedom Act of 1978 and amendments (92 Stat. 469) should be honored by THCS D and its contractors. If the discovery is on private land, provision for treatment and disposition of any human remains will be in accordance with Section 7050.5 of the California Health and Safety Code, Sections 5097.94, 5097.98, of the California Public Resources Code, and Section 15064.5 of the California Code of Regulations implementing the California Public Resources Code, Sections 21000-21177.

**Mitigation Monitoring CULT-2.** The required mitigation measure will be implemented throughout project construction. The measure is the responsibility of the construction contractor and, where necessary, the County Coroner, and/or qualified archaeologist.

Proper implementation of this mitigation measure will result in a less-than-significant impact.

## 2.6 ENERGY

VI. ENERGY. Would the Project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Result in potentially significant environmental impact to wasteful, inefficient, or unnecessary consumption of energy resources during project consumption or operation?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Conflict with or obstruct a state or local plan for renewable energy or energy efficiency.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

### 2.6.1 Background

The project will result in the use of energy during construction. Long-range operations are not expected to use energy based on the nature and location of the project – replacing existing water pipelines.

### 2.6.2 Analysis

*a) Result in potentially significant environmental impact to wasteful, inefficient, or unnecessary consumption of energy resources during project consumption or operation?*

#### **Less Than Significant with Mitigation Incorporated.**

Construction is expected to consume fossil fuels. Inefficient use of fossil fuels may incrementally contribute to cumulatively significant adverse impacts to energy availability. Implementation of the following mitigation measures incorporating Best Performance Standards, would ensure that equipment uses energy efficiently.

#### **Mitigation Measure ENERGY-1: Construction Equipment**

To the extent feasible, the following measures shall be incorporated into Project design and construction:

- On-site idling of construction equipment shall be minimized (no more than five minutes maximum).
- Biodiesel shall be used as an alternative fuel diesel for at least 15 percent of the construction vehicles/equipment used if there is a biodiesel station within five miles of the Project site.

**Mitigation Monitoring ENERGY-1:** The required mitigation measure will be implemented throughout Project construction. The measure is the responsibility of the Project proponent/construction contractor.

**Mitigation Measure AQ-2: Equipment Emissions** (See Air Quality section for details)



Proper implementation of the preceding is expected to reduce energy consumption during construction. Impacts would be less than significant with mitigation incorporated.

*b) Conflict with or obstruct a state or local plan for renewable energy or energy efficiencies.*  
**Less than Significant.**

Project operations will consume energy. The 2019 California Energy Code (Building Energy Efficiency Standards) became effective on January 1, 2020. The project is required to and will comply with all state mandated energy efficiency standards. The District does not have alternative energy efficiency standards. Therefore, the project is not anticipated to conflict with state or local plans for energy efficiency.

**Mitigation Measure:** None required.

**Mitigation Monitoring:** Not applicable.

## 2.7 GEOLOGY AND SOILS

VI. GEOLOGY AND SOILS. Would the Project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
ii) Strong seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iii) Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iv) Landslides?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the Project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f) Directly or indirectly destroy a unique paleontological resource or site or unique geological feature	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

### **2.7.1 Background and Setting**

Pursuant to the USDA/NRCS Soil/Vegetation Survey for Tuolumne County, on-site soils are classified as identified in Section 2.2.1. Erosion potential for the on-site soils is illustrated in **Figure 9**. Slopes are illustrated in **Figure 10**. Anticipated soil suitability for shallow excavations is illustrated in **Figure 11**.

**Figure 9: Erosion Potential**

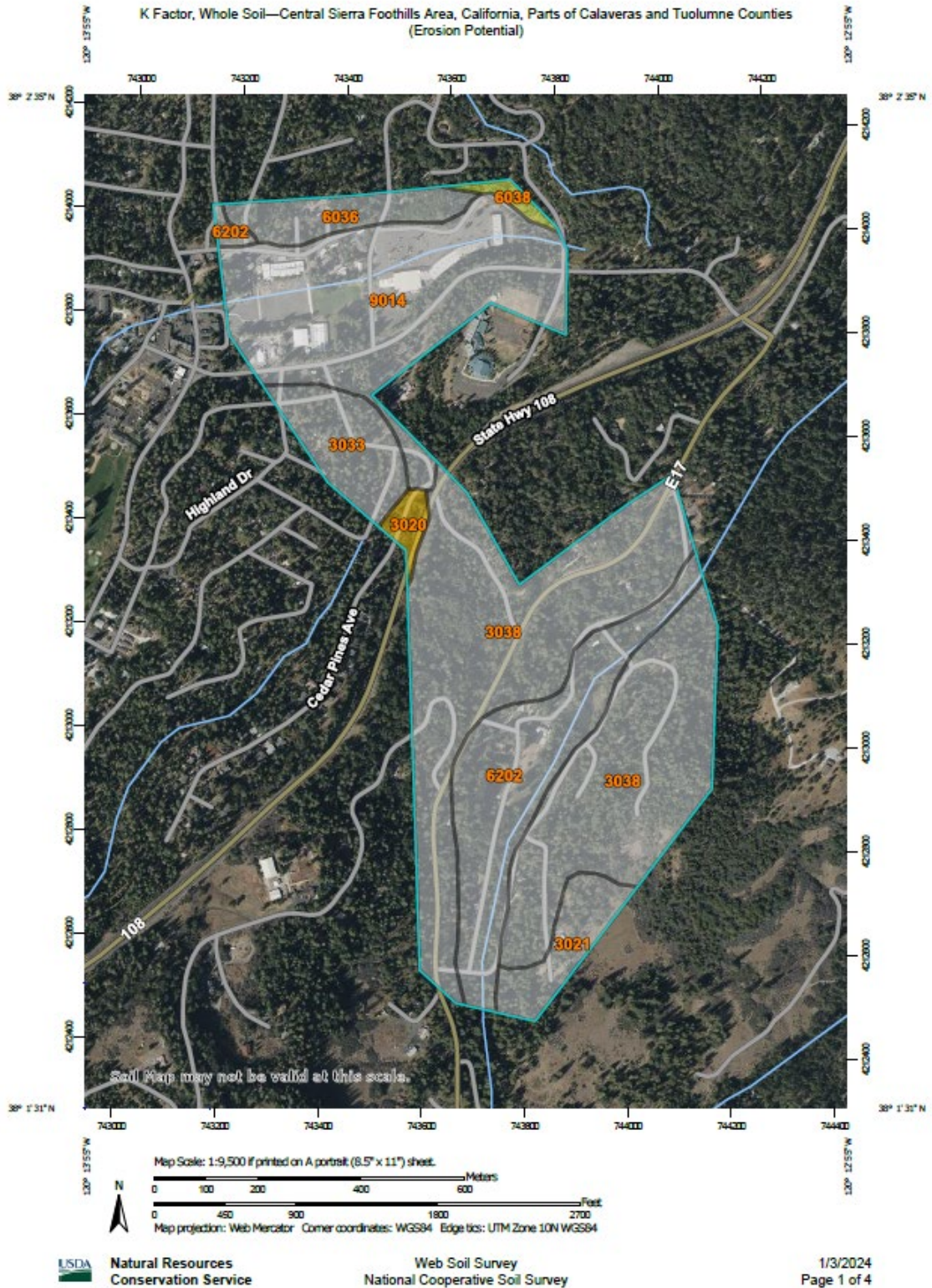
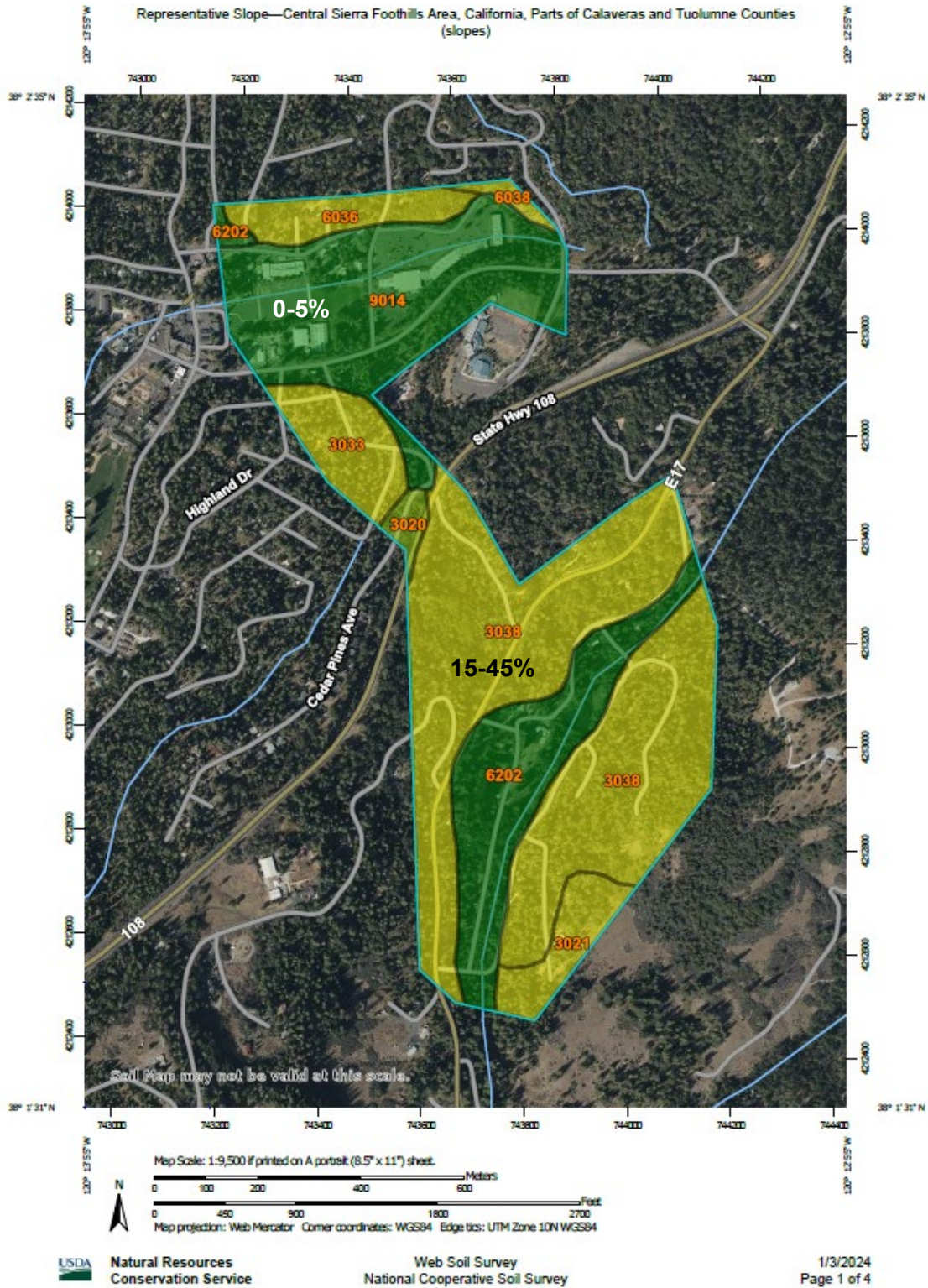
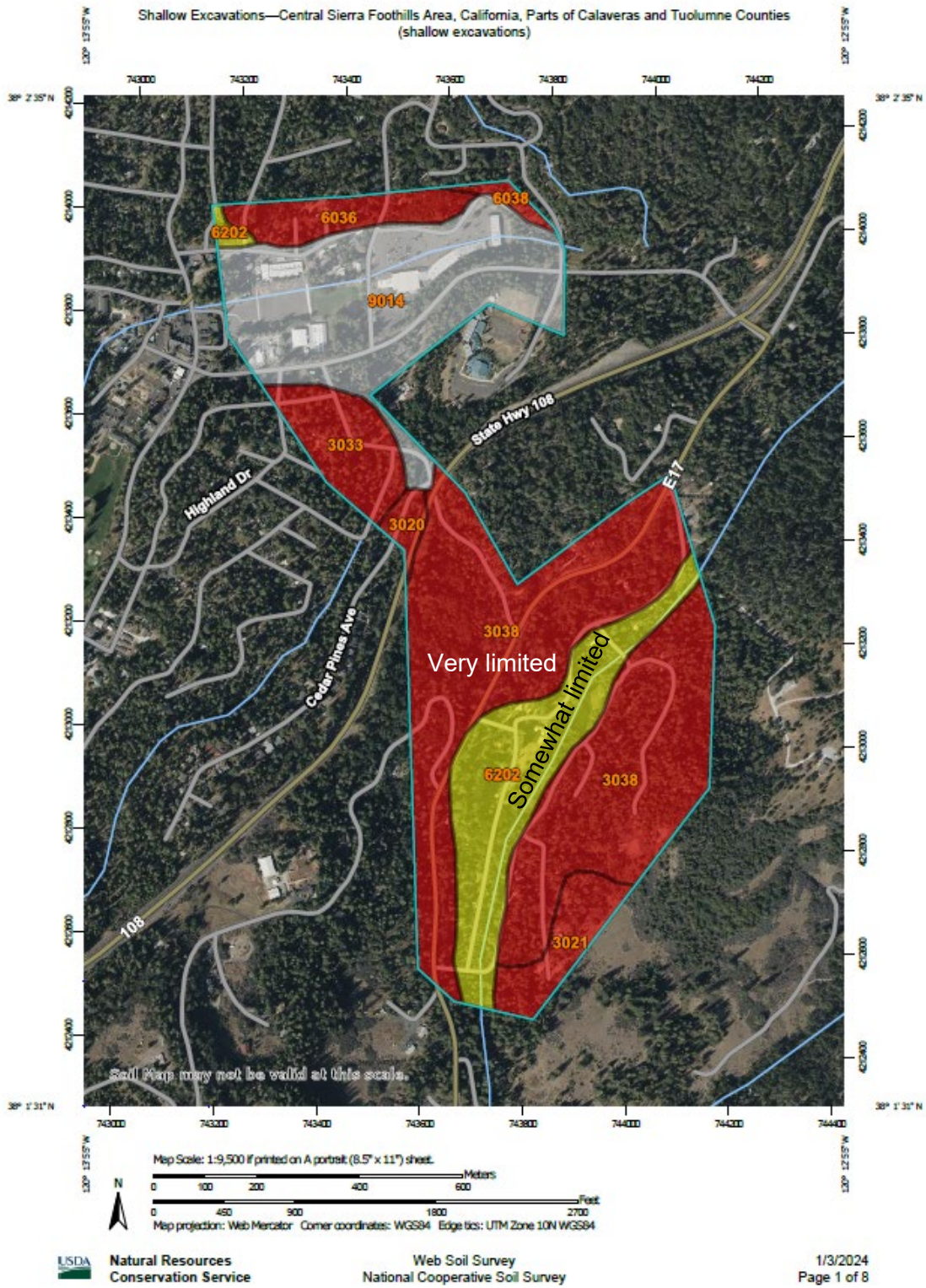


Figure 10: General Slopes



**Figure 11: Soil Suitability for Shallow Excavations**



- a) *Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:*
- i) *Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.*
  - ii) *Strong seismic ground shaking?*
  - iii) *Seismic-related ground failure, including liquefaction?*

### **No impact**

Tuolumne County is not identified as being at risk of rupture of a known earthquake fault pursuant to Special Publication 42 (August 2007 Revision). Therefore, impacts related to fault rupture, strong seismic ground shaking, seismic related ground shaking, or seismic related ground failure are not anticipated at the Project site.

*iv) Landslides?*

### **Less Than Significant with Mitigation Incorporated.**

The Tuolumne County Geotechnical Interpretive Diagrams do not identify the area as being in a location with unstable slopes; however, the USDA/NRCS and USGS topo maps identify slopes in excess of 20% in the area (**Figure 10**). In addition, during periods of heavy rains, the ditch system in the area can over-top and create flooding that carries soils downhill in the upper reaches of the Sherwood Forest subdivision. Because of the possibility of unstable soils coupled with planned excavations; the potential for weakening soil stability exists – a potentially significant adverse impact. The following mitigation measure is proposed to address this potential impact:

#### **Avoidance and Minimization Measure GEO-1: Geotechnical Studies**

Prior to commencing construction, the project proponent shall conduct testing for expansive soils, soil suitability, and slope stability in accordance with District standards to ensure that soils and slopes do not damage pipelines after installation or affect slope stability.

#### **Mitigation Monitoring GEO-1:**

The studies shall be completed prior to commencing construction and finalizing construction plans. The District is responsible for this measure.

*b) Result in substantial soil erosion or the loss of topsoil?*

### **Less Than Significant with Mitigation Incorporated.**

As illustrated in **Figure 9**, soil erosion potential is low within the construction boundaries. However, even temporary construction activities associated with the Project may disturb soils and result in loss of topsoil and soil erosion that could impact wetlands and waterways within the project boundaries, a potentially significant adverse impact. The following mitigation measures require preparation and implementation of an erosion control plan and compliance with state and federal water quality protection measures and is proposed to minimize this potential impact and were previously identified in the Biological Resources portion of this

analysis:

### **Avoidance and Minimization Measure BIO-5 (GEO-2): Erosion Control**

### **Avoidance and Minimization Measure BIO-6 (GEO-3): NPDES/SWPPP**

Proper implementation of these measure will reduce potential impacts to water quality to a level of less-than-significant.

- c) Would the Project be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the Project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?*
- d) Would the Project be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?*

#### **Less Than Significant with Mitigation Incorporated.**

Pursuant to the USDA/NRCS and USGS topo maps, the project area includes some segments with slopes in excess of 20% (**Figure 10**). Therefore, impacts associated with slope stability could occur.

No foundations are proposed to be built in conjunction with the Project; however, underground structures (i.e., pipelines) will be installed. Water pipelines have existed in this area for many decades without catastrophic failure. However, USDA/NRCS soils analysis indicates the soil suitability of soils for shallow excavations of 5-6 feet in depth have very limited suitability (**Figure 11**).

While failure of underground water pipelines is unlikely to create a direct risk to life, some property damage to roads or adjacent properties could occur or result in periods where fire flow would be unavailable, a potentially significant adverse impact.

Therefore, the following mitigation measure, detailed in preceding paragraphs, is required:

### **Mitigation Measure GEO-1 Geotechnical Studies**

Proper implementation of the preceding is expected to reduce the potential impact to a level of less-than-significant.

- e) Would the Project have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?*

**No Impact.** The Project involves improvements to an existing water distribution system. Therefore, no septic tanks are proposed and no impacts are anticipated.

**Mitigation Measure:** None required.

**Mitigation Monitoring:** Not applicable.



f) *Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?*

**No Impact.** There are no unique geological features known on the site. Paleontological resources are unknown in this area and there is no surface evidence that such resources could exist. Therefore, no impacts are anticipated.

**Mitigation Measure:** None required.

**Mitigation Monitoring:** Not applicable.

## 2.8 GREENHOUSE GAS EMISSIONS

VII. GREENHOUSE GAS EMISSIONS. Would the Project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

### 2.8.1 Background and Setting

The following study was conducted for the project and previously incorporated by reference:

Shijo, Wayne. November 2023. *Twain Harte Community Services District Sherwood Distribution System Improvements Project Air Quality and Greenhouse Gas Analysis*

The following summarizes the report's findings.

Project implementation for the Project includes four construction phases as follows:

#### Phase 1: Mobilization

- Component 1 - Equipment Transport
- Component 2 - Supplies Delivery
- Component 3 - Staging Area

#### Phase 2: Pipeline Installation

- Component 1 - Site Layout
- Component 2 – Potholing
- Component 3 - Pipeline Installation
- Component 4 - Disinfection and Pressure Testing

#### Phase 3: Restoration

- Component 1 - Final Grading
- Component 2 - Paving

#### Phase 4: Demobilization

- Component 1 - Staging Area Demobilization
- Component 2 - Equipment Transport
- Component 3 - Supplies Cleanup and Demobilization

The project will not result in a change in system capacity and will not result in a change in long-term operational air pollutant emissions. Therefore, this analysis focuses on short-term construction-related air quality impacts.

Pressure Zones 4 and 6 are estimated to include approximately 270 residents in residential land uses and approximately 25 employees in non-residential land uses. (Rocha pers. comm. and

Augustine pers. comm.)

Thresholds

The GHG significance threshold applied herein is based on the *Tuolumne County Climate Action Plan* (County of Tuolumne 2022). The Climate Action Plan presents a series of significance thresholds, as shown in the following table.

**Table 7: Greenhouse Gas Significance Thresholds**

Greenhouse Gas Emissions Efficiency Thresholds	Project's Anticipated Operational Year		
	2030	2040	2050
Efficiency threshold for new development (MTCO <sub>2</sub> e/SP)	3.84	2.43	1.20
Efficiency threshold for new development (MTCO <sub>2</sub> e/capita)	4.72	2.98	1.48
Efficiency threshold for new development (MTCO <sub>2</sub> e/employee)	20.70	13.09	6.48
<hr/> Notes: MTCO <sub>2</sub> e = metric tons of carbon dioxide equivalent; SP = service population.  Source: County of Tuolumne 2022.			

The Climate Action Plan includes significance thresholds expressed in:

- metric tons of carbon dioxide equivalent (MTCO<sub>2</sub>e) per capita, which is primarily applied to residential land uses;
- MTCO<sub>2</sub>e per employee, which is primarily applied to non-residential employment land uses; and
- MTCO<sub>2</sub>e per service population, which is primarily applied to land uses that include both residential and non-residential land uses.

Service population is calculated as the sum of residents and employees. Pressure Zones 4 and 6 include both residential land uses and non-residential land uses. Therefore, the Climate Action Plan significance thresholds expressed as MTCO<sub>2</sub>e per service population are applied in this analysis.

The Climate Action Plan presents different thresholds for projects anticipated to be operational in the years 2030, 2040, and 2050.

Construction of the Twain Harte CSD project is expected to begin in the spring of 2025 and be completed in late summer or early fall of 2025 (Rocha pers. comm.).

This air quality analysis assumes:

- Phase 1 Estimated Start: 4/1/2025 Estimated End: 4/26/2025
- Phase 2 Estimated Start: 4/26/2025 Estimated End: 7/25/2025
- Phase 3 Estimated Start: 7/25/2025 Estimated End: 8/9/2025
- Phase 4 Estimated Start: 8/9/2025 Estimated End: 8/29/2025

As shown, the Project is estimated to be completed in the year 2025. Therefore, the Climate Action Plan significance threshold for the year 2030 is applied.

As shown in the preceding table, the Climate Action Plan significance threshold expressed as MTCO<sub>2</sub>e per service population for the year 2030 is 4.72 MTCO<sub>2</sub>e per service population. That threshold is applied in this analysis.

## 2.8.2 Analysis

### a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?

**Less than Significant.** The GHG analysis for this project found that, during the construction period, construction activity would result in 0.58 MT CO<sub>2</sub>e per service population per year (/SP/yr.) as shown in **Table 8**.

This amount is less than the 3.84 MT CO<sub>2</sub>e/SP/yr. significance threshold for GHG emissions (**Table 7**).

Therefore, this impact is considered less than significant, and no mitigation measures are required.

**Table 8: Project Greenhouse Gas Emissions**

<b>Sherwood Distribution System Project Phase</b>	<b>Greenhouse Gas (GHG) Emissions in Metric Tons of Carbon Dioxide Equivalent (MTCO<sub>2</sub>e)</b>
Phase 1: Mobilization	22.71
Phase 2: Pipeline Installation	99.90
Phase 3: Restoration	21.62
Phase 4: Demobilization	28.25
Total of All Phases	172.48
Project Area Residents	270
Project Area Employment	25
Project Area Service Population	295
GHG Emissions in MTCO <sub>2</sub> e per Service Population	0.58
Significance Threshold in MTCO <sub>2</sub> e per Service Population	3.84
Significant Impact?	No

As noted in the Project Description, the Project will not result in a long-term change in system capacity. As a result, the project will not result in a change in long-term operational GHG emission.

Therefore, impacts related to greenhouse gas emissions are determined to be less than significant for the Project.

**Mitigation Measure:** None required.

**Mitigation Monitoring:** Not applicable.

b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?

**No Impact.** As described in paragraph a, the Project is consistent with the County's Climate Action Plan.

**Mitigation Measure:** None required.

**Mitigation Monitoring:** Not applicable.

## 2.9 HAZARDS AND HAZARDOUS MATERIALS

VIII. HAZARDS AND HAZARDOUS MATERIALS.	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the Project:				
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) For a Project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the Project result in a safety hazard for people residing or working in the Project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
g) Expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

### 2.9.1 Background and Setting

Hazardous materials include flammable, reactive, corrosive, or toxic substances that, because of these properties, pose potential harm to the public or environment.

Materials associated with the construction and rehabilitation of the wastewater collection system are required to be handled, stored, transported, and disposed of according to a framework of federal, state and local regulations. Regulatory bodies include, but are not limited to, the California Environmental Protection Agency, Department of Toxic Substances Control, Tuolumne County Environmental Health, U.S. and California Department of Transportation and the California Division of Occupational Safety and Health.

A review of the Department of Toxic Substances Control (DTSC) database, EnviroStor, which lists hazardous materials sites compiled pursuant to California Government Code Section 65962.5; GeoTracker, which provides information on Leaking Underground Storage Tanks

(LUST) and other cleanup sites; and EPA's Toxic Release Inventory (EPCRA TRI) shows no active contamination or hazardous materials sites directly associated with the Project site or area. The following closed sites were identified within one mile of the project site.

**Table 9: Hazardous Materials Cases/Sites within or Near the Project Boundaries**

Source/ID	Contaminant	Status
Twain Harte Elementary School	Gasoline, 1996	Closed
Twain Harte Chevron	Gasoline, 1989	Closed
Twain Harte Shell	Gasoline, 1998	Closed
Trotter's welding	Gasoline, 1997	Closed
Sierra Pacific Industries, Sonora Division	---	Toxic release (air), closed

### 2.9.2 Analysis

- a) *Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?*
- b) *Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?*
- c) *Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?*

**No Impact.** A portion of the existing system may include asbestos pipe. The Project does not propose to disturb existing asbestos pipe. When encountered, the pipe shall be abandoned in place and new piping of sufficient size shall be installed in an alternate location as identified in the Project Design maps.

No transport, use, or disposal of hazardous materials is proposed in association with Project construction. Therefore, no impacts are anticipated.

**Mitigation Measure:** None required.

**Mitigation Monitoring:** Not applicable.

- d) *Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?*

**No Impact.**

**Table 9** identifies former hazardous material sites that have been remediated and cases closed. Therefore, this existing hazardous site is not expected to interfere with the proposed Project.

Because no specific contamination is identified at the Project site and no open or otherwise active sites occur within the proposed disturbance area, no significant adverse impacts are anticipated due to known hazardous material sites located on any list compiled pursuant to Section 65962.5 of the Government Code.



**Mitigation Measure:** None required.  
**Mitigation Monitoring:** Not applicable.

- e) *For a Project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the Project result in a safety hazard for people residing or working in the Project area?*

**No Impact.** The Project is not located within the boundaries of an Airport Land Use Plan. Therefore, no impacts are anticipated.

**Mitigation Measure:** None required.  
**Mitigation Monitoring:** Not applicable.

- f) *Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?*

**Less Than Significant Impact with Mitigation.**

Once construction is completed, the Project will not interfere with the movement of people or materials along emergency access or evacuation routes; therefore, it will not physically interfere with an adopted emergency response or evacuation plan.

However, during construction, road sections may be temporarily closed or detours put in place to avoid construction areas. Emergency responders may be delayed in reaching various areas in the community due to blocked roadways, a potentially significant adverse impact. The following measure is proposed to minimize that impact.

**Avoidance and Minimization Measure HAZ-1 (Traffic Access Management Plan)**

Prior to commencing work within public roadways, the Contractor will prepare (to the District's and Tuolumne County's satisfaction), and throughout project construction will implement, a traffic access management plan to maintain emergency ingress, egress, and daily traffic flows throughout the Project boundaries. The access management plan should address public notification of upcoming construction, anticipated road closures, and detours (e.g., mailers in invoices, publication in local newspaper, website notices, postings along streets to be closed, electronic message boards). The District will coordinate road closures with the Twain Harte Fire Department, Twain Harte Elementary School, residences and local businesses to ensure that emergency ingress and egress is addressed prior to and during street closures.

**Mitigation Monitoring HAZ-1:** The traffic access management plan will be prepared prior to initiating project construction and implemented throughout project construction. The measure is the responsibility of the construction contractor in consultation with the identified agencies.

Proper implementation of the preceding measure will reduce the potential impact to emergency access to a level of less than significant.

- g) *Expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires?*

**No Impact.** The Project will not introduce residential uses into the urban/wildland interface, but will improve fire flow through the water distribution system increasing fire protection capabilities—a potential beneficial impact. No significant structures will be built in conjunction with the Project. Therefore, due to the size, nature and location of the Project, impacts associated with wildland fires are not anticipated.

**Mitigation Measure:** None required.

**Mitigation Monitoring:** Not applicable.

## 2.10 HYDROLOGY AND WATER QUALITY

IX. HYDROLOGY AND WATER QUALITY. Would the Project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Violate any water quality standards or waste discharge requirements?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or through the addition of impervious surfaces in a manner that would?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
i. Result in substantial erosion or siltation on-or off-site	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
ii. Substantially increase the rate or amount of surface runoff in a manner that would result in flooding on-or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iii. Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iv. Impede or redirect flood flows	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Otherwise substantially degrade water quality?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

## 2.10.2 Background and Setting

## 2.10.3 Analysis

*a) Violate any water quality standards or waste discharge requirements?*

**Less than Significant with Mitigation Incorporated.** No waste discharge will occur, therefore, no impacts associated with waste discharge are anticipated. The introduction of machinery and construction materials to the site has the potential to disturb soils and increase disturbed-soil runoff from site construction into nearby water resources that could indirectly impact water quality in the on-site ponds, ditch and creek adjacent to the construction areas—a potentially significant adverse impact. To minimize and avoid these impacts, the following measures are included:

**Avoidance and Minimization Measure BIO-3: ESA Fencing**

**Avoidance and Minimization Measure BIO-4: Staging and Spill Prevention**

**Avoidance and Minimization Measure BIO-5: Erosion Control**

**Avoidance and Minimization Measure BIO-6: NPDES/SWPPP**

**Avoidance and Minimization Measure BIO-7: Environmental Awareness Training**

Proper implementation of the preceding is expected to reduce the potential impact to a level of less than significant.

*b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level, which would not support existing land uses or planned uses for which permits have been granted)?*

**No Impact.** The proposed Project involves improvements to an existing water distribution system to improve fire flow. No use of new groundwater sources will be required; but rather will involve improved use of existing water supplies. Therefore, based on the nature of the proposed Project, no impact will occur.

**Mitigation Measure:** None required.

**Mitigation Monitoring:** Not applicable.

*c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would:*

*i. Result in substantial erosion or siltation on- or off-site?*

**Less than Significant with Mitigation Incorporated.**

The introduction of machinery and construction materials to the site has the potential to disturb soils and increase disturbed-soil runoff from site construction into nearby water

resources that could result in erosion or siltation that indirectly impacts water quality in the on-site ponds, ditch and creek adjacent to the construction areas—a potentially significant adverse impact. To minimize and avoid these impacts, the following measures are included:

**(HYDRO-1) Avoidance and Minimization Measure BIO-3: ESA Fencing**

**(HYDRO-2) Avoidance and Minimization Measure BIO-4: Staging and Spill Prevention**

**(HYDRO-3) Avoidance and Minimization Measure BIO-5: Erosion Control**

**(HYDRO-4) Avoidance and Minimization Measure BIO-6: NPDES/SWPPP**

**(HYDRO-5) Avoidance and Minimization Measure BIO-7: Environmental Awareness Training**

Proper implementation of the preceding is expected to reduce the potential impact to a level of less than significant.

*ii. Substantially increase the rate or amount of surface runoff in a manner that would result in flooding on-or off-site?*

*iii. Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff*

*iv. Impede or redirect flood flows*

**No Impact.**

No new impervious surfacing is proposed. Pipelines will be located in existing road ROWs without increasing paved surfacing. Therefore, runoff will not be increased. No alterations to drainages are proposed, therefore, no impediments or redirection of flood flows is anticipated.

**Mitigation Measure:** None required.

**Mitigation Monitoring:** Not applicable.

*d) In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?*

**No Impact**

Pipe replacement in existing ROWs will not introduce pollutants. Therefore, the risk of release due to project inundation is not anticipated.

It is further noted that, pursuant to Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps (FIRM) Community Panel # 06109C0900C (effective date April 16, 2009), identifies that the entire Project footprint is within a Flood Zone X, an area determined to be outside the 0.2% annual chance (or 500-year) floodplain (See **Figures 12 and 13**). Therefore, the proposed Project will occur within a 100-year flood hazard area and no impact is anticipated.

**Mitigation Measure:** None required.  
**Mitigation Monitoring:** Not applicable.

- e) *Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?*

**No Impact.**

Based on the size, nature and location of the project, replacing waterlines to improve fire flow, the project will not conflict with a water quality control plan. Because no groundwater is required for the project, it will not conflict with any sustainable groundwater management plan.

**Mitigation Measure:** None required.  
**Mitigation Monitoring:** Not applicable.

- f) *Otherwise substantially degrade water quality?*

**Less Than Significant with Mitigation Incorporated.**

Temporary construction activities associated with the Project may disturb soils and result in loss of topsoil and soil erosion. Runoff could carry eroded soils into waterways downstream of work areas thereby degrading water quality, a potentially significant adverse impact. The following mitigation measures (detailed in the Biological Resources Section) are proposed.

**(HYDRO-1) Avoidance and Minimization Measure BIO-3: ESA Fencing**

**(HYDRO-2) Avoidance and Minimization Measure BIO-4: Staging and Spill Prevention**

**(HYDRO-3) Avoidance and Minimization Measure BIO-5: Erosion Control**

**(HYDRO-4) Avoidance and Minimization Measure BIO-6: NPDES/SWPPP**

**(HYDRO-5) Avoidance and Minimization Measure BIO-7: Environmental Awareness Training**

Proper implementation of the preceding is expected to reduce the potential impact to a level of less than significant.

- g) *Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?*
- h) *Place within a 100-year flood hazard area structures which would impede or redirect flood flows?*
- i) *Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?*

**No Impact.** Pursuant to Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps (FIRM) Community Panel # 06109C0900C (effective date April 16, 2009), identifies that the entire Project footprint is within a Flood Zone X, an area determined to be outside the 0.2% annual chance (or 500-year) floodplain (See **Figures 12** and **13**).

Therefore, the proposed Project will occur within a 100-year flood hazard area and no impact is anticipated.

No housing is proposed in conjunction with the proposed Project, therefore no impacts associated with placing housing in a flood hazard area are anticipated. No flood zones exist; therefore, no structures will be placed in a flood hazard area that could impede or redirect flood flows. Based on the nature of the project, people and structures will not be exposed to significant loss, injury or death due to flooding, including flooding from levee or dam failure, because the project is not introducing people or structures to the area, but is improving existing infrastructure to improve fire flow. Therefore, no impacts are anticipated.

**Mitigation Measure:** None required.

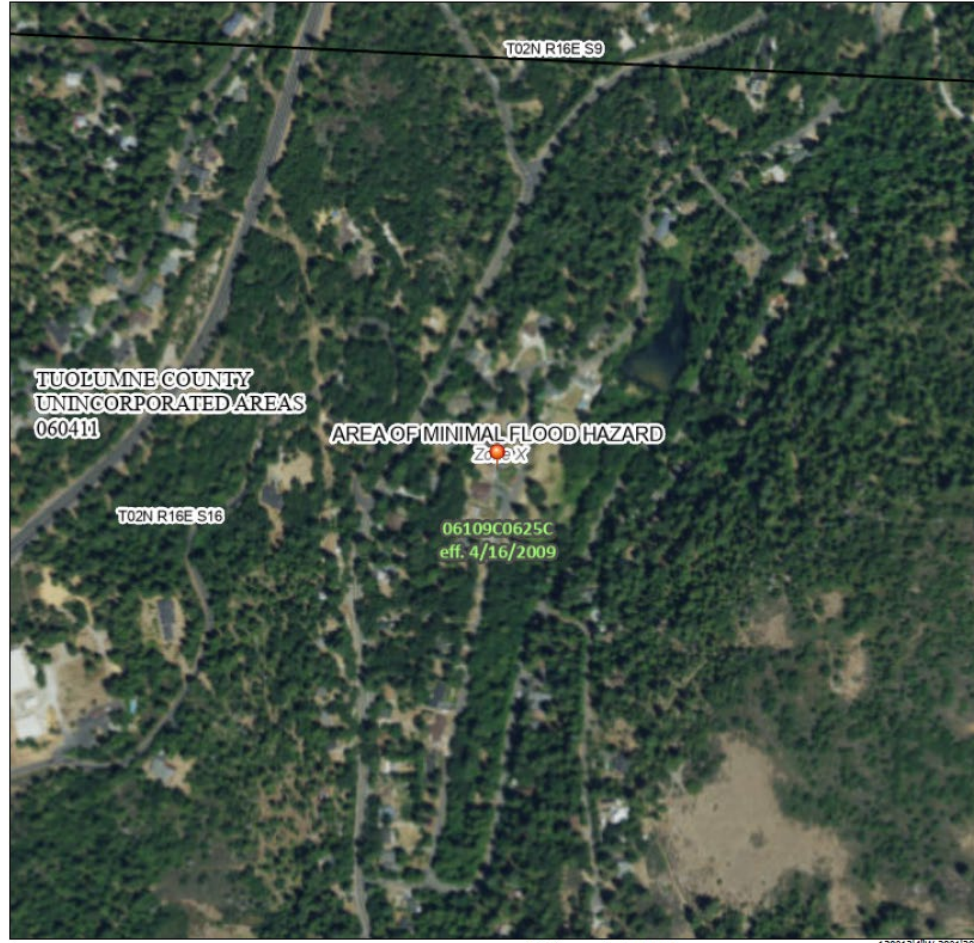
**Mitigation Monitoring:** Not applicable.

Figure 12: FEMA FIRM South of SR 108

# National Flood Hazard Layer FIRMette



120°13'41"W 38°2'7"N



**Legend**

SEE FIS REPORT FOR DETAILED LEGEND AND INDEX MAP FOR FIRM PANEL LAYOUT

SPECIAL FLOOD HAZARD AREAS		Without Base Flood Elevation (BFE) Zone A, V, ABS
		With BFE or Depth Zone AE, AO, AH, VE, AR
		Regulatory Floodway
OTHER AREAS OF FLOOD HAZARD		0.2% Annual Chance Flood Hazard, Areas of 1% annual chance flood with average depth less than one foot or with drainage areas of less than one square mile Zone X
		Future Conditions 1% Annual Chance Flood Hazard Zone X
		Area with Reduced Flood Risk due to Levee. See Notes. Zone X
		Area with Flood Risk due to Levee. Zone D
OTHER AREAS		NO SCREEN Area of Minimal Flood Hazard Zone X
		Effective LOMRs
GENERAL STRUCTURES		Channel, Culvert, or Storm Sewer
		Levee, Dike, or Floodwall
OTHER FEATURES		Cross Sections with 1% Annual Chance Water Surface Elevation
		Coastal Transect
		Base Flood Elevation Line (BFE)
		Limit of Study
		Jurisdiction Boundary
		Coastal Transect Baseline
		Profile Baseline
MAP PANELS		Digital Data Available
		No Digital Data Available
		Unmapped

The pin displayed on the map is an approximate point selected by the user and does not represent an authoritative property location.

This map complies with FEMA's standards for the use of digital flood maps if it is not void as described below. The basemap shown complies with FEMA's basemap accuracy standards.

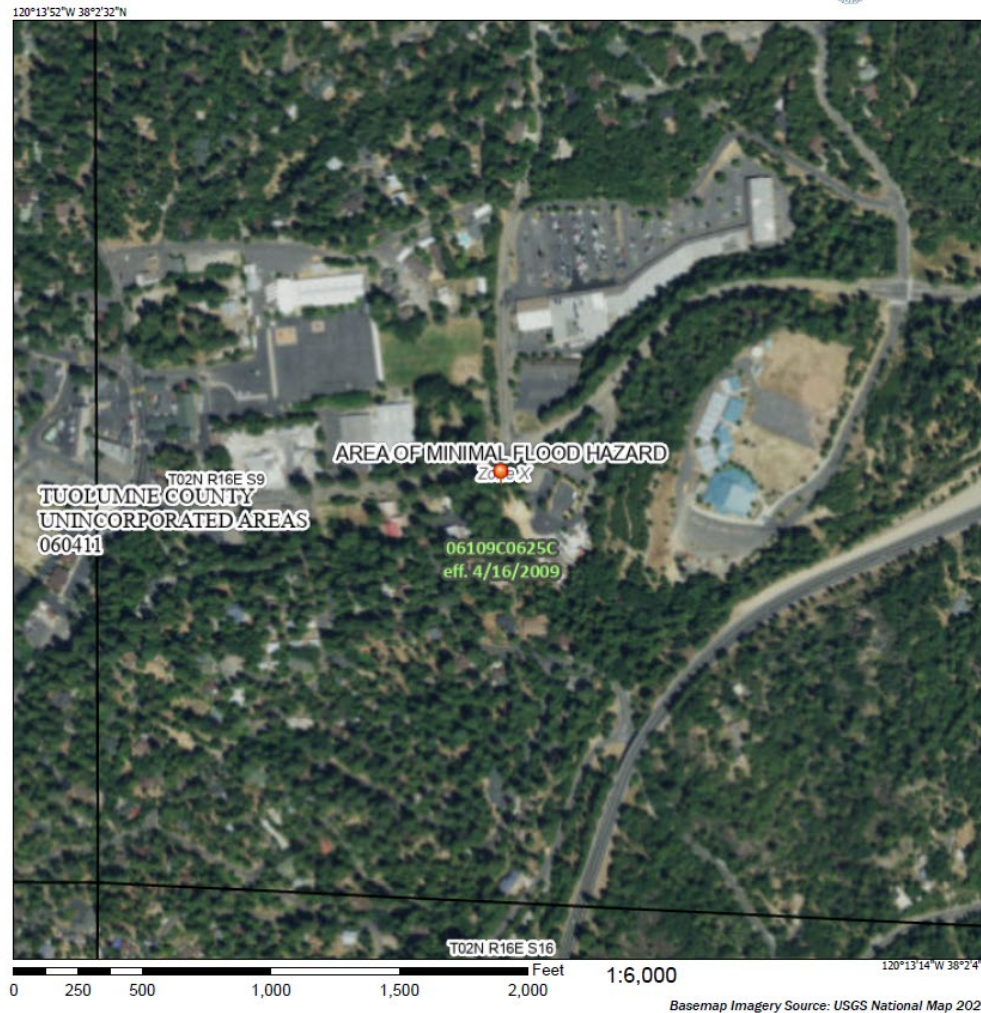
The flood hazard information is derived directly from the authoritative NFHL web services provided by FEMA. This map was exported on 12/24/2023 at 2:25 PM and does not reflect changes or amendments subsequent to this date and time. The NFHL and effective information may change or become superseded by new data over time.

This map image is void if the one or more of the following map elements do not appear: basemap imagery, flood zone labels, legend, scale bar, map creation date, community identifiers, FIRM panel number, and FIRM effective date. Map images for unmapped and unmodernized areas cannot be used for regulatory purposes.



Figure 13: FEMA FIRM North of SR 108

# National Flood Hazard Layer FIRMette



### Legend

SEE FIS REPORT FOR DETAILED LEGEND AND INDEX MAP FOR FIRM PANEL LAYOUT

SPECIAL FLOOD HAZARD AREAS		Without Base Flood Elevation (BFE) Zone A, V, A99
		With BFE or Depth Zone AE, AO, AH, VE, AR
		Regulatory Floodway

OTHER AREAS OF FLOOD HAZARD		0.2% Annual Chance Flood Hazard, Areas of 1% annual chance flood with average depth less than one foot or with drainage areas of less than one square mile. Zone X
		Future Conditions 1% Annual Chance Flood Hazard Zone X
		Area with Reduced Flood Risk due to Levee. See Notes, Zone X
		Area with Flood Risk due to Levee Zone D

OTHER AREAS		NO SCREEN Area of Minimal Flood Hazard Zone X
		Effective LOMRs
		Area of Undetermined Flood Hazard Zone D

GENERAL STRUCTURES		Channel, Culvert, or Storm Sewer
		Levee, Dike, or Floodwall

OTHER FEATURES		Cross Sections with 1% Annual Chance Water Surface Elevation
		Coastal Transect
		Base Flood Elevation Line (BFE)
		Limit of Study
		Jurisdiction Boundary
		Coastal Transect Baseline
		Profile Baseline
		Hydrographic Feature

MAP PANELS		Digital Data Available
		No Digital Data Available
		Unmapped

The pin displayed on the map is an approximate point selected by the user and does not represent an authoritative property location.

This map complies with FEMA's standards for the use of digital flood maps if it is not void as described below. The basemap shown complies with FEMA's basemap accuracy standards.

The flood hazard information is derived directly from the authoritative NFHL web services provided by FEMA. This map was exported on 12/24/2023 at 2:28 PM and does not reflect changes or amendments subsequent to this date and time. The NFHL and effective information may change or become superseded by new data over time.

This map image is void if the one or more of the following map elements do not appear: basemap imagery, flood zone labels, legend, scale bar, map creation date, community identifiers, FIRM panel number, and FIRM effective date. Map images for unmapped and unmodernized areas cannot be used for regulatory purposes.

## 2.11 LAND USE AND PLANNING

X. LAND USE AND PLANNING. Would the Project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

### 2.11.1 Background and Setting

Existing land uses within and adjacent to the Project site are residential, commercial, and public as illustrated in **Figure 14**. The Tuolumne County General Plan Land Use designations for parcels within the project boundaries are included in **Figure 14**.

Twain Harte does not have a community plan, but does have design guidelines.

### 2.11.2 Analysis

#### a) *Physically divide an established community?*

**No Impact.** The Project includes improvements to the existing water distribution system located primarily within existing road rights-of-way within and around Twain Harte and the Sherwood Forest subdivision. The system is an existing underground system. The two project areas are already physically divided by SR 108. No new structures associated with the proposed project will further divide the communities. Therefore, no impact is anticipated.

**Mitigation Measure:** None required.

**Mitigation Monitoring:** Not applicable.

#### b) *Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?*

**No Impact.** Twain Harte does not have a community Plan, but does have design guidelines. Due to the nature and location of the project (i.e., replacing underground piping) no design features will require review.

All lands included in the proposed water distribution system improvements project within road rights-of-way are assumed to be zoned Public (P) unless otherwise specified. Public zoning allows for a water distribution system. Existing homes will be reconnected to the system. Homes in the Sherwood Forest Subdivision carry a low-density residential general plan land use designation and are zoned Single-Family Residential (R-1), already are served by water, and changes to the existing system are a permitted use.

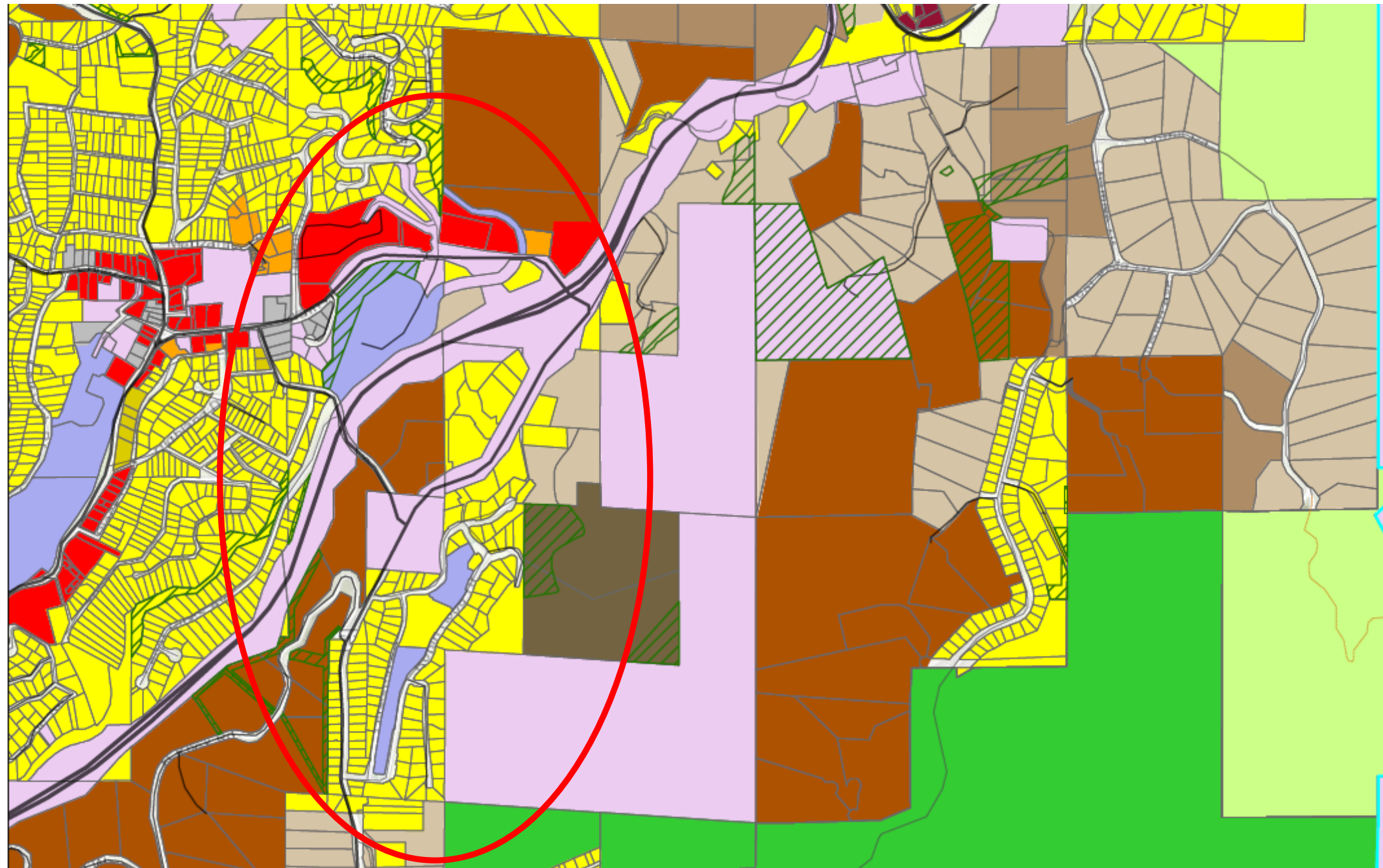
Pursuant to the 2018 General Plan Update Mitigation Monitoring and Reporting Plan, Table 2-1, the proposed project does not conflict with any of the general plan land use measures that were adopted for the purpose of avoiding or mitigating an environmental effect as described in the Agricultural Resources, Air Quality, Greenhouse Gas, Biological Resources, Noise, and

Transportation and Circulation sections of this report.

**Mitigation Measure:** None required.

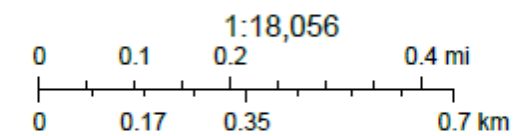
**Mitigation Monitoring:** Not applicable.

Figure 14: Tuolumne County General Plan Land Use Map



12/24/2023, 11:36:28 AM

- |                   |                                    |     |    |     |
|-------------------|------------------------------------|-----|----|-----|
| Open Space Zoning | Other Roads                        | SC  | ER | AG  |
| Roads             | Forest Route                       | GC  | HR | R/P |
| Hwy               | Parcels_WithSiteAddress            | HDR | RR | TPZ |
| Secondary Road    | General Plan Land Use Designations | MDR | LR |     |
| Local Traffic     | MU                                 | LDR | P  |     |

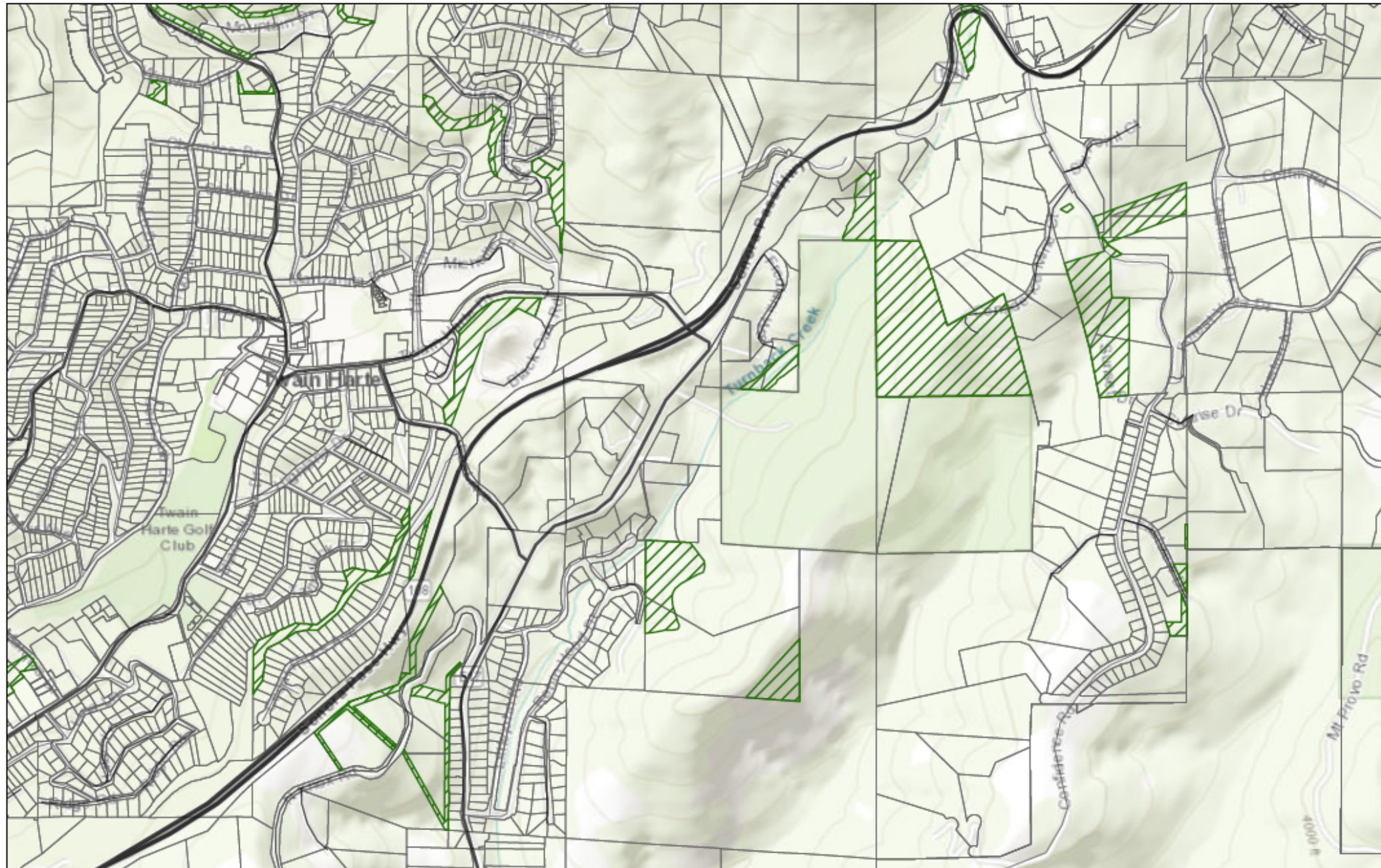


Bureau of Land Management, Esri, HERE, Garmin, INCREMENT P, USGS, METI/NASA, EPA, USDA

Tuolumne County GIS

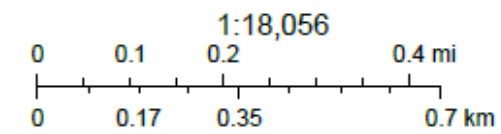
Bureau of Land Management, Esri, HERE, Garmin, INCREMENT P, USGS, METI/NASA, EPA, USDA | This dataset is provided courtesy of the County of Tuolumne, GIS Division. The County of Tuolumne cannot guarantee reliability or suitability of this information.

# Open Space Zoning



1/3/2024, 3:03:33 PM

- Open Space Zoning
- Secondary Road
- Other Roads
- Local Traffic
- Hwy
- Parcels\_WithSiteAddress



Bureau of Land Management, Esri, HERE, Garmin, INCREMENT P, USGS, MET/NASA, EPA, USDA

Tuolumne County GIS

Bureau of Land Management, Esri, HERE, Garmin, INCREMENT P, USGS, MET/NASA, EPA, USDA | This dataset is provided courtesy of the County of Tuolumne, GIS Division. The County of Tuolumne cannot guarantee reliability or suitability of this information.

## 2.12 MINERAL RESOURCES

XI. MINERAL RESOURCES. Would the Project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

### 2.12.1 Background and Setting

The California Geological Survey (formerly Division of Mines and Geology) (CDMG) surveyed Tuolumne County for the presence of economically important mineral resources. Pursuant to the resulting report, Mineral Land Classification of a Portion of Tuolumne County, California, for Precious Metals, Carbonate Rock and Concrete-Grade Aggregate (CDMG Open-File Report 97-09, 1997). The area is classified as:

- MRZ-3a (pm-30) from the Twain Harte Area Standard Pluton yielding precious metals including lode gold and silver,
- Unclassified for concrete grade aggregate, and
- MRZ-4 (cr-28) for carbonate rock

### 2.12.2 Analysis

- a) *Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?*
- b) *Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?*

**No Impact.** The majority of the proposed Project site is located in the MRZ-3a zone, an area of known mineral occurrence whose significance is undetermined. Inferred minerals are precious metals (lode gold and silver) based on past mining history. No carbonate or aggregate resources are identified for the area. Given the nature of the project, rehabilitation/installation of water lines and the existing urbanization in the area, there will be no loss of potential commercially important mineral resources. Therefore, no significant adverse impacts to mineral resources are anticipated.

**Mitigation Measure:** None required.

**Mitigation Monitoring:** Not applicable.

## 2.13 NOISE

XII. NOISE -- Would the Project result in:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) For a Project within the vicinity of a private airstrip, or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the Project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

### 2.13.1 Background and Setting

The Project involves upgrades to a water distribution system's underground piping. Proposed improvements are not anticipated to increase the overall ambient noise levels, except temporarily during project construction.

Potential noise receptors include single-family residences located throughout the Project area and a school adjacent to the Twain Harte Shopping Center.

### 2.13.2 Analysis

- a) *Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?*
- b) *Result in exposure of persons to or generation of excessive ground-borne vibration or ground-borne noise levels?*

**Less Than Significant with Mitigation Incorporated.** Long-term operation of the distribution system is not expected to increase noise above existing ambient levels. However, ground-borne vibrations and ground-borne noise will temporarily increase during construction – a temporary and potentially significant adverse impact. Therefore, the following mitigation measure, discussed in the Biological Resources section of the study and consistent with general plan policy will limit the hours of construction to daytime hours, is proposed.

#### **(NOISE-1) Avoidance and Minimization Measure BIO-13: Hours of Construction.**

Proper implementation of the preceding measure is expected to minimize the temporary increase in noise levels associated with Project construction to a level of less-than-significant.

*c) For a Project within the vicinity of a private airstrip, or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the Project area to excessive noise levels?*

**No Impact.** The Project is not located within an airport land use plan, in the vicinity of a private airstrip or within two miles of a public airport or public use airport. Therefore, no impact is anticipated.

**Mitigation Measure:** None required.

**Mitigation Monitoring:** Not applicable.



## 2.14 POPULATION AND HOUSING

XIII. POPULATION AND HOUSING. Would the Project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

### 2.14.1 Background and Setting

Twain Harte is an unincorporated community in Tuolumne County and Sherwood Forest is a subdivision near Twain Harte. “Twain Harte” is a census designated place with a 2020 population of approximately 2,502 persons.

### 2.14.2 Analysis

- a) *Induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?*

**Proposed Project – Less than Significant.** As previously stated, the purpose of the proposed Project is to improve water distribution system to improve fire flow. The proposed project will increase the line size as necessary to allow the THCS D water distribution system to achieve, rather than increase, its design capacity. No expansion of the system is proposed. The Project will improve an existing system for improved fire flow to existing development. Therefore, no growth inducing impacts are anticipated.

**Mitigation Measure:** None required.

**Mitigation Monitoring:** Not applicable.

#### **Expanded Project Alternative – Less than Significant**

The expanded project alternative would extend a public water line to a 1.5± acre parcel zoned Residential Estate, one acre minimum (RE-1) with a single-family residence crossing a 3.5± acre parcel zoned Residential Estate, two acre minimum (RE-2) carrying a general plan land use designation of Estate Residential (ER) and adjacent to another 3.5± acre parcel designated ER (**Figure 15**). Both ER parcels are vacant.

Tuolumne County development standards require that development to a density of one unit per less than two acres must be served by paved roads and public water. Development to a density of one unit per one-third acre or less must be served by public sewer.

Based on the preceding, the provision of public water to the identified parcels would not allow further division of the parcels to less than two acres (i.e., potentially growth inducing) unless public sewer is also provided to the parcel. This proposal would not result in the extension of public sewer to the identified parcels. Given the size of the parcels (1.5 and 3.5 acres) development to less than two acres in size cannot occur without the provision of public sewer. Therefore, the extension of public water to or adjacent to the parcels is not growth inducing.

**Mitigation Measure:** None required.

**Mitigation Monitoring:** Not applicable.

**Figure 15: Potential Growth**



Allows smaller lots without general plan amendment, but also would require public sewer



Could encourage general plan amendment, but would require extension of public sewer

b) *Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?*

**No Impact.** No existing housing will be eliminated, removed, or otherwise require relocation in conjunction with the proposed Project. Therefore, no impacts are anticipated.

**Mitigation Measure:** None required.

**Mitigation Monitoring:** Not applicable.

## 2.15 PUBLIC SERVICES

<u>XIV. PUBLIC SERVICES.</u>	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Would the Project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Fire protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Police protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Other public facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

### 2.15.1 Background and Setting

The Twain Harte community is served by the Twain Harte Fire Protection District, CalFire, the Tuolumne County Sheriff's Department, Twain Harte Elementary School, Summerville and Sonora High Schools, and the Twain Harte Community Services District. The entire project is located within the THCSO established LAFCo boundaries.

### 2.15.2 Analysis

**No Impact.** The proposed Project will not increase population and, therefore, will not increase demand for fire, police, schools, parks, or other public facilities. Therefore, no impact is anticipated.

**Mitigation Measure:** None required.

**Mitigation Monitoring:** Not applicable.

## 2.16 RECREATION

<b>XV. RECREATION.</b>	<b>Potentially Significant Impact</b>	<b>Less Than Significant with Mitigation Incorporated</b>	<b>Less Than Significant Impact</b>	<b>No Impact</b>
a) Would the Project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Does the Project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

### 2.16.1 Background and Setting

The Twain Harte Community Services District operates water and wastewater system, fire protection, and park and recreation facilities within the district.

### 2.16.2 Analysis

- a) *Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?*
- b) *Does the Project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?*

**No Impact.** The proposed Project will not increase population (See Section 2.13) and, therefore, will not increase demand for or use of recreational facilities. Based on the nature of the water distribution system improvements, the Project will not increase the demand for recreational facilities. Therefore, no significant adverse impact on recreational facilities is anticipated.

**Mitigation Measure:** None required.

**Mitigation Monitoring:** Not applicable.

## 2.17 TRANSPORTATION

<u>XVI. TRANSPORTATION/TRAFFIC.</u>	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the Project:				
a) Conflict with a program plan, ordinance or policy addressing the circulation system, including transit, roadways, bicycle and pedestrian facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Would the project conflict or be inconsistent with CEQA Guidelines Section 15064.3(b)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Result in inadequate emergency access?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

### 2.17.1 Background and Setting

The Project does not propose any alterations to off-site roadways, trails, access routes or other transportation-related facilities.

### 2.17.2 Analysis

*a) Conflict with a program plan, ordinance or policy addressing the circulation system, including transit, roadways, bicycle and pedestrian facilities?*

**No Impact.**

The project will replace water lines within existing ROWs and will not alter any transportation facility or route. Because the Project neither directly involves nor will indirectly influence transportation; plans, ordinances and policies related to transportation are inapplicable to the Project. Based on the nature and location of the proposed Project, no impacts are anticipated.

**Mitigation Measure:** None required.

**Mitigation Monitoring:** Not applicable.

*b) Would the project conflict or be inconsistent with CEQA Guidelines Section 15064.3(b)?*

**No Impact.**

The project will replace water lines within existing ROWs. Therefore, the project will not alter or influence vehicle miles traveled and is therefore consistent with CEQA Guidelines Section 15064.3(b).

**Mitigation Measure:** None required.

**Mitigation Monitoring:** Not applicable.

*c) Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?*

**No Impact.**

The project will replace water lines within existing ROWs and will not alter any transportation facility or design. Therefore, no impacts are anticipated.

**Mitigation Measure:** None required.

**Mitigation Monitoring:** Not applicable.

*d) Result in inadequate emergency access?*

**Less Than Significant Impact with Mitigation.**

Once construction is completed, the Project will not interfere with emergency access or evacuation routes.

However, during construction, road sections may be temporarily closed or detours put in place to avoid construction areas. Emergency responders may be delayed in reaching various areas in the community due to blocked roadways, a potentially significant adverse impact. The following measure (detailed in the Hazards and Hazardous Materials Section of this report) is proposed to minimize that impact.

**(TRANS-1) Mitigation Measure HAZ-1 (Traffic Access Management Plan)**

Proper implementation of the mitigation measure will reduce the potential impact to emergency access to a level of less than significant.

## 2.18 TRIBAL CULTURAL RESOURCES

<u>XVII. TRIBAL CULTURAL RESOURCES</u>	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a ) Would the Project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
i) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k), or	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
ii) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

### 2.18.1 Background and Setting

Assembly Bill (AB) 52 (Chapter 532, Statutes of 2014) establishes a formal consultation process for California tribes as part of CEQA. Under AB 52, tribes requesting formal consultation from the Lead Agency are notified of the project prior to the preparing the CEQA document.

Consultations were conducted in conjunction within a nearly identical project footprint in 2012. The results of that consultation are as follows:

Native American consultation consisted of a Native American Heritage Commission (NAHC) sacred lands file search request, notification letters, coordination, and monitoring. The sacred lands file search by the NAHC on August 16, 2012, failed to indicate the presence of Native American cultural resources. On August 31, 2012, project notification letters describing the project were sent to seven individuals provided by the NAHC. Responses and contacts were as follows:

Tribe	Tribal Contact	Result
Tuolumne Band of Me-Wuk	Stanley Cox, Cultural Resource Director	No response
Tuolumne Band of Me-Wuk	Kevin Day, Chairperson	No response
Tuolumne Band of Me-Wuk	Reba Fuller	No response

Tribe	Tribal Contact	Result
California Valley Miwok Tribe	Briana Creekmore, Cultural Committee	No response
Chicken Ranch Rancheria of Me-Wuk	Lloyd Mathiesen, Chairperson	No response
Chicken Ranch Rancheria of Me-Wuk	Melissa Powell, Cultural Resources Coordinator	
Buena Vista Rancheria	Rhonda Morningstar Pope, Chairperson	No response

Due to staffing shortages at the NAHC, a revised list of contacts remains pending. Due to the lapse in time since the prior notification and delayed response from NAHC, re-notification of *local* tribal contacts was reinitiated as follows:

- Chicken Ranch Rancheria - Stephanie Suess, Monica Fox  
Notification sent 1/6/24, response not received to date.
- Tuolumne Band of Me-Wuk - Tuolumne MeWuk Tribal Council, Vicky Stone  
Notification sent 1/6/24, response not received to date.

In accordance with AB 52, these tribes will be provided copies of the draft IS/MND for any further comments. Comments will be incorporated into the final draft IS/MND.

The Expanded Alternative Project area was not surveyed or evaluated for this analysis. However, it is apparent that historical artifacts of unknown origin that have not been recorded are located within this area. Therefore, the following measure is included for the Expanded Alternative Project described in the Cultural Resources section of this study:

### TCR-1 Expanded Alternative Project – CULT-A

#### 2.18.2 Analysis

*a) Would the Project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:*

- i) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k), or*
- ii) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.*

**Less Than Significant with Mitigation Incorporated.** Based on the cultural resources study conducted, no tribal cultural resources were identified within the boundaries of the Project site;



however, only surface surveys were conducted and subsurface resources could be uncovered during excavations occurring in conjunction with construction. This could result in damage to an unanticipated resource, a potentially significant adverse impact. The following mitigation measures, discussed in Section 2.5 (Cultural Resources) are proposed to address this potential impact:

**(TCR-1) Mitigation Measure CULT-1: Inadvertent Discoveries**

**(TCR-2) Mitigation Measure CULT-2: Treatment of Human Remains and Sacred Objects**

Proper implementation of the preceding measures is expected to minimize any potential impacts to a level of less-than-significant.

## 2.19 UTILITIES AND SERVICE SYSTEMS

<u>XVIII. UTILITIES AND SERVICE SYSTEMS.</u>	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the Project:				
a) Require or result in the relocation or construction of new or expanded water, wastewater treatment or stormwater drainage, electrical power, natural gas, or telecommunications facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Have sufficient water supplies available to serve the Project and reasonably foreseeable future development during normal, dry and multiple dry years?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Result in a determination by the wastewater treatment provider which serves or may serve the Project that it has adequate capacity to serve the Project's projected demand in addition to the provider's existing commitments?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Generate solid waste in excess of State or local standards or otherwise impair the attainment of solid waste reduction goals?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Comply with federal, state, and local management and reduction statutes and regulations related to solid waste?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

### 2.19.1 Background and Setting

Public water and sewer services are provided to the affected areas by the Twain Harte Community Services District. As previously noted, the purpose of the Project is to replace water lines to improve fire flow within that system.

### 2.19.2 Analysis

*a) Require or result in the relocation or construction of new or expanded water, wastewater treatment or stormwater drainage, electrical power, natural gas, or telecommunications facilities, the construction of which could cause significant environmental effects?*

**No Impact.** The Proposed project is intended to improve efficiency of the existing water distribution system to improve fire flow. The project will assist the District in realizing the existing design capacity of the existing system and, therefore, does not expand the District's ability to serve new system demands. The Project involves upgrading an existing system through pipe replacement and therefore will not require construction of new water treatment facilities, wastewater treatment facilities, stormwater drainage, electrical power, natural gas or telecommunications facilities). Therefore, no impact is anticipated.

**Mitigation Measure:** None required.  
**Mitigation Monitoring:** Not applicable

*b) Have sufficient water supplies available to serve the Project and reasonably foreseeable future development during normal, dry and multiple dry years?*

**No Impact.** The Proposed project is intended to improve efficiency of the existing water distribution system to improve fire flow by replacing existing water lines. No new groundwater supplies are required for the project. The project will assist the District in realizing the existing design capacity of the existing system. Therefore, no impact is anticipated.

**Mitigation Measure:** None required.  
**Mitigation Monitoring:** Not applicable

*c) Result in a determination by the wastewater treatment provider which serves or may serve the Project that it has adequate capacity to serve the Project's projected demand in addition to the provider's existing commitments?*

**No Impact.** Based on the nature of the proposed Project, improvements to an existing water distribution system, no increased demand on wastewater treatment will occur and no impact is anticipated.

**Mitigation Measure:** None required.  
**Mitigation Monitoring:** Not applicable

*d) Be served by a landfill with sufficient permitted capacity to accommodate the Project's solid waste disposal needs?*  
*e) Comply with federal, state, and local statutes and regulations related to solid waste?*

**No Impact.** Based on the nature of the proposed Project, improving the efficiency of a water distribution system, solid waste generation is not anticipated, therefore, no impact will occur.

**Mitigation Measure:** None required.  
**Mitigation Monitoring:** Not applicable

## 2.20 WILDFIRE

<b>XX. WILDFIRE.</b>	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the project:				
a) Substantially impair an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Expose people or structures to significant risks including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability or drainage changes?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

### 2.20.1 Background and Setting

The Project involves replacing waterlines to improve fire flow. It will not alter roadways.

The No Project Alternative would result in potential impacts related to the ability of the District to protect structures during wildfires. Potential mitigation could include expanding vegetation management surrounding Sherwood Forest. However, a large expanse of land that would be affected by vegetation management is inhabited by listed plant and candidate animal species with a potential for significant adverse impacts to those species. The Project and Expanded Project Alternative represent mitigation that would be necessary for the No Project Alternative.

The Project and Expanded Project Alternatives are addressed as follows.

### 2.20.2 Analysis

*a) Substantially impair an adopted emergency response plan or emergency evacuation plan?*

**No Impact.** The Project involves replacing waterlines to improve fire flow. It will not alter roadways.

**Mitigation Measure:** None required.

**Mitigation Monitoring:** Not applicable

- b) *Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?*

**No impact.** The Project involves replacing waterlines to improve fire flow. Therefore, it will help protect project occupants from wildfire.

**Mitigation Measure:** None required.

**Mitigation Monitoring:** Not applicable

- c) *Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?*

**No impact.** The Project involves replacing waterlines to improve fire flow and will not exacerbate fire risk, but rather reduce it.

**Mitigation Measure:** None required.

**Mitigation Monitoring:** Not applicable

- d) *Expose people or structures to significant risks including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability or drainage changes?*

**No impact.** The Project involves replacing waterlines to improve fire flow and will not exacerbate fire risk, but rather reduce it.

**Mitigation Measure:** None required.

**Mitigation Monitoring:** Not applicable

## 2.21 MANDATORY FINDINGS OF SIGNIFICANCE

XIX. MANDATORY FINDINGS OF SIGNIFICANCE	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Does the Project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Does the Project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Does the Project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

### 2.21.1 Analysis

- a) *Have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?*

**Less Than Significant with Mitigation Incorporated.** As detailed in this study, the proposed Project will not have a significant effect on the environment and will not result in any of the impacts requiring a mandatory finding of significance provided the mitigation measures identified herein are properly implemented and maintained as described in the Biological and Cultural Resources chapters of this study. The mitigation monitoring and reporting plan and its identified mitigation measures in **Appendix A** as applicable to Biological and Cultural Resources, if properly implemented and maintained, will reduce the identified potential impacts to biological and cultural resources to a level of less-than-significant.

- b) *Have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a Project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?*

**No Impact.** There have been no projects of a similar type, size, or nature that have occurred in the same general area over time. The Project itself will not increase system capacity, but instead will allow the system to realize its existing design capacity. Therefore, no cumulatively significant impacts related to successive projects are anticipated.

c) *Have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?*

**Less Than Significant with Mitigation Incorporated.** As described herein, the proposed Project will not result in any substantial adverse effects on human beings either directly or indirectly except for temporary noise increases during project construction. **Mitigation Measure BIO-13**, limiting the hours of construction, will reduce that potential impact associated with temporary noise increases to a level of less-than-significant.

## 2.22 ALTERNATIVES ANALYSIS

The following alternatives were analysed for the project in the preceding sections.

Alternative A: No Build Alternative. In addition to the Project, a No-Build Alternative is evaluated herein. Under the No-Build Alternative, no changes would be made to the existing Wastewater Collection System.

Alternative B: Expanded Project Alternative.

This alternative includes extending the proposed water line across parcels north of the Sherwood Forest subdivision as shown in **Figure 4**.

Alternative C: Proposed Project.

A comparison of the environmental issues associated with the alternatives is found in the following table.

**Table 10: Comparison of Alternatives**

Alternative	Beneficial Impacts	Adverse Impacts (Direct/Indirect) Potentially foreseeable	Sensitive Environmental Issues	Cumulative Impacts	Potential foreseeable Impacts	Mitigation Measures for Adverse Impacts
<b>A.</b> No Build	Avoids temporary Project impacts	Replaces short-term impacts with potential long-term impacts related to health and safety relative to fire safety.	Fire, Wildfire (Biological – if fuel management is pursued instead)	Fire, Wildfire	Fire, Wildfire (Biological – if fuel management if pursued instead)	The No Project Alternative would result in potential impacts related to the ability of the District to protect structures during wildfires. Potential mitigation could include expanding wildland vegetation management efforts on federal lands adjacent to the Sherwood Forest Subdivision. However, property that would be affected by vegetation management is inhabited by listed plant and candidate animal species with a potential for significant adverse impacts to those species. The Project and Expanded Project Alternative represent mitigation that would be necessary to mitigate impacts created by the No Project/No Build Alternative that, in combination with focused vegetation management could reduce wildland fire risks.
<b>B.</b> Expanded Project Alternative (Pipeline extension through APNs to the	Improves overall system efficiency to assist in structural (and wildland) fire	Same as for the Proposed project with additional biological impacts (known) and cultural resource impacts (potential) – See Table B	Same as for the proposed project with additional biological impacts (known) and Cultural resource impacts (potential) – See Table B	Potential for biological impacts to certain species (See Table B) and unknown for	Potential for biological impacts to certain species (See Table B) and unknown for Cultural	<b>See Tables A and B</b>



Alternative	Beneficial Impacts	Adverse Impacts (Direct/Indirect) Potentially foreseeable	Sensitive Environmental Issues	Cumulative Impacts	Potential foreseeable Impacts	Mitigation Measures for Adverse Impacts
north of the project)	protection.			Cultural Resources (Table B)	Resources (Table B)	
<b>C. Proposed Project</b>	Improves overall system efficiency to assist in structural (and wildland) fire protection	See Table A and this study	See Table A and this study	None	See Table A and this Study	See Table A

As illustrated in the preceding table, the No Project Alternative (Alternative A) has a high potential to adversely impact health and safety with the inadequate provision of water meeting necessary fire flow. Without improving fire flow, the only potential defense is significant fuel load reduction. While this is feasible in some locations, federal lands adjacent to the subdivision are home to listed plant and animal species and significant fuel load reduction could result in a significant adverse impact to these species. A combination of focused fuel load reduction and the Proposed Project or Expanded Project Alternative could be substituted for the No Build Alternative which is rejected as environmentally unacceptable.

The Expanded Project Alternative has the potential to result in impacts to the foothill yellow-legged frog, Tomkins's sedge, Mountain Lady's slipper, Mariposa clarkia, Turnback Creek and cultural resources that are greater than those for the proposed project. Based on site investigations by the Project Biologist / land use planner; the obvious presence of historical artifacts in the expansion area, near proximity to the creek, and verified colonies of Mariposa clarkia in the expansion area resulted in a recommendation to the District that this area not be included in the proposed project boundaries due to the potential impacts to cultural and biological resources (See Table B).

Potential Impacts of the Proposed Project are analyzed herein and summarized in Table A. All potential impacts can be mitigated to a level of less than significant. Based on the information available, this alternative is the recommended project alternative.

### 3.0 List of Preparers

Amy Augustine, AICP – Augustine Planning Associates, Inc.

### 4.0 Sources & References

All of the following are available for review at websites referenced except for the following:

The Tuolumne County Geotechnical Interpretive Maps are available at the Tuolumne County Community Resources Agency, 48 West Yaney Street, 4<sup>th</sup> Floor, Sonora, CA 95370, Monday – Thursday.

#### Local

*Twain Harte Community Services District Guidelines for the Implementation of the California Environmental Quality Act.* <https://www.twainhartecsd.com/>

#### County

Tuolumne County Airport Land Use Compatibility Plan, 2003 Adopted by Tuolumne County Airport Land Use Commission January 22, 2003 Prepared by Shutt Moen Associates Santa Rosa, California <https://www.tuolumnecounty.ca.gov/135/Airport-Land-Use-Commission>

Tuolumne County General Plan, 2018. <https://www.tuolumnecounty.ca.gov/889/General-Plan-Update>

Tuolumne County Geotechnical Interpretive Maps. Geotechnical Research & Development. January 1996. *Updated Geotechnical Safety Issues Prepared for the Tuolumne County General Plan Update.*

Tuolumne County Ordinance Code, Zoning - Title 17  
<https://www.tuolumnecounty.ca.gov/165/Tuolumne-County-Ordinance-Code>

Tuolumne County Ordinance Code Title 18 – Airport Influence Areas, Chapter 18.24  
<https://www.tuolumnecounty.ca.gov/165/Tuolumne-County-Ordinance-Code>

#### State

California Air Pollution Control Officers' Association (CAPCOA). 2015. *California's Progress Toward Clean Air.* Available at website url: <http://www.capcoa.org/wp->

<content/uploads/2015/04/2015%20PTCA%20CAPCOA%20Report%20-%20FINAL.pdf>.

California Department of Transportation, *The California Scenic Highway System List of Eligible and Officially Designated Routes*; 2017 <http://www.dot.ca.gov/design/lap/livability/scenic-highways/>

California Department of Fish and Wildlife. California Natural Diversity Database (CNDDDB). 2023. RareFind 5 [Internet]. <https://map.dfg.ca.gov/rarefind/view/RareFind.aspx>  
**(CONFIDENTIAL)**

California Department of Conservation Division of Mines and Geology. August 2000. A *General Location Guide for Ultramafic Rocks in California - Areas More Likely to Contain Naturally Occurring Asbestos*. <https://www.conservation.ca.gov/cgs/minerals/mineral-hazards/asbestos>

California Environmental Quality Act, 1971 and as amended. <https://opr.ca.gov/ceqa/>

#### **Federal**

Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps.  
<https://www.fema.gov/flood-maps>

United States Fish and Wildlife Service. Species list, IPAC. 2023. **(CONFIDENTIAL)**

## Appendix A. Mitigation Monitoring and Reporting Program (Proposed Project)

**Mitigation Monitoring and Reporting Plan**

<i>Mitigation Measure Reference</i>	<i>Mitigation Measure</i>	<i>Limits, Performance Standards</i>	<i>Timing</i>	<i>Frequency</i>	<i>Responsible Entity (RE)</i>	<i>Initial</i>	<i>Date</i>
<b>Aesthetics</b>							
<b>AES-1</b>	<p><b>Mitigation Measure AES-1: Large Native Oak Tree Protection</b> To the maximum extent feasible and practicable, throughout project construction activities occurring within one and one-half times the driplines of native oaks (e.g., black oaks, <i>Quercus kelloggii</i>) measuring 24" or greater in diameter at breast height:</p> <ul style="list-style-type: none"> <li>• Limit ground-disturbing activities to outside the dripline of native oaks and preferably outside one and one-half times the dripline;</li> <li>• No storage equipment, supplies, vehicles, debris, construction wastewater, paint, stucco, concrete or any other clean-up waste, and temporary or permanent structures shall be placed within the driplines</li> <li>• Avoid cutting oak roots</li> <li>• Use boring or trenchless installation rather than open trenching within driplines where possible</li> <li>• Avoid equipment damage to limbs, trunks, and roots of oaks trees</li> <li>• Do not attach signs, ropes, cables or other items to trees</li> </ul> <p><b>Mitigation Monitoring AES-1:</b> The required mitigation measure will be implemented throughout project construction activities occurring within the one and one-half times the driplines of native oaks (primarily black oaks) measuring 24" or greater in diameter at breast height. The measure is the responsibility of the construction contractor.</p>		Throughout construction activities located within one and one-half times the dripline of native oaks (primarily black oaks) measuring 24" or greater diameter at breast height	Throughout Project construction	Construction contractor		
<b>Air Quality</b>							

**Mitigation Monitoring and Reporting Plan**

<i>Mitigation Measure Reference</i>	<i>Mitigation Measure</i>	<i>Limits, Performance Standards</i>	<i>Timing</i>	<i>Frequency</i>	<i>Responsible Entity (RE)</i>	<i>Initial</i>	<i>Date</i>
<b>AQ-1</b>	<p><b><u>Mitigation Measure AQ-1: Dust Control</u></b>                      The construction contractor shall be responsible for dust abatement during construction and development operations. A water truck or other watering device shall be on the construction site on all working days when natural precipitation does not provide adequate moisture for complete dust control. Said watering device shall be used to spray water on the site at the end of each day and at all other intervals, as need dictates, to control dust. All land clearing, grubbing, scraping, excavation, land leveling, grading, cut &amp; fill, and demolition activities shall be effectively controlled of fugitive dust emissions using application of water. A water truck shall be present on site throughout construction activities.</p> <p><b>Mitigation Monitoring AQ-1:</b> The required mitigation measure will be implemented throughout Project construction when inadequate moisture exists. The measure is the responsibility of the construction contractor.</p>		Throughout Project construction	Throughout Project construction when inadequate moisture exists	Construction contractor		
<b>AQ-2</b>	<p><b><u>Mitigation Measure AQ-2: Equipment Emissions</u></b>                      Throughout Project construction:</p> <p>A. Properly tune and maintain construction equipment and vehicles. Use low-sulfur fuel in all construction equipment as provided in California Code of Regulations (CCR) Title 17, Section 93114 (Compliance with Caltrans' Standard Specifications, Section 14-9).</p> <p>B. The extended idling of heavy-duty diesel-powered construction equipment within 500 feet of nearby sensitive receptors (i.e., residential dwellings) is prohibited during periods when the equipment is not in use.</p> <p><b>Mitigation Monitoring AQ-2:</b> The required mitigation measure will be implemented throughout Project construction. The measure is the responsibility of the construction contractor.</p>	See condition.	Throughout Project construction	Throughout Project construction	Construction contractor		
<b>Biological Resources</b>							

**Mitigation Monitoring and Reporting Plan**

<i>Mitigation Measure Reference</i>	<i>Mitigation Measure</i>	<i>Limits, Performance Standards</i>	<i>Timing</i>	<i>Frequency</i>	<i>Responsible Entity (RE)</i>	<i>Initial</i>	<i>Date</i>
<b>BIO-1</b>	<p><b>Avoidance and Minimization Measure BIO-1: Project Biologist</b>                      The project proponent shall submit the name and credentials of the project's biologist(s) to CDFW for review and approval no less than 15 days prior to the onset of construction activities.</p> <p><b>Mitigation Monitoring BIO-1</b>                      The Project Biologist shall be contracted to THCS D rather than the contractor. THCS D is responsible for contracting with a project biologist prior to allowing the construction contractor to commence site disturbances. THCS D is responsible, with the assistance of the Project Biologist, for submitting the Project Biologist's credentials to CDFW for review and approval no less than 15 days prior to commencing construction.</p>		CDFW review and approval no less than 15 days prior to commencing construction.	Once	THCS D is responsible for contracting with the Project Biologist.		
<b>BIO-2</b>	<p><b>Avoidance and Minimization Measure BIO-2: Preconstruction FYLF Surveys</b>                      Preconstruction surveys should be conducted prior to site disturbance to re-confirm absence of FYLF within 24 hours of commencing site disturbances (including staging). The THCS D, or its representative, shall have a qualified biologist survey for FYLF within all potential habitats. If surveys are negative (i.e., no FYLF), measures BIO 3 through BIO -8 shall be implemented. If surveys are positive (FYLF are identified), BIO-2 through BIO-8 shall be implemented <i>and</i> a qualified biologist shall be present on site during all construction activities within 200 feet of Turnback Creek. The qualified biologist shall have the authority to stop work at any time as may be necessary to protect FYLFs or their habitat.</p> <p><b>Mitigation Monitoring BIO-2:</b> The measure shall be implemented by a qualified biologist (See MM-1) within 24 hours of commencing site disturbances (including staging). If construction is delayed or occurs in phases, a re-survey must be completed prior to recommencing work after a shut-down period of more than three months. The construction contractor is responsible for ensuring that the Project Biologist is notified with ample time to complete the survey and consult with CDFW, if necessary. If on-site biological monitoring is required throughout project construction for any activity within 200 feet of Turnback Creek, a monitoring schedule shall be executed prior to commencing construction between the Project Biologist and the contractor.</p>		Within 24 hours of commencing site disturbance	Once, unless construction is delayed or occurs in phases; then a re-survey is required. Re-survey is required if work shuts down for a period of more than three months.  Ongoing – if presence is confirmed	Construction contractor;  Project biologist		

**Mitigation Monitoring and Reporting Plan**

<i>Mitigation Measure Reference</i>	<i>Mitigation Measure</i>	<i>Limits, Performance Standards</i>	<i>Timing</i>	<i>Frequency</i>	<i>Responsible Entity (RE)</i>	<i>Initial</i>	<i>Date</i>
<b>BIO-3</b>	<p><b>Avoidance and Minimization Measure BIO-3: ESA Fencing</b>                      Prior to commencing staging, construction, ground-disturbing or other project activities, install Environmentally Sensitive Area (ESA) fencing in the locations shown in IS/MND <b>Figure 8 (and attached to this table):</b> to ensure protection of wetlands (creek, ponds, ditch), foothill yellow-legged frog habitat, and turtle habitat. Fencing shall remain in place until all project activities are completed. Any fencing falling down during construction shall be re-installed immediately. No parking shall occur adjacent to ESA fencing. No construction-related materials, equipment, trash or other related debris shall be allowed, stored, or staged within the fenced area. ESA fencing shall be shown on the final construction documents.</p> <p><b>Mitigation Monitoring BIO-3:</b>                      ESA fencing shall be shown on final construction documents. ESA fencing shall be installed prior to commencing any staging, construction, ground disturbances or other project activities in the locations identified. The Project Biologist shall be notified by the construction contractor to confirm that ESA fencing has been properly installed prior to commencing site disturbances. Unannounced site visits by THCS D and/or the Project Biologist will occur to confirm fencing remains in place throughout project construction. The construction contractor is responsible for maintaining the fencing throughout project construction and reinstalling any fencing that is knocked down during construction immediately.</p>	<p>See attached Figure following table.</p> <p>To be shown on final construction drawings.</p>	<p>Prior to any site disturbances</p>	<p>Prior to any site disturbances</p>	<p>Construction contractor</p> <p>Project biologist</p>		
<b>BIO-4</b>	<p><b>Avoidance and Minimization Measure BIO-4: Staging and Spill Prevention</b>                      Staging areas as well as fueling and maintenance activities shall be a minimum of 100 feet from riparian or aquatic habitats. Staging areas less than 100 feet from Turnback Creek will only be allowed with authorization of the project biologist. The project proponent will prepare a spill prevention and clean-up plan.</p> <p><b>Mitigation Monitoring BIO-4:</b> Prior to commencing site disturbance or staging equipment, the construction contractor shall provide a staging and spill prevention plan to THCS D for compliance with this measure. Reduced setbacks must be approved prior to staging by the Project Biologist.</p>	<p>100' setbacks. Project biologist may approve reduced setbacks</p>	<p>Prior to any site disturbances</p>	<p>Prior to any site disturbances</p>	<p>Construction contractor</p> <p>Project biologist</p>		



**Mitigation Monitoring and Reporting Plan**

<i>Mitigation Measure Reference</i>	<i>Mitigation Measure</i>	<i>Limits, Performance Standards</i>	<i>Timing</i>	<i>Frequency</i>	<i>Responsible Entity (RE)</i>	<i>Initial</i>	<i>Date</i>
<b>BIO-5</b>	<p><b>Avoidance and Minimization Measure BIO-5: Erosion Control</b>                      Where and if bare ground will be exposed or disturbed in conjunction with project activities, the Contractor shall prepare an Erosion Control Plan for THCS D review and approval to address soil erosion within those areas. All soils disturbed by grading shall be reseeded or hydromulched or otherwise stabilized 48 hours in advance of a rain event. A likely rain/precipitation event is any weather pattern that is forecasted to have a 30% or greater chance of producing precipitation in the project area. The discharger shall obtain likely precipitation forecast information from the National Weather Service Forecast Office (e.g., by entering the zip code of the project's location at <a href="https://www.weather.gov/forecastmaps">https://www.weather.gov/forecastmaps</a>. A qualifying rain event is one that produces 0.5 inch or more of precipitation within a 48 hour or greater period between rain events. Emergency erosion control measures shall be used as reasonably requested by THCS D.</p> <p><b>Mitigation Monitoring BIO-5</b>                      The required plan will be implemented prior to site disturbance and implemented 48 hours in advance of any rain event. A likely rain/precipitation event is any weather pattern that is forecasted to have a 30% or greater chance of producing precipitation in the project area. The discharger shall obtain likely precipitation forecast information from the National Weather Service Forecast Office (e.g., by entering the zip code of the project's location at <a href="https://www.weather.gov/forecastmaps">https://www.weather.gov/forecastmaps</a>. A qualifying rain event is one that produces 0.5 inch or more of precipitation within a 48 hour or greater period between rain events. The measure is the responsibility of the construction contractor.</p>	Precipitation forecasts <a href="https://www.weather.gov/forecastmaps">https://www.weather.gov/forecastmaps</a> . National Weather Service	Erosion control plans will be prepared and implemented within 48 hours of a rain event as defined	See previous	Construction contractor		

**Mitigation Monitoring and Reporting Plan**

<i>Mitigation Measure Reference</i>	<i>Mitigation Measure</i>	<i>Limits, Performance Standards</i>	<i>Timing</i>	<i>Frequency</i>	<i>Responsible Entity (RE)</i>	<i>Initial</i>	<i>Date</i>
<b>BIO-6</b>	<p><b>Avoidance and Minimization Measure BIO-6: NPDES/SWPPP</b>                      If necessary, submit to the State Water Resources Control Board Storm Water Permitting Unit, a Notice of Intent (NOI) to obtain coverage under the General Construction Activity Storm Water Permit - California's National Pollution Discharge Elimination System (NPDES) general permit for construction related storm water discharges for the disturbance of one acre or more. Disturbances of less than one acre may also require an NOI for coverage under the NPDES General Permit for construction-related storm water discharge and the State Water Resources Control Board Permitting Unit shall be contacted for determination of permit requirements. Commercial and Industrial developments may require an NOI even if less than one acre is to be disturbed. Obtain coverage or an exemption from these requirements. [Federal Water Pollution Control Act, Section 401, California Clean Water Act]. The permit may include preparation of a Stormwater Pollution Prevention Plan (SWPPP).</p> <p>Silt fencing or other materials, as required, will be installed consistent with the applicable water quality requirements specified in the Project's Storm Water Pollution Prevention Plan (SWPPP) or Water Pollution Control Plan (WPCP). Fencing or other erosion control materials or devices shall be shown on the final construction documents. Erosion control devices will be avoided throughout Project construction and shall be monitored and maintained by the project manager throughout construction.</p> <p><b>Mitigation Monitoring BIO-6</b>                      The Notice of Intent to obtain Coverage shall be submitted prior to any site disturbances. The measure is the responsibility of the construction contractor.</p>		The Notice of Intent to obtain Coverage shall be submitted prior to any site disturbances.	See previous	Construction contractor		

**Mitigation Monitoring and Reporting Plan**

<i>Mitigation Measure Reference</i>	<i>Mitigation Measure</i>	<i>Limits, Performance Standards</i>	<i>Timing</i>	<i>Frequency</i>	<i>Responsible Entity (RE)</i>	<i>Initial</i>	<i>Date</i>
<b>BIO-7</b>	<p><b>Avoidance and Minimization Measure BIO-7: Environmental Awareness Training</b>                      All contractors involved in site development, affected THSD personnel, will attend mandatory Environmental Awareness Training prior to any site disturbances, including staging. A training log sign-in sheet will be maintained. The program will address proper implementation of minimization and avoidance measures contained herein. A video shall be prepared and is mandatory viewing prior to entering the project site for contractors or personnel not participating in initial training. Construction personnel shall be informed that if a FYLF is encountered in the work area, construction will stop and CDFW will be contacted for guidance.</p> <p><b>Mitigation Monitoring BIO-7</b>                      The required mitigation measure will be implemented prior to site disturbance and for new employees prior to commencing site work. The Project Biologist or other environmental consultant may be contracted by THCS D to accomplish this task. THCS D is responsible for contracting with a qualified entity to provide Environmental Awareness Training. Ensuring that all on-site workers have received training prior to working on site is the responsibility of the construction contractor.</p>	<p>Sign in sheet shall be maintained</p> <p>No new employee allowed on site until training is completed</p>	Prior to site disturbance	Prior to site disturbance and for new employees prior to commencing site work	<p>Construction contractor</p> <p>THCS D or environmental consultant contracted by THCS D</p>		
<b>BIO-8</b>	<p><b>Avoidance and Minimization Measure BIO-8: Stop Work</b>                      If FYLFs are found at any time during project work, construction will stop and CDFW will be contacted immediately for further guidance.</p> <p><b>Mitigation Monitoring BIO-8</b>                      The measure shall be implemented throughout project construction and is the responsibility of the construction contractor. The project biologist has the authority to issue a stop work order pursuant to this measure.</p>		Throughout project construction	Throughout Project Construction	Construction contractor, Project Biologist		

**Mitigation Monitoring and Reporting Plan**

<i>Mitigation Measure Reference</i>	<i>Mitigation Measure</i>	<i>Limits, Performance Standards</i>	<i>Timing</i>	<i>Frequency</i>	<i>Responsible Entity (RE)</i>	<i>Initial</i>	<i>Date</i>
<b>BIO-9</b>	<p><b>Avoidance and Minimization Measure BIO-9: Preconstruction Survey/Relocation for Western Pond Turtles</b>                      Within 48 hours of commencing site disturbances, the THCS D, or its representative, shall have a qualified biologist survey for western pond turtles in the on-site ponds within Sherwood Forest Subdivision. If no WPT are found, Mitigation and Minimization Measures BIO- 2 through BIO-5 will be implemented. If WPT are identified, environmental training shall include and the following specific measures will be implemented to avoid WPT:</p> <p>If found within project construction areas where harm to the turtle may occur from project activities, contractors shall contact the project biologist. The turtle first will be given the opportunity to leave the site on its own if the turtle actively is in the process of attempting to leave the site and is likely to successfully do so within the hour in the opinion of the qualified biologist. Otherwise, the qualified biologist will relocate the turtle downstream of the work area along the creek where permanent or nearly permanent water is pooled or present. At the discretion of the qualified biologist, turtles may be located upstream if higher quality pools with permanent or nearly permanent pools are identified. [California Code of Regulations, Title 14, Division 1, Chapter 5, Subsection 40(b)]6.</p> <p><b>Mitigation Monitoring BIO-9:</b> The measure shall be implemented within 48 hours of commencing site disturbances by a qualified biologist (See <b>MM-1</b>). The construction contractor is responsible for ensuring that the Project Biologist is notified immediately when a WPT is found within the construction boundaries during construction. The Project Biologist is responsible for WPT relocation, if necessary.</p>		Within 48 hours of commencing construction	Throughout construction if discovered	Construction contractor  Project Biologist		

<sup>6</sup> Pursuant to California Fish and Game Code Title 14, Subsection 40(b) the capture, temporary collection, or temporary possession of native amphibians done to avoid mortality or injury in connection with lawful activities is permitted and such live capture and release of native amphibians done to avoid death or injury may occur with the permission of the CDFW. Because WPTs are not listed species pursuant to the state or federal endangered species act, neither an incidental take permit nor consultation beyond securing permission from CDFW to capture and release the individuals, is required.

<p><b>BIO-10</b></p>	<p><b>Avoidance and Minimization Measure BIO-10: Preconstruction Survey Birds</b>  Prior to construction occurring between February 1<sup>st</sup> and September 30<sup>th</sup> (e.g., excavation, ground disturbance, or vegetation removal) a preconstruction survey for nesting birds, including bald eagles and great grey owls, will be conducted in accordance with the CDFW guidelines by a qualified biologist familiar with bald eagle and great grey owls, and a no-disturbance buffer will be established, if necessary.</p> <p>If equipment staging, site preparation, vegetation removal, grading, excavation or other project-related construction activities are scheduled during the avian nesting season (generally February 1 through September 30), a focused survey for active nests would be conducted by a qualified biologist within 14 days prior to the beginning of project-related activities.  Surveys shall be conducted in all suitable habitats in the BSA.  If the pre-construction surveys identify nesting bird species within areas that are within <u>500</u> feet of construction activities for non-raptors and within 0.5 mile for raptors, including bald eagles and great grey owls, the following shall be implemented:</p> <ul style="list-style-type: none"> <li>A. Project-related construction impacts shall be avoided by establishment of appropriate no-work buffer zones to limit construction activities near the nest site. The no-work buffer zone shall be delineated by highly visible temporary construction fencing and shall be a minimum of 500 feet from non-raptor nests and 0.5 mile from raptor nests (including bald eagles and great grey owls), unless a qualified biologist, in consultation with CDFW, determines that alternative buffers are permissible due to the nature and location of the specific species, its nest, and existing conditions to which the species has been habituated. Alternative buffers shall be established for special status non-raptor nests in consultation with CDFW.</li> <li>B. In consultation with CDFW, monitoring of nest activity by a qualified biologist shall be required if the construction activity has potential to adversely affect the nest or nesting behavior of the bird.</li> <li>C. No construction activity shall commence within the no-work buffer zone until a CDFW-approved qualified biologist confirms that the nest is no longer active (e.g., young have fledged). For bald eagles, this period extends beyond fledging to a period when the young are no longer reliant on parental care for survival.</li> <li>D. Canada geese depredation is an exception to these provisions per measure BIO-11.</li> </ul> <p><b>Mitigation Monitoring BIO-10:</b> The measure shall be implemented prior to any construction occurring between February 1<sup>st</sup> and September 30<sup>th</sup> of the construction year. If construction is delayed or occurs in phases, a re-survey must be completed prior to recommencing work after a shut-down period of more than three months if construction occurs between February 1<sup>st</sup> and September 30<sup>th</sup> of the construction year. The construction contractor is responsible for ensuring that the</p>	<p>See condition</p>	<p>Prior to any construction to take place between February 1<sup>st</sup> and September 30<sup>th</sup> of the construction year</p>	<p>Once – unless construction ceases or is done in phases (see condition)</p>	<p>Project biologist  Construction contractor</p>		
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**Mitigation Monitoring and Reporting Plan**

<i>Mitigation Measure Reference</i>	<i>Mitigation Measure</i>	<i>Limits, Performance Standards</i>	<i>Timing</i>	<i>Frequency</i>	<i>Responsible Entity (RE)</i>	<i>Initial</i>	<i>Date</i>
	Project Biologist is notified with ample time to complete the survey and consult with CDFW, if necessary.						
<b>BIO-11</b>	<p><b>Avoidance and Minimization Measure BIO-11 Canada Geese Depredation</b> Pursuant to 50 Code of Federal Regulations Section 21.50, should a nesting Canada goose be identified within proposed work boundaries (i.e., outside of subdivision common area surrounding Turnback Creek), depredation may occur by registering online with the USFWS<sup>7</sup>. Depredation will occur, if necessary, in the form of a qualified biologist treating unhatched eggs to ensure that they do not hatch.</p> <p><b>Mitigation Monitoring BIO-11:</b> The measure shall be implemented based on preconstruction surveys conducted by the Project Biologist. Because the species can nest post-surveys, the construction contractor is responsible for reporting any new nesting activity to the Project Biologist if it is observed within the work area. The Project Biologist is responsible for determining the appropriate measures and implementing them.</p>	50 Code of Federal Regulations Section 21.50	Prior to site disturbance and ongoing	Throughout project construction	Construction contractor, Project biologist		

<sup>7</sup> <https://epermits.fws.gov/eRCGR/> and <https://www.fws.gov/forms/3-200-13.pdf>

**Mitigation Monitoring and Reporting Plan**

<i>Mitigation Measure Reference</i>	<i>Mitigation Measure</i>	<i>Limits, Performance Standards</i>	<i>Timing</i>	<i>Frequency</i>	<i>Responsible Entity (RE)</i>	<i>Initial</i>	<i>Date</i>
<b>BIO-12</b>	<p><b>Avoidance and Minimization Measure BIO-12: Preconstruction Surveys Suitable Bat Roosting (or Nursery) Areas &amp; Provisions for Protection, if Identified</b></p> <p>At least 15 days before commencing ground-disturbing activities between April and September of the construction year, a qualified biologist will survey snags, trees, rock crevices and other suitable cavities and structures in the BSA for roosting bats or bat nurseries. If bats are not found and there is no evidence of bat use, construction may proceed. If bats are found or evidence of use by bats is present, CDFW shall be consulted for guidance on measures to avoid or minimize disturbance to the colony or nursery. Subject to CDFW approval, measures may include excluding bats from roosts before construction begins.</p> <p><b>Mitigation Monitoring BIO-12:</b> The measure shall be implemented at least 15 days prior to ground disturbance occurring between April and September of the construction year. The construction contractor is responsible for ensuring that the Project Biologist is notified with ample time to complete the survey and consult with CDFW, if necessary.</p>		At least 15 days prior to commencing ground disturbing activities occurring between April and Sept. of the construction year.	Once	Construction contractor, Project biologist		
<b>BIO-13</b>	<p><b>Avoidance and Minimization Measure BIO-13: Hours of Construction.</b></p> <p>Project construction shall be limited to 7:00 a.m. to 7:00 p.m. unless an emergency situation exists.</p> <p><b>Mitigation Monitoring BIO-13:</b> The measure shall be implemented throughout project construction and is the responsibility of the construction contractor. THCSD has the authority to determine if an emergency situation exists and alternative hours may be implemented. THCSD is responsible for enforcing the measure if complaints are received.</p>		Throughout project construction	Throughout project construction	Construction contractor  THCSD to determine emergency situation that may alter hours.		

**Mitigation Monitoring and Reporting Plan**

<i>Mitigation Measure Reference</i>	<i>Mitigation Measure</i>	<i>Limits, Performance Standards</i>	<i>Timing</i>	<i>Frequency</i>	<i>Responsible Entity (RE)</i>	<i>Initial</i>	<i>Date</i>
<b>BIO-14</b>	<p><b>Avoidance and Minimization Measure BIO-14: Minimize the Spread of Invasive Plant Species</b> Throughout project construction:</p> <ul style="list-style-type: none"> <li>• All hay, straw, hay bales, straw bales, seed, mulch or other material used for erosion control on the project site shall be free of noxious weed<sup>8</sup> seeds and propagules (Food and Agriculture Code Sections 6305, 6341 and 6461).</li> <li>• All equipment brought to the project site shall be thoroughly cleaned of all dirt and vegetation prior to entering the site to prevent importing noxious weeds and shall be cleaned of all dirt and vegetation prior to exiting the site to prevent exporting noxious weeds. (Food and Agriculture Code Section 5401).</li> <li>• All material brought to the site, including rock, gravel, road base, sand, and topsoil, shall be free of noxious weeds<sup>9</sup> and propagules. (Food and Agriculture Code Sections 6305, 6341 and 6461).</li> </ul> <p><b>Mitigation Monitoring BIO-14:</b> The measure shall be implemented throughout project construction and is the responsibility of the construction contractor.</p>		Throughout project construction	Throughout project construction	Construction contractor		

<sup>8</sup> Noxious weeds are as defined in Title 3, Division 4, Chapter 6, Section 4500 of the California Code of Regulations and the California Quarantine Policy - Weeds (Food and Agriculture Code, Sections 6305, 6341, and 6461).

<sup>9</sup> Ibid.



**Mitigation Monitoring and Reporting Plan**

<i>Mitigation Measure Reference</i>	<i>Mitigation Measure</i>	<i>Limits, Performance Standards</i>	<i>Timing</i>	<i>Frequency</i>	<i>Responsible Entity (RE)</i>	<i>Initial</i>	<i>Date</i>
<b>BIO-15</b>	<p><b>Avoidance and Minimization Measure BIO-15: Avoid Inadvertent Animal Trapping During Construction</b>                      To avoid inadvertently trapping special status or common animal species during construction, all excavated steep-walled holes or trenches more than two feet deep shall be covered at the end of each working day with plywood or similar material, or provided with one or more escape ramps constructed of earth fill or wooden planks, or equivalent, at each end of the trench. Before such holes or trenches are filled, they will be thoroughly inspected for trapped animals. If at any time a trapped animal is discovered, the contractor shall place an escape ramp or other appropriate structure to allow the animal to escape. Alternatively, the contractor shall contact the project biologist or California Department of Fish and Wildlife for assistance. Similarly, stored pipes or other materials providing potential cover for animals will be inspected prior to installation or use to ensure that they are unoccupied.</p> <p><b>Mitigation Monitoring BIO-15:</b> The measure shall be implemented throughout project construction. The project biologist and/or THCS D staff are responsible for making unannounced inspections to ensure that the measure is being properly implemented and maintained. It is the responsibility of the construction contractor to implement the measure.</p>		Throughout project construction	Throughout project construction	Construction contractor  Project biologist (as necessary)		

**Cultural Resources**

	<p><b>Mitigation Measure CULT-1: Inadvertent Discoveries</b>  If a cultural resource is discovered during construction activities, the contractor shall comply with the following provisions:</p> <p>A. The Contractor’s project manager shall notify the Twain Harte Community Services District by telephone within 1 hour of the discovery or the next working day if the department is closed. The THCS D shall promptly notify their qualified professional archaeologist.</p> <p>B. When the cultural resource is located outside the area of disturbance, a qualified professional shall be allowed to photodocument and record the resource and construction activities may continue during this process.</p> <p>C. When the cultural resource is located within the area of disturbance, all activities that may impact the resource shall cease immediately upon discovery of the resource. All activity that does not affect the cultural resource as determined by a qualified professional may continue. A qualified professional archaeologist shall be allowed to do a site survey to ascertain the need for evaluation work.</p> <p>D. When the cultural resource is determined to not be significant, the qualified professional shall be allowed to photodocument and record the resource. Construction activities may resume after authorization from the qualified professional.</p> <p>E. When a resource is determined to be significant, the resource shall be avoided with said resource having boundaries established around its perimeter by a qualified professional or a cultural resource management plan shall be prepared by a qualified professional to establish measures formulated and implemented in accordance with Sections 21083.2 and 21084.1 of the California Environmental Quality Act (CEQA) to address the effects of construction on the resource. The qualified professional shall be allowed to photodocument and record the resource. Construction activities may resume after authorization from the qualified professional.</p> <p>For the purposes of implementing this measure, a “qualified professional” is an individual previously determined to be a qualified professional by the Tuolumne County Community Development Department Planning Division (<a href="https://www.tuolumnecounty.ca.gov/DocumentCenter/View/9984">https://www.tuolumnecounty.ca.gov/DocumentCenter/View/9984</a>) and a “cultural resource” is any building, structure, object, site, district, or other item of cultural, social, religious, economic, political, scientific, agricultural, educational, military, engineering or architectural significance to the citizens of Tuolumne County, the State of California, or the nation which is 50 years of age or older or has been listed on or is eligible for listing on the National Register of Historic Places, the California Register of Cultural Resources, or any local register.</p>	CEQA 21083.2 and 21084.1 (Public Resources Code)	Throughout Project construction	Throughout Project construction	Construction contractor  District  Qualified Archaeologist		
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**Mitigation Monitoring and Reporting Plan**

<i>Mitigation Measure Reference</i>	<i>Mitigation Measure</i>	<i>Limits, Performance Standards</i>	<i>Timing</i>	<i>Frequency</i>	<i>Responsible Entity (RE)</i>	<i>Initial</i>	<i>Date</i>
	<p><b>Mitigation Monitoring CULT-1:</b> The required mitigation measure will be implemented throughout project construction. The measure is the responsibility of the construction contractor with input from a qualified cultural resources professional, if necessary.</p>						
<b>CULT-2</b>	<p><b>Mitigation Measure CULT-2 Treatment of Human Remains and Sacred Objects</b>                      No human remains or sacred objects have been identified in the project area, but there is always a possibility that excavation, or other actions could expose human burials previously unknown. Such remains are protected by state and federal laws and all project personnel must comply fully with applicable laws regarding the treatment of human remains including contacting the County coroner. The policies set forth in the American Indian Religious Freedom Act of 1978 and amendments (92 Stat. 469) should be honored by THCS D and its contractors. If the discovery is on private land, provision for treatment and disposition of any human remains will be in accordance with Section 7050.5 of the California Health and Safety Code, Sections 5097.94, 5097.98, of the California Public Resources Code, and Section 15064.5 of the California Code of Regulations implementing the California Public Resources Code, Sections 21000-21177.</p> <p><b>Mitigation Monitoring CULT-2.</b> The required mitigation measure will be implemented throughout project construction. The measure is the responsibility of the construction contractor and, where necessary, the County Coroner, and/or qualified archaeologist.</p>	CA PRC Sections 5097.94, 5097.98,  H&S Code 7050.5  CCR 15064.5	Throughout Project Construction	Throughout Project Construction	Construction contractor  Tuolumne County coroner  Most likely descendent (if applicable)		
<b>ENERGY</b>							

**Mitigation Monitoring and Reporting Plan**

<i>Mitigation Measure Reference</i>	<i>Mitigation Measure</i>	<i>Limits, Performance Standards</i>	<i>Timing</i>	<i>Frequency</i>	<i>Responsible Entity (RE)</i>	<i>Initial</i>	<i>Date</i>
<b>Energy-1</b>	<p><b>Mitigation Measure ENERGY-1: Construction Equipment</b> To the extent feasible, the following measures shall be incorporated into Project design and construction:</p> <ul style="list-style-type: none"> <li>On-site idling of construction equipment shall be minimized (no more than five minutes maximum).</li> <li>Biodiesel shall be used as an alternative fuel diesel for at least 15 percent of the construction vehicles/equipment used if there is a biodiesel station within five miles of the Project site.</li> </ul> <p><b>Mitigation Monitoring ENERGY-1:</b> The required mitigation measure will be implemented throughout Project construction. The measure is the responsibility of the Project proponent/construction contractor.</p>		Throughout project construction	Throughout project construction	Construction contractor		
<b>Energy-2</b>	<b>See Mitigation Measure AQ-2: Equipment Emissions</b> (See Air Quality section for details)		See AQ-2	See AQ-2	See AQ-2		
<b>GEOLOGY &amp; SOILS</b>							
<b>GEO-1</b>	<p><b>Avoidance and Minimization Measure GEO-1: Geotechnical Studies</b> Prior to commencing construction, the project proponent shall conduct testing for expansive soils, soil suitability, and slope stability in accordance with District standards to ensure that soils and slopes do not damage pipelines after installation or affect slope stability.</p> <p><b>Mitigation Monitoring GEO-1:</b> The studies shall be completed prior to commencing construction and finalizing construction plans. The District is responsible for this measure.</p>		Prior to commencing construction and finalizing construction plans	Once	THCSD		
<b>GEO-2</b>	<b>Avoidance and Minimization Measure BIO-5 (GEO-2): Erosion Control</b>		See BIO-5	See BIO-5	See BIO-5		

Mitigation Monitoring and Reporting Plan							
Mitigation Measure Reference	Mitigation Measure	Limits, Performance Standards	Timing	Frequency	Responsible Entity (RE)	Initial	Date
GEO-3	<b>Avoidance and Minimization Measure BIO-6 (GEO-3): NPDES/SWPPP</b>		See BIO-6	See BIO-6	See BIO-6		
<b>HAZARDS &amp; HAZARDOUS MATERIALS, TRANSPORTATION</b>							
HAZ-1	<p><b>Avoidance and Minimization Measure HAZ-1 (Traffic Access Management Plan)</b>            Prior to commencing work within public roadways, the Contractor will prepare (to the District's and Tuolumne County's satisfaction), and throughout project construction will implement, a traffic access management plan to maintain emergency ingress, egress, and daily traffic flows throughout the Project boundaries. The access management plan should address public notification of upcoming construction, anticipated road closures, and detours (e.g., mailers in invoices, publication in local newspaper, website notices, postings along streets to be closed, electronic message boards). The District will coordinate road closures with the Twain Harte Fire Department, Twain Harte Elementary School, residences and local businesses to ensure that emergency ingress and egress is addressed prior to and during street closures.</p> <p><b>Mitigation Monitoring HAZ-1:</b> The traffic access management plan will be prepared prior to initiating project construction and implemented throughout project construction. The measure is the responsibility of the construction contractor in consultation with the identified agencies.</p>		Prior to initiating construction	Throughout project construction	Construction contractor  District  Tuolumne County Community Resources Agency Roads  Twain Harte Fire Dpt.  Twain Harte Elementary School		
<b>HYDROLOGY AND WATER QUALITY</b>							
HYDRO-1	<b>Avoidance and Minimization Measure BIO-3: ESA Fencing</b>		See BIO-3	See BIO-3	See BIO-3		
HYDRO-2	<b>Avoidance and Minimization Measure BIO-4: Staging and Spill Prevention</b>		See BIO-4	See BIO-4	See BIO-4		
HYDRO-3	<b>Avoidance and Minimization Measure BIO-5: Erosion Control</b>		See BIO-5	See BIO-5	See BIO-5		
HYDRO-4	<b>Avoidance and Minimization Measure BIO-6: NPDES/SWPPP</b>		See BIO-6	See BIO-6	See BIO-6		
HYDRO-5	<b>Avoidance and Minimization Measure BIO-7: Environmental Awareness Training</b>		See BIO-7	See BIO-7	See BIO-7		
<b>NOISE</b>							
NOISE-1	<b>Avoidance and Minimization Measure BIO-13: Hours of Construction.</b>		See BIO-13	See BIO-13	See BIO-13		
<b>TRANSPORTATION</b>							

<b>Mitigation Monitoring and Reporting Plan</b>							
<i>Mitigation Measure Reference</i>	<i>Mitigation Measure</i>	<i>Limits, Performance Standards</i>	<i>Timing</i>	<i>Frequency</i>	<i>Responsible Entity (RE)</i>	<i>Initial</i>	<i>Date</i>
<b>TRANS-1</b>	<b>Mitigation Measure HAZ-1 (Traffic Access Management Plan)</b>		SEE HAZ-1	SEE HAZ-1	SEE HAZ-1		
<b>TRIBAL CULTURAL RESOURCES</b>							
<b>TCR-1</b>	<b>Mitigation Measure CULT-1: Inadvertent Discoveries</b>		See CULT-1	See CULT-1	See CULT-1		
<b>TCR-1</b>	<b>Mitigation Measure CULT-2: Treatment of Human Remains and Sacred Objects</b>		See CULT-2	See CULT-2	See CULT-2		
<b>MANDATORY FINDINGS OF SIGNIFICANCE</b>							
<b>MFS-1</b>	<b>See Biological and Cultural Resources, this table</b>		See all BIO and all CULT	See all BIO and all CULT	See all BIO and all CULT		
<b>MFS-2</b>	<b>Avoidance and Minimization Measure BIO-13: Hours of Construction.</b>		See BIO-13	See BIO-13	See BIO-13		

Required ESA Fencing ("Figure 8")



## Appendix B. Additional Mitigation Monitoring and Reporting Program (Expanded Alternative Project)

The Expanded Alternative Project is subject to all of the mitigation measures in Appendix A and, additionally, to the following:

Mitigation Monitoring and Reporting Plan – ADDITIONAL MITIGATION MEASURES FOR EXPANDED ALTERNATIVE PROJECT							
Mitigation Measure Reference	Mitigation Measure	Limits, Performance Standards	Timing	Frequency	Responsible Entity (RE)	Initial	Date
<b>BIOLOGICAL RESOURCES</b>							
BIO-A	<p><b>Expanded Alternative Project BIO-A</b> If the Expanded Alternative Project is pursued, a qualified biologist shall conduct a preconstruction survey for special-status plant species within 30 days prior to construction, during the appropriate blooming period within areas of suitable habitat within the Expanded Alternative Project area. If <i>Tompkins sedge</i> (<i>Carex tompkinsii</i>) or <i>Mountain lady's slipper</i> (<i>Cypripedium montanum</i>) or any other special-status plant species are not found, then no further measures are necessary. If <i>Tompkins sedge</i> or <i>Mountain lady's slipper</i> or other special-status plant species are observed, consultation with CDFW will occur. For species listed pursuant to the California Endangered Species Act and Native Plant Protection Act; if take cannot be avoided, the project will obtain an incidental take permit pursuant to Fish and Game Code Section 2018(b) and/or California Code of Regulations, Title 14, Section 786.9(b) to comply with CESA and the NPPA.</p> <p><b>Mitigation Monitoring Expanded Alternative BIO-A:</b> The measure shall be implemented by a qualified biologist (See MM-1) during the appropriate bloom period for <i>Tompkins's sedge</i> (May – July) or <i>Mountain lady's slipper</i> (March – August) occurring prior to site disturbances.</p>	California Native Plant Protection Act of 1977 (CFGC Section 1900-1913)	Within 30 days prior to construction during the appropriate blooming season <i>Sedge</i> (May – July) <i>Lady's slipper</i> (March – August)	Once	Qualified biologist		
BIO-B	<p><b>Expanded Alternative Project BIO-B – FYLF Avoidance</b> Prior to site disturbance in the Expanded Alternative Project boundaries, a qualified biologist shall survey for FYLF 24 hours or less before construction, including staging, commences. At least one day-time and one night-time survey is required. If findings are negative, ESA fencing shall be installed as shown in <b>Figure 8</b>. Fencing shall remain in place until all project activities are completed. Any fencing falling down during construction shall be re-installed immediately. No parking or material storage shall occur adjacent to ESA fencing. If findings are positive, work will not proceed until a formal consultation is undertaken with the United States Fish and Wildlife Service.</p> <p><b>Mitigation Monitoring BIO-B:</b> The measure shall be implemented by a qualified biologist (See MM-1) within 24 hours of commencing site disturbances (including staging). If construction is delayed or occurs in phases, a re-survey must be completed prior to recommencing work after a shut-down period of more than three months. The construction</p>	Day and night survey required	24 hours or less before commencing construction	As per BIO-2	Construction contractor,  Qualified biologist		



**Mitigation Monitoring and Reporting Plan – ADDITIONAL MITIGATION MEASURES FOR EXPANDED ALTERNATIVE PROJECT**

Mitigation Measure Reference	Mitigation Measure	Limits, Performance Standards	Timing	Frequency	Responsible Entity (RE)	Initial	Date
	contractor is responsible for ensuring that the Project Biologist is notified with ample time to complete the survey and consult with CDFW, if necessary. If on-site biological monitoring is required throughout project construction, a monitoring schedule shall be executed prior to commencing construction between the Project Biologist and the contractor. Applicant shall comply with monitoring provisions of <b>BIO-3</b> for ESA Fencing.						
<b>BIO-C</b>	<p><b>Expanded Alternative Project BIO-C</b>                      If the Expanded Alternative Project is pursued, a qualified biologist shall conduct a preconstruction survey for Mariposa clarkia (<i>Clarkia biloba</i> ssp. <i>australis</i>) within 30 days prior to construction, during the appropriate blooming period within areas of suitable habitat within the Expanded Alternative Project area. A buffer of at least 25 feet shall be established around identified populations through the installation of Environmentally Sensitive Area (ESA) fencing to remain throughout project construction. If full avoidance is infeasible, those populations that can be protected will be protected through the installation of ESA fencing. For populations that cannot be avoided, CDFW shall be notified at least 10 days prior to construction activities, in accordance with the California Native Plant Protection Act of 1977 (CFGC Section 1900-1913) to allow sufficient time to allow for seed collection.</p> <p><b>Mitigation Monitoring Expanded Alternative Project BIO-C:</b> The measure shall be implemented by a qualified biologist (See MM-1) during the appropriate bloom period for Mariposa clarkia (May – July) occurring prior to site disturbances.</p>	California Native Plant Protection Act of 1977 (CFGC Section 1900-1913)	Within 30 days prior to construction during the appropriate blooming season (May – July)	Once	Qualified biologist		
<b>CULTURAL RESOURCES / TRIBAL CULTURAL RESOURCES</b>							
<b>CULT-A TCR-A</b>	<p><b>Expanded Alternative Project – CULT-A</b>                      Prior to undertaking the Expanded Alternative Project, a cultural resources survey of the expansion area shall be undertaken. Known historical artifacts in the area shall be evaluated and recorded and an addendum or subsequent IS/MND shall be prepared in accordance with the State CEQA Guidelines Sections 15162- 15164.</p> <p><b>Mitigation Monitoring Expanded Project Alternative CULT-A</b>                      Prior to approving environmental document for Expanded Project Alternative, the cultural resources survey shall be conducted by a qualified archaeologist. An addendum or subsequent environmental study shall be conducted in accordance with CEQA Guidelines Sections 15162-15164, as necessary.</p>	CEQA Guidelines Sections 15162-15164.	Prior to approving environmental document for Expanded Project Alternative	Once	Qualified archaeologist		

Twain Harte Community Services District  
Water Distribution System Improvements

Biological  
Study  
Report

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## Project Description, Purpose and Need

The Twain Harte Community Services District (THCSD) proposes to improve water system fire flow in the Pressure Zones 4 and 6 referred to as the Sherwood Distribution System in the community of Twain Harte, Tuolumne County, California (the Project) through pipeline replacement, upsizing, relocation into road ROWs and/or pipeline abandonment through existing residential lots and the Twain Harte Shopping Center as detailed in **Figures 2-3**. The Project includes 3,938± linear feet (lf) of new six-inch pipeline, and removal and replacement of 7,836± lf of existing pipeline. The Project proposes using State Water Resources Control Board (SWRCB) State Revolving Funds (SRF).

THCSD will act as the Lead Agency for the California Environmental Quality Act (CEQA). The California Department of Water Resources (DWR) will act as a CEQA Responsible Agency and NEPA Lead Agency.

### Construction Schedule and Equipment

Construction of the Twain Harte CSD project is expected to begin in the spring of 2025 and be completed in late summer or early fall of 2025 (Rocha pers. comm.). Anticipated equipment to be used includes: excavators, loaders, dump trucks, backhoes, graders, water trucks, compactors, concrete trucks, pavers, and similar construction vehicles.

### **Alternatives**

Project alternatives are evaluated in **Section 2.20** of the Initial Study/Mitigated Negative Declaration (IS/MND). Those alternatives, described in detail in IS/MND Section 2.20, include:

No Build Alternative. In addition to the Project, a No-Build Alternative is evaluated herein. Under the No-Build Alternative, no changes would be made to the existing water system.

Expanded Project Alternative. This alternative includes the Project plus a waterline extension through the northern portion of the project site from the cul-de-sac on King Arthur's Court across land through APN 906-000-103 and to APNs 048-420-010 and -013.

## Project Findings

Site surveys were conducted on 4/23/23, 5/13/23, and 6/11/23. The following mitigation, minimization, and/or avoidance measures are included to ensure that impacts to common and special status species and sensitive habitats will not occur.

<b>Table 1: Biological Mitigation, Minimization &amp; Avoidance Measures</b>
<p><b>Avoidance and Minimization Measure BIO-1: Preconstruction FYLF Surveys</b> The project proponent shall submit the name and credentials of the project's biologist(s) to CDFW for review and approval no less than 15 days prior to the onset of construction activities.</p>
<p><b>Avoidance and Minimization Measure BIO-2: Preconstruction FYLF Surveys</b> Preconstruction surveys should be conducted prior to site disturbance to re-confirm absence of FYLF within 24 hours of commencing site disturbances (including staging). The THCS D, or its representative, shall have a qualified biologist survey for FYLF within all potential habitats. If surveys are negative (i.e., no FYLF), measures BIO 3 through BIO -8 shall be implemented. If surveys are positive (FYLF are identified), BIO-2 through BIO-8 shall be implemented <i>and</i> a qualified biologist shall be present on site during all construction activities within 200 feet of Turnback Creek. The qualified biologist shall have the authority to stop work at any time as may be necessary to protect FYLFs or their habitat.</p>
<p><b>Avoidance and Minimization Measure BIO-3: ESA Fencing</b> Prior to commencing staging, construction, ground-disturbing or other project activities, install Environmentally Sensitive Area (ESA) fencing in the locations shown in Figure 7: to ensure protection of wetlands (creek, ponds, ditch), foothill yellow-legged frog habitat, and turtle habitat. Fencing shall remain in place until all project activities are completed. Any fencing falling down during construction shall be re-installed immediately. No parking shall occur adjacent to ESA fencing. No construction-related materials, equipment, trash or other related debris shall be allowed, stored, or staged within the fenced area. ESA fencing shall be shown on the final construction documents.</p>
<p><b>Avoidance and Minimization Measure BIO-4: Staging and Spill Prevention</b> Staging areas as well as fueling and maintenance activities shall be a minimum of 100 feet from riparian or aquatic habitats. Staging areas less than 100 feet from Angels Creek will only be allowed with authorization of the project biologist. The project proponent will prepare a spill prevention and clean-up plan.</p>
<p><b>Avoidance and Minimization Measure BIO-5: Erosion Control</b> Where and if bare ground will be exposed or disturbed in conjunction with project activities, the Contractor shall prepare an Erosion Control Plan for THCS D review and approval to address soil erosion within those areas. All soils disturbed by grading shall be reseeded or hydromulched or otherwise stabilized 48 hours in advance of a rain event. A likely rain/precipitation event is any weather pattern that is forecasted to have a 30% or greater chance of producing precipitation in the project area. The discharger shall obtain likely precipitation forecast information from the National Weather Service Forecast Office (e.g., by entering the zip code of the project's</p>

**Table 1: Biological Mitigation, Minimization & Avoidance Measures**

location at <https://www.weather.gov/forecastmaps>. A qualifying rain event is one that produces 0.5 inch or more of precipitation within a 48 hour or greater period between rain events. Emergency erosion control measures shall be used as reasonably requested by the SPWC.

**Avoidance and Minimization Measure BIO-6: NPDES/SWPPP**

If necessary, submit to the State Water Resources Control Board Storm Water Permitting Unit, a Notice of Intent (NOI) to obtain coverage under the General Construction Activity Storm Water Permit - California's National Pollution Discharge Elimination System (NPDES) general permit for construction related storm water discharges for the disturbance of one acre or more. Disturbances of less than one acre may also require an NOI for coverage under the NPDES General Permit for construction-related storm water discharge and the State Water Resources Control Board Permitting Unit shall be contacted for determination of permit requirements. Commercial and Industrial developments may require an NOI even if less than one acre is to be disturbed. Obtain coverage or an exemption from these requirements. [Federal Water Pollution Control Act, Section 401, California Clean Water Act]. The permit may include preparation of a Stormwater Pollution Prevention Plan (SWPPP).

Silt fencing or other materials, as required, will be installed consistent with the applicable water quality requirements specified in the Project's Storm Water Pollution Prevention Plan (SWPPP) or Water Pollution Control Plan (WPCP). Fencing or other erosion control materials or devices shall be shown on the final construction documents. Erosion control devices will be avoided throughout Project construction and shall be monitored and maintained by the project manager throughout construction.

**Avoidance and Minimization Measure BIO-7: Environmental Awareness Training**

All contractors involved in site development, affected THSD personnel, will attend a mandatory Environmental Awareness Training prior to any site disturbances, including staging. A training log sign-in sheet will be maintained. The program will address proper implementation of minimization and avoidance measures contained herein. A video shall be prepared and is mandatory viewing prior to entering the project site for contractors or personnel not participating in initial training. Construction personnel shall be informed that if a FYLF is encountered in the work area, construction will stop and CDFW will be contacted for guidance.

**Avoidance and Minimization Measure BIO-8: Stop Work**

If FYLFs are found at any time during project work, construction will stop and CDFW will be contacted immediately for further guidance.

**Avoidance and Minimization Measure BIO-9: Preconstruction Survey/Relocation for Western Pond Turtles**

Within 48 hours of commencing site disturbances, the THCSO, or its representative, shall have a qualified biologist survey for western pond turtles in the on-site ponds within Sherwood Forest Subdivision. If no WPT are found, Mitigation and Minimization Measures BIO- 2 through BIO-5 will be implemented. If WPT are

**Table 1: Biological Mitigation, Minimization & Avoidance Measures**

identified, environmental training shall include and the following specific measures will be implemented to avoid WPT:

If found within project construction areas where harm to the turtle may occur from project activities, contractors shall contact the project biologist. The turtle first will be given the opportunity to leave the site on its own if the turtle actively is in the process of attempting to leave the site and is likely to successfully do so within the hour in the opinion of the qualified biologist. Otherwise, the qualified biologist will relocate the turtle downstream of the work area along the creek where permanent or nearly permanent water is pooled or present. At the discretion of the qualified biologist, turtles may be located upstream if higher quality pools with permanent or nearly permanent pools are identified. [California Code of Regulations, Title 14, Division 1, Chapter 5, Subsection 40(b)]<sup>1</sup>.

**Avoidance and Minimization Measure BIO-10: Preconstruction Survey Birds**

Prior to construction occurring between February 1<sup>st</sup> and September 30<sup>th</sup> (e.g., excavation, ground disturbance, or vegetation removal) a preconstruction survey for nesting birds will be conducted in accordance with the CDFW guidelines and a no-disturbance buffer will be established, if necessary.

If equipment staging, site preparation, vegetation removal, grading, excavation or other project-related construction activities are scheduled during the avian nesting season (generally February 1 through September 30), a focused survey for active nests would be conducted by a qualified biologist within 14 days prior to the beginning of project-related activities.

Surveys shall be conducted in all suitable habitats in the BSA. If the preconstruction surveys identify nesting bird species within areas that are within 500 feet of construction activities for non-raptors and within 0.5 mile for raptors, the following shall be implemented:

- A. Project-related construction impacts shall be avoided by establishment of appropriate no-work buffer zones to limit construction activities near the nest site. The no-work buffer zone shall be delineated by highly visible temporary construction fencing and shall be a minimum of 500 feet from non-raptor nests and 0.5 mile from raptor nests, unless a qualified biologist, in consultation with CDFW, determines that alternative buffers are permissible due to the nature and location of the specific species, its nest, and existing conditions to which

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<sup>1</sup> Pursuant to California Fish and Game Code Title 14, Subsection 40(b) the capture, temporary collection, or temporary possession of native amphibians done to avoid mortality or injury in connection with lawful activities is permitted and such live capture and release of native amphibians done to avoid death or injury may occur with the permission of the CDFW. Because WPTs are not listed species pursuant to the state or federal endangered species act, neither an incidental take permit nor consultation beyond securing permission from CDFW to capture and release the individuals, is required.



**Table 1: Biological Mitigation, Minimization & Avoidance Measures**

the species has been habituated. Alternative buffers shall be established for special status non-raptor nests in consultation with CDFW.

- B. In consultation with CDFW, monitoring of nest activity by a qualified biologist shall be required if the construction activity has potential to adversely affect the nest or nesting behavior of the bird.
- C. No construction activity shall commence within the no-work buffer zone until a CDFW-approved qualified biologist confirms that the nest is no longer active (e.g., young have fledged).
- D. Canada geese depredation is an exception to these provisions per measure BIO-11.

**BIO-11 Canada Geese Depredation**

Pursuant to 50 Code of Federal Regulations Section 21.50, should a nesting Canada goose be identified within proposed work boundaries (i.e., outside of subdivision common area surrounding Turnback Creek), depredation may occur by registering online with the USFWS<sup>2</sup>. Depredation will occur, if necessary, in the form of a qualified biologist treating unhatched eggs to ensure that they do not hatch.

**Avoidance and Minimization Measure BIO-12: Preconstruction Surveys Suitable Bat Roosting (or Nursery) Areas & Provisions for Protection, if Identified**

At least 15 days before commencing ground-disturbing activities between April and September of the construction year, a qualified biologist will survey snags, trees, rock crevices and other suitable cavities and structures in the BSA for roosting bats or bat nurseries. If bats are not found and there is no evidence of bat use, construction may proceed. If bats are found or evidence of use by bats is present, CDFW shall be consulted for guidance on measures to avoid or minimize disturbance to the colony or nursery. Subject to CDFW approval, measures may include excluding bats from roosts before construction begins.

**Avoidance and Minimization Measure BIO-13: Hours of Construction**

Project construction shall be limited to 7:00 a.m. to 7:00 p.m. unless an emergency situation exists.

**Avoidance and Minimization Measure BIO-14: Avoid Inadvertent Animal Trapping During Construction**

To avoid inadvertently trapping special status or common animal species during construction, all excavated steep-walled holes or trenches more than two feet deep shall be covered at the end of each working day with plywood or similar material, or provided with one or more escape ramps constructed of earth fill or wooden planks, or equivalent, at each end of the trench. Before such holes or trenches are filled, they will be thoroughly inspected for trapped animals. If at any time a trapped animal is

<sup>2</sup> <https://epermits.fws.gov/eRCGR/> and <https://www.fws.gov/forms/3-200-13.pdf>

**Table 1: Biological Mitigation, Minimization & Avoidance Measures**

discovered, the contractor shall place an escape ramp or other appropriate structure to allow the animal to escape. Alternatively, the contractor shall contact the project biologist or California Department of Fish and Wildlife for assistance. Similarly, stored pipes or other materials providing potential cover for animals will be inspected prior to installation or use to ensure that they are unoccupied.

**Avoidance and Minimization Measure BIO-15: Native Oak Tree Protection**

Throughout project construction, for native oak trees greater than 5" diameter at breast height (DBH), to the maximum extent feasible:

- Limit ground-disturbing activities to outside the dripline of native oaks and preferably outside 1-1/2 times the dripline;
- No storage equipment, supplies, vehicles, debris, construction wastewater, paint, stucco, concrete or any other clean-up waste, and temporary or permanent structures shall be placed within the driplines;
- Avoid cutting oak roots;
- Use boring, rather than trenching, within driplines
- Avoid equipment damage to limbs, trunks, and roots of oaks trees
- Do not attach signs, ropes, cables or other items to trees

**Avoidance and Minimization Measure BIO-16: Minimize the Spread of Invasive Plant Species**

Throughout project construction:

- All hay, straw, hay bales, straw bales, seed, mulch or other material used for erosion control on the project site shall be free of noxious weed<sup>3</sup> seeds and propagules (Food and Agriculture Code Sections 6305, 6341 and 6461).
- All equipment brought to the project site shall be thoroughly cleaned of all dirt and vegetation prior to entering the site to prevent importing noxious weeds and shall be cleaned of all dirt and vegetation prior to exiting the site to prevent exporting noxious weeds. (Food and Agriculture Code Section 5401).
- All material brought to the site, including rock, gravel, road base, sand, and topsoil, shall be free of noxious weeds<sup>4</sup> and propagules. (Food and Agriculture Code Sections 6305, 6341 and 6461).

<sup>3</sup> Noxious weeds are as defined in Title 3, Division 4, Chapter 6, Section 4500 of the California Code of Regulations and the California Quarantine Policy – Weeds (Food and Agriculture Code, Sections 6305, 6341, and 6461).

<sup>4</sup> Ibid.

**Expanded Alternative Project  
Additional Avoidance and Minimization Measures**

**Expanded Alternative Project BIO-A**

If the Expanded Alternative Project is pursued, a qualified biologist shall conduct a preconstruction survey for special-status plant species within 30 days prior to construction, during the appropriate blooming period within areas of suitable habitat within the Expanded Alternative Project area. If Tompkins sedge or Mountain lady's slipper or any other special-status plant species are not found, then no further measures are necessary. If Tompkins sedge or Mountain lady's slipper or other special-status plant species is observed during the preconstruction surveys, CDFW shall be notified at least 10 days prior to construction activities, in accordance with the California Native Plant Protection Act of 1977 (CFGF Section 1900-1913) to allow sufficient time to transplant the individuals to a suitable location. Alternatively, a buffer of at least 25 feet shall be established around any identified population through the installation of Environmentally Sensitive Area (ESA) fencing.

**Expanded Alternative Project BIO-B – FYLF Avoidance**

Prior to site disturbance in the Expanded Alternative Project boundaries, a qualified biologist shall survey for FYLF 48 hours or less before construction, including staging, commences. At least one day-time and one night-time survey is required. If findings are negative, ESA fencing shall be installed as shown in **Figure 7**. Fencing shall remain in place until all project activities are completed. Any fencing falling down during construction shall be re-installed immediately. No parking or material storage shall occur adjacent to ESA fencing. If findings are positive, work will not proceed until a formal consultation is undertaken with the United States Fish and Wildlife Service.

**Expanded Alternative Project BIO-C**

If the Expanded Alternative Project is pursued, a qualified biologist shall conduct a preconstruction survey for Mariposa clarkia (*Clarkia biloba* ssp. *australis*) within 30 days prior to construction, during the appropriate blooming period within areas of suitable habitat within the Expanded Alternative Project area. A buffer of at least 25 feet shall be established around identified populations through the installation of Environmentally Sensitive Area (ESA) fencing to remain throughout project construction. If full avoidance is infeasible, those populations that can be protected will be protected through the installation of ESA fencing. For populations that cannot be avoided, CDFW shall be notified at least 10 days prior to construction activities, in accordance with the California Native Plant Protection Act of 1977 (CFGF Section 1900-1913) to allow sufficient time to allow for seed collection.

## Location & Setting

### Location:

The project extends through portions of Sections 9 and 16, T2N, R16E, Mount Diablo Base and Meridian (MDB&M) in Tuolumne County, CA in the central Sierra Nevada foothills (**Figure 1**). The project footprint is entirely located within the Twain Harte USGS 7.5' Quadrangle and includes a portion of the Twain Harte Community and most of the Sherwood Forest subdivision (**Figures 3-4**). Most of the improvements will occur within roadways including Tuolumne Road North, East Avenue, Twain Harte Drive, Little John Road, Robin Hood Drive, King Arthur's Court, and portions of Fallen Leaf and Broken Bough Lanes with stub outs to existing residences (**Figures 3-4**). A portion will occur in roadways, parking areas and behind the Twain Harte Shopping Center below Twain Harte Drive.

### Setting and Vegetation:

The proposed improvements will occur primarily within existing public road rights-of-way and existing easements within and around the Twain Harte Community and Sherwood Forest subdivision and within the Twain Harte Shopping Center. Site elevations range from approximately 3,600 to 4,200 feet above mean sea level (amsl).

East Avenue connects the project areas beneath SR 108.

Turnback enters the northeast corner of the Project within the Sherwood Forest Subdivision, crosses beneath Robin Hood where it continues to flow northeast to southwest through the center of the subdivision forming a small lake and a small downstream pond emptying into a central open space / common area before the creek continues southwesterly (crossing beneath Robin Hood/Little John) and on towards Tuolumne City. Little John and Robin Hood Drives create a circle around the central open space serving single-family residential homes on lots ranging in average size from 0.2 to 0.4 acre with isolated lots of 0.8 to 3 acres.

A short segment of the Sugar Pine Railroad Grade and Section IV ditch cross East Avenue within the project boundaries (**Figure 5**).

On-site and adjacent and vegetation/habitat types are illustrated in **Figure 5**.

A complete list of plant and animal species identified on site and adjacent to the site are found in **Appendix A**.

Species lists obtained from the California Natural Diversity Database (CNDDDB) and United States Fish and Wildlife Service, and California Native Plant Society are included in **Appendices B and C**.

Figure 1: Regional Setting

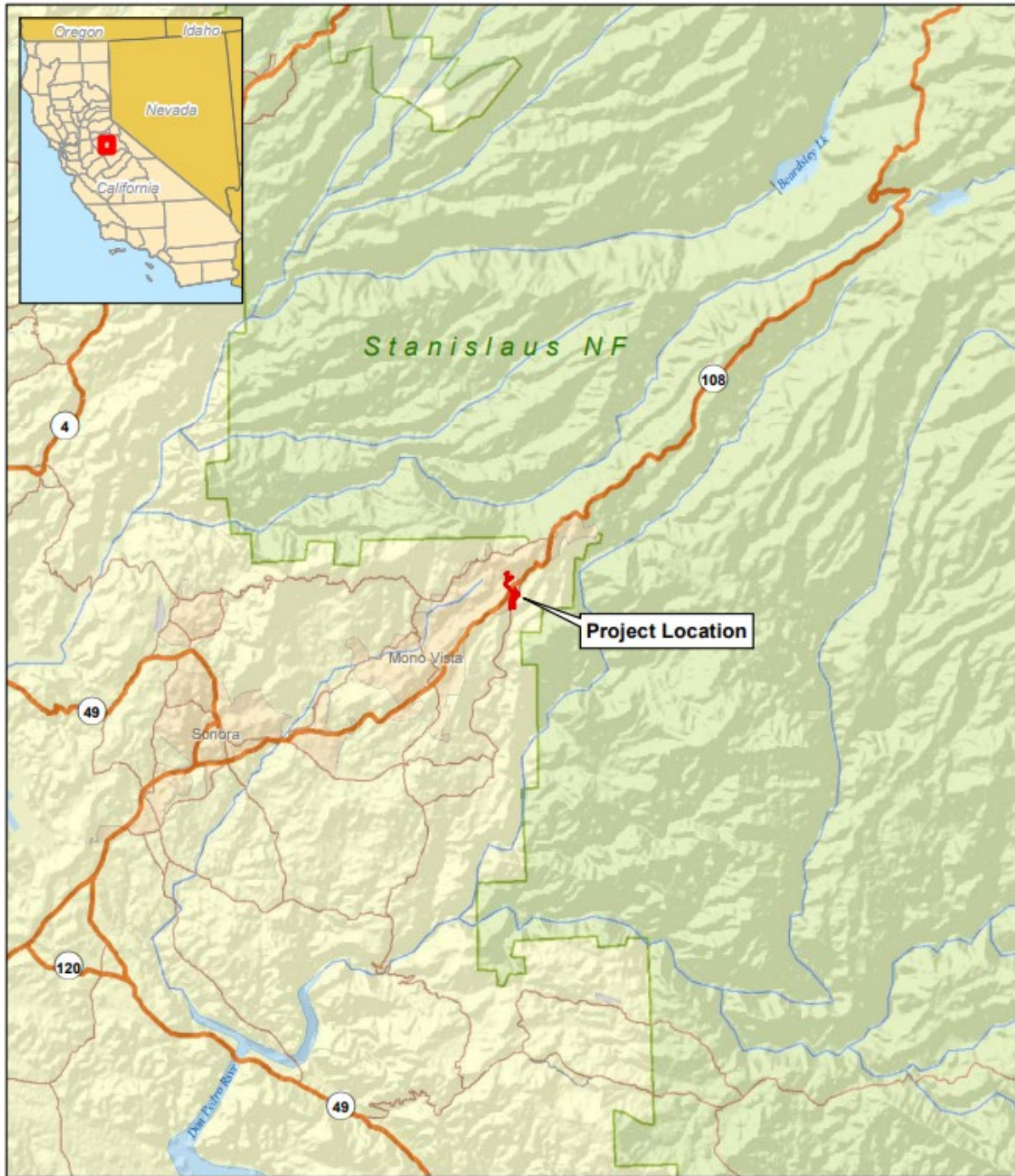


Figure 1. Project Vicinity Map.

— Twain Harte CSD Sherwood Distribution Improvements Project

1:250,000

0 3 Miles

0 6 Kilometers



Figure 2: Project Location Twain Harte USGS 7.5' Quadrangle

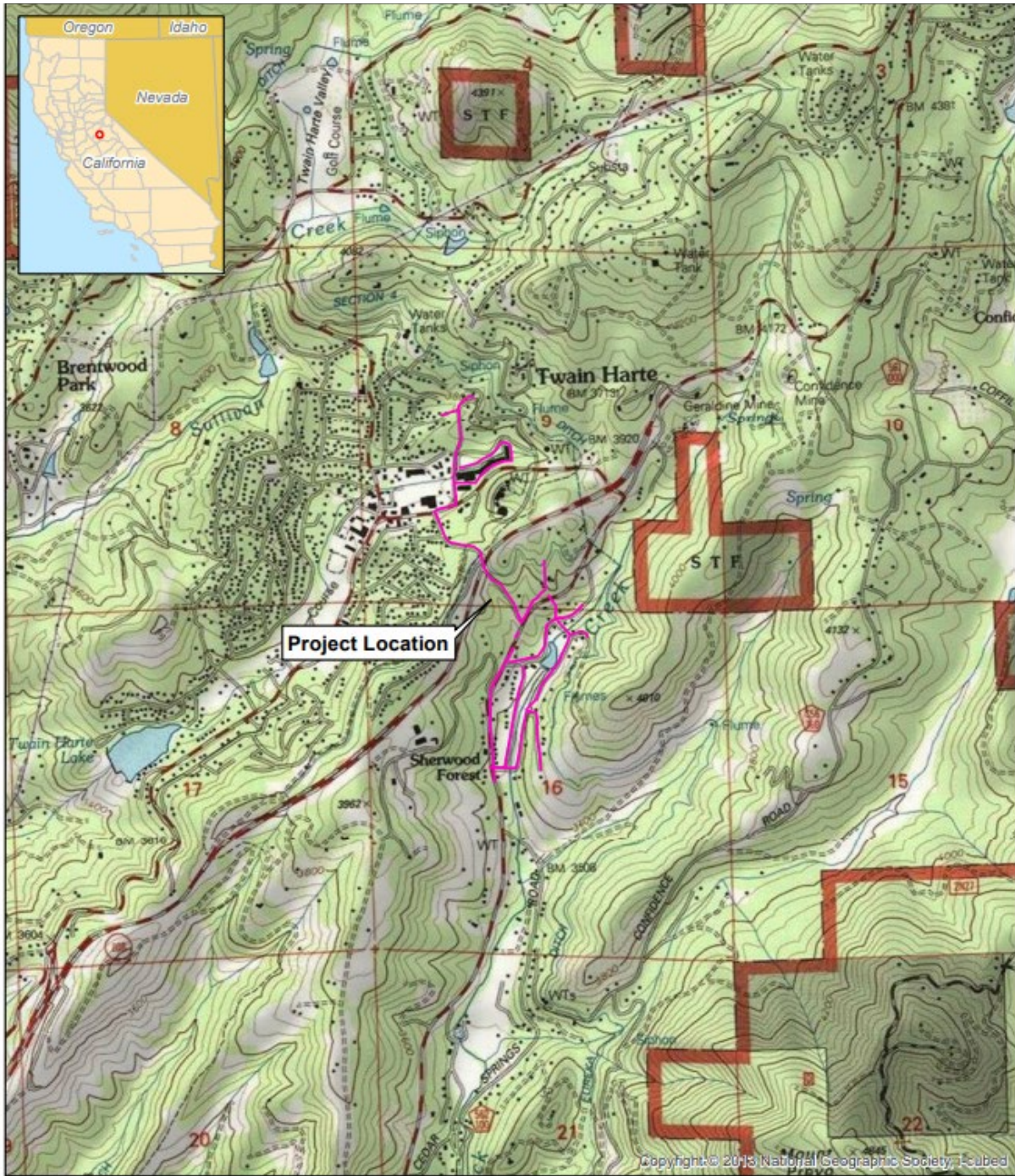


Figure 2. Project Location Map.

1:24,000

Twain Harte CSD Sherwood Distribution Improvements Project APE

0.5 Miles

1 Kilometers

T02N, R16E, Sections 9 & 16.  
Twain Harte 7.5' Series Quadrangle, USGS, 1980.

Figure 3: Project



Figure 4: Project and Expanded Project Alternative

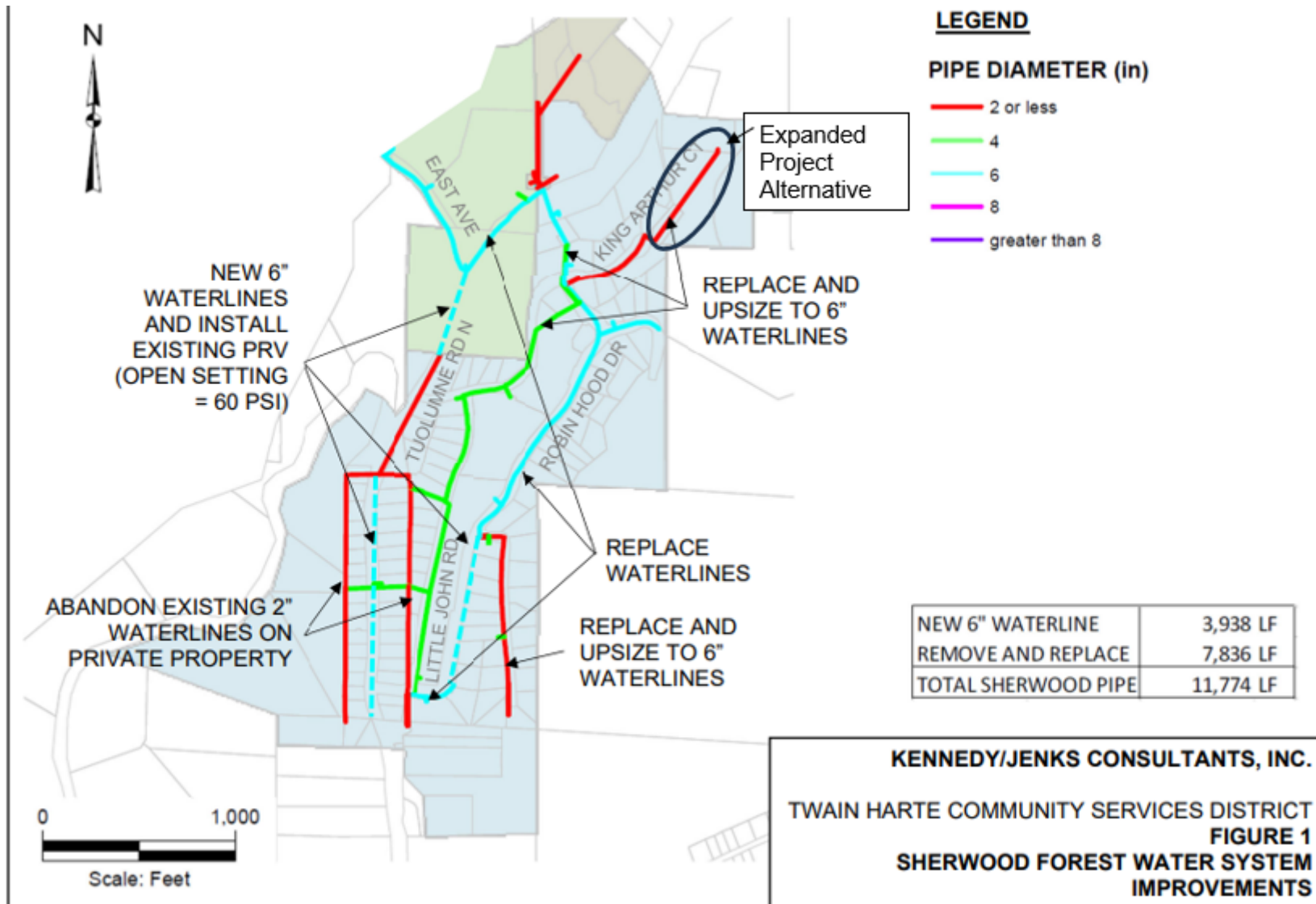




Figure 5: Vegetation Map

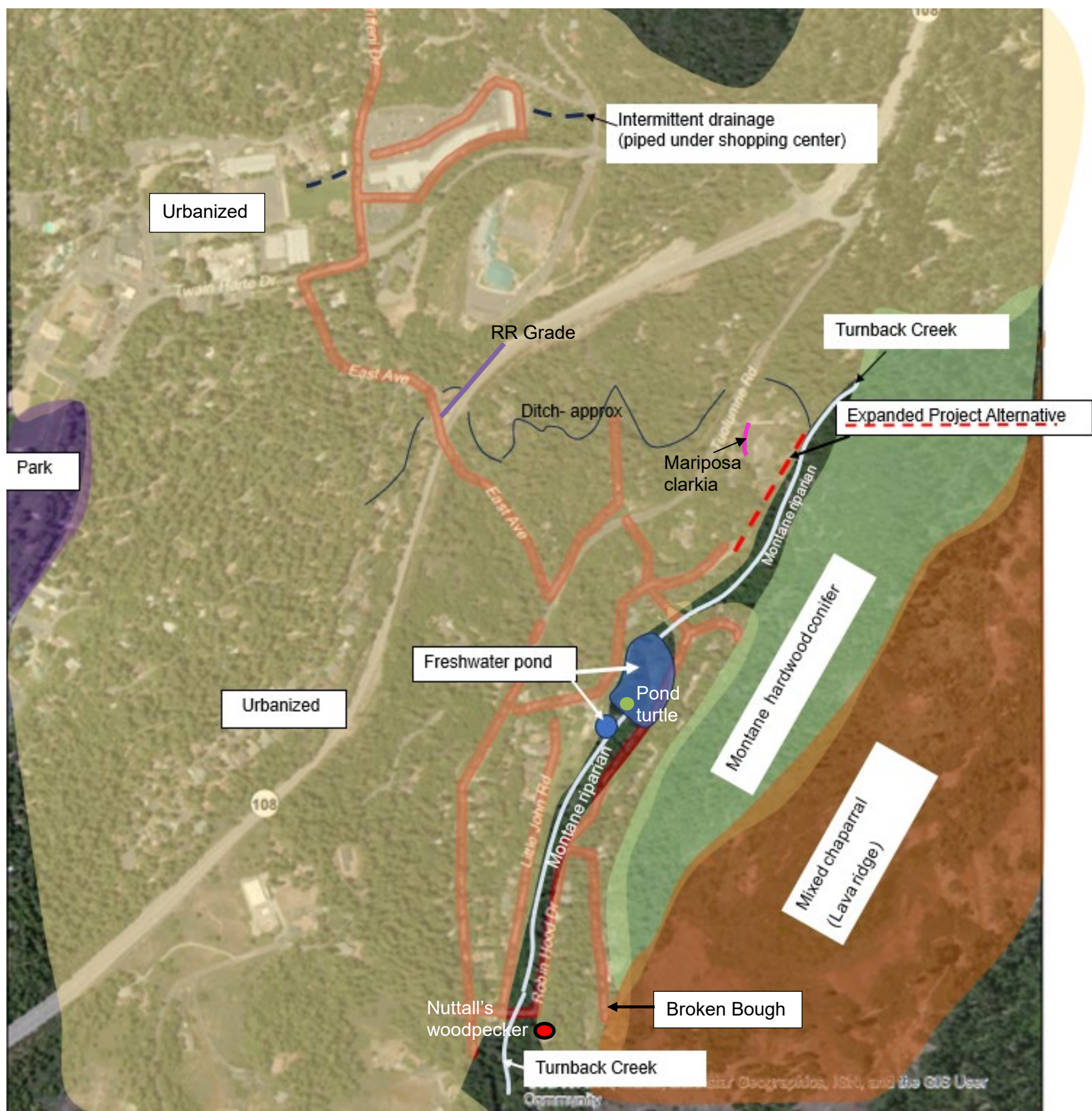
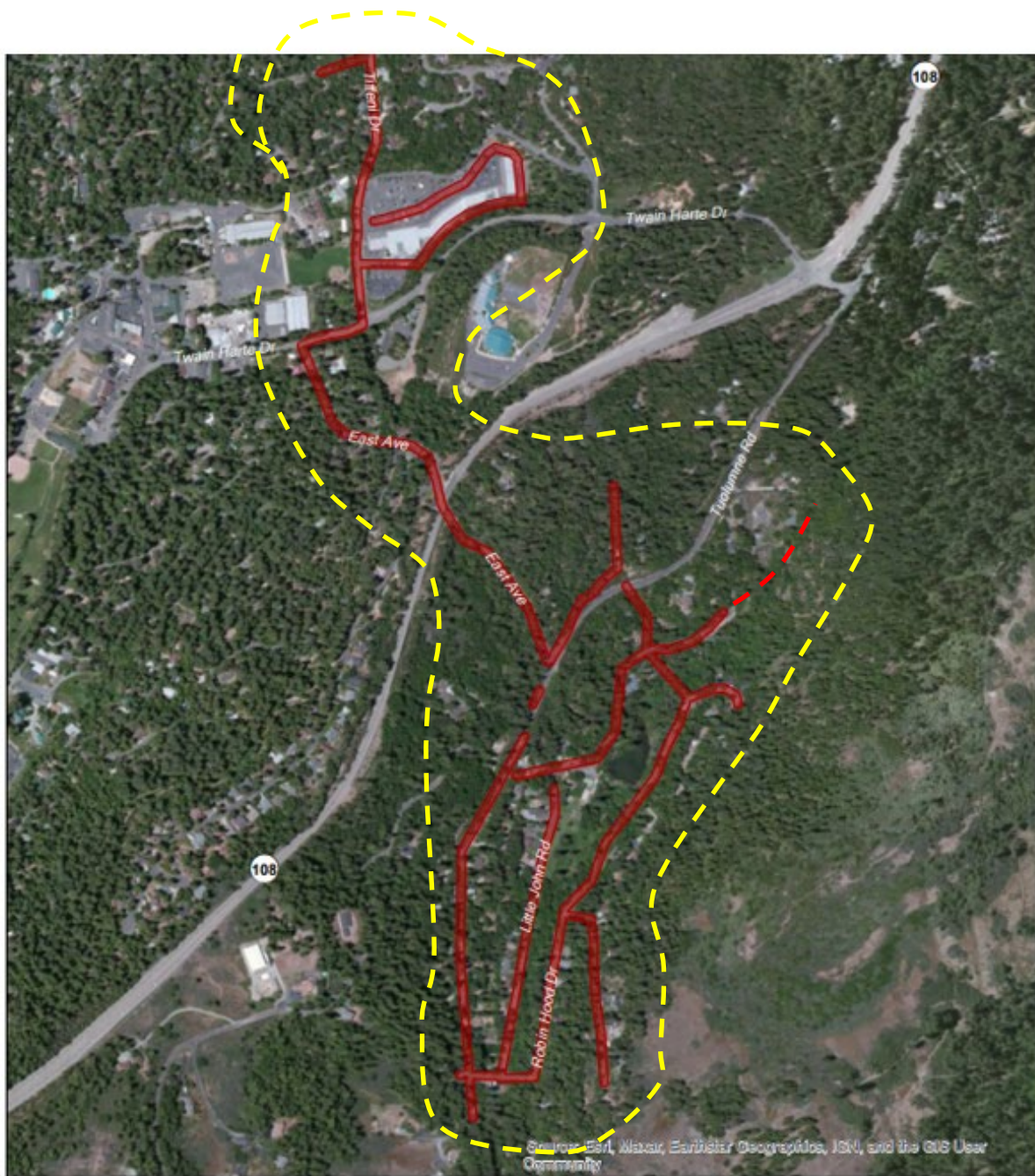


Figure 6: Biological Study Area (as shown plus ½ mile buffer surveyed for raptors)



## Methodology

### Review of existing data and previous surveys

Prior to commencing field surveys, APA reviewed the California Natural Diversity Database/Rarefind, obtained a USFWS species lists, reviewed the National Wetlands Inventory, CalFlora plant list, and California Native Plant Society (CNPS) plant list. The Twain Harte USGS 7.5' Topographic Map and Google Earth were reviewed to determine the potential for drainages, wetlands, clearings, and access points. Species lists are included in **Appendices B and C**.

### Site Surveys:

Site surveys were conducted by foot on the following dates: 4/23/23, 5/13/23, and 6/11/23. Surveys were conducted using Nikon Monarch M7 8 X 42 binoculars, Nikon D3300 digital camera (18- 55mm and 70-300mm lens), and standard field and collection supplies.

### Botanical surveys

Surveys were conducted on foot. Photos of representative vegetation were taken throughout the surveys. Where species were not readily identified in the field, plant specimens were inspected with a hand lens, sketched and, if necessary, collected and preserved then keyed in-house using a dissecting microscope and Jepson Manual.

Botanical surveys were surveyed a minimum of three times throughout the blooming period of potentially occurring special status plant species. Blooming periods were determined based on biologist experience, CalFlora, the California Native Plant Society Rare Plant Inventory, and observations of blooming periods of known populations of the same species in the project vicinity by the project biologist. All suitable habitats were surveyed on foot on multiple occasions. The USDA NRCS Soils maps were studied to determine potential soils supporting special status plants.

### Animal surveys

Live and dead trees were inspected with special attention to potential nesting opportunities. Potential roosts and structures were inspected for whitewash.

Mud and sand were inspected for animal tracks and structures were examined for whitewash, scat, hair and presence/absence of spider webs across openings. Dirt trails also were observed for tracks. Matted grasses indicating potential bedding areas were inspected for hair and scat.

### Special Conditions:

Surveys were conducted during optimal blooming periods for special status plants and for identification of special status amphibians.

### Definitions

For the purposes of this study, a species was considered "Special Status" if it met one or more of the following:

- Listed pursuant to the California Endangered Species Act (CESA)
- A candidate for listing pursuant to CESA
- A species petitioned for listing pursuant to CESA
- Listed pursuant to the Federal Endangered Species Act (FESA)
- A candidate for listing pursuant to FESA

- A species petitioned for listing pursuant to FESA
- Designated by the CDFW as a Species of Special Concern (SSC)
- Designated by the CDFW as a Special Animal (SA)
- Designated by the CDFW as a Fully Protected Species (FPS)
- Designated by CNPS as List 1A (Presumed extinct in California), List 1B (Rare, threatened, or endangered in California and elsewhere), or List 2 Plant (Plants rare, threatened, or endangered in California but more common elsewhere)
- Identified by the US Forest Service as Sensitive (USFS-S)
- Identified by the US Bureau of Land Management as Sensitive (BLM-S)
- Identified by the International Union for Conservation of Nature (IUCN) as vulnerable
- Identified by the Western Bat Working Group (WBWG) as High Priority
- Identified by the WBWG as Moderate Priority
- Birds identified by the US Fish and Wildlife Service as Birds of Conservation Concern (USFWS BCC)

## Biological Study Area (BSA)

For the purposes of this study, the Biological Study Area (BSA) is that area surveyed for biological resources and evaluated for potential direct and/or indirect and cumulative impacts to common and special status species and their habitats. The BSA includes the project boundaries as identified in **Figure 6**, plus a ½ mile buffer surveyed for raptors and birds.

**Table 2: Evaluation: Special Status Species Potential to Occur THCS Distribution Improvements Project**

Species	Status	Preferred habitat(s)/a/	Likelihood to Occur on Site
			O= Present on Site (Occupied) U = Unlikely to Occur P = Potential to Occur
<b>Plants</b>			
Three-bracted onion <i>Allium tribracteatum</i>	CNPS 1B.2 USFS-S	Chaparral, Lower montane coniferous forest, Upper montane coniferous forest; volcanic soils. Blooms. Apr – August. 4,120’-5,600’ elevation range.	<b>U</b> - The nearest CNDDDB record is within one mile of the project site on a volcanic ridge. The site lacks the volcanic soils preferred by the species. The species was not identified in the project boundaries during surveys conducted during the blooming period for the species and is not expected to occur.
Tompkins’ sedge <i>Carex tompkinsii</i>	CR CNPS 4.3	Chaparral, Cismontane woodland, Lower montane coniferous forest, Upper montane coniferous forest. Sometimes granitic soils. Blooms May – July, 1,380’-6,005’ elevation range.	<b>P</b> – Potentially suitable habitat exists only within the wet, granitic soils located within the project’s Expanded Project Alternative site boundaries. CNPS identifies the species more than five miles from the project site. The species was not identified during project surveys; but a re-survey should be conducted if the Expanded Project Alternative is pursued.
Fresno ceanothus <i>Ceanothus fresnensis</i>	CNPS 4.3	Cismontane woodland (openings), Lower montane coniferous forest. Blooms (Apr) May – July, 2,955’- 7,250’ elevation range.	<b>N/A.</b> Does not meet criteria for special status as established herein. (Note: The species was not identified during surveys conducted during the bloom period).
Small’s southern clarkia <i>Clarkia australis</i>	CNPS 1B.2 BLM-S USFS-S	Cismontane woodland, Lower montane coniferous forest. Blooms May – August, Approx. 3800’ elevation in this quadrangle.	<b>U</b> - The nearest CNDDDB record is well-located from a 1965 record within ½ mile of the northern portion of the project site. The species was not identified within the project boundaries during surveys conducted twice during the blooming period for this species.
Mariposa clarkia <i>Clarkia biloba</i> ssp. <i>australis</i>	CNPS 1B.2 USFS-S	Chaparral, Cismontane woodland Blooms April – July, 3,200’-4,850’ elevation range.	<b>O</b> – The nearest CNDDDB record is from 1958 and is mapped approximately within ½ mile. The species was identified within the Expanded Project Alternative boundaries in somewhat rocky soils near the road and above rock outcrops. Mitigation measures for avoiding the population and/or seed collection are included to address a potential impact if the Expanded Project Alternative is pursued.
Sierra clarkia <i>Clarkia virgata</i>	CNPS 4.3	Cismontane woodland, Lower montane coniferous forest. Blooms May – Aug	<b>N/A.</b> Does not meet criteria for special status as established herein. (Note: The species was not

Species	Status	Preferred habitat(s)/a/	Likelihood to Occur on Site
			O= Present on Site (Occupied) U = Unlikely to Occur P = Potential to Occur
		1,310'-5,510' elevation range.	identified during surveys conducted during the bloom period).
Streambank spring beauty <i>Claytonia parviflora</i> ssp. <i>grandiflora</i>	CNPS 4.2	Cismontane woodland, often rocky soils. Blooms Feb – May, 820'-3,935' elevation range.	N/A. Does not meet criteria for special status as established herein. (Note: The species was not identified during surveys conducted during the bloom period).
Mountain lady's slipper <i>Cypripedium montanum</i>	CNPS 4.2 BLM-S	Broadleafed upland forest, Cismontane woodland, Lower montane coniferous forest, North Coast coniferous forest Blooms Mar – August 605'-7,300' elevation range.	<b>P</b> - There are no records in the CNDDDB for this species. Calflora identifies a 1944 record near downtown Twain Harte. The species was not identified during surveys during the bloom period for the species; however, suitable habitat exists near Turnback Creek which will be avoided during construction pursuant to project mitigation measures.
Yellow-lip pansy monkeyflower <i>Diplacus pulchellus</i>	CNPS 1B.2 BLM-S USFS-S	Lower montane coniferous forest, meadows and seeps; sandy decomposed granite soils and moist meadows, vernal wet sites. Soils can be clay, volcanic, or granitic. Blooms May to July. 2000'-6,500' foot elevation range.	<b>U</b> – The nearest CNDDDB record is an estimated location from 1971 mapped adjacent to the project site near the creek, but cited as being closer to a road located south of the site. Seeps and the creek were surveyed for the species twice during the bloom period for the species. It was not found on site.
Hutchinson's lewisia <i>Lewisia kelloggii</i> ssp. <i>hutchisonii</i>	CNPS 3.2 USFS-S	Upper montane coniferous forest, ridgetops, often slate, sometimes rhyolite tuff. Often openings. Blooms (Apr) May – Aug 2,510'- 7,760' elevation range.	<b>U</b> – There are no records in the CNDDDB for this species. The site lacks the slate, rhyolite, and tuff open areas where this species is usually found. It was not present during surveys conducted during the bloom period for the species. It is not expected to occur on site.
Tuolumne fawn lily <i>Erythronium Tuolumne's</i>	CNPS 1B.2 BLM-S USFS-S	Broadleaf upland forest, chaparral, cismontane woodland, lower montane coniferous forest. Often on clay soils; on cliffs and near drainages. Blooms March – June. CNDDDB records in Tuolumne County place the species between 2,900 and 4,600 feet in elevation in this quadrangle.	<b>U</b> – Nearest CNDDDB record is within two miles of the project area dating to 1995. Suitable habitat occurs in the Expanded Project Alternative boundaries, but the species was not identified during surveys conducted during the blooming period for this species. Therefore, it is not expected to occur.
Stebbins' lomatium <i>Lomatium stebbinsii</i>	CNPS 1B.1 USFS-S	Chaparral, Lower montane coniferous forest, volcanic clay soils. Blooms Mar – May. 3,645'-5,600' elevation range.	<b>U</b> - The nearest CNDDDB record is within one mile of the project site on a volcanic ridge. The site lacks the volcanic soils preferred by the species. The species was not identified in the project boundaries during

Species	Status	Preferred habitat(s)/a/	Likelihood to Occur on Site
			O = Present on Site (Occupied) U = Unlikely to Occur P = Potential to Occur
			surveys conducted during the blooming period for the species and is not expected to occur.
Mi-Wuk navarretia <i>Navarretia miwukensis</i>	CNPS 1B.2	Lower montane coniferous forest. Blooms May – June (July). 3,480’-4,900’ elevation range.	<b>U</b> – To the south, the nearest CNDDDB record is an estimated location from 1971 mapped adjacent to the project site on a southwesterly open slope, but cited as being closer to a road located south of the site. The project area was surveyed for the species twice during the bloom period for the species. It was not found on site. To the north, the nearest CNDDDB record is near the developed commercial portion of Twain Harte. The project area was surveyed for the species twice during the bloom period for the species. It was not found on site.
Bacigalupi’s yampah <i>Perideridia bacigalupii</i>	CNPS 4.2	Chaparral, Lower montane coniferous forest, Serpentine. Blooms Jun-Aug, 1,475’ – 4,120’ elevation range.	<b>N/A.</b> Does not meet criteria for special status as established herein. (Note: The species was not identified during surveys conducted during the bloom period).
<b>Invertebrates</b>			
Monarch butterfly <i>Danaus plexippus</i>	FC (California overwintering population)	Western North American monarch ACU. Adults require a diversity of blooming nectar resources, fed on throughout migration routes and breeding grounds (spring through fall). Require milkweed (primarily <i>Asclepias</i> spp.) for both laying eggs and feeding larvae. Use a variety of roosting trees along the fall migration route. Primarily overwinter in groves along the coast of California and Baja CA in trees including blue gum eucalyptus ( <i>Eucalyptus globulus</i> ), Monterey pine ( <i>Pinus radiata</i> ), and Monterey cypress ( <i>Hesperocyparis macrocarpa</i> ), all serve as roost trees. Preferred locations provide indirect sunlight for overwintering, moisture for hydration, defense against freezing temperatures, and protection against strong winds with	<b>U</b> – The site lacks the species’ preferred milkweed. Winter temperatures within the project area can drop below freezing and are above the snowline making the site unsuitable for wintering populations of the species. Therefore, it is not expected to occur in overwintering populations in the project area.

Species	Status	Preferred habitat(s)/a/	Likelihood to Occur on Site
			O= Present on Site (Occupied) U = Unlikely to Occur P = Potential to Occur
		a mild winter climate which must be warm enough to prevent freezing yet cool enough to prevent lipid depletion.	
Western pearlshell <i>Margaritifera falcata</i>	None	Aquatic. Prefers lower velocity waters.	<b>N/A.</b> Does not meet criteria for special status as established herein. (Note: The species was not identified during surveys).
Hirsute Sierra Sideband <i>Monadenia mormonum hirsuta</i>	BLM-S	Generally associated with the basal of Table Mountain around 2,794 feet in elevation.	<b>U</b> – The project site lacks the species preferred rocky moist habitat. The species was not identified during surveys and is unlikely to occur.
Hara’s cave amphipod <i>Stygobromus harai</i>	None	Central California foothills. Mostly found in caves and mine tunnels. Also taken from a spring.	<b>N/A.</b> Does not meet criteria for special status as established herein. (Note: The species was not identified during surveys and suitable habitat does not exist on site for the species).
<b>Amphibians</b>			
California red-legged frog <i>Rana draytonii</i>	FT CDFW-SSC	The species prefers quiet pools of streams, marshes, and occasionally ponds. Lowlands and foothills in or near permanent sources of deep water with dense, shrubby or emergent riparian vegetation. CNDDDB records for the species in Tuolumne County place its range here between 1,500± and 5,030± feet in elevation. The species requires 11-20 weeks of permanent water and access to estivation habitat.	<b>U</b> –The nearest CNDDDB record is more than 5 miles from the project site dating to 1975, the most recent occurrence in Tuolumne County. The site lacks the suitable habitat combination of quiet, relatively deep pools with permanent water for 11-20 weeks with dense or shrubby riparian vegetation. Large bullfrogs were abundant within the ponds throughout Sherwood Forest subdivision. The species was not found during site surveys and is not expected to occur.
Foothill yellow-legged frog South Sierra DPS <i>Rana boylei</i>	FE CE BLM-S USFS-S	In or near rocky streams in valley-foothill hardwood, valley-foothill hardwood-conifer, valley-foothill riparian, ponderosa pine, mixed conifer, mixed chaparral, and wet meadow types.	<b>P</b> – The nearest CNDDDB record is within 2 miles of the project site. Potential habitat exists within Turnback Creek for the species in the Expanded Project Alternative boundaries where the stream substrate is rocky. Downstream, the habitat becomes marginal with only patches of rocky substrate and more siltation. The species was not identified during surveys, but the potential to exist in close proximity to the creek, exists in the northern reach of the creek in the Expanded Project Alternative boundaries. It is



Species	Status	Preferred habitat(s)/a/	Likelihood to Occur on Site O= Present on Site (Occupied) U = Unlikely to Occur P = Potential to Occur
			<p>noted that large bullfrogs were abundant within the ponds throughout Sherwood Forest subdivision.</p> <p>Preconstruction surveys should be conducted prior to site disturbance to re-confirm absence.</p>
<b>Reptiles</b>			
<p>Northwestern pond turtle <i>Actinemys (Emys) marmorata</i></p>	<p>PT USFS-S BLM-S CDFW-SSC</p>	<p>Broad range of habitats include flowing streams, permanent lakes, ponds, reservoirs, settling ponds, marshes and other wetlands including. Requires upland habitat suitable for nesting and overwintering. Mates throughout the spring, summer, and fall. Nests usually in the spring or early summer normally within 300 feet of water, but may be located up to 1500 feet from water. Eggs hatch in the fall in the northern range and hatchlings often remain in the nest through the first winter.</p> <p>Soils for nesting must be loose enough to allow for excavation with disturbances infrequent enough to avoid nest disturbance.</p>	<p><b>O</b> -The species has been identified in the on-site pond/lake the prior year, but was absent during this year's surveys (perhaps due to relatively cool temperatures). It is assumed to be present. Preconstruction surveys should be conducted prior to site disturbance with avoidance and minimization measures included.</p>
<b>Birds</b>			
<p>Northern goshawk <i>Accipiter gentilis</i></p>	<p>BLM-S CDF-S DFS-SSC USFS-S</p>	<p>Generally within, and in vicinity of, coniferous forest. Uses old nests, and maintains alternate sites. Usually nests on north slopes, near water. Red fir, lodgepole pine, Jeffrey pine, and aspens are typical nest trees. Occupies subalpine coniferous forest and upper montane coniferous forest - middle and higher elevations, mature, dense conifer forests. Great horned owls, ravens, and crows may prey on young goshawks. May be limited competition for food with other accipiters.</p>	<p><b>U</b> – The nearest CNDDDB records are more than two miles from the project site at higher elevations. The site lacks red fir, Jeffrey pine and aspens which are found at a higher elevation than is present within the project boundaries. This species was not present during surveys. Given the marginal habitat, site elevation, and lack of records for this species in the area, it is not expected to occur within the project boundaries.</p>
<p>Golden eagle</p>	<p>BGEPA</p>	<p>Habitat typically rolling foothills,</p>	<p><b>U</b> – The site lacks extensive open foothill grasslands</p>

Species	Status	Preferred habitat(s)/a/	Likelihood to Occur on Site
			O= Present on Site (Occupied) U = Unlikely to Occur P = Potential to Occur
<i>Aquila chrysaetos</i>		mountain areas. Tuolumne County is within the year-round range for the species at most elevations.	typically occupied by the species. None were observed during site surveys and it is not expected to occur.
Oak titmouse <i>Baleophus inornatus</i>	USFWS BCC	Common resident in a variety of habitats, but is primarily associated with oaks. Occurs in montane hardwood-conifer, montane hardwood, blue, valley, and coastal oak woodlands, and montane and valley foothill riparian habitats in cismontane California, Range encircles San Joaquin Valley onto the western slope of the Sierra Nevada.	<b>P</b> – While not observed during surveys, the species is widespread throughout the project area and is expected to occupy the BSA which includes extensive suitable habitat. The species was not identified during surveys; however, given the presence of suitable habitat, it could be present in the future or prior to construction. Therefore, preconstruction surveys should be conducted prior to site disturbance to re-confirm absence.
Cassin’s finch <i>Carpodacus cassinii</i>	USFWS BCC	Common montane resident; breeds in most higher mountain ranges in CA. Prefers tall, open coniferous forests, in lodgepole pine, red fir, and subalpine conifer habitats, particularly in breeding season. Most numerous near wet meadows and grassy openings; also frequents semi-arid forests. Requires conifers for nesting, resting, singing perches, other cover needs. Prefers tall trees in open, montane coniferous forests for nesting and resting, and nearby grassy meadows or other openings for foraging. Breeds approx. May 15 to Jul 15.	<b>U</b> – The project site is below the elevation supporting the species preferred habitat. The species was not identified during surveys and is not expected to occur.
Wrentit <i>Chamaea fasciata</i>	USFWS BCC	Prefers dense stands of chaparral. Sometimes found in sparse or open conifers or other woodlands with a heavy shrub understory. The species range extends into Tuolumne County year-round.	<b>U</b> – The site lacks the species preferred dense chaparral habitat. None were observed during surveys. The species is not expected to occur.
Evening grosbeak <i>Coccothraustes vespertinus</i>	USFWS BCC	Preferred breeding and foraging habitats include dense (mixed) coniferous forests dominated by firs (especially red fir). In non-breeding season, apparently depends upon an ample supply of buds, seeds, berries or other fruits, in trees and shrubs, rather than on any particular habitat. Also	<b>P</b> – Given the relatively broad habitat requirements, marginal suitable habitat exists for this species. The species wasn’t identified during surveys, but could occur prior to construction. Therefore, preconstruction surveys should be conducted prior to site disturbance to re-confirm absence.

Species	Status	Preferred habitat(s)/a/	Likelihood to Occur on Site
			O = Present on Site (Occupied) U = Unlikely to Occur P = Potential to Occur
		forages in oaks, willows, and aspens, sometimes at a distance from nest. Breeds approx. May 15 to Aug. 10	
Olive-sided flycatcher <i>Contopus cooperi</i>	USFWS BCC	Most numerous in montane conifer forests where tall trees overlook canyons, meadows, lakes or other open terrain. Extent and density of forest habitat less important than the amount of air space that can be scanned from its highest perches. Breeds approx. May 20 – Aug. 31.	<b>P</b> – Marginal habitat exists in proximity to the lake in Sherwood Forest subdivision. The species was not identified during surveys; however, given the presence of marginal habitat, it could be present in the future or prior to construction. Therefore, preconstruction surveys should be conducted prior to site disturbance to re-confirm absence.
Black-throated gray warbler <i>Dendroica nigrescens</i>	USFWS BCC	Uncommon to fairly common, summer resident in dry, open woodlands and brushy understory of forests in foothills and mountains throughout much of CA. Frequents ponderosa pine, valley foothill hardwood-conifer, montane hardwood, and pinyon-juniper habitats. Widespread transient and migrant in lowlands. Found in middle and higher-elevation conifer forests post-breeding. Frequents brushy understory. Trees and shrubs in dry oak woodlands, oak and pine mixed forests, and pinyon-juniper woodlands supply cover. Breeds approx. May 1 to Jul 20.	<b>U</b> – The species was not identified during surveys. The site is relatively densely treed in areas, shaded, and moist. More suitable, open habitat with brushy understory exists off-site to the east of the project area. The species was not identified during surveys. Given that more suitable habitat occurs outside the study area, it is unlikely that the species would occur within the less suitable habitat within the project boundaries.
Bald eagle <i>Haliaeetus leucocephalus</i>	BGEPA CE BLM-S CDF-S CDFW-FP USFS-S	Requires large bodies of water, or free flowing rivers with abundant fish, and adjacent snags or other perches. Year-round range extends into the western half of Tuolumne County with wintering including the eastern (higher elevation) portion of the county.	<b>U</b> – The Project boundaries lack large bodies of water and rivers. While the species could temporarily roost during its movements throughout the county; impacts to the species are not anticipated. It was not identified during surveys. The nearest suitable habitat is Twain Harte Lake which is well outside the project boundaries.
Lewis’s Woodpecker <i>Melanerpes lewis</i>	MBTA, USFWS BCC	An uncommon, local winter resident occurring in open oak savannahs, broken deciduous, and coniferous habitats. Breeds locally in the Sierra Nevada Apr 20 – Sep 30.	<b>U</b> – The project areas are a mix of ponderosa pine forest and mixed hardwood conifer. The species has been identified at lower elevations in more extensive blue oak woodlands than exist on site. , The species was not identified in the study area during surveys and is not expected to occur.

Species	Status	Preferred habitat(s)/a/	Likelihood to Occur on Site
			O= Present on Site (Occupied) U = Unlikely to Occur P = Potential to Occur
Great grey owl <i>Strix nebulosa</i>	CE CDF-S USFS-S	Resident of mixed conifer or red fir forest habitat, in or on edge of meadows. Requires large diameter snags in a forest with high canopy closure, which provide a cool sub-canopy microclimate. Lower montane coniferous forest, Old growth, subalpine coniferous forest and upper montane coniferous forest	<b>U</b> - The nearest CNNDDB record is just under 4 miles from the project site. However, the species was historically reported to forage along the Twain Harte Golf Course within two miles of the project site. The project does not provide edge-of-meadow suitable nesting habitat for the species. However, the species may temporarily roost within the project boundaries as it passes between preferred foraging areas. The project would be unlikely to create a significant impact on the species given its mobility and limited potential use of the site.
California spotted owl (Sierra Nevada population) <i>Strix occidentalis occidentalis</i>	PT/b/ BLM:S CDFW:SSC USFS:S USFWS:BCC	Mixed conifer forest, often with an understory of black oaks & other deciduous hardwoods. Canopy closure >40%. Most often found in deep-shaded canyons, on north-facing slopes, and within 300 meters of water. Broadleaved upland forest, Lower montane coniferous forest, Upper montane coniferous forest.	<b>P</b> - The nearest CNDDDB likely nesting location for the species is less than two miles east of the project area with one isolated sighting of a deceased owl approximately 0.2 miles southeast of the southern-most portion of the project site. Suitable habitat exists within the southern portion of the project site east of the dead-end off Broken Bough (upper-most reach of the project area near the CNDDDB isolated sighting); however, given the existence of small-lot residential development, it is less likely that the species would nest within the project boundaries. It is possible that the species forages within the project boundaries, especially within a 300-foot buffer of the southeastern-most portion of the project boundaries. The species was not identified during surveys; however, given the presence of marginal habitat, it could be present in the future or prior to construction. Therefore, preconstruction surveys should be conducted prior to site disturbance to re-confirm absence.
<b>Mammals</b>			
Pallid bat <i>Antrozous pallidus</i>	BLM-S CDFW-SSC USFS-S WBWG-H	Deserts, grasslands, shrublands, woodlands and forests. Most common in open, dry habitats with rocky areas for roosting. Roosts must protect bats from high temperatures. Very sensitive to disturbance of roosting sites.	<b>U</b> – The nearest CNDDDB record occurs more than 5 miles from the project site. Given the species sensitivity to disturbances, the noise of residences and traffic along Tuolumne Road, the species is not expected to occur on site.
Townsend’s big-eared bat	BLM-S	Wide variety of habitats throughout CA,	<b>U</b> – The nearest CNDDDB record occurs more than 2

Species	Status	Preferred habitat(s)/a/	Likelihood to Occur on Site O= Present on Site (Occupied) U = Unlikely to Occur P = Potential to Occur
<i>Corynorhinus townsendii</i>	CDFW-SSC USFS-S	most common in mesic sites. Roosts in open hanging from walls and ceilings. Very sensitive to human disturbance. During the winter months, they hibernate either individually or in groups composed of several hundred bats, in mines or caves. In summer, bats roost in a caves, lava tubes, and man-made structures. In the summer, the females form nesting roosts. Males are solitary during the maternity periods.	miles from the project site. Given the species sensitivity to disturbances, the noise of residences and traffic along Tuolumne Road, and the lack of mines or caves, lava tubes suited to the species; it is not expected to occur on site.
Spotted bat <i>Euderma maculatum</i>	BLM-S CDFW-SSC WBWG-H	Occupies a wide variety of habitats from arid deserts and grasslands through mixed conifer forests. Feeds over water and along washes. Feeds almost entirely on moths. Needs rock crevices in cliffs or caves for roosting	<b>P</b> - The nearest CNDDDB record occurs more than seven miles from the project site. The species was not identified during surveys; however, given the wide variety of habitats suited to the species (mixed conifer, and presence of lake for foraging), it could occur within the project boundaries.  Conformance with construction hours as prescribed in the project minimization and avoidance measures (i.e., day work hours) will ensure that work does not occur during foraging hours for the species. In addition, preconstruction bat surveys will be required to ensure that bat roosts do not exist in close proximity to the proposed work area. Therefore, no impacts to the species are anticipated.
Western mastiff bat <i>Eumops perotis californicus</i>	CDFW SSC BLM-S	Many open, semi-arid to arid habitats. Chaparral Cismontane woodland Coastal scrub Valley & foothill grassland. Roosts in crevices in cliff faces, high buildings, trees and tunnels.	<b>U</b> – The nearest CNDDDB record is 3.7± miles from the project site. The project site lacks the species preferred high cliffs, tunnels and buildings for roosting sites of appropriate height to fill the large wingspan of the species for take-off. While tree crevices are present, they are not present in combination with preferred semi-arid to arid habitat. Neither the species nor evidence of the species was identified during surveys. The species is, therefore, not expected to occur.
Wolverine <i>Gulo gulo</i>	FPT CT CDFW FP	Habitats used in the southern Sierra Nevada include red fir, mixed conifer,	<b>U</b> – The nearest CNDDDB record occurs more than five miles from the project site. The project area is below

Species	Status	Preferred habitat(s)/a/	Likelihood to Occur on Site O= Present on Site (Occupied) U = Unlikely to Occur P = Potential to Occur
	USFS-S	lodgepole, subalpine conifer, alpine dwarf-shrub, barren, and probably wet meadows, montane chaparral, and Jeffrey pine. Elevations in the southern Sierra Nevada mostly are from 6400±-10,800± ft. May travel extensively. Prefers areas with low human disturbance. Uses caves, hollows in cliffs, logs, rock outcrops, and burrows for cover, generally in denser forest stages.	the species normal range. Given the proximity of urban uses and the species preference for low human disturbance; this combination makes it unlikely that the species occurs in the project boundaries. The species was not identified during surveys and few potential dens or burrows were identified in the area. Therefore, the species is not expected to occur.

/a/ All information from CDFW, CNDDDB Rarefind 5 and CDFW Wildlife habitat relationship system unless otherwise specified

/b/ USFWS - Petitioned as threatened February, 2023.

**KEY:**

**State of California**

CR: California endangered species act candidate for listing as rare (plants only)

CT: California endangered species act listed threatened

CE: California endangered species act listed endangered

C-T: California endangered species act Candidate for listing as threatened

CDFW-FP: Fully protected species – California Fish and Game Code

CDFW-SSC: CA Dpt. Fish and Wildlife Species of Special Concern

S1: Critically Imperiled. Critically imperiled in the state because of extreme rarity (often 5 or fewer populations) or because of factor(s) such as very steep declines making it especially vulnerable to extirpation from the state.

S2: Imperiled. Imperiled in the state because of rarity due to very restricted range, very few populations (often 20 or fewer), steep declines, or other factors making it very vulnerable to extirpation from the state.

**United States**

FC: Federal candidate for listing under the federal endangered species act

FE: Federal endangered species act listed endangered

FPT: Federally proposed threatened species

FT: Federal endangered species act listed threatened

E: Federal endangered species act petitioned for listing endangered

BLM-S: U.S. Bureau of Land Management Sensitive Species

USFWS BCC: United States Fish and Wildlife Service Bird of Conservation Concern

USFS-S: United States Forest Service Sensitive Species

MBTA: Migratory Bird Treaty Act

BGEPA: Bald and Golden Eagle Protection Act

**Other Organizations**

WBWG: Western bat working group

-H: High Priority

-M: Moderate Priority

IUCN–V: International Union for the Conservation of Nature - Vulnerable

CNPS: California Native Plant Society

List 1B: Rare, threatened, or endangered in California and elsewhere

List 1B.1 - Seriously endangered in California

List 1B.2 – Fairly/Moderately endangered in California

List 1B.3 - Not very endangered in California

List 3 – Needs more information

List 4 – Plants of limited distribution

AFS: American Fisheries Society

TH - Threatened

EN - Endangered

## Evaluation and Recommendations

### A. State and/or Federally Listed and Candidate Species Unlikely to be Present

#### Monarch butterfly (*Danaus plexippus*)

The monarch butterfly is a candidate for listing under the federal endangered species act for California overwintering populations.

Adults require a diversity of blooming nectar resources, fed on throughout migration routes and breeding grounds (spring through fall). The butterfly requires milkweed (primarily *Asclepias* spp.) for both laying eggs and feeding larvae and uses a variety of roosting trees along the fall migration route. Monarchs primarily overwinter in groves along the coast of California and Baja CA in trees including blue gum eucalyptus (*Eucalyptus globulus*), Monterey pine (*Pinus radiata*), and Monterey cypress (*Hesperocyparis macrocarpa*), that all serve as roost trees. Preferred locations receive indirect sunlight for overwintering, moisture for hydration, defense against freezing temperatures, and protection against strong winds with a mild winter climate which must be warm enough to prevent freezing yet cool enough to prevent lipid depletion.

The BSA lacks the species' preferred milkweed. Winter temperatures within the project area can drop below freezing and the area receives snow making the site unsuitable for wintering populations of the species. Therefore, it is not expected to occur in overwintering populations in the project area.

#### California red-legged frog (*Rana draytonii*)

The species is federally listed as threatened and is a California Department of Fish and Wildlife Species of Special Concern.

The species prefers quiet pools of streams, marshes, and occasionally ponds. Lowlands and foothills in or near permanent sources of deep water with dense, shrubby or emergent riparian vegetation. CNDDDB records for the species in Tuolumne County place its range here between 1,500± and 5,030± feet in elevation. The species requires 11-20 weeks of permanent water and access to estivation habitat. The species was not present during surveys.

The nearest CNDDDB record is more than 5 miles from the project site dating to 1975, the most recent occurrence in Tuolumne County. The site lacks the suitable habitat combination of quiet, relatively deep pools with permanent water for 11-20 weeks with dense or shrubby riparian vegetation (the on-site ponds are relatively shallow). Large bullfrogs were abundant within the large and small ponds (**Figure 5**) in the central Sherwood Forest subdivision. The species was not found during site surveys.

A review of the *History and Status of the California Red-Legged Frog (*Rana draytonii*) in the Sierra Nevada California, USA* (Barry and Fellers 2013) confirms that the BSA is not historically or currently known to support CRLF.

Based on the preceding, the species is not expected to occur within the project boundaries.

### B. State and/or Federally Listed and Candidate Species with Potential to be Present

#### Tompkins' sedge (*Carex tompkinsii*)

This plant is a candidate for listing as rare pursuant to the California endangered species act. It



is listed as a California Native Plant Society List 4 Species (plant of limited distribution).

The sedge prefers chaparral, cismontane woodland, lower and upper montane coniferous forests. It sometimes occurs in association with granitic soils and blooms between May and July across a wide elevational range (1,380'-6,005').

The California Native Plant Society (CNPS) rare plant inventory identifies the species more than five miles from the project site. Potentially suitable habitat exists within the wet, granitic soils located within the project's Expanded Project Alternative site boundaries (**Figure 5**). The species was not identified during project surveys; but the suitable moist granitic soils in the Expanded Project Alternative boundaries should be re-surveyed to ensure that the species does not occur if the Expanded Project Alternative is pursued:

#### **Expanded Alternative Project BIO-A**

If the Expanded Alternative Project is pursued, a qualified biologist shall conduct a preconstruction survey for special-status plant species within 30 days prior to construction, during the appropriate blooming period within areas of suitable habitat within the Expanded Alternative Project area. If Tompkins sedge or Mountain lady's slipper or any other special-status plant species are not found, then no further measures are necessary. If Tompkins sedge or Mountain lady's slipper or other special-status plant species are observed, consultation with CDFW will occur. For species listed pursuant to the California Endangered Species Act and Native Plant Protection Act; if take cannot be avoided, the project will obtain an incidental take permit pursuant to Fish and Game Code Section 2018(b) and/or California Code of Regulations, Title 14, Section 786.9(b) to comply with CESA and the NPPA.

Proper implementation of the preceding is expected to minimize any potential impact to the species to a less-than-significant level.

#### **Foothill yellow-legged frog (FYLF)**

The FYLF is listed as threatened under the California endangered species act (CESA). The species is also a U.S. Bureau of Land Management and U.S. Forest Service sensitive species and a California Department of Fish and Wildlife Species of Special Concern.

FYLFs occur in or near rocky streams in valley-foothill hardwood, valley-foothill hardwood- conifer, valley-foothill riparian, ponderosa pine, mixed conifer, mixed chaparral, and wet meadow types. Per the CDFW, unlike most other ranid frogs in California, FYLFs are rarely encountered (even on rainy nights) far from permanent water—not even seasonally or to and from breeding areas. Normal ranges are believed to be less than 33 feet with only occasional “long” distance movements up to 165 feet during periods of high water. In California, breeding and egg laying may commence any time from mid-March to May depending on local water conditions. Bullfrogs are implicated in the reduction of foothill yellow-legged frog populations in the Sierra. (California Wildlife Habitat Relationships System California Department of Fish and Wildlife California Interagency Wildlife Task Group, <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=1500&inline=1>).

The nearest CNDDDB record is within 2± miles of the project site. Potential habitat exists within Turnback Creek for the species in the Expanded Project Alternative boundaries where the stream substrate is rocky (**Figure 5**). Downstream, the habitat becomes marginal with only patches of rocky substrate and relatively heavy siltation. Large bullfrogs were identified and are abundant within the ponds in the central Sherwood Forest subdivision in association with Turnback Creek (**Figure 5**). The species was not identified during surveys. However, given the potential good

habitat in the Expanded Project Alternative area and marginal habitat in the remainder of the biological study area, the species could occur.

Turnback Creek outside of the Expanded Project Alternative area flows through a common central open space area within the Sherwood Forest subdivision encompassing a floodplain with steep banks on either side and surrounded by roadways providing setbacks from Turnback Creek of more than 50 feet except in limited locations (e.g., adjacent to the northeast portion of the upper pond, and the northern and southern Little John Road creek crossings). Proposed project activities will occur outside of the potential FYLF habitat area within this protected open space area minimizing the likelihood of direct impacts to the species with minor exceptions. However, indirect impacts to the species could occur in association with changes to water quality, equipment storage, or erosion adjacent to the potential habitat area that could adversely impact the species. The following mitigation measures are proposed to minimize this potential impact to a level of less-than significant:

**Avoidance and Minimization Measure BIO-1: Preconstruction FYLF Surveys**

The project proponent shall submit the name and credentials of the project's biologist(s) to CDFW for review and approval no less than 15 days prior to the onset of construction activities.

**Avoidance and Minimization Measure BIO-2: Preconstruction FYLF Surveys**

Preconstruction surveys should be conducted prior to site disturbance to re-confirm absence of FYLF within 24 hours of commencing site disturbances (including staging). The THCS D, or its representative, shall have a qualified biologist survey for FYLF within all potential habitats. If surveys are negative (i.e., no FYLF), measures BIO 3 through BIO -8 shall be implemented. If surveys are positive (FYLF are identified), BIO-2 through BIO-8 shall be implemented *and* a qualified biologist shall be present on site during all construction activities within 200 feet of Turnback Creek. The qualified biologist shall have the authority to stop work at any time as may be necessary to protect FYLFs or their habitat.

**Avoidance and Minimization Measure BIO-3: ESA Fencing**

Prior to commencing staging, construction, ground-disturbing or other project activities, install Environmentally Sensitive Area (ESA) fencing in the locations shown in **Figure 7:** to ensure protection of wetlands (creek, ponds, ditch), foothill yellow-legged frog habitat, and turtle habitat. Fencing shall remain in place until all project activities are completed. Any fencing falling down during construction shall be re-installed immediately. No parking shall occur adjacent to ESA fencing. No construction-related materials, equipment, trash or other related debris shall be allowed, stored, or staged within the fenced area. ESA fencing shall be shown on the final construction documents.

**Avoidance and Minimization Measure BIO-4: Staging and Spill Prevention**

Staging areas as well as fueling and maintenance activities shall be a minimum of 100 feet from riparian or aquatic habitats. Staging areas less than 100 feet from Angels Creek will only be allowed with authorization of the project biologist. The project proponent will prepare a spill prevention and clean-up plan.

**Avoidance and Minimization Measure BIO-5: Erosion Control**

Where and if bare ground will be exposed or disturbed in conjunction with project activities, the Contractor shall prepare an Erosion Control Plan for THCS D review and approval to address soil erosion within those areas. All soils disturbed by grading shall be reseeded or hydromulched or otherwise stabilized 48 hours in advance of a rain event. A likely rain/precipitation event is any weather pattern that is forecasted to have a 30% or greater chance of producing precipitation in the project area. The discharger shall obtain likely

precipitation forecast information from the National Weather Service Forecast Office (e.g., by entering the zip code of the project's location at <https://www.weather.gov/forecastmaps>). A qualifying rain event is one that produces 0.5 inch or more of precipitation within a 48 hour or greater period between rain events. Emergency erosion control measures shall be used as reasonably requested by the SPWC.

**Avoidance and Minimization Measure BIO-6: NPDES/SWPPP**

If necessary, submit to the State Water Resources Control Board Storm Water Permitting Unit, a Notice of Intent (NOI) to obtain coverage under the General Construction Activity Storm Water Permit - California's National Pollution Discharge Elimination System (NPDES) general permit for construction related storm water discharges for the disturbance of one acre or more. Disturbances of less than one acre may also require an NOI for coverage under the NPDES General Permit for construction-related storm water discharge and the State Water Resources Control Board Permitting Unit shall be contacted for determination of permit requirements. Commercial and Industrial developments may require an NOI even if less than one acre is to be disturbed. Obtain coverage or an exemption from these requirements. [Federal Water Pollution Control Act, Section 401, California Clean Water Act]. The permit may include preparation of a Stormwater Pollution Prevention Plan (SWPPP).

Silt fencing or other materials, as required, will be installed consistent with the applicable water quality requirements specified in the Project's Storm Water Pollution Prevention Plan (SWPPP) or Water Pollution Control Plan (WPCP). Fencing or other erosion control materials or devices shall be shown on the final construction documents. Erosion control devices will be avoided throughout Project construction and shall be monitored and maintained by the project manager throughout construction.

**Avoidance and Minimization Measure BIO-7: Environmental Awareness Training**

All contractors involved in site development, affected THSD personnel, will attend a mandatory Environmental Awareness Training prior to any site disturbances, including staging. A training log sign-in sheet will be maintained. The program will address proper implementation of minimization and avoidance measures contained herein. A video shall be prepared and is mandatory viewing prior to entering the project site for contractors or personnel not participating in initial training. Construction personnel shall be informed that if a FYLF is encountered in the work area, construction will stop and CDFW will be contacted for guidance.

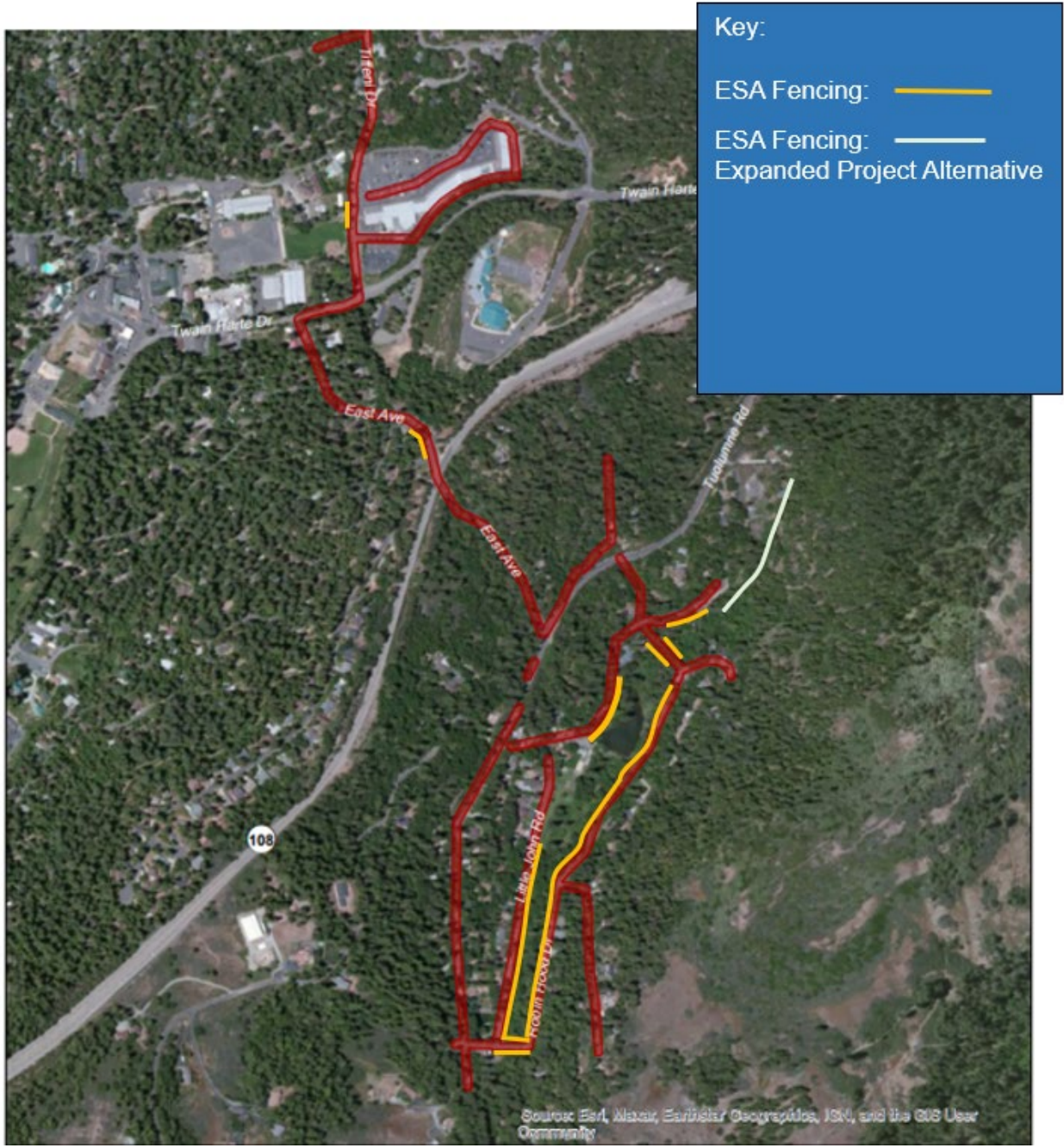
**Avoidance and Minimization Measure BIO-8: Stop Work**

If FYLFs are found at any time during project work, construction will stop and CDFW will be contacted immediately for further guidance.

Proper implementation of the preceding is expected to minimize the potential direct and indirect impacts to the species to a level of less than significant.

Figure 7: ESA Fencing Locations

|



Within the Expanded Project Alternative Area high value FYLF habitat occurs which lacks the open space “buffer” found in the remainder of the project area through Sherwood Forest. Activities would occur within 50 feet of Turnback Creek and could directly impact FYLF, a potentially significant adverse impact. The following mitigation measure is required in addition to those identified in the preceding paragraphs:

**Expanded Alternative Project BIO-B – FYLF Avoidance**

Prior to site disturbance in the Expanded Alternative Project boundaries, a qualified biologist shall survey for FYLF 48 hours or less before construction, including staging, commences. At least one day-time and one night-time survey is required. If findings are negative, ESA fencing shall be installed as shown in **Figure 7**. Fencing shall remain in place until all project activities are completed. Any fencing falling down during construction shall be re-installed immediately. No parking or material storage shall occur adjacent to ESA fencing. If findings are positive, work will not proceed until a formal consultation is undertaken with the United States Fish and Wildlife Service.

***Western pond turtle (WPT)***

The WPT is a U.S. Forest Service Sensitive species and a Priority 3 CDFW Species of Special Concern. It is also a U.S. BLM Sensitive Species in the southern portion of its range and has been petitioned for listing under the federal endangered species act (where it remains under review since 2015). The species is not listed pursuant to either the state or federal endangered species acts. The species is not a fully protected animal pursuant to Fish and Game Code Sections 3511, 4700, 5050 and 5515.

WPTs occur in a broad range of habitats include flowing streams, permanent lakes, ponds, reservoirs, settling ponds, marshes and other wetlands. The species may remain active year-round; however, this tends to occur only in the southern part of its range. WPTs require upland habitat suitable for nesting and overwintering. The species can persist, at least over moderate periods of time, in modified habitats with high human traffic (i.e. mill ponds).

Western pond turtles mate throughout the spring, summer, and fall. Nesting usually occurs in the spring or early summer normally within 300 feet of water, but may be located up to 1500 feet from water. Eggs hatch in the fall in the northern range and hatchlings often remain in the nest through the first winter. Soils for nesting must be loose enough to allow for excavation with disturbances infrequent enough to avoid nest disturbance. (Thomson, 2016).

The species was identified in the on-site pond/lake in prior years, but was absent during project surveys (perhaps due to relatively cool temperatures). It is assumed to be present. Given the proximity of the on-site ponds (**Figure 5**) to proposed construction activities, the potential for direct impacts to pond turtles could occur. Any potential nesting sites would be confined to the central open space area surrounding the creek and ponds given the presence of a well-traveled roadway circling the open space and surrounding residential development.

To ensure that no turtles are nesting near the proposed construction area or present during construction, the following minimization and avoidance measures are included:

**Avoidance and Minimization Measure BIO-9: Preconstruction Survey/Relocation for Western Pond Turtles**

Within 48 hours of commencing site disturbances, the THCSO, or its representative, shall have a qualified biologist survey for western pond turtles in the on-site ponds within Sherwood Forest Subdivision. If no WPT are found, Mitigation and Minimization Measures BIO- 2 through BIO-5

will be implemented. If WPT are identified, environmental training shall include and the following specific measures will be implemented to avoid WPT:

If found within project construction areas where harm to the turtle may occur from project activities, contractors shall contact the project biologist. The turtle first will be given the opportunity to leave the site on its own if the turtle actively is in the process of attempting to leave the site and is likely to successfully do so within the hour in the opinion of the qualified biologist. Otherwise, the qualified biologist will relocate the turtle downstream of the work area along the creek where permanent or nearly permanent water is pooled or present. At the discretion of the qualified biologist, turtles may be located upstream if higher quality pools with permanent or nearly permanent pools are identified. [California Code of Regulations, Title 14, Division 1, Chapter 5, Subsection 40(b)]<sup>5</sup>.

- Avoidance and Minimization Measure BIO-3: ESA Fencing**
- Avoidance and Minimization Measure BIO-4: Staging and Spill Prevention**
- Avoidance and Minimization Measure BIO-5: Erosion Control**
- Avoidance and Minimization Measure BIO-6: NPDES/SWPPP**
- Avoidance and Minimization Measure BIO-7: Environmental Awareness Training**

Proper implementation of the preceding is expected to minimize or avoid impacts to the species to a level of less than significant.

**California spotted owl (Sierra Nevada population) *Strix occidentalis ssp. occidentalis***

The owl is petitioned for listing as threatened under the federal endangered species act (as of February 2023), is a U.S. Bureau of Land Management sensitive species, CDFW species of special concern, U.S. Forest Service sensitive species and USFWS Bird of conservation concern.

The owl prefers mixed conifer forests, often with an understory of black oaks & other deciduous hardwoods with a canopy closure of greater than 40%. It is most often found in deep-shaded canyons, on north-facing slopes, and within 300 meters of water. The species also occupies broadleaved upland forest, lower montane coniferous forest, and upper montane coniferous forest.

The nearest CNDDDB likely nesting location for the species is less than two miles east of the project area with one isolated sighting of a deceased owl approximately 0.2 miles southeast of the southern-most portion of the project site. Suitable habitat exists within the southern portion of the project site east of the dead-end off Broken Bough (upper-most reach of the project area near the CNDDDB isolated sighting – **Figure 5**). Given the existence of small-lot residential development within the project boundaries, it is unlikely that the species would nest within the project boundaries. However, it is possible that the species could forage within the project boundaries, especially within a 300-foot buffer of the southeastern-most portion of the project boundaries. The species was not identified during surveys; however, given the presence of marginal habitat, it could be present in the future or prior to construction. Therefore, preconstruction surveys should be conducted prior to site disturbance to re-confirm absence as follows:

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<sup>5</sup> Pursuant to California Fish and Game Code Title 14, Subsection 40(b) the capture, temporary collection, or temporary possession of native amphibians done to avoid mortality or injury in connection with lawful activities is permitted and such live capture and release of native amphibians done to avoid death or injury may occur with the permission of the CDFW. Because WPTs are not listed species pursuant to the state or federal endangered species act, neither an incidental take permit nor consultation beyond securing permission from CDFW to capture and release the individuals, is required.

Note: In addition to comments received from Caltrans and the California Department of Fish and Wildlife, the construction survey window has been revised, and additional information pertaining to great grey owls and bald eagles have been added, although evaluations indicate that neither is expected to occur on site.

#### **Avoidance and Minimization Measure BIO-10: Preconstruction Survey Birds**

Prior to construction occurring between February 1<sup>st</sup> and September 30<sup>th</sup> (e.g., excavation, ground disturbance, or vegetation removal) a preconstruction survey for nesting birds will be conducted in accordance with the CDFW guidelines and a no-disturbance buffer will be established, if necessary.

If equipment staging, site preparation, vegetation removal, grading, excavation or other project-related construction activities are scheduled during the avian nesting season (generally February 1 through September 30), a focused survey for active nests would be conducted by a qualified biologist within 14 days prior to the beginning of project-related activities.

Surveys shall be conducted in all suitable habitats in the BSA.

If the pre-construction surveys identify nesting bird species within areas that are within 500 feet of construction activities for non-raptors and within 0.5 mile for raptors (including bald eagles and great grey owls), the following shall be implemented:

- A. Project-related construction impacts shall be avoided by establishment of appropriate no-work buffer zones to limit construction activities near the nest site. The no-work buffer zone shall be delineated by highly visible temporary construction fencing and shall be a minimum of 500 feet from non-raptor nests and 0.5 mile from raptor nests (including bald eagles and great grey owls), unless a qualified biologist, in consultation with CDFW, determines that alternative buffers are permissible due to the nature and location of the specific species, its nest, and existing conditions to which the species has been habituated. Alternative buffers shall be established for special status non-raptor nests in consultation with CDFW.
- B. In consultation with CDFW, monitoring of nest activity by a qualified biologist shall be required if the construction activity has potential to adversely affect the nest or nesting behavior of the bird.
- C. No construction activity shall commence within the no-work buffer zone until a CDFW-approved qualified biologist confirms that the nest is no longer active (e.g., young have fledged). For bald eagles, this period extends beyond fledging to a period when the young are no longer reliant on parental care for survival.
- D. Canada geese depredation is an exception to these provisions per measure BIO-11.

#### **Avoidance and Minimization Measure BIO-7: Environmental Awareness Training**

### **C. Special Status Species (Non-Listed, non-candidates) Present or Potentially Present**

#### **Mariposa clarkia (*Clarkia biloba ssp. australis*)**

The plant is a California Native Plant Society listed 1B.2 (Fairly/Moderately endangered in California) plant and a U.S. Forest Service Sensitive species. It prefers chaparral and cismontane woodlands at elevations between 3,200 and 4,850 feet. The species blooms between April and July.

The nearest CNDDDB record is from 1958 and is mapped approximately within ½ mile. The species was identified within the Expanded Project Alternative boundaries in somewhat rocky soils near the road and above rock outcrops in association with buckbrush (**Figure 5**). Project activities could impact the species during staging and project operations, although the proposed waterline expansion avoids the population. Therefore, avoidance is possible with the installation of ESA fencing. The following mitigation is proposed if the Expanded Project Alternative is pursued.

### **Expanded Alternative Project BIO-C**

If the Expanded Alternative Project is pursued, a qualified biologist shall conduct a preconstruction survey for Mariposa clarkia (*Clarkia biloba* ssp. *australis*) within 30 days prior to construction, during the appropriate blooming period within areas of suitable habitat within the Expanded Alternative Project area. A buffer of at least 25 feet shall be established around identified populations through the installation of Environmentally Sensitive Area (ESA) fencing to remain throughout project construction. If full avoidance is infeasible, those populations that can be protected will be protected through the installation of ESA fencing. For populations that cannot be avoided, CDFW shall be notified at least 10 days prior to construction activities, in accordance with the California Native Plant Protection Act of 1977 (CFGF Section 1900-1913) to allow sufficient time to allow for seed collection.

### **Mountain lady's slipper (*Cypripedium montanum*)**

This orchid species is a California Native Plant Society List 4 (limited distribution plant) and a U.S. Bureau of Land Management sensitive species. It prefers broad-leaved upland forest, cismontane woodland, and lower montane coniferous forest at elevations between 605' and 7,300' feet blooming between March and August.

There are no records in the CNDDDB for this species. Calflora identifies a 1944 record near downtown Twain Harte. The species was not identified during surveys during the bloom period for the species; however, suitable habitat exists near Turnback Creek in the recommended project area and will be avoided during construction pursuant to already identified project mitigation measures as follows:

### **Avoidance and Minimization Measure BIO-3: ESA Fencing**

However, near Turnback Creek within the Expanded Alternative Project area, project activities may occur within suitable habitat for the species, therefore, additional mitigation is required in the Expanded Alternative Project area as follows:

### **Expanded Alternative Project BIO-A**

Proper implementation of the preceding is expected to minimize or avoid impacts to these plant species to a level of less than significant.

### **Oak titmouse (*Baleophus inornatus*)**

The oak titmouse is a USFWS Bird Species of Conservation Concern. No CNDDDB records are currently maintained for the species. It is a common resident in a variety of habitats, but is primarily associated with oaks. And occurs in montane hardwood-conifer, montane hardwood, blue, valley, and coastal oak woodlands, and montane and valley foothill riparian habitats in cismontane California. The species' range encircles San Joaquin Valley onto the western slope of the Sierra



Nevada. While not observed during surveys, the species is widespread throughout the project area and is expected to occupy the BSA's oak woodlands. The following measures are proposed to ensure no impacts to the species will occur:

**Avoidance and Minimization Measure BIO-7: Environmental Awareness Training**

**Avoidance and Minimization Measure BIO-10: Preconstruction Survey Birds**

**Evening grosbeak (*Coccothraustes vespertinus*)**

This bird species is a US Fish and Wildlife Service bird species of conservation concern. Preferred breeding and foraging habitats include dense (mixed) coniferous forests dominated by firs (especially red fir). In the non-breeding season, it apparently depends upon an ample supply of buds, seeds, berries or other fruits, in trees and shrubs, rather than on any particular habitat. The grosbeak also forages in oaks, willows, and aspens, sometimes at a distance from nest. The species breeds approximately May 15 to August 10. Given the relatively broad habitat requirements for the species, marginal suitable habitat exists for this species on the project site. The species wasn't identified during surveys, but could occur prior to construction. Therefore, preconstruction surveys should be conducted prior to site disturbance to re-confirm absence as follows:

**Avoidance and Minimization Measure BIO-7: Environmental Awareness Training**

**Avoidance and Minimization Measure BIO-10: Preconstruction Survey Birds**

**Olive-sided flycatcher (*Contopus cooperi*)**

This bird species is a US Fish and Wildlife Service bird species of conservation concern. It is most numerous in montane conifer forests where tall trees overlook canyons, meadows, lakes or other open terrain. Extent and density of forest habitat is less important than the amount of air space that can be scanned from its highest perches. The flycatcher breeds approximately May 20 – August 31. Marginal habitat exists in proximity to the lake in Sherwood Forest subdivision. The species was not identified during surveys; however, given the presence of marginal habitat, it could be present in the future or prior to construction. Therefore, preconstruction surveys should be conducted prior to site disturbance to re-confirm absence as follows:

**Avoidance and Minimization Measure BIO-7: Environmental Awareness Training**

**Avoidance and Minimization Measure BIO-10: Preconstruction Survey Birds**

**Nuttall's woodpecker**

The Nuttall's woodpecker is a USFWS Bird Species of Conservation Concern. The species is a common, permanent resident of low-elevation riparian deciduous and oak habitats and surveys in oak woodlands. While not identified as having the potential to occur per the USFWS species list, a pair was found on the project site in suitable habitat (Figure 5).

**Avoidance and Minimization Measure BIO-7: Environmental Awareness Training**

**Avoidance and Minimization Measure BIO-10: Preconstruction Survey Birds**

Proper implementation of the preceding is expected to minimize or avoid impacts to these bird species to a level of less than significant.

**Birds**

The Migratory Bird Treaty Act (MBTA) makes it illegal for anyone to take, possess, import, export, transport, sell, purchase, barter, or offer for sale, purchase, or barter, any migratory bird, or the

parts, nests, or eggs of such a bird except under the terms of a valid permit issued pursuant to Federal regulations. The migratory bird species protected by the Act are listed in 50 CFR 10.13. Most bird species are protected pursuant to the MBTA. Some birds have additional protections under state and federal laws.

The special status oak titmouse, evening grosbeak, olive-sided flycatcher and California spotted owl are identified in Table 2 as having the potential to occur within the project boundaries. A pair of Nuttall's woodpeckers was identified within the BSA during surveys. All of these are USFWS bird species of conservation concern. The California spotted owl is also petitioned for listing as threatened under the federal endangered species act. These species are addressed in the preceding paragraphs. In addition to these special status bird species, most native bird species are protected pursuant to the MBTA that could or do occur in the BSA (See **Appendix A** for species identified on site during surveys). In addition to those birds listed in Appendix A, the following species found on site are of note:

### **Canada geese**

Canada geese were observed on site foraging throughout the BSA and with goslings on the pond within the BSA. Although unlikely to be necessary, as it appears that nesting is occurring in project open space, it is noted that while Canada Geese are protected pursuant to the Migratory Bird Treaty Act; but unlike many other MBTA-protected species, 50 Code of Federal Regulations Section 21.50 allows some flexibility for depredation under specific circumstances for resident Canada geese by registering online with the USFWS<sup>6</sup>. Depredation normally occurs in the form of a qualified biologist treating unhatched eggs to ensure that they do not hatch. To ensure that this option is included for this project should nesting occur outside of existing open space boundaries, the following measure is incorporated:

#### **BIO-11 Canada Geese Depredation**

Pursuant to 50 Code of Federal Regulations Section 21.50, should a nesting Canada goose be identified within proposed work boundaries (i.e., outside of subdivision common area surrounding Turnback Creek), depredation may occur by registering online with the USFWS<sup>7</sup>. Depredation will occur, if necessary, in the form of a qualified biologist treating unhatched eggs to ensure that they do not hatch.

In addition to the special status bird species noted above, other bird species protected pursuant to the Migratory Bird Treaty Act could or do occur in the BSA (See **Appendix A** for species identified on site during surveys). To minimize or avoid potential disturbances to nesting and/or breeding bird species protected pursuant to the MBTA, the following measures also apply to all MBTA protected bird species:

#### **Avoidance and Minimization Measure BIO-7: Environmental Awareness Training**

#### **Avoidance and Minimization Measure BIO-10: Preconstruction Survey Birds**

Proper implementation of the preceding is expected to minimize or avoid impacts to the species to a level of less than significant.

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<sup>6</sup> <https://epermits.fws.gov/eRCGR/> and <https://www.fws.gov/forms/3-200-13.pdf>

<sup>7</sup> <https://epermits.fws.gov/eRCGR/> and <https://www.fws.gov/forms/3-200-13.pdf>

## **Bats**

The following bat species has the potential to occur within the BSA (see Table 2):

### **Spotted bat (*Euderma maculatum*)**

This bat is a CDFW species of special concern and at high-risk per the Western Bat Working Group. It occupies a wide variety of habitats from arid deserts and grasslands through mixed conifer forests. The bat feeds over water and along washes almost entirely on moths. The species needs rock crevices or caves for roosting. The nearest CNDDDB record occurs more than seven miles from the project site. The species was not identified during surveys; however, given the wide variety of habitats suited to the species (mixed conifer, and presence of lake for foraging), it could roost and/or forage within the project boundaries. To ensure that no impacts to this species may occur, the following is required:

CDFW further recommends that the following be extended to include, in addition to the spotted bat; Western mastiff bats, pallid bats, and Townsend's big-eared bats; although evaluations indicate they are unlikely to occur. The following mitigation therefore, is applicable to spotted bats, Western mastiff bats, pallid bats, and Townsend's big-eared bats:

#### **Avoidance and Minimization Measure BIO-12: Preconstruction Surveys Suitable Bat Roosting (or Nursery) Areas & Provisions for Protection, if Identified**

At least 15 days before commencing ground-disturbing activities between April and September of the construction year, a qualified biologist will survey snags, trees, rock crevices and other suitable cavities and structures in the BSA for roosting bats or bat nurseries. If bats are not found and there is no evidence of bat use, construction may proceed. If bats are found or evidence of use by bats is present, CDFW shall be consulted for guidance on measures to avoid or minimize disturbance to the colony or nursery. Subject to CDFW approval, measures may include excluding bats from roosts before construction begins.

#### **Avoidance and Minimization Measure BIO-13: Hours of Construction.**

Project construction shall be limited to 7:00 a.m. to 7:00 p.m. unless an emergency situation exists.

#### **Avoidance and Minimization Measure BIO-7: Environmental Awareness Training**

Proper implementation of the preceding is expected to minimize or avoid impacts to bat species to a level of less than significant.

## **Species – General**

The proposed project is expected to involve construction materials including pipes and open trenching. Common and special status wildlife species may inhabit or use construction materials as cover and smaller species may fall into trenches and become trapped. To ensure the protection of both wildlife and construction workers, the following provisions are included to avoid injuries related to inadvertently trapping wildlife:

#### **Avoidance and Minimization Measure BIO-7: Environmental Awareness Training**

#### **Avoidance and Minimization Measure BIO-14: Avoid Inadvertent Animal Trapping During Construction**

To avoid inadvertently trapping special status or common animal species during construction, all excavated steep-walled holes or trenches more than two feet deep shall be covered at the end of each working day with plywood or similar material, or provided with one or more escape

ramps constructed of earth fill or wooden planks, or equivalent, at each end of the trench. Before such holes or trenches are filled, they will be thoroughly inspected for trapped animals. If at any time a trapped animal is discovered, the contractor shall place an escape ramp or other appropriate structure to allow the animal to escape. Alternatively, the contractor shall contact the project biologist or California Department of Fish and Wildlife for assistance. Similarly, stored pipes or other materials providing potential cover for animals will be inspected prior to installation or use to ensure that they are unoccupied.

Proper implementation of the preceding is expected to minimize or avoid impacts to common and special status species to a level of less than significant.

## **Habitats**

### ***Oak woodlands***

No trees are proposed for removal in conjunction with the proposed project. However, damage to individual native oaks may occur as a result of storing construction materials, spoils, soils or heavy equipment within the driplines of individual oaks. To reduce these potential impacts to the long-term survival of native oaks, the following measures are included:

#### **Avoidance and Minimization Measure BIO-7: Environmental Awareness Training**

#### **Avoidance and Minimization Measure BIO-15: Native Oak Tree Protection**

Throughout project construction, for native oak trees greater than 5" diameter at breast height (DBH), to the maximum extent feasible:

- Limit ground-disturbing activities to outside the dripline of native oaks and preferably outside 1-1/2 times the dripline;
- No storage equipment, supplies, vehicles, debris, construction wastewater, paint, stucco, concrete or any other clean-up waste, and temporary or permanent structures shall be placed within the driplines;
- Avoid cutting oak roots;
- Use boring, rather than trenching, within driplines
- Avoid equipment damage to limbs, trunks, and roots of oaks trees
- Do not attach signs, ropes, cables or other items to trees

Proper implementation of the preceding is expected to minimize or avoid impacts to oak woodlands to a level of less than significant.

### ***Wetlands and Other Waters***

As shown in **Figure 5**, the project area:

- A. Crosses a man-made ditch (which is piped below the roadway in the project area and will not be impacted by the project)
- B. Will occur surrounding an upper and lower pond within a central open space within the Sherwood Forest Subdivision

- C. Will occur around a central open space containing Turnback Creek (a USGS perennial stream) within the Sherwood Forest Subdivision
- D. Will cross Turnback Creek in two locations within the Sherwood Forest Subdivision over existing roadways without furthering encroachments into the creek
- E. Could encroach within 25 feet of Turnback Creek in the Alternative Expanded Project Area.
- F. Will avoid an intermittent drainage near the Twain Harte Shopping Center where the drainage is piped beneath the shopping center.

No fill of the identified drainages, ponds, or ditch (**Figure 5**) or alterations within the banks of streams is proposed or anticipated in conjunction with the proposed Project. The introduction of machinery and construction materials to the site has the potential to introduce non-native invasive species and runoff from site construction could indirectly impact water quality in the on-site ponds, ditch and creek adjacent to the construction area. To avoid inadvertent encroachment within these sensitive habitats, and to ensure that non-native invasive species are not spread to these habitats, the following measures are included:

**Avoidance and Minimization Measure BIO-16: Minimize the Spread of Invasive Plant Species**

Throughout project construction:

- All hay, straw, hay bales, straw bales, seed, mulch or other material used for erosion control on the project site shall be free of noxious weed<sup>8</sup> seeds and propagules (Food and Agriculture Code Sections 6305, 6341 and 6461).
- All equipment brought to the project site shall be thoroughly cleaned of all dirt and vegetation prior to entering the site to prevent importing noxious weeds and shall be cleaned of all dirt and vegetation prior to exiting the site to prevent exporting noxious weeds. (Food and Agriculture Code Section 5401).
- All material brought to the site, including rock, gravel, road base, sand, and topsoil, shall be free of noxious weeds<sup>9</sup> and propagules. (Food and Agriculture Code Sections 6305, 6341 and 6461).

**Avoidance and Minimization Measure BIO-3: ESA Fencing**

**Avoidance and Minimization Measure BIO-4: Staging and Spill Prevention**

**Avoidance and Minimization Measure BIO-5: Erosion Control**

**Avoidance and Minimization Measure BIO-6: NPDES/SWPPP**

**Avoidance and Minimization Measure BIO-7: Environmental Awareness Training**

Proper implementation of the preceding is expected to minimize or avoid impacts to wetlands and other waters to a level of less than significant.

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<sup>8</sup> Noxious weeds are as defined in Title 3, Division 4, Chapter 6, Section 4500 of the California Code of Regulations and the California Quarantine Policy – Weeds (Food and Agriculture Code, Sections 6305, 6341, and 6461).

<sup>9</sup> Ibid.

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## Appendices

## Appendix A: Species Identified During Biological Surveys

Survey dates: 4/23/23, 5/13/23, and 6/11/23

Species	Comments
<b>Trees</b>	
White fir <i>Abies concolor</i>	
Big leaf maple <i>Acer macrophyllum</i>	
Alder <i>Alnus</i> sp.	
Incense cedar <i>Calocedrus decurrens</i>	
Mountain dogwood <i>Cornus nuttallii</i>	
Sugar pine <i>Pinus lambertiana</i>	
Ponderosa pine <i>Pinus ponderosa</i>	
Cottonwood <i>Populus</i> sp.	
Douglas Fir <i>Pseudotsuga menziesii</i>	
Canyon live oak <i>Quercus chrysolepis</i>	
Black oak <i>Quercus kelloggii</i>	
Live oak <i>Quercus wislizeni</i>	
Willow <i>Salix</i> sp.. <i>Salix lasiolepis</i>	
<b>Shrubs</b>	
Buckeye <i>Aesculus californica</i>	
Common manzanita <i>Arctostaphylos manzanita</i>	
Whiteleaf manzanita <i>Arctostaphylos viscida</i>	
Scotch Broom <i>Cytisus scoparius</i>	Non-native invasive
Buckbrush <i>Ceanothus cuneatus</i>	
Deerbrush <i>Ceanothus integerrimus</i>	
Mt. Misery, Bear clover <i>Chamaebatia foliolosa</i>	
Coffeeberry, CA Buckthorn <i>Frangula californica</i>	
Sierra gooseberry <i>Ribes roezlii</i>	
Elderberry	



Species	Comments
<i>Sambucus</i> sp.	
<b>Vines</b>	
Himalayan blackberries <i>Rubus armeniacus</i>	Non-native
<b>Ferns</b>	
Horsetail <i>Equisetum</i> sp.	
Western brackenfern <i>Pteridium aquilinum</i>	
<b>Herbs - Eudicots</b>	
American bird's foot trefoil <i>Acmispon americanus</i>	
Anemone "Blanda blue"	Ornamental, escapee
Mugwort <i>Artemisia douglasiana</i>	
Heart-leaved bittercress <i>Cardamine cordifolia</i>	
Chickweed <i>Cerastium fontanum</i>	Non-native
Mariposa clarkia <i>Clarkia biloba</i> ssp. <i>australis</i>	SPECIAL STATUS – Located in Expanded Project Alternative boundaries
Red-stemmed filaree <i>Erodium cicutarium</i>	
Seep, Yellow monkeyflower <i>Erythranthe guttata</i>	
Musk monkeyflower <i>Erythranthe moschatus</i>	
Forsythia	Ornamental
Common bedstraw <i>Galium aparine</i>	
Gumweed <i>Grindelia</i> sp.	
Aaron's beard, St. John's wort <i>Hypericum calycinum</i>	Non-native
Henbit <i>Lamium amplexicaule</i>	
Everlasting pea <i>Lathyrus latifolius</i>	
Meadowfoam <i>Limnanthes alba</i>	
Big-leaf lupine <i>Lupinus latifolius</i>	
Small baby blue-eyes <i>Nemophila heterophylla</i>	
Showy phlox <i>Phlox speciosa</i>	
Plantain <i>Plantago lanceolatum</i>	
Curly dock <i>Rumex crispus</i>	
Pacific sanicle <i>Sanicula crassicaulis</i>	

Species	Comments
Periwinkle <i>Vinca</i> sp.	Non-native
Shelton's violet <i>Viola sheltonii</i>	
<b>Herbs- Monocots</b>	
Yellow star-tulip, kitten ears <i>Calochortus monophyllus</i>	
Common soaproot <i>Chlorogallum pomeridianum</i>	
Washington lily <i>Lilium washingtonianum</i>	
Starry false lily of the valley <i>Maianthemum stellatum</i>	
Narrow-petaled wakerobin <i>Trillium angustipetalum</i>	
Cattail <i>Typha</i> sp.	

Animals	
Species	Comments
<b>Amphibians</b>	
American bullfrog <i>Rana catesbeiana</i>	
<b>Reptiles</b>	
Western pond turtle <i>Actinemys (Emys) marmorata</i>	Not identified in current survey, but has been identified previously in on-site lake/pond
Western fence lizard <i>Sceloporus occidentalis</i>	
<b>Birds</b>	
Mallard <i>Anas platyrhynchos</i>	With hatchlings
Canada goose <i>Branta canadensis</i>	With goslings /a/
Red-shouldered hawk <i>Buteo lineatus</i>	
Turkey vulture <i>Cathartes aura</i>	
Western wood-pewee <i>Contopus sorididulus</i>	
Stellar's jay <i>Cyanocitta stelleri</i>	
Common raven <i>Corvus corax</i>	
Yellow-rump warbler <i>Dendroica coronata</i>	
Pacific slope flycatcher <i>Epidonax difficilis</i>	Along ditch adjacent to Expanded Project Alternative boundaries
Brewer's blackbird <i>Euphagus cyanocephalus</i>	
Dark-eyed junco <i>Junco hyemalis</i>	
Acorn woodpecker <i>Melanerpes formicivorus</i>	
Song sparrow <i>Melospiza melodia</i>	Along creek, central Sherwood Forest
Black-headed grosbeak <i>Pheucticus melanocephalus</i>	
Nuttall's woodpecker <i>Picoides nuttallii</i>	USFWS BCC
Spotted towhee <i>Pipilo maculatus</i>	
Black phoebe <i>Sayornis nigricans</i>	
White-breasted nuthatch <i>Sitta carolinensis</i>	
American robin <i>Turdus migratorius</i>	
<b>Mammals</b>	
Mule deer <i>Odocoileus hemionus</i>	

Animals	
Species	Comments
Western grey squirrel <i>Sciurus griseus</i>	

/a/ MBTA protects this bird species; however, under special circumstances, depredation permits may be issued.

## Appendix B: California Department of Fish and Wildlife Species List

### Focus List within 2 Miles of the Project Site

OBJECTID	Scientific_Name	Common_Name
54078	<i>Margaritifera falcata</i>	western pearlshell
9386	<i>Lomatium stebbinsii</i>	Stebbins' lomatium
26020	<i>Diplacus pulchellus</i>	yellow-lip pansy monkeyflower
94759	<i>Navarretia miwukensis</i>	Mi-Wuk navarretia
85405	<i>Navarretia miwukensis</i>	Mi-Wuk navarretia
714	<i>Erythronium tuolumnense</i>	Tuolumne fawn lily
72785	<i>Erythronium tuolumnense</i>	Tuolumne fawn lily
48331	<i>Erythronium tuolumnense</i>	Tuolumne fawn lily
42282	<i>Diplacus pulchellus</i>	yellow-lip pansy monkeyflower
93560	<i>Navarretia miwukensis</i>	Mi-Wuk navarretia
60270	<i>Clarkia biloba ssp. australis</i>	Mariposa clarkia
101781	<i>Stygobromus harai</i>	Hara's Cave amphipod
44218	<i>Clarkia australis</i>	Small's southern clarkia
93332	<i>Allium tribracteatum</i>	three-bracted onion
85409	<i>Navarretia miwukensis</i>	Mi-Wuk navarretia
42243	<i>Diplacus pulchellus</i>	yellow-lip pansy monkeyflower
81010	<i>Clarkia biloba ssp. australis</i>	Mariposa clarkia
94718	<i>Clarkia biloba ssp. australis</i>	Mariposa clarkia
85395	<i>Navarretia miwukensis</i>	Mi-Wuk navarretia



**Summary Table Report**  
**California Department of Fish and Wildlife**  
**California Natural Diversity Database**



Query Criteria: Quad-span style="color:Red"> IS </span>(Twain Harte (3812012))

Name (Scientific/Common)	CNDDB Ranks	Listing Status (Fed/State)	Other Lists	Elev. Range (ft.)	Total EO's	Element Occ. Ranks						Population Status		Presence		
						A	B	C	D	X	U	Historic > 20 yr	Recent <= 20 yr	Extant	Poss. Extirp.	Extirp.
<i>Accipiter gentilis</i> northern goshawk	G5 S3	None None	BLM_S-Sensitive CDFW_S-Sensitive CDFW_SSC-Species of Special Concern IUCN_LC-Least Concern USFS_S-Sensitive	3,800 3,800	433 S:2	0	2	0	0	0	0	2	0	2	0	0
<i>Allium tribracteatum</i> three-bracted onion	G2 S2	None None	Rare Plant Rank - 1B.2 SB_SBBG-Santa Barbara Botanic Garden USFS_S-Sensitive	4,125 5,600	31 S:5	0	3	0	0	0	3	0	6	6	0	0
<i>Antrozous pallidus</i> pallid bat	G4 S3	None None	BLM_S-Sensitive CDFW_SSC-Species of Special Concern IUCN_LC-Least Concern USFS_S-Sensitive	4,990 4,990	420 S:1	0	0	0	0	0	1	1	0	1	0	0
<i>Clarkia australis</i> Small's southern clarkia	G2 S2	None None	Rare Plant Rank - 1B.2 BLM_S-Sensitive USFS_S-Sensitive	3,800 3,800	41 S:1	0	0	0	0	0	1	1	0	1	0	0
<i>Clarkia biloba ssp. australis</i> Mariposa clarkia	G4G5T3 S3	None None	Rare Plant Rank - 1B.2 SB_CalBG/RSABG-California/Rancho Santa Ana Botanic Garden SB_SBBG-Santa Barbara Botanic Garden USFS_S-Sensitive	3,200 4,850	119 S:15	1	4	2	0	0	8	7	8	15	0	0
<i>Corynorhinus townsendii</i> Townsend's big-eared bat	G4 S2	None None	BLM_S-Sensitive CDFW_SSC-Species of Special Concern IUCN_LC-Least Concern USFS_S-Sensitive	3,080 3,080	635 S:1	0	0	0	0	0	1	1	0	1	0	0



**Summary Table Report**  
 California Department of Fish and Wildlife  
 California Natural Diversity Database



Name (Scientific/Common)	CNDDB Ranks	Listing Status (Fed/State)	Other Lists	Elev. Range (ft.)	Total EO's	Element Occ. Ranks						Population Status		Presence		
						A	B	C	D	X	U	Historic > 20 yr	Recent <= 20 yr	Extant	Poss. Extirp.	Extirp.
<i>Diplacus pulchellus</i> yellow-lip pansy monkeyflower	G2 S2	None None	Rare Plant Rank - 1B.2 BLM_S-Sensitive SB_SBBG-Santa Barbara Botanic Garden USFS_S-Sensitive	3,665 5,080	78 S:14	0	7	1	0	1	5	7	7	13	1	0
<i>Erythronium tuolumneense</i> Tuolumne fawn lily	G2G3 S2S3	None None	Rare Plant Rank - 1B.2 BLM_S-Sensitive SB_CalBG/RSABG-California/Rancho Santa Ana Botanic Garden USFS_S-Sensitive	2,900 4,600	35 S:9	2	2	0	0	0	5	5	4	9	0	0
<i>Euderma maculatum</i> spotted bat	G4 S3	None None	BLM_S-Sensitive CDFW_SSC-Species of Special Concern IUCN_LC-Least Concern	3,520 3,520	68 S:1	0	0	0	0	0	1	1	0	1	0	0
<i>Gulo gulo</i> wolverine	G4 S1	Proposed Threatened Threatened	CDFW_FP-Fully Protected IUCN_LC-Least Concern USFS_S-Sensitive	5,100 5,100	174 S:1	0	0	0	0	0	1	1	0	1	0	0
<i>Haliaeetus leucocephalus</i> bald eagle	G5 S3	Delisted Endangered	BLM_S-Sensitive CDF_S-Sensitive CDFW_FP-Fully Protected IUCN_LC-Least Concern USFS_S-Sensitive	4,300 4,300	332 S:1	1	0	0	0	0	0	0	1	1	0	0
<i>Lomatium stebbinsii</i> Stebbins' lomatium	G2 S2	None None	Rare Plant Rank - 1B.1 SB_SBBG-Santa Barbara Botanic Garden USFS_S-Sensitive	3,645 5,600	124 S:14	2	6	2	0	2	2	5	9	12	2	0
<i>Margaritifera falcata</i> western pearlshell	G5 S1S2	None None	IUCN_NT-Near Threatened	2,800 2,800	78 S:1	0	0	0	0	0	1	0	1	1	0	0
<i>Monadenia mormonum hirsuta</i> hirsute Sierra sideband	G2T1 S1	None None	BLM_S-Sensitive IUCN_DD-Data Deficient	2,794 2,794	4 S:1	0	0	0	0	0	1	1	0	1	0	0
<i>Navarretia miwukensis</i> MI-Wuk navarretia	G1G2 S1S2	None None	Rare Plant Rank - 1B.2 SB_UCSC-UC Santa Cruz	3,480 4,900	12 S:6	0	0	0	0	1	5	3	3	5	1	0



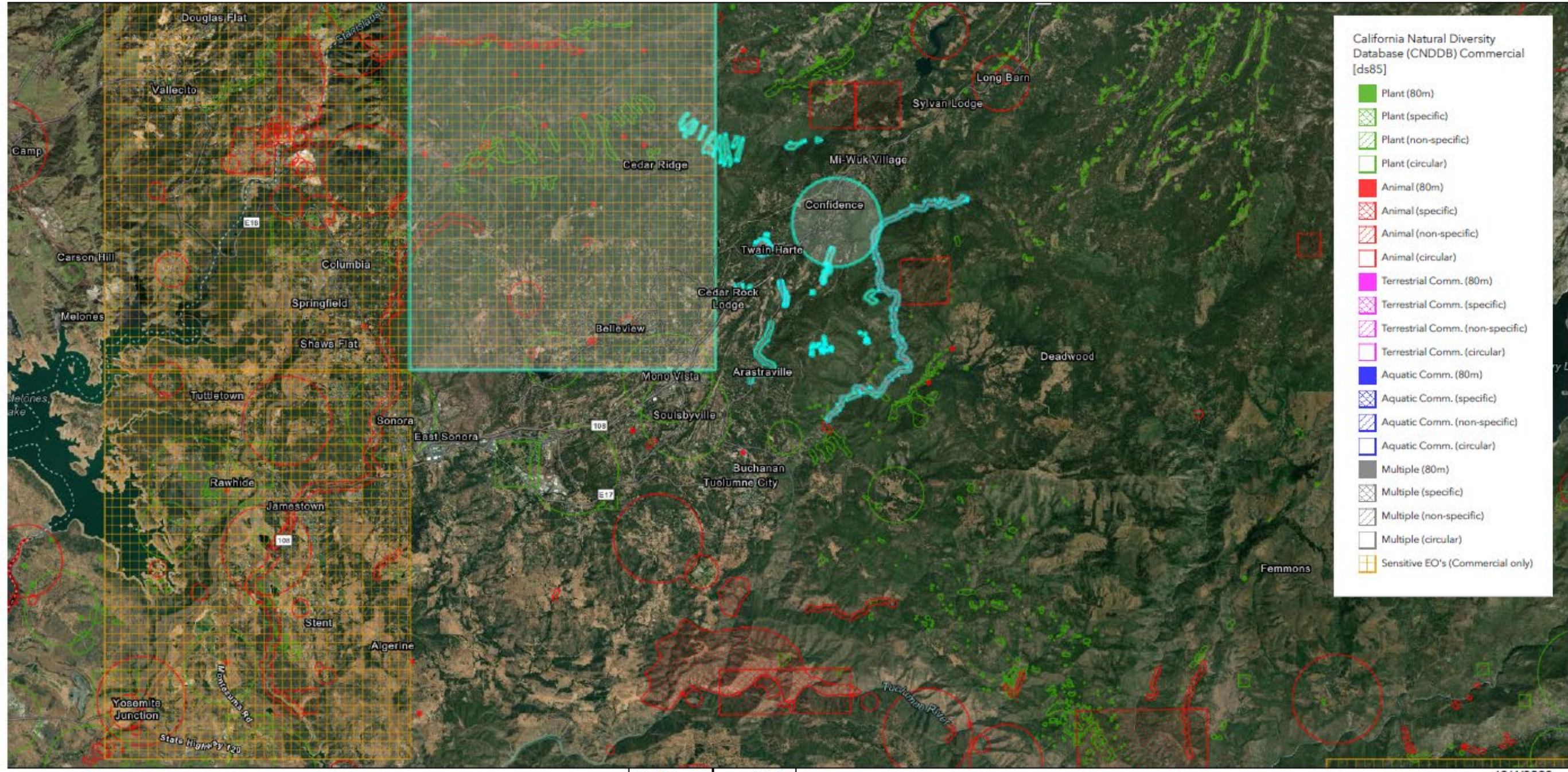
**Summary Table Report**  
 California Department of Fish and Wildlife  
 California Natural Diversity Database



Name (Scientific/Common)	CNDDB Ranks	Listing Status (Fed/State)	Other Lists	Elev. Range (ft.)	Total EO's	Element Occ. Ranks						Population Status		Presence		
						A	B	C	D	X	U	Historic > 20 yr	Recent <= 20 yr	Extant	Poss. Extrp.	Extrp.
<i>Rana boylei</i> pop. 5 foothill yellow-legged frog - south Sierra DPS	G3T2	Endangered	BLM_S-Sensitive	2,584	273	0	0	0	0	0	5	1	4	5	0	0
	S2	Endangered	USFS_S-Sensitive	3,800	S:5											
<i>Strix nebulosa</i> great gray owl	G5	None	CDF_S-Sensitive	3,730	79	0	1	0	0	0	0	1	0	1	0	0
	S1	Endangered	IUCN_LC-Least Concern USFS_S-Sensitive	3,730	S:1											



# BIOS Map (THCSD Water Distribution System Improvements)



3.67 km    2.28 mi

12/4/2023

## **Appendix C: US Fish and Wildlife Service Species List**



## United States Department of the Interior

FISH AND WILDLIFE SERVICE  
Sacramento Fish And Wildlife Office  
Federal Building  
2800 Cottage Way, Room W-2605  
Sacramento, CA 95825-1846  
Phone: (916) 414-6600 Fax: (916) 414-6713



In Reply Refer To:

December 04, 2023

Project Code: 2024-0022672

Project Name: THCS D Water Distribution System Improvement Project

Subject: List of threatened and endangered species that may occur in your proposed project location or may be affected by your proposed project

To Whom It May Concern:

The enclosed species list identifies threatened, endangered, proposed, and candidate species, as well as proposed and final designated critical habitat, that may occur within the boundary of your proposed project and/or may be affected by your proposed project. The species list fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*).

New information based on updated surveys, changes in the abundance and distribution of species, changed habitat conditions, or other factors could change this list. Please feel free to contact us if you need more current information or assistance regarding the potential impacts to federally proposed, listed, and candidate species and federally designated and proposed critical habitat. Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the Act, the accuracy of this species list should be verified after 90 days. This verification can be completed formally or informally as desired. The Service recommends that verification be completed by visiting the IPaC website at regular intervals during project planning and implementation for updates to species lists and information. An updated list may be requested through IPaC by completing the same process used to receive the enclosed list.

The purpose of the Act is to provide a means whereby threatened and endangered species and the ecosystems upon which they depend may be conserved. Under sections 7(a)(1) and 7(a)(2) of the Act and its implementing regulations (50 CFR 402 *et seq.*), Federal agencies are required to utilize their authorities to carry out programs for the conservation of threatened and endangered species and to determine whether projects may affect threatened and endangered species and/or designated critical habitat.

A Biological Assessment is required for construction projects (or other undertakings having similar physical impacts) that are major Federal actions significantly affecting the quality of the human environment as defined in the National Environmental Policy Act (42 U.S.C. 4332(2))

(c)). For projects other than major construction activities, the Service suggests that a biological evaluation similar to a Biological Assessment be prepared to determine whether the project may affect listed or proposed species and/or designated or proposed critical habitat. Recommended contents of a Biological Assessment are described at 50 CFR 402.12.

If a Federal agency determines, based on the Biological Assessment or biological evaluation, that listed species and/or designated critical habitat may be affected by the proposed project, the agency is required to consult with the Service pursuant to 50 CFR 402. In addition, the Service recommends that candidate species, proposed species and proposed critical habitat be addressed within the consultation. More information on the regulations and procedures for section 7 consultation, including the role of permit or license applicants, can be found in the "Endangered Species Consultation Handbook" at: <https://www.fws.gov/sites/default/files/documents/endangered-species-consultation-handbook.pdf>

**Migratory Birds:** In addition to responsibilities to protect threatened and endangered species under the Endangered Species Act (ESA), there are additional responsibilities under the Migratory Bird Treaty Act (MBTA) and the Bald and Golden Eagle Protection Act (BGEPA) to protect native birds from project-related impacts. Any activity, intentional or unintentional, resulting in take of migratory birds, including eagles, is prohibited unless otherwise permitted by the U.S. Fish and Wildlife Service (50 C.F.R. Sec. 10.12 and 16 U.S.C. Sec. 668(a)). For more information regarding these Acts, see [Migratory Bird Permit | What We Do | U.S. Fish & Wildlife Service \(fws.gov\)](https://www.fws.gov/partner/council-conservation-migratory-birds).

The MBTA has no provision for allowing take of migratory birds that may be unintentionally killed or injured by otherwise lawful activities. It is the responsibility of the project proponent to comply with these Acts by identifying potential impacts to migratory birds and eagles within applicable NEPA documents (when there is a federal nexus) or a Bird/Eagle Conservation Plan (when there is no federal nexus). Proponents should implement conservation measures to avoid or minimize the production of project-related stressors or minimize the exposure of birds and their resources to the project-related stressors. For more information on avian stressors and recommended conservation measures, see <https://www.fws.gov/library/collections/threats-birds>.

In addition to MBTA and BGEPA, Executive Order 13186: *Responsibilities of Federal Agencies to Protect Migratory Birds*, obligates all Federal agencies that engage in or authorize activities that might affect migratory birds, to minimize those effects and encourage conservation measures that will improve bird populations. Executive Order 13186 provides for the protection of both migratory birds and migratory bird habitat. For information regarding the implementation of Executive Order 13186, please visit <https://www.fws.gov/partner/council-conservation-migratory-birds>.

We appreciate your concern for threatened and endangered species. The Service encourages Federal agencies to include conservation of threatened and endangered species into their project planning to further the purposes of the Act. Please include the Consultation Code in the header of this letter with any request for consultation or correspondence about your project that you submit to our office.

Attachment(s):

- Official Species List

## **OFFICIAL SPECIES LIST**

This list is provided pursuant to Section 7 of the Endangered Species Act, and fulfills the requirement for Federal agencies to "request of the Secretary of the Interior information whether any species which is listed or proposed to be listed may be present in the area of a proposed action".

This species list is provided by:

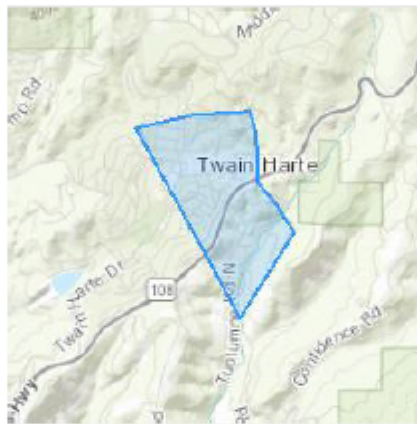
**Sacramento Fish And Wildlife Office**  
Federal Building  
2800 Cottage Way, Room W-2605  
Sacramento, CA 95825-1846  
(916) 414-6600

## PROJECT SUMMARY

Project Code: 2024-0022672  
Project Name: THCS D Water Distribution System Improvement Project  
Project Type: Water Supply Pipeline - Maintenance/Modification - Below Ground  
Project Description: The Twain Harte Community Services District (THCS D) proposes to improve water system fire flow in the Pressure Zones 4 and 6 referred to as the Sherwood Distribution System in the community of Twain Harte, Tuolumne County, California (the Project) through pipeline replacement, upsizing, relocation into road ROWs and/or pipeline abandonment through existing residential lots and the Twain Harte Shopping Center

### Project Location:

The approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@38.03463355,-120.22370718686105,14z>



Counties: Tuolumne County, California

## ENDANGERED SPECIES ACT SPECIES

There is a total of 5 threatened, endangered, or candidate species on this species list.

Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species.

IPaC does not display listed species or critical habitats under the sole jurisdiction of NOAA Fisheries<sup>1</sup>, as USFWS does not have the authority to speak on behalf of NOAA and the Department of Commerce.

See the "Critical habitats" section below for those critical habitats that lie wholly or partially within your project area under this office's jurisdiction. Please contact the designated FWS office if you have questions.

1. [NOAA Fisheries](#), also known as the National Marine Fisheries Service (NMFS), is an office of the National Oceanic and Atmospheric Administration within the Department of Commerce.

### BIRDS

NAME	STATUS
California Spotted Owl <i>Strix occidentalis occidentalis</i> Population: Sierra Nevada No critical habitat has been designated for this species. Species profile: <a href="https://ecos.fws.gov/ecp/species/7266">https://ecos.fws.gov/ecp/species/7266</a>	Proposed Threatened

### REPTILES

NAME	STATUS
Northwestern Pond Turtle <i>Actinemys marmorata</i> No critical habitat has been designated for this species. Species profile: <a href="https://ecos.fws.gov/ecp/species/1111">https://ecos.fws.gov/ecp/species/1111</a>	Proposed Threatened

### AMPHIBIANS

NAME	STATUS
California Red-legged Frog <i>Rana draytonii</i> There is final critical habitat for this species. Your location does not overlap the critical habitat. Species profile: <a href="https://ecos.fws.gov/ecp/species/2891">https://ecos.fws.gov/ecp/species/2891</a>	Threatened
Foothill Yellow-legged Frog <i>Rana boylei</i> Population: South Sierra Distinct Population Segment (South Sierra DPS) No critical habitat has been designated for this species. Species profile: <a href="https://ecos.fws.gov/ecp/species/5133">https://ecos.fws.gov/ecp/species/5133</a>	Endangered

## INSECTS

NAME	STATUS
Monarch Butterfly <i>Danaus plexippus</i> No critical habitat has been designated for this species. Species profile: <a href="https://ecos.fws.gov/ecp/species/9743">https://ecos.fws.gov/ecp/species/9743</a>	Candidate

## CRITICAL HABITATS

THERE ARE NO CRITICAL HABITATS WITHIN YOUR PROJECT AREA UNDER THIS OFFICE'S JURISDICTION.

YOU ARE STILL REQUIRED TO DETERMINE IF YOUR PROJECT(S) MAY HAVE EFFECTS ON ALL ABOVE LISTED SPECIES.



**IPAC USER CONTACT INFORMATION**

Agency: Twain Harte Community Services District  
Name: Amy Augustine  
Address: P.O. Box 3117  
City: Sonora  
State: CA  
Zip: 95370  
Email: tuolandplanner@gmail.com  
Phone: 2095327376

**LEAD AGENCY CONTACT INFORMATION**

Lead Agency: California State Water Resources Control Board  
Name: Tom Trott  
Email: ttrott@twainhartecsd.com  
Phone: 2095863172

## **Bird Species of Conservation Concern - USFWS**

NAME

BREEDING SEASON

**Bald Eagle** *Haliaeetus leucocephalus*

This is not a Bird of Conservation Concern (BCC) in this area, but warrants attention because of the Eagle Act or for potential susceptibilities in offshore areas from certain types of development or activities.

Breeds Jan 1 to Aug 31

**Black-throated Gray Warbler** *Dendroica nigrescens*

This is a Bird of Conservation Concern (BCC) only in particular Bird Conservation Regions (BCRs) in the continental USA

Breeds May 1 to Jul 20

**Cassin's Finch** *Carpodacus cassinii*

This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.

<https://ecos.fws.gov/ecp/species/9462>

Breeds May 15 to Jul 15

**Evening Grosbeak** *Coccothraustes vespertinus*

This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.

Breeds May 15 to Aug 10

**Golden Eagle** *Aquila chrysaetos*

This is not a Bird of Conservation Concern (BCC) in this area, but warrants attention because of the Eagle Act or for potential susceptibilities in offshore areas from certain types of development or activities.

<https://ecos.fws.gov/ecp/species/1680>

Breeds Dec 1 to Aug 31

**Lewis's Woodpecker** *Melanerpes lewis*

This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.

<https://ecos.fws.gov/ecp/species/9408>

Breeds Apr 20 to Sep 30

**Oak Titmouse** *Baeolophus inornatus*

This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.

<https://ecos.fws.gov/ecp/species/9656>

Breeds Mar 15 to Jul 15

**Olive-sided Flycatcher** *Contopus cooperi*

This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.

<https://ecos.fws.gov/ecp/species/3914>

Breeds May 20 to Aug 31

**Wrentit** *Chamaea fasciata*

This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.

Breeds Mar 15 to Aug 10

# National Wetlands Inventory

# Wetlands in the National Wetlands Inventory (NWI)

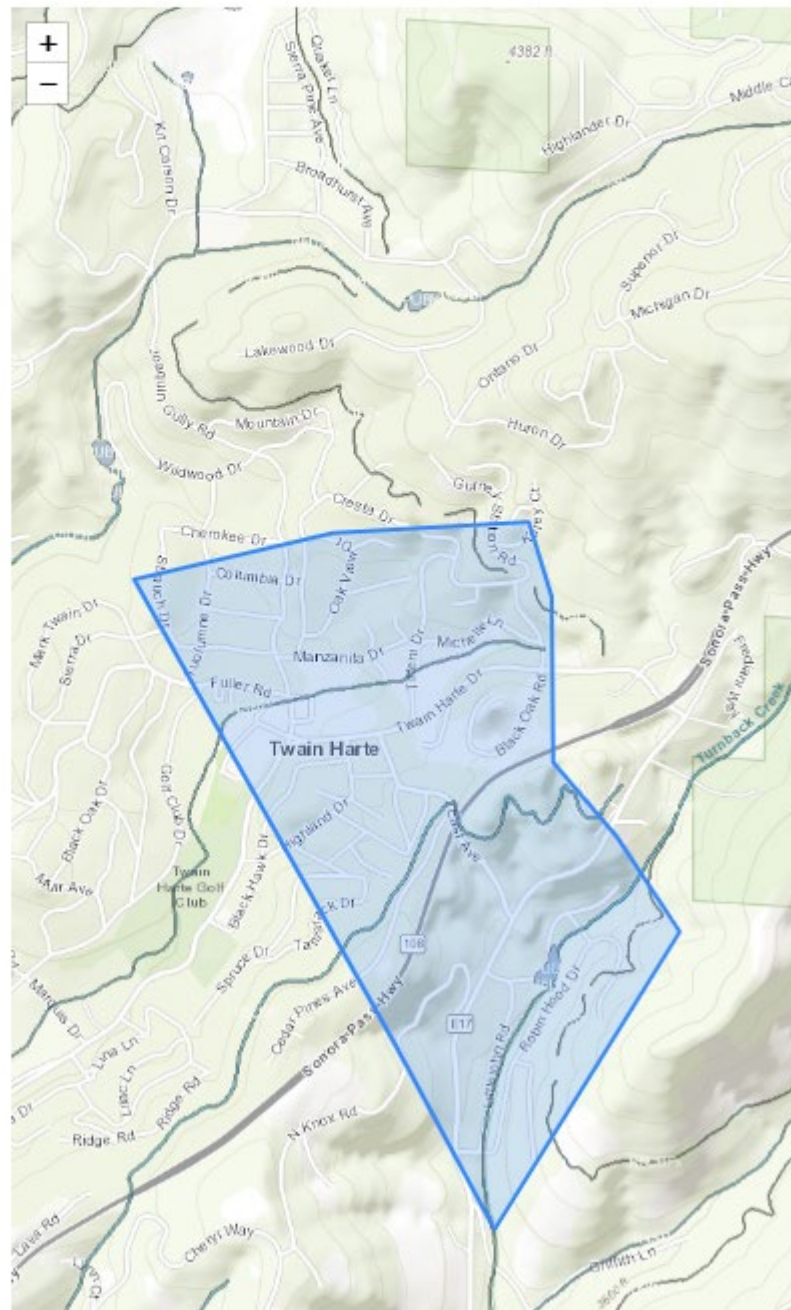
Impacts to [NWI wetlands](#) and other aquatic habitats may be subject to regulation under Section 404 of the Clean Water Act, or other State/Federal statutes.

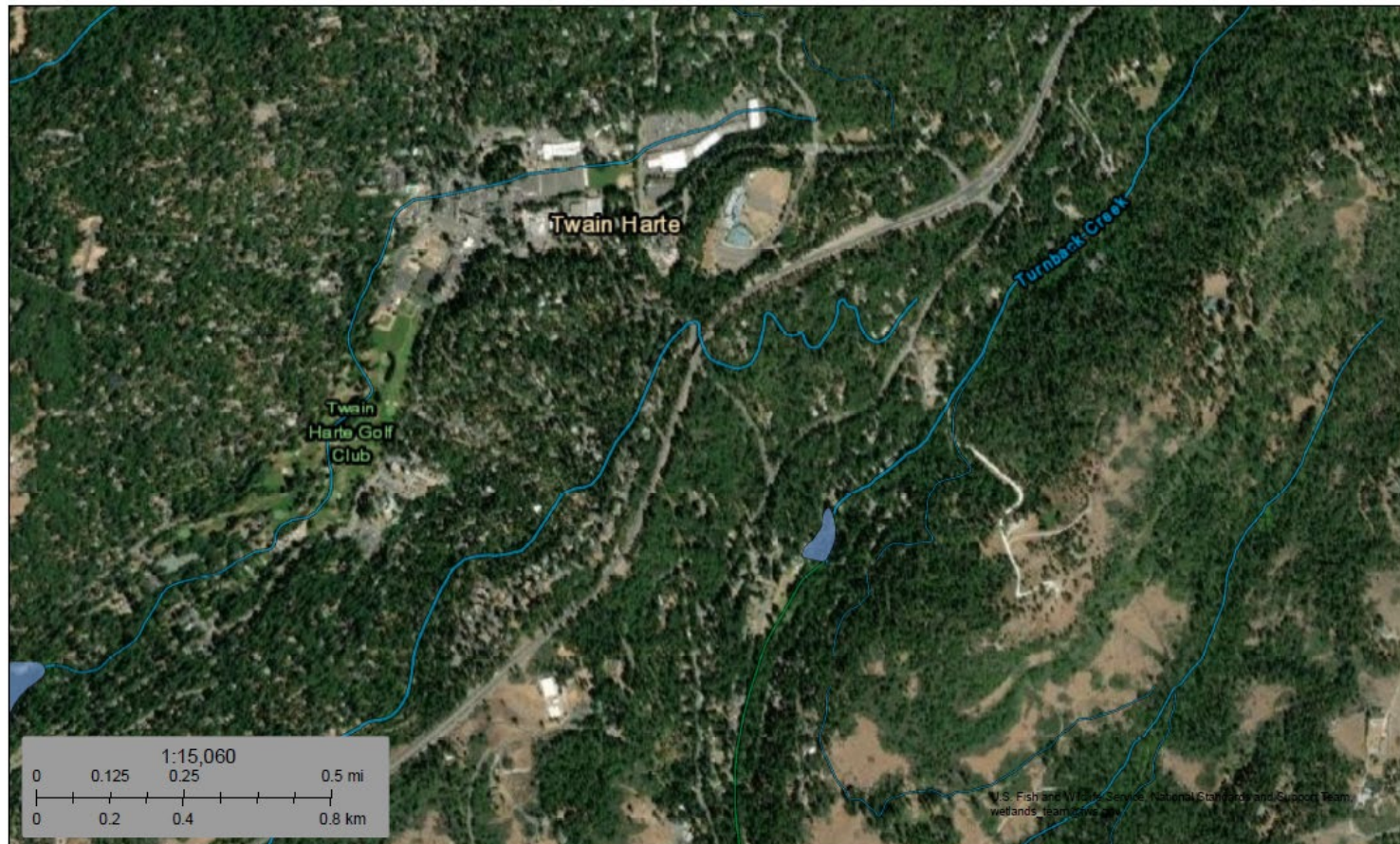
For more information please contact the Regulatory Program of the local [U.S. Army Corps of Engineers District](#).

Please note that the NWI data being shown may be out of date. We are currently working to update our NWI data set. We recommend you verify these results with a site visit to determine the actual extent of wetlands on site. Other limitations, exclusions, and precautions are listed [below](#).

This location overlaps the following wetlands:









- FRESHWATER
- FORESTED/SHRUB WETLAND
  - [PFO/SSC](#)
- FRESHWATER POND
  - [PUBK](#)
- RIVERINE
  - [R5UBF](#)
  - [R4SBC](#)
  - [R5UBFx](#)





December 4, 2023

**Wetlands**

- |   |                                |   |                                   |   |          |
|---|--------------------------------|---|-----------------------------------|---|----------|
|  | Estuarine and Marine Deepwater |  | Freshwater Emergent Wetland       |  | Lake     |
|  | Estuarine and Marine Wetland   |  | Freshwater Forested/Shrub Wetland |  | Other    |
|   |                                |  | Freshwater Pond                   |  | Riverine |

This map is for general reference only. The US Fish and Wildlife Service is not responsible for the accuracy or currentness of the base data shown on this map. All wetlands related data should be used in accordance with the layer metadata found on the Wetlands Mapper web site.

National Wetlands Inventory (NWI)  
This page was produced by the NWI mapper

## California Native Plant Society Inventory of Rare Plants (Twain Harte USGS Quadrangle)

ScientificName	CommonName
<i>Allium tribracteatum</i>	three-bracted onion
<i>Carex tompkinsii</i>	Tompkins' sedge
<i>Ceanothus fresnensis</i>	Fresno ceanothus
<i>Clarkia australis</i>	Small's southern clarkia
<i>Clarkia biloba</i> ssp. <i>australis</i>	Mariposa clarkia
<i>Clarkia virgata</i>	Sierra clarkia
<i>Claytonia parviflora</i> ssp. <i>grandiflora</i>	streambank spring beauty
<i>Cypripedium montanum</i>	mountain lady's-slipper
<i>Diplacus pulchellus</i>	yellow-lip pansy monkeyflower
<i>Erythronium tuolumnense</i>	Tuolumne fawn lily
<i>Lewisia kelloggii</i> ssp. <i>hutchisonii</i>	Hutchison's lewisia
<i>Lomatium stebbinsii</i>	Stebbins' lomatium
<i>Navarretia miwukensis</i>	Mi-Wuk navarretia
<i>Perideridia bacigalupii</i>	Bacigalupi's yampah



AFFP  
NOTICE OF AVAILABILITY

**Affidavit of Publication**

STATE OF CALIFORNIA }  
COUNTY OF TUOLUMNE } SS

Notice of Availability and Intent to Adopt a Mitigated Negative Declaration  
and  
Notice of Public Hearing

Carey Martin, being duly sworn, says:

The Twain Harte Community Services District is the Lead Agency for and intends to consider adopting a mitigated negative declaration in accordance with the California Environmental Quality Act (CEQA) for the following project:

That she is Principal Clerk of the Union-Democrat, a daily newspaper of general circulation, published in Sonora, Tuolumne County, California; that the publication, a copy of which is attached hereto, was published in the said newspaper on the following dates:

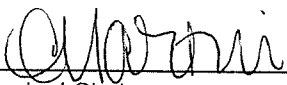
Twain Harte Community Services District (THCSD) Water System Improvements Project proposes to improve water system fire flow in the Pressure Zones 4 and 6 referred to as the Sherwood Distribution System in the community of Twain Harte, Tuolumne County, California through pipeline replacement, upsizing, relocation into road ROWs and/or pipeline abandonment through existing residential lots and surrounding properties. The Project includes 3,938± linear feet (lf) of new six-inch pipeline, and removal and replacement of 7,836± linear feet of existing pipeline. Most of the improvements will occur within roadways including Tuolumne Road North, East Avenue, Twain Harte Drive, Little John Road, Robin Hood Drive, King Arthur's Court, and portions of Fallen Leaf and Broken Bough Lanes with stub outs to existing residences. The Project proposes using State Water Resources Control Board (SWRCB) State Revolving Funds (SRF). THCSD will act as the Lead Agency for the California Environmental Quality Act (CEQA). The California Department of Water Resources (DWR) will act as a CEQA Responsible Agency and NEPA Lead Agency. No sites enumerated pursuant to Government Code Section 65962.5 regarding hazardous materials have been identified on the site.

April 13, 2024, April 16, 2024

That said newspaper was regularly issued and circulated on those dates.

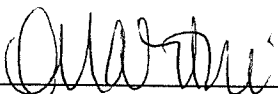
SIGNED:

The proposed mitigated negative declaration is being circulated for public review and comment. Comments will be received by the Twain Harte Community Services District on the proposed mitigated negative declaration between March 11, 2024, and May 7, 2024. Copies of the proposed mitigated negative declaration may be obtained at the Twain Harte Community Services District Offices at 22912 Vantage Pointe Drive, Twain Harte CA during regular business hours and online at <https://www.twainhartecsd.com/>.

  
Principal Clerk

Subscribed to and sworn to me this 16th day of April 2024.

Comments may be mailed or hand-delivered to the THCSD at the above address; or e-mailed to [tuolandplanner@gmail.com](mailto:tuolandplanner@gmail.com). For questions, contact Amy Augustine, AICP – Augustine Planning Associates, Inc. at (209) 532-7376. The proposed mitigated negative declaration along with any comments and project approval will be considered at a public hearing at:

  
Carey Martin, Principal Clerk, Tuolumne County, California

Twain Harte Community Services District  
May 8, 2024, 9:00 AM  
22912 Vantage Pointe Drive, Twain Harte CA 95383

00000127 00032045

TWAIN HARTE COMMUNITY SERVICES DISTRICT  
PO BOX 649  
TWAIN HARTE, CA 95383

To verify the time and location of the meeting and links to participate please visit: <https://www.twainhartecsd.com/board-meetings> or call (209) 586-3172.  
/s/ Tom Trott, General Manager THCSD  
Publication Date: April 16, 2024  
The Union Democrat, Sonora, CA 95370

**Notice of Availability and Intent to Adopt a Mitigated Negative Declaration  
and  
Notice of Public Hearing**

The Twain Harte Community Services District is the Lead Agency for and intends to consider adopting a mitigated negative declaration in accordance with the California Environmental Quality Act (CEQA) for the following project:

Twain Harte Community Services District (THCSD) Water System Improvements Project proposes to improve water system fire flow in the Pressure Zones 4 and 6 referred to as the Sherwood Distribution System in the community of Twain Harte, Tuolumne County, California through pipeline replacement, upsizing, relocation into road ROWs and/or pipeline abandonment through existing residential lots and surrounding properties. The Project includes 3,938± linear feet (lf) of new six-inch pipeline, and removal and replacement of 7,836± linear feet of existing pipeline. Most of the improvements will occur within roadways including Tuolumne Road North, East Avenue, Twain Harte Drive, Little John Road, Robin Hood Drive, King Arthur's Court, and portions of Fallen Leaf and Broken Bough Lanes with stub outs to existing residences. The Project proposes using State Water Resources Control Board (SWRCB) State Revolving Funds (SRF). THCSD will act as the Lead Agency for the California Environmental Quality Act (CEQA). The California Department of Water Resources (DWR) will act as a CEQA Responsible Agency and NEPA Lead Agency. No sites enumerated pursuant to Government Code Section 65962.5 regarding hazardous materials have been identified on the site.

The proposed mitigated negative declaration is being circulated for public review and comment. Comments will be received by the Twain Harte Community Services District on the proposed mitigated negative declaration **between March 11, 2024, and May 7, 2024**. Copies of the proposed mitigated negative declaration may be obtained at the Twain Harte Community Services District Offices at 22912 Vantage Pointe Drive, Twain Harte CA during regular business hours and online at <https://www.twainhartecsd.com/>.

Comments may be mailed or hand-delivered to the THCSD at the above address; or e-mailed to [tuolandplanner@gmail.com](mailto:tuolandplanner@gmail.com). For questions, contact Amy Augustine, AICP – Augustine Planning Associates, Inc. at (209) 532-7376.

The proposed mitigated negative declaration along with any comments and project approval will be considered at a **public hearing at:**

**Twain Harte Community Services District  
May 8, 2024, 9:00 AM  
22912 Vantage Pointe Drive, Twain Harte CA 95383**

To verify the time and location of the meeting and links to participate please visit: <https://www.twainhartecsd.com/board-meetings> or call (209) 586-3172.

/s/ Tom Trott, General Manager THCSD

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Publication Date: \_\_\_\_\_

**Response to Comments**  
**Twain Harte Community Services District**  
**Water Distribution System**  
**5/01/24**

**Comments Received:**

- 1. State Water Resources Control Board**
- 2. Central Valley Regional Water Quality Control Board (RWQCB)**
- 3. California Department of Transportation (Caltrans)**
- 4. California Department of Fish and Wildlife (CDFW)**

**1. State Water Resources Control Board**



## State Water Resources Control Board

Mr. Tom Trott  
Twain Harte Community Services District  
22933 Twain Harte Drive  
Twain Harte, CA 95383

Dear Mr. Tom Trott:

DRAFT INITIAL STUDY / MITIGATED NEGATIVE DECLARATION (IS/MND) FOR TWAIN HARTE COMMUNITY SERVICES DISTRICT (DISTRICT); SYSTEM IMPROVEMENTS PROJECT (PROJECT); TUOLUMNE COUNTY; STATE CLEARINGHOUSE NO. 2024030516

We understand that the District is pursuing Drinking Water State Revolving Fund (DWSRF) financing for this Project. As a funding agency and a state agency with jurisdiction by law to preserve, enhance, and restore the quality of California’s water resources, the State Water Resources Control Board (State Water Board) is providing the following water quality comments on the IS/MND circulating for the Project.

The State Water Board, Division of Financial Assistance, is responsible for administering the DWSRF Program (Program). The primary purpose for the Program is to implement the Safe Drinking Water Act and various state laws by providing financial assistance for drinking facilities improvements to provide clean potable drinking water, and thereby protect and promote health, safety and welfare of the inhabitants of the state.

1A

All applicants seeking funding must comply with the California Environmental Quality Act (CEQA) and provide appropriate documents to the State Water Board so that it can fulfill its CEQA responsibilities, see [CEQA Requirements](#). In addition, because the Program is partially funded by the United States Environmental Protection Agency additional federal environmental documentation (cross-cutters) may be required. For additional Program information, the complete environmental application package and instructions, please visit: [Drinking Water State Revolving Fund Forms and Instructions](#).

Following are specific comments on the District’s draft IS/MND:

- The IS/MND indicates “The California Department of Water Resources (DWR) will act as a CEQA Responsible Agency and NEPA Lead Agency” (PDF page 9). A State Agency does not act as a NEPA Lead Agency; but as

1B

E. JOAQUIN ESQUIVEL, CHAIR | ERIC OPPENHEIMER, EXECUTIVE DIRECTOR

1001 | Street, Sacramento, CA 95814 | Mailing Address: P.O. Box 100, Sacramento, CA 95812-0100 | [www.waterboards.ca.gov](http://www.waterboards.ca.gov)

- a requirement of funding, may ensure federal regulations are met outside of the CEQA process. Please clarify this.
- It appears like the Department of Water Resources may have been listed instead of the State Water Resources Control Board on PDF page 9. Please include the State Water Resources Control Board, Division of Financial Assistance as a possible responsible agency if funding may be obtained, instead of DWR (PDF page 9)- as appropriate, and/or in Table 2: "Other Public Agency Approvals or Reviews that May be Required" with revised sub-headers (PDF page 17).

1B

1C

Thank you for the opportunity to review the District's draft IS/MND. If you have any questions or concerns, please feel free to contact me at (916) 449-5285, or by email at [Lori.Schmitz@waterboards.ca.gov](mailto:Lori.Schmitz@waterboards.ca.gov) or contact Mrs. Bridget Binning at (916) 449-5641, or by email at [Bridget.Binning@waterboards.ca.gov](mailto:Bridget.Binning@waterboards.ca.gov).

Sincerely,


 Digitally signed by Lori Schmitz  
 Date: 2024.04.10 10:20:40  
 Water Boards

Lori Schmitz  
 Environmental Scientist  
 Division of Financial Assistance  
 Special Project Review Unit  
 1001 I Street, 16<sup>th</sup> floor  
 Sacramento, CA 95814

cc: State Clearinghouse

Bridget Binning, Division of Financial Assistance

## Responses to State Water Resources Control Board

**1A Comment:** *Introductory information relative to the role of the State Water Resources Control Board (DWR), the Drinking Water State Revolving Fund (DWSRF) grant program, the California Environmental Quality Act (CEQA), and the USEPA Cross-Cutters addressing the National Environmental Policy Act (NEPA).*

**1A Response:**

Information only, no response required.

**1B Comment:** *The IS/MND identifies the California Department of Water Resources as both a CEQA and NEPA Lead Agency. DWR will act as a CEQA Responsible Agency, but does not act as a NEPA Lead Agency, but rather ensures compliance with federal regulations outside of the CEQA Process (page 9). Please clarify.*

**1C Comment:** *DWR was listed instead of the State Water Resources Control Board Division of Financial Assistance, if funding is obtained on page 9. The State Water Resources Control Board Division of Finance Assistance should be listed instead of DWR as a potential Responsible Agency and in Table 2.*

**1B and 1C Response:**

PDF Page 9 and Table 2 of the IS/MND are hereby amended as follows:

### **1.2 PROJECT DESCRIPTION / PURPOSE AND NEED**

The Twain Harte Community Services District (THCSD) proposes to improve water system fire flow in the Pressure Zones 4 and 6 referred to as the Sherwood Distribution System in the community of Twain Harte, Tuolumne County, California (the Project) through pipeline replacement, upsizing, relocation into road ROWs and/or pipeline abandonment through existing residential lots and the Twain Harte Shopping Center as detailed in **Figures 2-3**. The Project includes 3,938± linear feet (lf) of new six-inch pipeline, and removal and replacement of 7,836± linear feet of existing pipeline. The Project proposes using State Water Resources Control Board (SWRCB) State Revolving Funds (SRF).

THCSD will act as the Lead Agency for the California Environmental Quality Act (CEQA). The ~~California Department of Water Resources (DWR) State Water Resources Control Board, Division of Financial Assistance~~ will act as a CEQA Responsible Agency ~~and NEPA Lead Agency~~ and ensure compliance with federal regulations outside of the CEQA process.

**Table 2: Other Public Agency Approvals or Reviews that *May* be Required**

Permitting Agency	Permit <u>(or Approval)</u>
Tuolumne County	Road encroachment permit
State Water Resources Control Board	Stormwater Pollution Prevention Plan (SWPPP)
California Department of Fish and Wildlife	1600 Lake or Streambed Alteration Agreement (LSAA) /a/
U.S. Army Corps of Engineers	Section 404 Clean Water Act Wetlands Permit/a/
State Water Resources Control Board	Section 401 Clean Water Act Water Quality Certification /a/
<u>State Water Resources Control Board, Division of Financial Assistance</u>	<u>CEQA Responsible Agency. Ensure compliance with federal regulations outside of the CEQA process</u>
<b><i>All other applicable local, state and federal permits required by law.</i></b>	

/a/ May be eliminated through project design (i.e., eliminating Expanded Project Alternative)



## **2. Central Valley Regional Water Quality Control Board Comment**



## Central Valley Regional Water Quality Control Board

11 April 2024

Tom Trott  
Twain Harte Community Services District  
22912 Vantage Point Drive  
Twain Harte, CA 95383  
ttrott@twainhartecsd.com

### **COMMENTS TO REQUEST FOR REVIEW FOR THE MITIGATED NEGATIVE DECLARATION, TWAIN HARTE COMMUNITY SERVICES DISTRICT WATER SYSTEM IMPROVEMENTS PROJECT, SCH#2024030516, TUOLUMNE COUNTY**

Pursuant to the State Clearinghouse's 14 March 2024 request, the Central Valley Regional Water Quality Control Board (Central Valley Water Board) has reviewed the *Request for Review for the Mitigated Negative Declaration* for the Twain Harte Community Services District Water System Improvements Project, located in Tuolumne County.

Our agency is delegated with the responsibility of protecting the quality of surface and groundwaters of the state; therefore our comments will address concerns surrounding those issues.

#### **I. Regulatory Setting**

##### **Basin Plan**

The Central Valley Water Board is required to formulate and adopt Basin Plans for all areas within the Central Valley region under Section 13240 of the Porter-Cologne Water Quality Control Act. Each Basin Plan must contain water quality objectives to ensure the reasonable protection of beneficial uses, as well as a program of implementation for achieving water quality objectives with the Basin Plans. Federal regulations require each state to adopt water quality standards to protect the public health or welfare, enhance the quality of water and serve the purposes of the Clean Water Act. In California, the beneficial uses, water quality objectives, and the Antidegradation Policy are the State's water quality standards. Water quality standards are also contained in the National Toxics Rule, 40 CFR Section 131.36, and the California Toxics Rule, 40 CFR Section 131.38.

The Basin Plan is subject to modification as necessary, considering applicable laws, policies, technologies, water quality conditions and priorities. The original Basin Plans were adopted in 1975, and have been updated and revised periodically as required, using Basin Plan amendments. Once the Central Valley Water Board has

2A

MARK BRADFORD, CHAIR | PATRICK PULUPA, ESQ., EXECUTIVE OFFICER

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adopted a Basin Plan amendment in noticed public hearings, it must be approved by the State Water Resources Control Board (State Water Board), Office of Administrative Law (OAL) and in some cases, the United States Environmental Protection Agency (USEPA). Basin Plan amendments only become effective after they have been approved by the OAL and in some cases, the USEPA. Every three (3) years, a review of the Basin Plan is completed that assesses the appropriateness of existing standards and evaluates and prioritizes Basin Planning issues. For more information on the *Water Quality Control Plan for the Sacramento and San Joaquin River Basins*, please visit our website:  
[http://www.waterboards.ca.gov/centralvalley/water\\_issues/basin\\_plans/](http://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/)

2A

**Antidegradation Considerations**

All wastewater discharges must comply with the Antidegradation Policy (State Water Board Resolution 68-16) and the Antidegradation Implementation Policy contained in the Basin Plan. The Antidegradation Implementation Policy is available on page 74 at:  
[https://www.waterboards.ca.gov/centralvalley/water\\_issues/basin\\_plans/sacsjr\\_2018\\_05.pdf](https://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/sacsjr_2018_05.pdf)

In part it states:

*Any discharge of waste to high quality waters must apply best practicable treatment or control not only to prevent a condition of pollution or nuisance from occurring, but also to maintain the highest water quality possible consistent with the maximum benefit to the people of the State.*

*This information must be presented as an analysis of the impacts and potential impacts of the discharge on water quality, as measured by background concentrations and applicable water quality objectives.*

The antidegradation analysis is a mandatory element in the National Pollutant Discharge Elimination System and land discharge Waste Discharge Requirements (WDRs) permitting processes. The environmental review document should evaluate potential impacts to both surface and groundwater quality.

2B

**II. Permitting Requirements**

**Construction Storm Water General Permit**

Dischargers whose project disturb one or more acres of soil or where projects disturb less than one acre but are part of a larger common plan of development that in total disturbs one or more acres, are required to obtain coverage under the General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (Construction General Permit), Construction General Permit Order No. 2009-0009-DWQ. Construction activity subject to this permit includes clearing, grading, grubbing, disturbances to the ground, such as stockpiling, or excavation, but does not include regular maintenance activities performed to restore the original line, grade, or capacity of the facility. The Construction General Permit requires the development and implementation of a Storm Water Pollution Prevention Plan (SWPPP). For more information on the Construction General Permit, visit the

2C

State Water Resources Control Board website at:  
[http://www.waterboards.ca.gov/water\\_issues/programs/stormwater/constpermits.shtml](http://www.waterboards.ca.gov/water_issues/programs/stormwater/constpermits.shtml)

**Clean Water Act Section 404 Permit**

If the project will involve the discharge of dredged or fill material in navigable waters or wetlands, a permit pursuant to Section 404 of the Clean Water Act may be needed from the United States Army Corps of Engineers (USACE). If a Section 404 permit is required by the USACE, the Central Valley Water Board will review the permit application to ensure that discharge will not violate water quality standards. If the project requires surface water drainage realignment, the applicant is advised to contact the Department of Fish and Game for information on Streambed Alteration Permit requirements. If you have any questions regarding the Clean Water Act Section 404 permits, please contact the Regulatory Division of the Sacramento District of USACE at (916) 557-5250.

2D

**Clean Water Act Section 401 Permit – Water Quality Certification**

If an USACE permit (e.g., Non-Reporting Nationwide Permit, Nationwide Permit, Letter of Permission, Individual Permit, Regional General Permit, Programmatic General Permit), or any other federal permit (e.g., Section 10 of the Rivers and Harbors Act or Section 9 from the United States Coast Guard), is required for this project due to the disturbance of waters of the United States (such as streams and wetlands), then a Water Quality Certification must be obtained from the Central Valley Water Board prior to initiation of project activities. There are no waivers for 401 Water Quality Certifications. For more information on the Water Quality Certification, visit the Central Valley Water Board website at:  
[https://www.waterboards.ca.gov/centralvalley/water\\_issues/water\\_quality\\_certification/](https://www.waterboards.ca.gov/centralvalley/water_issues/water_quality_certification/)

2E

**Waste Discharge Requirements – Discharges to Waters of the State**

If USACE determines that only non-jurisdictional waters of the State (i.e., “non-federal” waters of the State) are present in the proposed project area, the proposed project may require a Waste Discharge Requirement (WDR) permit to be issued by Central Valley Water Board. Under the California Porter-Cologne Water Quality Control Act, discharges to all waters of the State, including all wetlands and other waters of the State including, but not limited to, isolated wetlands, are subject to State regulation. For more information on the Waste Discharges to Surface Water NPDES Program and WDR processes, visit the Central Valley Water Board website at:  
[https://www.waterboards.ca.gov/centralvalley/water\\_issues/waste\\_to\\_surface\\_water/](https://www.waterboards.ca.gov/centralvalley/water_issues/waste_to_surface_water/)

2F

Projects involving excavation or fill activities impacting less than 0.2 acre or 400 linear feet of non-jurisdictional waters of the state and projects involving dredging activities impacting less than 50 cubic yards of non-jurisdictional waters of the state may be eligible for coverage under the State Water Resources Control Board Water Quality Order No. 2004-0004-DWQ (General Order 2004-0004). For more information on the General Order 2004-0004, visit the State Water Resources

Control Board website at:

[https://www.waterboards.ca.gov/board\\_decisions/adopted\\_orders/water\\_quality/2004/wqo/wqo2004-0004.pdf](https://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2004/wqo/wqo2004-0004.pdf)

**Dewatering Permit**

If the proposed project includes construction or groundwater dewatering to be discharged to land, the proponent may apply for coverage under State Water Board General Water Quality Order (Low Threat General Order) 2003-0003 or the Central Valley Water Board's Waiver of Report of Waste Discharge and Waste Discharge Requirements (Low Threat Waiver) R5-2018-0085. Small temporary construction dewatering projects are projects that discharge groundwater to land from excavation activities or dewatering of underground utility vaults. Dischargers seeking coverage under the General Order or Waiver must file a Notice of Intent with the Central Valley Water Board prior to beginning discharge.

For more information regarding the Low Threat General Order and the application process, visit the Central Valley Water Board website at:

[http://www.waterboards.ca.gov/board\\_decisions/adopted\\_orders/water\\_quality/2003/wqo/wqo2003-0003.pdf](http://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo2003-0003.pdf)

For more information regarding the Low Threat Waiver and the application process, visit the Central Valley Water Board website at:

[https://www.waterboards.ca.gov/centralvalley/board\\_decisions/adopted\\_orders/waivers/r5-2018-0085.pdf](https://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/waivers/r5-2018-0085.pdf)

2G

**Limited Threat General NPDES Permit**

If the proposed project includes construction dewatering and it is necessary to discharge the groundwater to waters of the United States, the proposed project will require coverage under a National Pollutant Discharge Elimination System (NPDES) permit. Dewatering discharges are typically considered a low or limited threat to water quality and may be covered under the General Order for *Limited Threat Discharges to Surface Water* (Limited Threat General Order). A complete Notice of Intent must be submitted to the Central Valley Water Board to obtain coverage under the Limited Threat General Order. For more information regarding the Limited Threat General Order and the application process, visit the Central Valley Water Board website at:

[https://www.waterboards.ca.gov/centralvalley/board\\_decisions/adopted\\_orders/general\\_orders/r5-2016-0076-01.pdf](https://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/general_orders/r5-2016-0076-01.pdf)

2H

**NPDES Permit**

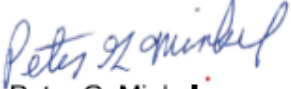
If the proposed project discharges waste that could affect the quality of surface waters of the State, other than into a community sewer system, the proposed project will require coverage under a National Pollutant Discharge Elimination System (NPDES) permit. A complete Report of Waste Discharge must be submitted with the Central Valley Water Board to obtain a NPDES Permit. For more information regarding the NPDES Permit and the application process, visit the Central Valley Water Board website at: <https://www.waterboards.ca.gov/centralvalley/help/permit/>

2I

Twain Harte Community Services - 5 -  
District Water System Improvements Project  
Tuolumne County

11 April 2024

If you have questions regarding these comments, please contact me at (916) 464-4684  
or Peter.Minkel2@waterboards.ca.gov.



Peter G. Minkel  
Engineering Geologist

cc: State Clearinghouse unit, Governor's Office of Planning and Research,  
Sacramento

**2A Comment:** Summarizes the role of a Basin Plan generally. No specific comments are related to the project.

**2A Response:** The overview is acknowledged. No response required.

**2B Comment:** All wastewater discharges must comply with the anti-degradation policy and anti-degradation implementation policy in the Basin Plan.

**2B Response:**

The IS/MND Section 2.4 (Biological Resources), Section 2.7 (Geology and Soils) and Section 2.10 (Hydrology and Water Quality) address potential impacts to surface and ground water quality. In summary, the study states that potential impacts to water quality could occur and mitigation measures are required to minimize these potential impacts as follows:

**Avoidance and Minimization Measure BIO-4: Staging and Spill Prevention**

Staging areas as well as fueling and maintenance activities shall be a minimum of 100 feet from riparian or aquatic habitats. Staging areas less than 100 feet from Turnback Creek will only be allowed with authorization of the project biologist. The project proponent will prepare a spill prevention and clean-up plan.

**Mitigation Monitoring BIO-4:** Prior to commencing site disturbance or staging equipment, the construction contractor shall provide a staging and spill prevention plan to THCS D for compliance with this measure. Reduced setbacks must be approved prior to staging by the Project Biologist.

**Avoidance and Minimization Measure BIO-5: Erosion Control**

Where and if bare ground will be exposed or disturbed in conjunction with project activities, the Contractor shall prepare an Erosion Control Plan for THCS D review and approval to address soil erosion within those areas. All soils disturbed by grading shall be reseeded or hydromulched or otherwise stabilized 48 hours in advance of a rain event. A likely rain/precipitation event is any weather pattern that is forecasted to have a 30% or greater chance of producing precipitation in the project area. The discharger shall obtain likely precipitation forecast information from the National Weather Service Forecast Office (e.g., by entering the zip code of the project's location at <https://www.weather.gov/forecastmaps>). A qualifying rain event is one that produces 0.5 inch or more of precipitation within a 48 hour or greater period between rain events. Emergency erosion control measures shall be used as reasonably requested by THCS D.

**Mitigation Monitoring BIO-5**

The required plan will be implemented prior to site disturbance and implemented 48 hours in advance of any rain event. A likely rain/precipitation event is any weather pattern that is forecasted to have a 30% or greater chance of producing precipitation in the project area. The discharger shall obtain likely precipitation forecast information from the National Weather Service Forecast Office (e.g., by entering the zip code of the project's location at <https://www.weather.gov/forecastmaps>). A qualifying rain event is one that produces 0.5 inch or more of precipitation within a 48 hour or greater period between rain events. The measure is the responsibility of the construction contractor.

#### **Avoidance and Minimization Measure BIO-6: NPDES/SWPPP**

If necessary, submit to the State Water Resources Control Board Storm Water Permitting Unit, a Notice of Intent (NOI) to obtain coverage under the General Construction Activity Storm Water Permit - California's National Pollution Discharge Elimination System (NPDES) general permit for construction related storm water discharges for the disturbance of one acre or more. Disturbances of less than one acre may also require an NOI for coverage under the NPDES General Permit for construction-related storm water discharge and the State Water Resources Control Board Permitting Unit shall be contacted for determination of permit requirements. Commercial and Industrial developments may require an NOI even if less than one acre is to be disturbed. Obtain coverage or an exemption from these requirements. [Federal Water Pollution Control Act, Section 401, California Clean Water Act]. The permit may include preparation of a Stormwater Pollution Prevention Plan (SWPPP).

Silt fencing or other materials, as required, will be installed consistent with the applicable water quality requirements specified in the Project's Storm Water Pollution Prevention Plan (SWPPP) or Water Pollution Control Plan (WPCP). Fencing or other erosion control materials or devices shall be shown on the final construction documents. Erosion control devices will be avoided throughout Project construction and shall be monitored and maintained by the project manager throughout construction.

#### **Mitigation Monitoring BIO-6**

The Notice of Intent to obtain Coverage shall be submitted prior to any site disturbances. The measure is the responsibility of the construction contractor.

#### **Avoidance and Minimization Measure BIO-7: Environmental Awareness Training**

All contractors involved in site development, affected THSD personnel, will attend a mandatory Environmental Awareness Training prior to any site disturbances, including staging. A training log sign-in sheet will be maintained. The program will address proper implementation of minimization and avoidance measures contained herein. A video shall be prepared and is mandatory viewing prior to entering the project site for contractors or personnel not participating in initial training. Construction personnel shall be informed that if a FYLF is encountered in the work area, construction will stop and CDFW will be contacted for guidance.

#### **Mitigation Monitoring BIO-7**

The required mitigation measure will be implemented prior to site disturbance and for new employees prior to commencing site work. The Project Biologist or other environmental consultant may be contracted by THCS D to accomplish this task. THCS D is responsible for contracting with a qualified entity to provide Environmental Awareness Training. Ensuring that all on-site workers have received training prior to working on site is the responsibility of the construction contractor.

Proposed mitigation addresses the comment. No additional response is required.



**2C Comment: Construction activities which disturb more than one acre (or that disturb less than one acre, are required to obtain a Construction General Permit for stormwater discharges associated with construction activities.**

**2C Response:** The IS/MND includes the following mitigation measure:

**Avoidance and Minimization Measure BIO-6: NPDES/SWPPP**

If necessary, submit to the State Water Resources Control Board Storm Water Permitting Unit, a Notice of Intent (NOI) to obtain coverage under the General Construction Activity Storm Water Permit - California's National Pollution Discharge Elimination System (NPDES) general permit for construction related storm water discharges for the disturbance of one acre or more. Disturbances of less than one acre may also require an NOI for coverage under the NPDES General Permit for construction-related storm water discharge and the State Water Resources Control Board Permitting Unit shall be contacted for determination of permit requirements. Commercial and Industrial developments may require an NOI even if less than one acre is to be disturbed. Obtain coverage or an exemption from these requirements. [Federal Water Pollution Control Act, Section 401, California Clean Water Act]. The permit may include preparation of a Stormwater Pollution Prevention Plan (SWPPP).

Silt fencing or other materials, as required, will be installed consistent with the applicable water quality requirements specified in the Project's Storm Water Pollution Prevention Plan (SWPPP) or Water Pollution Control Plan (WPCP). Fencing or other erosion control materials or devices shall be shown on the final construction documents. Erosion control devices will be avoided throughout Project construction and shall be monitored and maintained by the project manager throughout construction.

**Mitigation Monitoring BIO-6**

The Notice of Intent to obtain Coverage shall be submitted prior to any site disturbances. The measure is the responsibility of the construction contractor.

Proposed mitigation addresses the comment. No additional response is required.

**2D, 2E, 2F Comment: Summarizes requirements for a Section 404 Clean Water Act permit addressing fill or dredged materials in navigable waters or wetlands, 401 Clean Water Act permit addressing water quality certification, and Waste Discharge Requirements (WDR) Permit for discharges to Waters of the State.**

**2D, 2E, 2F Response:**

The IS/MND states the following (Biological Resources):

... the project area:

- A. Crosses a man-made ditch (which is piped below the roadway in the project area and will not be impacted by the project)
- B. Will occur surrounding an upper and lower pond within a central open space within the Sherwood Forest Subdivision
- C. Will occur around a central open space containing Turnback Creek (a USGS perennial stream) within the Sherwood Forest Subdivision

- D. Will cross Turnback Creek in two locations within the Sherwood Forest Subdivision over existing roadways without furthering encroachments into the creek
- E. Could encroach within 25 feet of Turnback Creek in the Alternative Expanded Project Area.
- F. Will avoid an intermittent drainage near the Twain Harte Shopping Center where the drainage is piped beneath the shopping center.

No fill of the identified drainages, ponds, or ditch ...or alterations within the banks of streams is proposed or anticipated in conjunction with the proposed Project. The introduction of machinery and construction materials to the site has the potential to introduce non-native invasive species and runoff from site construction could indirectly impact water quality in the on-site ponds, ditch and creek adjacent to the construction area—a potentially significant adverse impact. To avoid inadvertent encroachment within these sensitive habitats, and to ensure that non-native invasive species are not spread to these habitats and the protection of water quality, the following measures are included:

#### **Avoidance and Minimization Measure BIO-14: Minimize the Spread of Invasive Plant Species**

Throughout project construction:

- All hay, straw, hay bales, straw bales, seed, mulch or other material used for erosion control on the project site shall be free of noxious weed<sup>1</sup> seeds and propagules (Food and Agriculture Code Sections 6305, 6341 and 6461).
- All equipment brought to the project site shall be thoroughly cleaned of all dirt and vegetation prior to entering the site to prevent importing noxious weeds and shall be cleaned of all dirt and vegetation prior to exiting the site to prevent exporting noxious weeds. (Food and Agriculture Code Section 5401).
- All material brought to the site, including rock, gravel, road base, sand, and topsoil, shall be free of noxious weeds<sup>2</sup> and propagules. (Food and Agriculture Code Sections 6305, 6341 and 6461).

#### **Mitigation Monitoring BIO-14:**

The measure shall be implemented throughout project construction and is the responsibility of the construction contractor.

#### **Avoidance and Minimization Measure BIO-3: ESA Fencing**

#### **Avoidance and Minimization Measure BIO-4: Staging and Spill Prevention**

#### **Avoidance and Minimization Measure BIO-5: Erosion Control**

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<sup>1</sup> Noxious weeds are as defined in Title 3, Division 4, Chapter 6, Section 4500 of the California Code of Regulations and the California Quarantine Policy - Weeds (Food and Agriculture Code, Sections 6305, 6341, and 6461).

<sup>2</sup> Ibid.

## **Avoidance and Minimization Measure BIO-6: NPDES/SWPPP**

### **Avoidance and Minimization Measure BIO-7: Environmental Awareness Training**

As stated above, no fill or alteration within the banks of waterways will occur, therefore, there permits are not required. Proposed mitigation ensures that the waterways will be avoided and water quality maintained. No additional response is required.

***2G and 2H Comment: Addresses requirements for construction or groundwater dewatering to be discharged on land (Dewatering Permit)***

**2G and 2H Response:** The project does not include dewatering to be discharged to land.

***2I Comment: Addresses requirements for a National Pollution Discharge Elimination System Permit***

**2I Response:** See response to 2C. Proposed mitigation addresses the comment. No additional response is required.

### **3. California Department of Transportation Comment**

## California Department of Transportation

OFFICE OF THE DISTRICT 10 PLANNING  
P.O. BOX 2048 | STOCKTON, CA 95201  
(209) 948-7325 | FAX (209) 948-7164 TTY 711  
[www.dot.ca.gov](http://www.dot.ca.gov)



April 8, 2024

Tom Trott  
General Manager  
Twain Harte Community  
Services District  
22912 Vantage Point Dr  
Twain Harte, CA 95383

**TUO-108-PM R11.396**  
**IS-MND Twain Harte Sewer**  
**Replacement –**  
**SCH 2024030516**

Dear Mr. Trott,

The California Department of Transportation (Caltrans) appreciates the opportunity to review and comment on the Initial Study. The proposed project consists of the replacement of existing deteriorating 4- to 10-inch diameter sewer pipelines within existing road rights of way and utility easements. In addition, severely damaged manhole covers will also be replaced to improve water system fire flow in the Pressure Zones 4 and 6 referred to as the Sherwood Distribution System through pipeline replacement, upsizing, relocation into road right of way (ROW) and/or pipeline abandonment.

3A

The project site is at various locations in the community of Twain Harte.

**Caltrans has the following comments:**

**Environmental**

If any construction activities encroach into Caltrans Right of Way (ROW), the project proponent must apply for an Encroachment Permit (EP) to the Caltrans District 10 Encroachment Permit Office. All California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA) documentation, with supporting technical studies, must be submitted with the Encroachment Permit Application. These studies will include an analysis of potential impacts to any cultural sites, historic properties, biological resources, hazardous waste locations, scenic highways, and/or other environmental resources within Caltrans Right of Way, at the project site(s).

3B

Evidence of consultation with local Native American tribes and interested parties will need to be presented within the technical documents for approval of encroachment in the Caltrans ROW.

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There are mature trees within and/or near Caltrans ROW that could provide suitable nesting habitat. If work will occur between February 1 and September 30 of any year, a pre-construction bird survey must be conducted by a qualified biologist prior to the start of any construction related activities in Caltrans ROW. If an active nest is observed, a protective buffer must be established around the nest per CDFW guidelines. No work is allowed within the protective buffer limits until the young have fledged and until authorized by the Caltrans District 10 Environmental Office. Results of the pre-construction bird survey(s) must be provided to the Caltrans District 10 Environmental Office prior to the start of construction.

3C

If there are impacts to protected water resources within Caltrans ROW, Caltrans will need to see the correspondence with the permitting authorities (California Department of Fish and Wildlife (CDFW), United States Army Corps of Engineers, Regional Water Quality Control Board) and/or be provided copies of any required permits prior to the start of any construction in Caltrans ROW.

3D

Informal or Formal Section 7 consultation with U.S. Fish & Wildlife Service (USFWS) is required for potential affects to Foothill yellow-legged Frog (FYLF). If there are potential impacts to FYLF in Caltrans ROW, Caltrans will need to review the Letter of Concurrence or Biological Opinion obtained from USFWS. Western Pond Turtle (WPT) and California Spotted Owl (CSO) Proposed Threatened species under the Federal Endangered Species ACT (FESA). Due to assumed presence/habitat presence and identification in the project area in past years, the project proponent will need to conference with USFWS under Section 7 of FESA prior to the species becoming federally listed or complete Section 7 consultation when the species become officially listed. If there are potential impacts to WPT and/or CSO in Caltrans ROW, Caltrans will need to review the conferencing or consultation results provided by USFWS.

3E

If any cultural resources are found in Caltrans ROW during operations, immediately stop all work within a 60-foot radius of the discovery and notify both the assigned Caltrans Professionally Qualified Staff (PQS) and Caltrans Encroachment Permit Office immediately. The sites will be flagged for avoidance and recorded. Work will not continue within 60 feet of the discovery until the assigned Caltrans PQS has determined its significance and until authorized by the Caltrans D10 Environmental Office.

3F

If there is any demolition, excavation, or ground disturbance within Caltrans ROW, an Initial Site Assessment for that work must be completed. Aerially Deposited Lead (ADL) is known to exist across the roadways and shoulders of the State Highway System. As a result, if any demolition, excavation, or ground disturbance occurs within Caltrans ROW a Lead Compliance Plan must be completed by a Certified Industrial Hygienist to address the potential for encountering ADL during construction.

3G

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Tom Trott  
April 8, 2024  
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**Encroachment Permits**

If any project activities encroach into Caltrans ROW, the project proponent must submit an application for an Encroachment Permit to the Caltrans District 10 Encroachment Permit Office. Appropriate environmental studies must be submitted with this application. For more information, please visit the Caltrans Website at: <https://dot.ca.gov/programs/traffic-operations/ep/applications>

3H

Caltrans suggests that the Twain Harte Community Services District continue to coordinate with Caltrans in identifying and addressing potential pedestrian safety and cumulative transportation impacts from this project and other developments near this location. This will assist Caltrans in ensuring that pedestrian, traffic safety, and quality standards are maintained for the traveling public on existing and future state transportation facilities in Tuolumne County.

3I

If you have any questions or concerns, please contact Shiferaw Jemberie (209) 986-9635 (email: [Shiferaw.jemberie@dot.ca.gov](mailto:Shiferaw.jemberie@dot.ca.gov)) or me at (209) 483-7234 (email: [Gregoria.Ponce@dot.ca.gov](mailto:Gregoria.Ponce@dot.ca.gov)).

Sincerely,

*Gregoria Ponce'*

Gregoria Ponce', Chief  
Office of Rural Planning

c: Quincy Yaley, Community Development Department Director, Tuolumne County

## Responses to Comments California Department of Transportation

**3A Comment:** *Summarizes the Project Description.*

**3A Response:** No response required.

**3B Comment:** *Construction within the Caltrans ROW requires an encroachment permit with supporting CEQA and NEPA documentation and technical studies including cultural resources, historic properties, biological resources, hazardous waste locations, scenic highways and/or other environmental resources in Caltrans ROW. Evidence of consultation with local Native American tribes also is required.*

**3B Response:**

The current project does not encroach into Caltrans ROW, therefore, an encroachment permit is not required. Should the project be amended to trigger an encroachment permit, the necessary studies, documentation, and consultations which were completed in conjunction with the current project will be provided in support of the encroachment permit.

**3C Comment:** *Potential nesting habitat occurs in or near the Caltrans ROW. Preconstruction bird surveys are required for construction between February 1 and September 30<sup>th</sup>. Active nests shall require buffers in accordance with Caltrans guidelines. For work within Caltrans ROW, results of preconstruction surveys shall be reported to Caltrans.*

**3C Response:**

The current project does not encroach into Caltrans ROW. The IS/MND requires preconstruction surveys nearly identical to Caltrans' standards. For consistency, the IS/MND mitigation measure is amended as follows for consistency with Caltrans standards.

### **Avoidance and Minimization Measure BIO-10: Preconstruction Survey Birds**

Prior to construction occurring between February 1<sup>st</sup> and September 30<sup>th</sup> (e.g., excavation, ground disturbance, or vegetation removal) a preconstruction survey for nesting birds will be conducted in accordance with the CDFW guidelines and a no-disturbance buffer will be established, if necessary.

If equipment staging, site preparation, vegetation removal, grading, excavation or other project-related construction activities are scheduled during the avian nesting season (generally February 1 through September 30), a focused survey for active nests would be conducted by a qualified biologist within 14 days prior to the beginning of project-related activities.

Surveys shall be conducted in all suitable habitats in the BSA.

If the pre-construction surveys identify nesting bird species within areas that are within 500 feet of construction activities for non-raptors and within 0.5 mile for raptors, the following shall be implemented:

- A. Project-related construction impacts shall be avoided by establishment of appropriate no-work buffer zones to limit construction activities near the nest site. The no-work buffer zone shall be delineated by highly visible temporary construction fencing and shall be a minimum of 500 feet from non-raptor nests and 0.5 mile from raptor nests,



unless a qualified biologist, in consultation with CDFW, determines that alternative buffers are permissible due to the nature and location of the specific species, its nest, and existing conditions to which the species has been habituated. Alternative buffers shall be established for special status non-raptor nests in consultation with CDFW.

- B. In consultation with CDFW, monitoring of nest activity by a qualified biologist shall be required if the construction activity has potential to adversely affect the nest or nesting behavior of the bird.
- C. No construction activity shall commence within the no-work buffer zone until a CDFW-approved qualified biologist confirms that the nest is no longer active (e.g., young have fledged).
- D. Canada geese depredation is an exception to these provisions per measure BIO-11.

**Mitigation Monitoring BIO-10:** The measure shall be implemented prior to any constructing occurring between February 1<sup>st</sup> and September 30<sup>th</sup> of the construction year. If construction is delayed or occurs in phases, a re-survey must be completed prior to recommencing work after a shut-down period of more than three months if construction occurs between February 1<sup>st</sup> and September 30<sup>th</sup> of the construction year. The construction contractor is responsible for ensuring that the Project Biologist is notified with ample time to complete the survey and consult with CDFW, if necessary.

Proposed mitigation ensures that nesting avian species subject to the Migratory Bird Treaty Act will be avoided until fledging occurs. The measure has been amended for consistency with Caltrans preconstruction survey windows. No additional response is required.

**3D Comment: For work in the Caltrans ROW, provide Caltrans documentation of permits secured for impacts to wetland resources.**

**3D Response:** The current project does not encroach into Caltrans ROW, therefore, an encroachment permit is not required. Should the project be amended to trigger an encroachment permit, the necessary studies, documentation, and consultations which were completed in conjunction with the current project will be provided in support of the encroachment permit. See also response to 2D, 2E, 2F.

**3E Comment: For work in the Caltrans ROW, informal Section 7 consultation with USFWS is required for the foothill yellow-legged frog. Conferencing with USFWS is required for the western pond turtle (WPT) and California spotted owl (CSO), which area proposed for listing as threatened. If the WPT or CSO become listed, a Section 7 consultation would be required.**

**3E Response**

The current project does not encroach into Caltrans ROW, therefore, an encroachment permit is not required. Should the project be amended to trigger an encroachment permit, the necessary studies, documentation, and consultations which were completed in conjunction with the current project will be provided in support of the encroachment permit. The project IS/MND and Biological study address all three of these species and would be submitted to USFWS in support of an informal Section 7 consultation and/or conferencing with the USFWS should the project encroach into Caltrans ROW.

**3F Comment:** *For work in the Caltrans ROW, if unanticipated cultural resources are discovered during project construction, work will stop immediately, a 60-foot buffer shall be established, and the discovery shall be reported to Caltrans where a Caltrans Professionally Qualified Staff (PQS) shall be assigned to address the resource.*

**3F Response:**

The current project does not encroach into Caltrans ROW, therefore, an encroachment permit is not required. Should the project be amended to trigger an encroachment permit, the necessary studies, documentation, and consultations which were completed in conjunction with the current project will be provided in support of the encroachment permit. It is noted that the project IS/MND identifies **Mitigation Measure CULT-1: Inadvertent Discoveries** requiring a work stoppage should a cultural resource be encountered during construction (but does not specify a 60-foot buffer). At this time, it is recommended that the mitigation measure remain as stated allowing the qualified archaeologist to establish an appropriate buffer based on the nature of the resource discovered. Should the project change and require a Caltrans encroachment permit, the measure can be amended to incorporate the buffer.

**3G Comment:** *Any demolition, excavation, or ground disturbance within the Caltrans ROW shall require an initial site assessment including evaluation of aerially deposited lead (ADL), a Lead Compliance Plan, and Certified Industrial Hygienist also shall be required.*

**3G Response:** The current project does not encroach into Caltrans ROW, therefore, an encroachment permit is not required. Should the project be amended to trigger an encroachment permit, the necessary studies, documentation, and consultations which were completed in conjunction with the current project will be provided in support of the encroachment permit.

**3H Comment:** *Identifies the appropriate location for securing an online application for an encroachment permit.*

**3H Response:** The current project does not encroach into Caltrans ROW, therefore, an encroachment permit is not required. Should the project be amended to trigger an encroachment permit, the identified link, application and online submittal shall be pursued.

**3I Comment:** *Recommends ongoing coordination with Caltrans including addressing pedestrian safety and ongoing cumulative traffic impacts.*

**3I Response:** The requirement does not identify a potentially significant adverse impact. The District acknowledges the comment and will continue ongoing coordination with Caltrans.

#### 4. California Department of Fish and Wildlife (CDFW)



State of California – Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
Central Region  
1234 East Shaw Avenue  
Fresno, CA 93710  
www.wildlife.ca.gov

GAVIN NEWSOM, Governor  
CHARLTON H. BONHAM, Director



April 10, 2024

Tom Trott  
Twain Harte Community Services District  
22912 Vantage Pt. Dr.  
Twain Harte, California 95383  
(209) 586-3172  
[ttrott@twainhartecsd.com](mailto:ttrott@twainhartecsd.com)

**Subject: Twain Harte Community Services District Water Distribution System  
(Project)  
MITIGATED NEGATIVE DECLARATION (MND)  
SCH: 2024030516**

Dear Tom Trott:

The California Department of Fish and Wildlife (CDFW) received a MND from the Twain Harte Community Services District (THCSD) for the Project pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.<sup>1</sup>

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, CDFW appreciates the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

**CDFW ROLE**

CDFW is California's **Trustee Agency** for fish and wildlife resources and holds those resources in trust by statute for all the people of the State (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a)). CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species (*Id.*, § 1802). Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

<sup>1</sup> CEQA is codified in the California Public Resources Code in section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

4A

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Twain Harte Community Services District.  
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CDFW is also submitting comments as a **Responsible Agency** under CEQA (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority (Fish & G. Code, § 1600 et seq.). Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), the Project proponent may seek related take authorization as provided by the Fish and Game Code.

**Fully Protected Species:** CDFW has jurisdiction over fully protected species of birds, mammals, amphibians and reptiles, and fish, pursuant to Fish and Game Code sections 3511, 4700, 5050, and 5515. Fully protected species may not be taken or possessed at any time and no licenses or permits may be issued for their take except as follows:

- Take is for necessary scientific research,
- Efforts to recover a fully protected, endangered, or threatened species, live capture, and relocation of a bird species for the protection of livestock, or
- They are a covered species whose conservation and management is provided for in a Natural Community Conservation Plan (Fish & G. Code, §§ 3511, 4700, 5050, & 5515).

Additionally, specified types of infrastructure projects may be eligible for an Incidental Take Permit (ITP) for unavoidable impacts to fully protected species if certain conditions are met (see Fish & G. Code §2081.15). Project proponents should consult with CDFW early in the project planning process if an ITP may be pursued for the Project.

**Nesting Birds:** CDFW has jurisdiction over actions with potential to result in the disturbance or destruction of active nest sites or the unauthorized take of birds. Fish and Game Code sections that protect birds, their eggs and nests include sections 3503 (regarding unlawful take, possession, or needless destruction of the nest or eggs of any bird), 3503.5 (regarding the take, possession, or destruction of any birds-of-prey or their nests or eggs), and 3513 (regarding unlawful take of any migratory nongame bird).

#### PROJECT DESCRIPTION SUMMARY

**Proponent:** Twain Harte Community Services District

**Objective:** The proposed Project would improve water system fire flow in pressure zones 4 and 6, referred to as the Sherwood Distribution System, through pipeline replacement, upsizing, relocation into road right of ways (ROWs) and/or pipeline abandonment through existing residential lots and the Twain Harte Shopping Center.

4A

4B

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Twain Harte Community Services District.  
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**Location:** The Project is located in the community of Twain Harte, in Tuolumne County, and extends through portions of Sections 9 and 16, T2N, R16E, Mount Diablo Base and Meridian (MDB&M), in the central Sierra Nevada foothills. The Project footprint is entirely located within the Twain Harte USGS 7,5' Quadrangle and includes a portion of the Twain Harte Community and most of the Sherwood Forest subdivision.

**Timeframe:** Spring 2025 – Fall 2025

**COMMENTS AND RECOMMENDATIONS**

CDFW offers the following comments and recommendations to assist THCS D in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions may also be included to improve the CEQA document prepared for this Project.

Aerial imagery shows the Project site is situated between Yosemite National Park-Hetch Hetchy Reservoir and New Melones Lake within mixed-coniferous forest with sparsely residential infrastructure (CDFW 2024). Based on a review of the Project description, California Natural Diversity Database (CNDDDB) records, and the surrounding habitat, several special-status species could potentially be impacted by Project activities.

Currently, the MND acknowledges that the Project area is within the geographic range of several special status animal species and proposes specific mitigation measures to reduce impacts to less than significant. CDFW has concerns about the ability of some the proposed mitigation measures to reduce impacts to less than significant and avoid unauthorized take for several special status animal species, including the State endangered and fully protected bald eagle (*Haliaeetus leucocephalus*); the State endangered great gray owl (*Strix nebulosa*); and the State Species of Special Concern pallid bat (*Antrozous pallidus*), spotted bat (*Euderma maculatum*), Townsends big-eared bat (*Corynorhinus townsendii*), and western mastiff bat (*Perotis californicus*).

CDFW also has concerns about the ability of some the proposed mitigation measures to reduce impacts to less than significant and avoid unauthorized take for several special status plant species, including, but not limited to, the CRPR 1B.2 Mariposa clarkia (*Clarkia biloba ssp. australis*), the CRPR 4.2 mountain lady's-slipper (*Cypripedium montanum*), and the State Rare and CRPR 4.3 Tompkins' sedge (*Carex tompkinsii*).

4B

4C

Tom Trott  
Twain Harte Community Services District.  
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### **Bald Eagle**

The MND did not evaluate and address potential Project-related impacts to bald eagle (BAEA), even though the Project site is within the geographic range of the species and a historical occurrence was documented 4.75 miles from the Project site. BAEA inhabits forested areas that contain large bodies of water and perching trees, and these habitat features are present within the Project vicinity. As BAEA was not addressed within the MND, CDFW recommends the following:

#### **Recommended Mitigation Measure 1: BAEA Surveys**

CDFW recommends that focused BAEA surveys following the Bald Eagle Breeding Survey Instructions (CDFW 2010) protocol be conducted by qualified biologists prior to Project implementation.

#### **Recommended Mitigation Measure 2: BAEA Avoidance Buffer**

If a BAEA is found prior to, or during construction, CDFW recommends implementation of a minimum ½-mile no-disturbance buffer. CDFW advises that this buffer remain in place until the breeding season has ended or until a qualified biologist has determined that nesting has ceased, the birds have fledged, and are no longer reliant upon parental care for survival. In the event that a BAEA is detected during surveys, and a ½-mile no-disturbance buffer is not feasible, consultation with CDFW is recommended.

4D

### **Great Gray Owl**

The MND did not evaluate and address potential Project-related impacts to great gray owl (GGO), even though the Project site is within the geographic range of the species and a historical occurrence was documented 4 miles from the Project site. GGO generally nest in closed canopy forested areas where they forage for pocket mice and voles. As it appears that mixed-coniferous forest is present within and surrounding the Project site, CDFW recommends the following:

#### **Recommended Mitigation Measure 3: GGO Surveys**

CDFW recommends that focused GGO surveys be conducted by a qualified biologist familiar with GGO to evaluate potential impacts prior to ground disturbing activities.

#### **Recommended Mitigation Measure 4: GGO Avoidance Buffer**

In the event an active GGO nest is found during surveys, CDFW recommends that a ½-mile no-disturbance buffer be implemented if ground-disturbing activities are to occur during the owl nesting season. In the event that a GGO nest is detected during surveys, and a ½-mile no-disturbance buffer is not feasible, consultation with CDFW is recommended.

4E

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Twain Harte Community Services District.  
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**Special-Status Bats**

Several special-status bat species have historical occurrences within 5.25 miles of the Project site, including pallid bat, spotted bat, Townsend's big-eared bat, and western mastiff bat (CDFW 2024). The MND lists the spotted bat as having the potential to occur on the Project site, and states, "The species was not identified during surveys; however, given the wide variety of habitats suited to the species (mixed conifer, and presence of lake for foraging), it could roost and/or forage within the Project boundaries." Avoidance and Minimization Measures BIO-12, BIO-13, and BIO-7 are provided to mitigate for Project impacts for this species. CDFW concurs with these measures and recommends that they be implemented within the portions of the Project site that contain suitable habit for pallid bat, Townsend's big-eared bat, and western mastiff bat as well.

4F

**Special-Status Plants**

The MND lists Mariposa clarkia, mountain lady's-slipper, and Tompkins' sedge, as having the potential to be present within the Project site. Expanded Alternative Project BIO-A and BIO-C are provided as mitigation for these species, but only if the Expanded Project Alternative is pursued. CDFW concurs with conducting special-status plant surveys prior to construction, but recommends the following:

4G

**Recommended Mitigation Measure 5: Special-status Plant Surveys**

CDFW recommends that the Project area (regardless of alternative selected) be surveyed for special-status plants by a qualified botanist following the "Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities" (CDFW 2018). This protocol, which is intended to maximize detectability, includes identification of reference populations to facilitate the likelihood of field investigations occurring during the appropriate floristic period. In the absence of protocol-level surveys being performed, additional surveys may be necessary.

Expanded Alternative Project BIO-A also states, "If Tompkins sedge or Mountain lady's slipper or other special-status plant species is observed during the preconstruction surveys, CDFW shall be notified at least 10 days prior to construction activities, in accordance with the California Native Plant Protection Act of 1977 (CFGCA Section 1900- 1913) to allow sufficient time to transplant the individuals to a suitable location." CDFW would like to note that the California Native Plant Protection Act of 1977 (NPPA) is only applicable to the 64 species, subspecies, and varieties of plants that are specifically identified as part of the NPPA. Additionally, the unauthorized take of plant species listed as threatened, endangered, or rare pursuant to CESA or the NPPA is a violation of Fish and Game Code. As such, CDFW recommends the following:

4H



Tom Trott  
Twain Harte Community Services District.  
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**Recommended Mitigation Measure 6: Special-status Plant Consultation and Take Authorization**

If special-status plant species, including State endangered, threatened, or rare plants, are identified during botanical surveys, consultation with CDFW is recommended. For State CESA and NPPA listed species, If take cannot be avoided, CDFW recommends the Project obtain an ITP, pursuant to Fish and Game Code section 2081 subdivision (b) and/or California Code of Regulations, Title 14, Section 786.9, subdivision (b) to comply with CESA and the NPPA.

4H

**Editorial Comments and/or Suggestions**

**CNDDDB Positive Submission of Data:** Please note that the CNDDDB is populated by and records voluntary submissions of species detections. As a result, species may be present in locations not depicted in the CNDDDB but where there is suitable habitat and features capable of supporting species. A lack of an occurrence record in the CNDDDB does not mean a species is not present. In order to adequately assess any potential Project-related impacts to biological resources, surveys conducted by a qualified wildlife biologist/botanist during the appropriate survey period(s) and using the appropriate protocol survey methodology are warranted in order to determine whether or not any special status species are present at or near the Project area.

4I

**ENVIRONMENTAL DATA**

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e).) Accordingly, please report any special status species and natural communities detected during Project surveys to the CNDD. The CNDD field survey form can be filled out and submitted online at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The types of information reported to CNDDDB can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

4J

**FILING FEES**

The Project, as proposed, could have an impact on fish and/or wildlife, and assessment of environmental document filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the environmental document filing fee is required in order for the underlying Project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089.)

4K

Tom Trott  
Twain Harte Community Services District.  
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**CONCLUSION**

CDFW appreciates the opportunity to comment on the MND to assist THCS D in identifying and mitigating Project impacts on biological resources. Questions regarding this letter or further coordination should be directed to John Riedel, Environmental Scientist at (559) 807-1453 or [john.riedel@wildlife.ca.gov](mailto:john.riedel@wildlife.ca.gov).

} 4L

Sincerely,

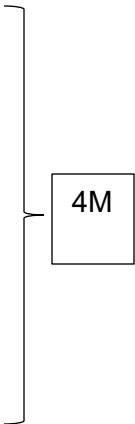
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Julie A. Vance  
Regional Manager

ec: State Clearinghouse  
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**REFERENCES**

- California Department of Fish and Wildlife. 2010. Bald eagle breeding survey instructions. California Department of Fish and Wildlife, Sacramento, California, USA.
- California Department of Fish and Wildlife. 2024. Biogeographic information and observation system (BIOS). <https://www.wildlife.ca.gov/Data/BIOS>. Accessed 03 April, 2024.
- California Department of Fish and Wildlife. 2018. Protocols for surveying and evaluating impacts to special status native plant populations and sensitive natural communities. California Department of Fish and Wildlife. Sacramento, California, USA.



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 Twain Harte Community Services District.  
 April 10, 2024  
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**Attachment 1**

**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE  
 RECOMMENDED MITIGATION MONITORING AND REPORTING PROGRAM  
 (MMRP)**

**PROJECT: Twain Harte Community Services District Water System  
 Improvements Project**

**SCH No.: 2024030516**

<b>RECOMMENDED MITIGATION MEASURE</b>	<b>STATUS/DATE/INITIALS</b>
<i>Before Disturbing Soil or Vegetation</i>	
Bald Eagle	
<b>Recommended Mitigation Measure 1:</b> BAEA Surveys	
Great Gray Owl	
<b>Recommended Mitigation Measure 3:</b> GGO Surveys	
Special-status Plants	
<b>Recommended Mitigation Measure 5:</b> Special-status Plant Surveys	
<i>During Construction</i>	
Bald Eagle	
<b>Recommended Mitigation Measure 2:</b> BAEA Avoidance Buffer	
Great Gray Owl	
<b>Recommended Mitigation Measure 4:</b> GGO Avoidance Buffer	
Special-status Plants	
<b>Recommended Mitigation Measure 6:</b> Special-status plant Consultation and Take Authorization	

4N

***Comment 4A Addresses the California Department of Fish and Wildlife's (CDFW) jurisdictional authority.***

**Response to Comment 4A** No specific impacts are identified, no response required.

***Comment 4B Describes the project and habitat.***

**Response to Comment 4B**

No specific impacts are identified, no response required

***Comment 4C Identifies CDFW concerns that identified mitigation will not adequately address potential impacts to the following species: bald eagle, great grey owl, pallid bat, spotted bat, Townsend's big eared bat, western mastiff bat, Mariposa clarkia, mountain lady's slipper and Tompkin's sedge.***

**Response to Comment 4C:**

It is noted that CDFW's responses are confined to the IS/MND, but do not make reference to the more detailed Biological Study Report (APA, January 2024) prepared for the project and incorporated by reference in the IS/MND. That report addresses several of the issues raised by CDFW. The District is providing a copy of the Biological Study Report to CDFW in conjunction with these responses.

Response acknowledged. Because each of these species is addressed specifically and individually by CDFW, species specific responses are found in responses to comments 4D through 4I.

**Comment 4D: IS/MND did not address potential impacts to the bald eagle. CDFW recommends the addition of two mitigation measures to the IS/MND.**

**Response to Comment 4D**

Table 2 (Page 25) of the Biological Study Report evaluates the potential for the bald eagle to occur on site as follows:

The Project boundaries lack large bodies of water and rivers. While the species could temporarily roost during its movements throughout the county; impacts to the species are not anticipated. It was not identified during surveys. The nearest suitable habitat is Twain Harte Lake which is well outside the project boundaries

Based on biological studies conducted over the past 12 years by the project biologist of the same project footprint (and surrounding areas), the conclusion of the Biological Study Report for the project is reiterated. The site does not provide suitable breeding habitat for the species. Therefore, CDFW's recommendation to follow bald eagle breeding habitat protocols for surveys is inconsistent with the project habitat conditions and findings of recurring surveys over a period of more than ten years. However, because preconstruction surveys for raptors already are required, the addition of a modified CDFW recommended mitigation measure is easily accommodated, and therefore, the following amendment to the IS/MND is made:

### **Avoidance and Minimization Measure BIO-10: Preconstruction Survey Birds**

Prior to construction occurring between February 1<sup>st</sup> and September 30<sup>th</sup> (e.g., excavation, ground disturbance, or vegetation removal) a preconstruction survey for nesting birds, including bald eagles and great grey owls, will be conducted in accordance with the CDFW guidelines by a qualified biologist familiar with bald eagle and great grey owls, and a no-disturbance buffer will be established, if necessary.

If equipment staging, site preparation, vegetation removal, grading, excavation or other project-related construction activities are scheduled during the avian nesting season (generally February 1 through September 30), a focused survey for active nests would be conducted by a qualified biologist within 14 days prior to the beginning of project-related activities.

Surveys shall be conducted in all suitable habitats in the BSA. If the pre-construction surveys identify nesting bird species within areas that are within 500 feet of construction activities for non-raptors and within 0.5 mile for raptors (including bald eagles and great grey owls), the following shall be implemented:

- A. Project-related construction impacts shall be avoided by establishment of appropriate no-work buffer zones to limit construction activities near the nest site. The no-work buffer zone shall be delineated by highly visible temporary construction fencing and shall be a minimum of 500 feet from non-raptor nests and 0.5 mile from raptor nests (including bald eagles and great grey owls), unless a qualified biologist, in consultation with CDFW, determines that alternative buffers are permissible due to the nature and location of the specific species, its nest, and existing conditions to which the species has been habituated. Alternative buffers shall be established for special status non-raptor nests in consultation with CDFW.
- B. In consultation with CDFW, monitoring of nest activity by a qualified biologist shall be required if the construction activity has potential to adversely affect the nest or nesting behavior of the bird.
- C. No construction activity shall commence within the no-work buffer zone until a CDFW-approved qualified biologist confirms that the nest is no longer active (e.g., young have fledged). For bald eagles, this period extends beyond fledging to a period when the young are no longer reliant on parental care for survival.
- D. Canada geese depredation is an exception to these provisions per measure BIO-11.

**Mitigation Monitoring BIO-10:** The measure shall be implemented prior to any constructing occurring between February 1<sup>st</sup> and September 30<sup>th</sup> of the construction year. If construction is delayed or occurs in phases, a re-survey must be completed prior to recommencing work after a shut-down period of more than three months if construction occurs between February 1<sup>st</sup> and September 30<sup>th</sup> of the construction year. The construction contractor is responsible for ensuring that the Project Biologist is notified with ample time to complete the survey and consult with CDFW, if necessary.

**Comment 4E: IS/MND did not address potential impacts to the great gray owl. CDFW recommends the addition of two mitigation measures to the IS/MND.**

**Response to Comment 4E:** Table 2 (Page 26) of the Biological Study Report evaluates the potential for the great grey owl to occur on site as follows:

The nearest CNNDDB record is just under 4 miles from the project site. However, the species was historically reported to forage along the Twain Harte Golf Course within two miles of the project site. The project does not provide edge-of-meadow suitable nesting habitat for the species. However, the species may temporarily roost within the project boundaries as it passes between preferred foraging areas. The project would be unlikely to create a significant impact on the species given its mobility and limited potential use of the site.

Based on biological studies conducted over the past 12 years of the same project footprint (and surrounding areas) by the project biologist, the conclusion of the Biological Study Report for the project is reiterated. However, because preconstruction surveys for raptors already is required, the addition of CDFW's recommended mitigation measures are easily accommodated, and therefore, the amendment to the IS/MND is made per the Response to Comment 4E.

**Comment 4F: The IS/MND addresses the spotted bat. CDFW recommends that the mitigation measures proposed for that species are also applied to the pallid bat, Townsend's big-eared bat and mastiff bat.**

**Response to Comment 4F:**

Table 2 (Page 26) of the Biological Study Report evaluates the potential for the pallid to occur on site as follows:

The nearest CNDDDB record occurs more than 5 miles from the project site. Given the species sensitivity to disturbances, the noise of residences and traffic along Tuolumne Road, the species is not expected to occur on site.

Table 2 (Page 27-28) of the Biological Study Report evaluates the potential for the Townsend's big-eared bat to occur on site as follows:

The nearest CNDDDB record occurs more than 2 miles from the project site. Given the species sensitivity to disturbances, the noise of residences and traffic along Tuolumne Road, and the lack of mines or caves, lava tubes suited to the species; it is not expected to occur on site

The Biological Study Report did not evaluate the potential for the Western mastiff bat to occur on site. That analysis is added as follows to Table 2 of the Biological Study Report as follows:

Species	Status	Preferred habitat(s)/a/	Likelihood to Occur on Site O= Present on Site (Occupied) U = Unlikely to Occur P = Potential to Occur
<b>Mammals</b>			
Western mastiff bat <i>Eumops perotis californicus</i>	CDFW SSC BLM-S	Many open, semi-arid to arid habitats. Chaparral Cismontane woodland Coastal scrub Valley & foothill grassland. Roosts in crevices in cliff faces, high buildings, trees and tunnels.	U – The nearest CNDDDB record is 3.7± miles from the project site. The project site lacks the species preferred high cliffs, tunnels and buildings for roosting sites of appropriate height to fill the large wingspan of the species for take-off. While tree

Species	Status	Preferred habitat(s)/a/	Likelihood to Occur on Site O= Present on Site (Occupied) U = Unlikely to Occur P = Potential to Occur
			crevices are present, they are not present in combination with preferred semi-arid to arid habitat. Neither the species nor evidence of the species was identified during surveys. The species is, therefore, not expected to occur.

Based on biological studies conducted over the past 12 years in the same project footprint (and surrounding areas) by the project biologist, the conclusion of the Biological Study Report for the project related to bats is reiterated. However, because preconstruction surveys for bats already are required, the addition of CDFW’s recommendation to include all four bat species is easily accommodated. It is noted, however, that the mitigation measure for the project is generic and refers only to preconstruction surveys for bats, rather than for a specific bat species; amendments to the text only, rather than the mitigation measure are made as follows to the Biological Study Report:

**Bats**

*The following bat species has the potential to occur within the BSA (see Table 2):*

**Spotted bat (*Euderma maculatum*)**

*This bat is a CDFW species of special concern and at high-risk per the Western Bat Working Group. It occupies a wide variety of habitats from arid deserts and grasslands through mixed conifer forests. The bat feeds over water and along washes almost entirely on moths. The species needs rock crevices or caves for roosting. The nearest CNDDDB record occurs more than seven miles from the project site. The species was not identified during surveys; however, given the wide variety of habitats suited to the species (mixed conifer, and presence of lake for foraging), it could roost and/or forage within the project boundaries. To ensure that no impacts to this species may occur, the following is required:*

*CDFW further recommends that the following be extended to include, in addition to the spotted bat; Western mastiff bats, pallid bats, and Townsend’s big-eared bats; although evaluations indicate they are unlikely to occur. The following mitigation therefore, is applicable to spotted bats, Western mastiff bats, pallid bats, and Townsend’s big-eared bats:*

***Avoidance and Minimization Measure BIO-12: Preconstruction Surveys Suitable Bat Roosting (or Nursery) Areas & Provisions for Protection, if Identified***

*At least 15 days before commencing ground-disturbing activities between April and September of the construction year, a qualified biologist will survey snags, trees, rock crevices and other suitable cavities and structures in the BSA for roosting bats or bat nurseries. If bats are not found and there is no evidence of bat use, construction may proceed. If bats are found or evidence of use by bats is present, CDFW shall be consulted for guidance on measures to avoid or minimize disturbance to the colony or nursery.*



*Subject to CDFW approval, measures may include excluding bats from roosts before construction begins.*

***Avoidance and Minimization Measure BIO-13: Hours of Construction.***

*Project construction shall be limited to 7:00 a.m. to 7:00 p.m. unless an emergency situation exists.*

***Avoidance and Minimization Measure BIO-7: Environmental Awareness Training***

*Proper implementation of the preceding is expected to minimize or avoid impacts to bat species to a level of less than significant.*

**Comment 4G: Regardless of the Alternative Selected, Special Status Plant Surveys should be conducted by a qualified biologist in accordance with 2018 CDFW Protocols.**

**Response to Comment 4G:**

It is noted that CDFW's responses are confined to the IS/MND, but do not make reference to the more detailed Biological Study Report (APA, January 2024) prepared for the project and incorporated by reference in the IS/MND. That report addresses several of the issues raised by CDFW, including methodologies and evaluations of additional individual species. The District is providing a copy of the Biological Study Report to CDFW in conjunction with these responses.

All potential special status plant species were surveyed for by a qualified biologist. As stated in the Biological Study Report:

Site Surveys:

Site surveys were conducted by foot on the following dates: 4/23/23, 5/13/23, and 6/11/23. Surveys were conducted using Nikon Monarch M7 8 X 42 binoculars, Nikon D3300 digital camera (18- 55mm and 70-300mm lens), and standard field and collection supplies.

Botanical surveys

Surveys were conducted on foot. Photos of representative vegetation were taken throughout the surveys. Where species were not readily identified in the field, plant specimens were inspected with a hand lens, sketched and, if necessary, collected and preserved then keyed in-house using a dissecting microscope and Jepson Manual.

The Biological Study Report is hereby amended as follows to clarify that 2018 CDFW Protocols were applied in botanical surveys.

Botanical surveys

Surveys were conducted on foot. Photos of representative vegetation were taken throughout the surveys. Where species were not readily identified in the field, plant specimens were inspected with a hand lens, sketched and, if necessary, collected and preserved then keyed in-house using a dissecting microscope and Jepson Manual.

**Botanical surveys were surveyed a minimum of three times throughout the blooming period of potentially occurring special status plant species. Blooming periods were determined based on biologist experience, CalFlora, the California Native Plant Society Rare Plant Inventory, and observations of blooming periods of known populations of the same species**

in the project vicinity by the project biologist. All suitable habitats were surveyed on foot on multiple occasions. The USDA NRCS Soils maps were studied to determine potential soils supporting special status plants.

Based on biological studies conducted over the past 12 years in the same project footprint (and surrounding areas) by the project biologist, the conclusion of the Biological Study Report for the project related to special status plants is reiterated.

It is further noted that the project biologist has, in fact, identified several special status plant species in close proximity to the site over many years. However, the locations of these previously identified populations are near, but lack the same soil characteristics, of the project site (e.g., a volcanic ridge is located outside the project footprint, but adjacent and supports numerous special status plant species).

Based on the preceding, no changes to the IS/MND or additional changes to the Biological Study Report are proposed.

***Comment 4H: Only the 64 plant species identified in the Native Plant Protection Act may rely on seed collection as adequate mitigation. Tomkins Sedge and Mountain Lady's Slipper are not included in that list. Therefore, additional mitigation is recommended.***

**Response to Comment 4H:** The following mitigation measures are hereby incorporated into the IS/MND and Biological Study Report as follows:

**Expanded Alternative Project BIO-A**

If the Expanded Alternative Project is pursued, a qualified biologist shall conduct a preconstruction survey for special-status plant species within 30 days prior to construction, during the appropriate blooming period within areas of suitable habitat within the Expanded Alternative Project area. If Tompkins sedge or Mountain lady's slipper or any other special-status plant species are not found, then no further measures are necessary. If Tompkins sedge or Mountain lady's slipper or other special-status plant species are observed, consultation with CDFW will occur. For species listed pursuant to the California Endangered Species Act and Native Plant Protection Act; if take cannot be avoided, the project will obtain an incidental take permit pursuant to Fish and Game Code Section 2018(b) and/or California Code of Regulations, Title 14, Section 786.9(b) to comply with CESA and the NPPA.

***Comment 4I: Lack of CNDDDB records does not indicate species absence where suitable habitat exists. Surveys by qualified biologists/botanists in accordance with CDFW survey protocols are recommended.***

**Response to Comment 4I:**

Comment editorial or suggested, no response required. However, a qualified biologist/botanist conducted surveys in accordance with CDFW protocols—see Biological Study Report.

***Comment 4J: Special status species identified in the IS/MND should be recorded in the California Natural Diversity Database.***

**Response to Comment 4J:**

Comment editorial or suggested, no response required. However, special status species identified on site will be entered into the CNDDDB.

***Comment 4K: A CDFW Filing fee is required for IS/MNDs.***

**Response to Comment 4K:**

The applicable fee will be paid in conjunction with filing a Notice of Determination.

***Comment 4L: Thank you for coordination, contact information.***

**Response to Comment 4L:**

Comment noted, no response required.

***Comment 4M: References cited.***

**Response to Comment 4M:**

Comment noted, no response required.

***Comment 4N: Summary of Recommendations***

**Response to Comment 4N:**

See responses to Comments 4D-4H.

**TWAIN HARTE COMMUNITY SERVICES DISTRICT  
RESOLUTION NO. 24-16**

**ADOPTION OF A MITIGATED NEGATIVE DECLARATION FOR THE TWAIN  
HARTE COMMUNITY SERVICES DISTRICT WATER SYSTEM IMPROVEMENTS  
PROJECT**

**WHEREAS**, the Twain Harte Community Services District (District) has proposed the District Water Systems Improvement Project (Project), which includes replacement and construction of approximately 2.2 miles of water line in the Sherwood Forest subdivision, to provide a safe and reliable water source to existing District customers; and

**WHEREAS**, an Initial Study/Mitigated Negative Declaration (IS/MND) with Mitigation Monitoring and Reporting Plan was prepared for the Project and circulated in accordance with the California Environmental Quality Act and a Notice of Determination shall be filed; and

**WHEREAS**, the IS/MND was submitted to the State Clearinghouse for review between March 14, 2024, and ending April 12, 2024; and

**WHEREAS**, comments were received from Caltrans, the State Water Resources Control Board, the Central Valley Regional Water Quality Control Board (RWQCB), and the California Department of Fish and Wildlife and responses to these comments were prepared and incorporated at part of the IS/MND; and

**WHEREAS**, the IS/MND was made available to the public for review and comment between March 14, 2024 and ending May 7, 2024 and no comments from the public were received; and

**WHEREAS**, a notice of public hearing was published in the Union Democrat on April 16, 2024; and

**WHEREAS**, at said noticed public hearing the District Board of Directors heard and considered public input on the proposed project;

**NOW, THEREFORE, BE IT RESOLVED**, by the District Board of Directors that the Initial Study / Mitigated Negative Declaration and Mitigation Monitoring and Reporting Plan for the proposed Project is hereby adopted based on the following findings and subject to the mitigation measures contained in the Mitigation Monitoring and Reporting Plan:

- A. A Mitigated Negative Declaration was prepared for this project in accordance with the provisions of the California Environmental Quality Act; and

- B. The Project will not have a significant effect on the environment because changes or alterations have been adopted which mitigate or avoid significant effects on the environment and those measures have been made conditions of Project approval and are fully enforceable through permit conditions, agreements, or other measures; and
- C. A mitigation monitoring and reporting plan has been adopted for this Project; and
- D. The District Board of Directors has independently reviewed and analyzed the environmental document prepared for the proposed project and certifies that the mitigated negative declaration reflects the independent judgment of the District; and
- E. The location and custodian of the documents or other material which constitute the record of proceedings upon which this decision is based is the District Board Secretary of Twain Harte Community Services District at 22912 Vantage Point Dr., Twain Harte, CA 95383.

**PASSED AND ADOPTED** by the District Board of Directors at their Regular Meeting on May 8, 2024, by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

ATTEST:

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Gary Sipperley, Board President

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Kimberly Silva, Board Secretary



# Board Meeting Agenda Item Summary

May 8, 2024

<b>ITEM #:</b>	<b>08A</b>	<b>ITEM TYPE:</b>	<input type="checkbox"/> Discussion <input type="checkbox"/> Action <input checked="" type="checkbox"/> Both
<b>SUBJECT:</b>	Discussion/action to adopt the 20-Year Vehicle/Equipment Replacement Plan for Fiscal Year 2024-25.		
<b>RELATION TO STRATEGIC PLAN:</b>	<input checked="" type="checkbox"/> N/A <input type="checkbox"/> Advances Goal/Objective #'s: _____		

## RECOMMENDED ACTION:

Adopt the 20-Year Vehicle/Equipment Replacement Plan for Fiscal Year (FY) 2024-25.

## SUMMARY:

The District maintains a 20-Year Vehicle/Equipment Replacement Plan (Replacement Plan) to ensure its vehicles and equipment are replaced in a manner that ensures reliability and fiscal responsibility. The Replacement Plan is updated each year based on the following assumptions:

- Future vehicle and equipment purchases are assumed to be new vehicles and equipment, unless staff determines it is in the best interest of the District to purchase used vehicles and equipment.
- All new vehicles (excluding fire engines) are planned to be replaced every 15 years and/or 100,000 miles.
- The remaining life of existing vehicles/equipment is based on staff evaluation and is re-evaluated each year.
- Vehicles and equipment needing consecutive years of excessive repair work may need to be replaced earlier than planned.
- Vehicles and equipment that reach their estimated useful life will be evaluated by staff prior to replacement to determine if it can be reliably used for longer than originally anticipated.
- Costs for future vehicle and equipment replacements are based on the current value with an added inflation factor of 3% per year.

Both the Water/Sewer Committee and Fire Committee reviewed the Replacement Plan and recommend that the Board adopt it.

## FINANCIAL IMPACT:

Only one vehicle (Fire Utility 722) is proposed for replacement in FY 2024-25. The vehicle is proposed to be replaced with a used vehicle at a cost of \$35,000, which will be included in the FY 2024-25 Fire Fund Budget.

## ATTACHMENTS:

- 20-Year Vehicle/Equipment Replacement Plan for Fiscal Year 2024-25.



**TWAIN HARTE COMMUNITY SERVICES DISTRICT**  
**20-YR VEHICLE/EQUIPMENT REPLACEMENT PLAN**  
 Adopted: 5/8/2024

	Life Left	Life New	FY 24-25	FY 25-26	FY 26-27	FY 27-28	FY 28-29	FY 29-30	FY 30-31	FY 31-32	FY 32-33	FY 33-34	FY 34-35	FY 35-36	FY 36-37	FY 37-38	FY 38-39	FY 39-40	FY 40-41	FY 41-42	FY 42-43	FY 43-44
<b>Water/Sewer (65%/35%)</b>																						
Truck #1 (Ops Mgr) - 2019 Jeep Grand Cherokee	12	15													54,500							
Truck #2 (Utility/Goose/Plow) - 2015 Ford F350	6	15							95,500													
Truck #3 (Utility/Goose/Plow) - 2023 Ford F350	14	15																132,000				
Truck #4 (Utility/Plow) - 2023 Ford F350 (Utility Bed)	14	15																132,000				
Truck #5 (Utility) - 2019 Ford F350	10	15											107,500									
Truck #6 (Utility/Goose) - 2018 Chevy 3500	8	15									101,300											
Truck #7 (Small Utility) - 2008 Chevy C15*	3	15				32,800																\$ 51,100
Mini-Excavator - 2016	18	25																			105,000	
Backhoe - 2005	11	30												135,000								
<b>Water/Sewer (50%/50%)</b>																						
Mobile Generator*	5	25						35,000														
Forklift*	13	25														43,000						
<b>Sewer (100%)</b>																						
Flush Truck - 2022 Ford F600	19	20																				\$ 310,900
Vacuum Trailer - 2015 Pipe Hunter	18	25																	273,000			
<b>Fire (100%)</b>																						
C720 (Chief) - 2023 Chevy 1500	14	15																	105,900			
U721 (Utility) - 2006 GMC Sierra 2500 Diesel	3	15				80,000																
U722 (Utility) - 2017 Chevy Colorado Diesel	15	15	35,000																			
E721 (Primary Engine) - 2005 HME SEO 1871	14	25																				
E723 (Primary Engine) - 2014 International	11	20												904,400								
E722 (Reserve Engine) - 2001 HME Westates	12	35													80,000							
WT721 (Tactical Tender) - 2016 Pierce Intl.	19	25																				\$ 596,500
<b>Vehicles not to be Replaced</b>																						
Flush Trailer (Trixie) - 1998 Shamrock	1	25																				
E722 (Reserve Engine) - 1986 Sparton Pumper	1	25																				
CERT Utility - 2004 Chevy 2500	5	25																				
<b>TOTAL Water</b>			\$ -	\$ -	\$ -	\$ 21,320	\$ -	\$ 17,500	\$ 62,075	\$ -	\$ 65,845	\$ -	\$ 69,875	\$ 87,750	\$ 35,425	\$ 21,500	\$ -	\$ 171,600	\$ -	\$ -	\$ 68,250	\$ 33,215
<b>TOTAL Sewer</b>			\$ -	\$ -	\$ -	\$ 11,480	\$ -	\$ 17,500	\$ 33,425	\$ -	\$ 35,455	\$ -	\$ 37,625	\$ 47,250	\$ 19,075	\$ 21,500	\$ -	\$ 92,400	\$ 273,000	\$ -	\$ 36,750	\$ 328,785
<b>TOTAL Fire</b>			\$ 35,000	\$ -	\$ -	\$ 80,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 904,400	\$ 80,000	\$ -	\$ 1,215,900	\$ 46,700	\$ -	\$ -	\$ -	\$ 596,500
<b>DISTRICT GRAND TOTAL</b>			\$ 35,000	\$ -	\$ -	\$ 112,800	\$ -	\$ 35,000	\$ 95,500	\$ -	\$ 101,300	\$ -	\$ 107,500	\$ 1,039,400	\$ 134,500	\$ 43,000	\$ 1,215,900	\$ 310,700	\$ 273,000	\$ -	\$ 105,000	\$ 958,500

**NOTES:**

310831.7435

- All future vehicle purchases are assumed to be new vehicles, unless noted otherwise.
  - Vehicle values are based on current year values with an added inflation factor of 3% per year.
  - All new vehicles (excluding fire engines) are planned to be replaced every 15 years and/or 100,000 miles.
  - Remaining life of existing vehicles/equipment is based on staff evaluation and will be re-evaluated each year.
  - Vehicles needing consecutive years of excessive repair work may need to be replaced earlier than planned.
  - Vehicles that reach their estimated useful life will be evaluated by staff to determine whether they need replacement prior to purchase of a new vehicle.
- \* Vehicle/equipment anticipated to be replaced with a used vehicle.



# Board Meeting Agenda Item Summary

May 8, 2024

<b>ITEM #:</b>	<b>08B</b>	<b>ITEM TYPE:</b>	<input type="checkbox"/> Discussion <input type="checkbox"/> Action <input checked="" type="checkbox"/> Both
<b>SUBJECT:</b>	Update on District sewer relining program and high priority sewer system projects.		
<b>RELATION TO STRATEGIC PLAN:</b>	<input type="checkbox"/> N/A <input type="checkbox"/> Advances Goal/Objective #'s: _____		

**RECOMMENDED ACTION:**

None.

**SUMMARY:**

The District recently completed a grant-funded sewer condition assessment. The assessment concluded that most of the sewer system is beyond its useful life and many areas have offsets, sags and root intrusion. The assessment also included a 20-year plan that identified and prioritized capital projects to replace portions of the system that present the highest risks. The District has made progress toward addressing the highest risk portions of the system and has a plan in place to complete all projects on the 20-year plan within the next 10 years. The District’s progress generally includes the following (see attached 20-Year Sewer Capital Project Plan for a complete update):

- Grouped the highest priority projects into one project (Twain Harte Pipeline Project) and completed environmental documentation, 30% design, and applied for two grants.
- Completed 90% design for the Sherwood Forest Sewer Project. Please note that this is a new project to convert the Sherwood Forest subdivision from septic to public sewer to prevent contamination of Turnback Creek. It does not involve replacement of degraded lines.
- Completed 5 out of 25 projects.

In addition to undertaking specific capital projects, the District’s capital plan includes \$150,000 each year to restore degraded sewer line through Cured-In-Place Pipe (CIPP). CIPP is a trenchless sewer repair method where a resin-impregnated liner is inserted into a damaged pipe and cured in place, creating a new jointless pipe within the old pipe. This method is much cheaper than replacement, has a lifespan of 50-60 years, and is highly effective at preventing root intrusion and infiltration. The District’s ongoing sewer relining budget allows the District to perform CIPP on approximately 1,400 feet of sewer line each year. The District’s upcoming relining project includes 1,367 feet of CIPP (see attached Sewer Relining Project Map).

**FINANCIAL IMPACT:**

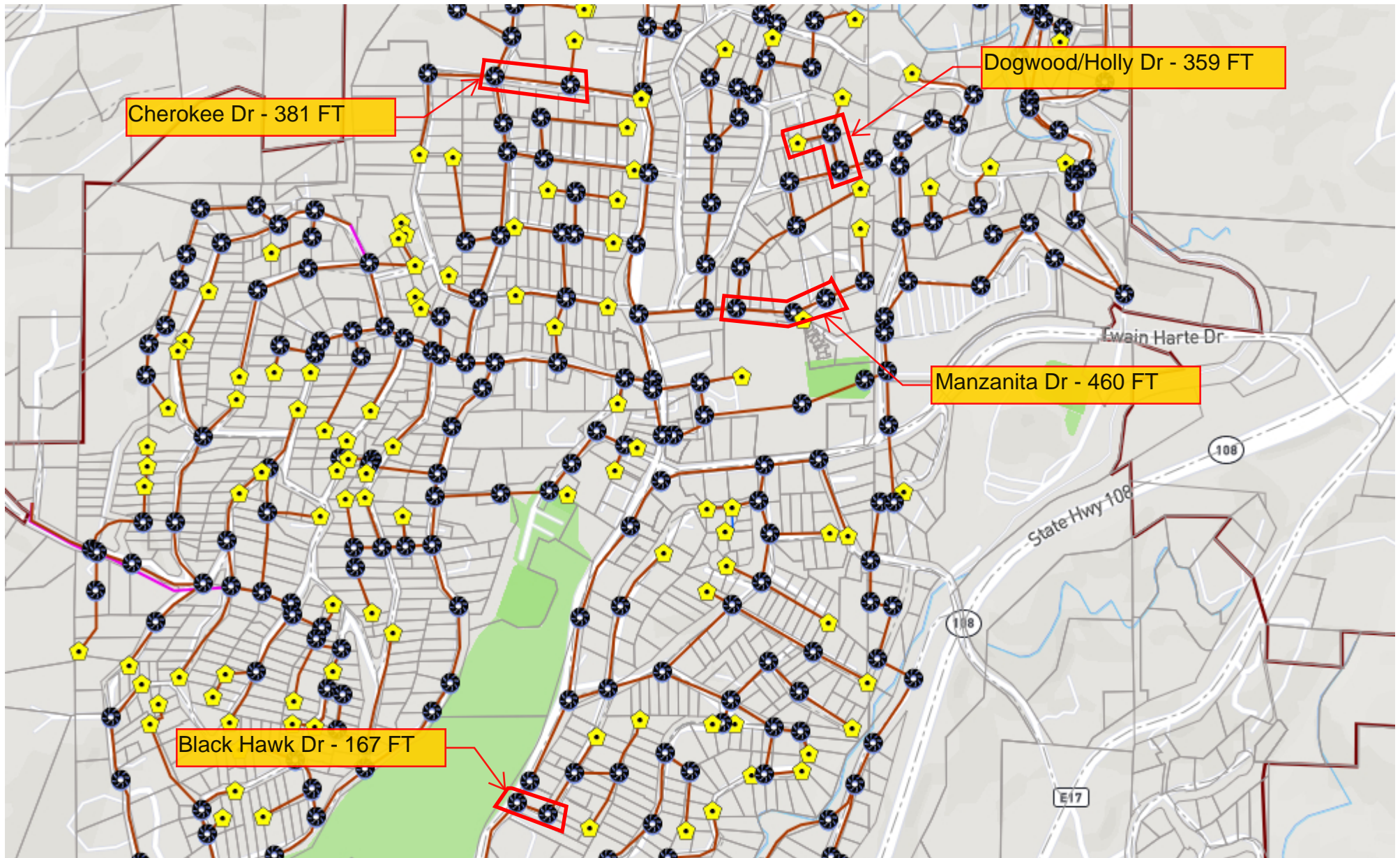
None.

**ATTACHMENTS:**

- Sewer Relining Project Map
- 20-Year Sewer Capital Project Plan Update



# THCSD Sewer Relining Project



1" = 858 ft

FY 23-24

04/26/2024



This map may represent a visual display of related geographic information. Data provided here on is not guarantee of actual field conditions. To be sure of complete accuracy, please contact the responsible staff for most up-to-date information.

**20-YEAR SEWER SYSTEM CAPITAL IMPROVEMENT PROJECT PLAN**

Suggested Year of Completion	Project Location/Name	Description	Risk Rating	Estimated Construction Cost	NOTES	
1	Adjacent to Twain Harte Lake	Replace 3,113' of 10" pipe	4.4	\$ 891,192	* All projects grouped into one large project - TH Pipeline Project * Project Mitigated Negative Declaration completed 3/23/22 * 30% Design Complete December 2021 * Submitted applications for two different grants - award expected Fall 2024 * Project scheduled over the next 3 years * If grants are unsuccessful, will explore other opportunities for grants, loans, or breaking the project into smaller portions.	
2	Marquis Drive	Replace 267' of 10" pipe / 865' of 6" pipe	3.8	\$ 353,385		
2		Replace 466' of 10" pipe	3.6	\$ 104,876		
3	Twain Harte Dr to Spruce Dr	Replace 447' of 8" pipe / 1,967' of 6" pipe	3.6	\$ 589,281		
4	Golf Club Drive (South)	Replace 664' of 10" pipe / 204' of 6" pipe	3.2	\$ 258,308		
3	Fuller to Manzanita Dr	Replace 873' of 8" pipe / 362' of 6" pipe	3.0	\$ 245,935		
4	Sewer crossing of Twain Harte Creek	Replace 63' of 6" pipe crossing	3.0	\$ 54,750		
4	Willowood Dr / Tuolumne Dr	Replace 1,169' of 6" pipe	3.0	\$ 325,915		
5	Golf Club Dr (North)	Replace 830' of 10" pipe	2.8	\$ 225,880		
5		Repair or replace manhole	2.8	\$ 9,700		
5	Tiffeni Dr	Replace 690' of 8" pipe / 349' of 6" pipe	2.6	\$ 308,939		
5	Black Oak Dr	Replace 60' of 6" pipe	2.4	\$ 59,825		
10	Sherwood Forest	NEW sewer system - convert Sherwood Forest from septic to public sewer  15,750' of new 6" pipe	2.6	\$ 3,501,550		* Project requires a vote of Sherwood Forest residents to convert from septic to public sewer and to approve a special tax assessment * Completed 90% design in February 2021 * If residents vote for it, project is planned in 9 years
15	East Ave to Cedar Pines	Replace 595' of 8" pipe / 625' of 6" pipe	2.4	\$ 351,875		* Project planned in 5 years * Portions of project may be relined with annual relining budget prior to year 5
15	Between Cresta Dr and Oak View Dr	Replace 1,968' of 6" pipe	2.4	\$ 579,580		* Project planned in 6 years * Portions of project may be relined with annual relining budget prior to year 6
20	P356	Replace 319' of 6" pipe	2.2	\$ 61,169	* Project planned next year	
20	Behind Dogwood Drive	Replace 709' of 6" pipe	2.2	\$ 160,125	* Completed in June 2021	
20	SP109	Repair or replace manhole	2.2	\$ 9,700	* Completed in June 2023	
20	P365	Replace 488' of 6" pipe	2.0	\$ 79,200	* Project planned in 7 years * Portions of project may be relined with annual relining budget prior to year 7	
20	MH13A	Repair or replace manhole	2.0	\$ 9,700	* Completed in June 2023	
20	SP2	Repair or replace manhole	1.8	\$ 9,700	* Project planned in next 3 years	
20	SP56	Repair or replace manhole	1.6	\$ 9,700	* Project planned in next 3 years	
20	SP109	Repair or replace manhole	1.6	\$ 9,700	* Completed in June 2023	
20	P364	Replace 174' of 6" pipe	1.4	\$ 34,750	* Project planned in 9 years * Portions of project may be relined with annual relining budget prior to year 9	
20	MH93	Repair or replace manhole	1.4	\$ 9,700	* Completed in June 2023	
Continuous	Ongoing Maintenance/Repair	Clean and repair lines with budget when critical issues arise			* Clean more than 25% of lines each year * Repairs made every year as needed	
Continuous	Ongoing Relining of pipelines	Reline high priority and problem lines that can be relined instead of replaced			* Reline 1,367' in FY 23-24 * \$150,000 budgeted each year to reline approximately 1,300' of pipe per year	



# Board Meeting Agenda Item Summary

May 8, 2024

<b>ITEM #:</b>	<b>08C</b>	<b>ITEM TYPE:</b>	<input type="checkbox"/> Discussion <input type="checkbox"/> Action <input checked="" type="checkbox"/> Both
<b>SUBJECT:</b>	Discussion/action to approve Amendment #3 to the General Manager Employment Agreement.		
<b>RELATION TO STRATEGIC PLAN:</b>	<input checked="" type="checkbox"/> N/A <input type="checkbox"/> Advances Goal/Objective #'s: _____		

## RECOMMENDED ACTION:

Approve Amendment #3 to the General Manager Employment Agreement and authorize the Board President to sign the Amendment on behalf of the Board.

## SUMMARY:

The District entered into a General Manager Employment Agreement (Agreement) with Thomas Trott on May 9, 2018, to provide his professional services as the District’s General Manager. With regards to compensation, the Agreement states:

*“The District’s Board desires to set the General Manager’s salary at a level that is comparable to salary levels of general managers at other similar agencies. In order to maintain a comparable salary level, the Board will regularly compare the General Manager’s salary to general manager salary levels at similar agencies, mutually selected by the Board and the General Manager. At a minimum, salary comparisons shall occur on or prior to the date of the General Manager’s annual performance evaluation in 2021, 2024 and 2027. If the General Manager’s salary is found to be less than comparable agencies, the General Manager and the Board will discuss compensation adjustments in an effort to maintain a comparable salary level. Any adjustment of compensation will be at the sole discretion of the Board.”*

The Board reviewed salary levels of general managers at comparable agencies at their meeting on April 11, 2024. The Board evaluated seven similar agencies and selected four as most comparable, selecting only the ones who had an operating budget of less than \$7.5 million and less than 25 employees. When comparing base salaries only, the salary for the District’s General Manager was 20.7% or \$38,756 below average.

The following table provides a summary of the comparison of base salaries:

COMPARABLE AGENCIES	Operations Budget (\$M)	# Employees	# Services	GM Base Salary FY 23-24
Vandenberg CSD - (Experienced GM Retired 2024)	\$ 3.24	8	2	\$ 203,133
Templeton CSD	\$ 6.20	24	7	\$ 199,342
Groveland CSD	\$ 7.30	21	4	\$ 187,566
Hertage Ranch CSD	\$ 2.40	10	3	\$ 181,400
Vandenberg CSD - (New GM, No Experience)	\$ 3.24	8	2	\$ 165,000
<b>Twain Harte CSD</b>	<b>\$ 4.23</b>	<b>16</b>	<b>4</b>	<b>\$ 148,532</b>
<b>AVERAGE (Not including THCS)</b>				<b>\$ 187,288</b>
<b>THCS SALARY AMOUNT ABOVE/(BELOW) AVERAGE</b>			<b>-20.7%</b>	<b>\$ (38,756)</b>

To ensure a comprehensive comparison, the Board adjusted base salaries to account for the differences in cost of living between each comparable agency's location and Twain Harte. They also analyzed other forms of compensation provided to the employee through benefit packages, such as retirement, health, life insurance, travel allowances, and vacation. The comprehensive comparison revealed that the overall compensation package for the District's General Manager was 12.5% or \$22,574 below average.

After considering comparable general manager compensation packages, the Board made an oral recommendation at the April 11, 2024, meeting to amend the Agreement to increase the General Manager's salary by 4%. The recommendation stated that the increase would not negate or take the place of any Fiscal Year (FY) 2024-25 cost of living adjustments provided through the Agreement. Amendment #3 includes these recommendations for consideration by the public and the Board.

If Amendment #3 is approved, the General Manager's overall compensation package will be 9% or \$16,335 lower than those of comparable agencies.

**FINANCIAL IMPACT:**

Increasing the General Manager's salary by 4% results in a base salary increase of \$5,941. The costs of all administrative salaries, including the General Manager's salary, are shared by each of the District's funds as follows:

- Water Fund = 47%
- Sewer Fund = 25%
- Fire Fund = 18%
- Park Fund = 10%

The increase will be included in the District's Fiscal Year 2024-25 Budget.

**ATTACHMENTS:**

- Amendment #3 to the General Manager Employment Agreement

**TWAIN HARTE COMMUNITY SERVICES DISTRICT**  
22912 Vantage Pointe Drive, Twain Harte, California 95383  
Tel: (209) 586-3172 Fax: (209) 586-0424

**AMENDMENT #3**  
**GENERAL MANAGER EMPLOYMENT AGREEMENT**

The Twain Harte Community Services District (“District”) and Thomas C. Trott (“General Manager”) hereby agree to amend the following articles of the General Manager Employment Agreement (“Agreement”) dated May 9, 2018, as follows:

1. The General Manager’s annual salary shall be increased by 4%. The first sentence in Article 3, “Compensation,” shall be removed and replaced in its entirety with the following:  

*“The General Manager shall be paid the annual salary of one hundred fifty-four thousand, four hundred seventy-three dollars (\$154,473) per year, as of July 1, 2024 (renewal at each fiscal year), for his full-time services, accruing neither overtime nor compensatory time, prorated and payable at the regular District pay periods, subject to the following adjustments:”*
2. The above annual salary will remain subject to any Fiscal Year 2024-25 cost of living adjustments described in Subparagraph C, “Cost of Living Adjustments,” under Article 3, “Compensation,” of the Agreement. Such adjustments will be applied on July 1, 2024.
3. Except as specifically provided herein and as previously amended in Amendments #1 and #2 to the Agreement, all other terms and conditions of the Agreement shall remain in full force and effect, and each of its terms are incorporated herein by reference.
4. This Amendment #3 is effective as of the date approved by the District Board of Directors and executed by both parties below.

**TWAIN HARTE COMMUNITY SERVICES DISTRICT**

**GENERAL MANAGER**

\_\_\_\_\_  
Gary Sipperley, Board President

\_\_\_\_\_  
Thomas C. Trott, General Manager

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**ATTEST:**

\_\_\_\_\_  
Kimberly Silva, Board Secretary



# Board Meeting Agenda Item Summary

May 8, 2024

<b>ITEM #:</b>	08D	<b>ITEM TYPE:</b>	<input type="checkbox"/> Discussion <input type="checkbox"/> Action <input checked="" type="checkbox"/> Both
<b>SUBJECT:</b>	Discussion/action to approve proposed revisions to Policy #2004 – Alcohol-Tobacco-Vapor Products and Drug Abuse Policy.		
<b>RELATION TO STRATEGIC PLAN:</b>	<input type="checkbox"/> N/A <input checked="" type="checkbox"/> Advances Goal/Objective #'s: <u>5.13</u>		

**RECOMMENDED ACTION:**

Approve proposed revisions to Policy #2004 – Alcohol-Tobacco-Vapor Products and Drug Abuse Policy.

**SUMMARY:**

The Board’s Finance/Policy Committee reviewed Policy #2004 (Alcohol-Tobacco-Vapor Products and Drug Abuse Policy) at its recent meeting to advance Strategic Plan Objective 5.13, which aims for the review and update (if needed) of all District policies. Policy #2004 was adopted on September 13, 2002, and was last amended on September 8, 2016.

Proposed revisions generally include the following:

- Changing the title of Policy #2004 (Alcohol-Tobacco-Vapor Products and Drug Abuse Policy) to “Alcohol Drug and Substance Abuse.”
- Re-organizing, re-formatting, and re-titling sections of Policy #2004 for ease of use.
- Updating the policy to comply with the most recent law changes.

The Finance/Policy Committee recommends that the Board adopt the attached proposed revisions to Policy #2004 – Alcohol-Tobacco-Vapor Products and Drug Abuse Policy.

**FINANCIAL IMPACT:**

None.

**ATTACHMENTS:**

- Policy #2004 – Alcohol-Tobacco-Vapor Products and Drug Abuse Policy (Proposed Revisions w/Redlines)
- Policy #2004 – Alcohol Drug and Substance Abuse (Proposed Revisions w/o Redlines)

**TWAIN HARTE COMMUNITY SERVICES DISTRICT**  
**Policy and Procedure Manual**

**POLICY TITLE:** Alcohol/~~Tobacco/Vapor Products~~ and Drug and Substance Abuse Policy  
**POLICY NUMBER:** 2004  
**ADOPTED:** September 13, 2012  
**AMENDED:** 9/8/2016  
**LAST AMENDED:** **May 8, 2024**

### **~~2004.10~~ INTRODUCTION**

~~The Twain Harte Community Services District (“District”) is concerned about employees being impaired for the performance of duty or under the influence of alcohol, drugs and/or controlled substances at work, and the use of such substances in the work environment. The District’s position is that any measurable amount of drugs or alcohol in an employee’s system while on District time is counter-productive to the goals and mission of the District.~~

~~The District is also concerned about the possession, distribution, purchase or sale of illegal drugs and controlled substances in the workplace. These activities may adversely affect work performance, efficiency, safety and health. In addition, they constitute a potential risk to the welfare and safety of others, risks of injury to other persons, property loss or damage, or negative image for the District.~~

~~The District’s policy is designed to promote a drug-free workplace and to comply with applicable state and federal laws. In recognition of the public service responsibilities entrusted to District employees, and because drug, and alcohol and substance usage can hinder a person’s ability to perform duties safely and effectively, the following Policy on drug and alcohol testing is hereby adopted by the District.~~

### **2004.10 PURPOSE**

This Policy establishes the rules and procedures regarding the use of drugs and/or alcohol as it pertains to employment and the procedures to be used to test for drug and/or alcohol use in the following three circumstances:

1. Pre-employment testing of external applicants for District special need jobs;
2. Reasonable suspicion testing of current employees; and
3. Post-accident testing of current employees.

The District’s policy is designed to promote a drug-free workplace and to comply with applicable state and federal laws. In recognition of the public service responsibilities entrusted to District employees, and because drug, alcohol and substance usage can

hinder a person's ability to perform duties safely and effectively, the following Policy on drug and alcohol testing is hereby adopted by the District.

## **2004.20 INTRODUCTION**

The Twain Harte Community Services District ("District") is concerned about employees being impaired for the performance of duty or under the influence of alcohol, drugs and/or controlled substances at work, and the use of such substances in the work environment. The District's position is that any measurable amount of drugs or alcohol in an employee's system while on District time is counter-productive to the goals and mission of the District.

The District is also concerned about the possession, distribution, purchase or sale of illegal drugs and controlled substances in the workplace. These activities may adversely affect work performance, efficiency, safety and health. In addition, they constitute a potential risk to the welfare and safety of others, risks of injury to other persons, property loss or damage, or negative image for the District.

## **2004.30 POLICY APPLICATION, CONFIDENTIALITY & VIOLATION OF POLICY**

1. General Employees. This Policy applies to external applicants for District special needs jobs and to all employees. Any information about an employee's use of prescription or non-prescription medication, the results of any pre-employment or reasonable suspicion drug and/or alcohol testing, and/or an employee's past or present participation in rehabilitation or treatment for substance abuse shall be considered confidential personnel information. The information received in enforcing this Policy shall be disclosed only as necessary for: disciplinary actions and appeals, interactive process meetings and reasonable accommodation efforts, or resolving legal issues. Any reports or test results generated pursuant to this Policy shall be stored in a confidential file, accessible only by those authorized to receive the information and separate and distinct from the employee's personnel file.
2. DOT Employees. Employees covered by drug and alcohol testing requirements under the Department of Transportation (DOT) regulations as commercial drivers are also covered under District Policy 2005 (DOT Employee Substance Abuse Policy). To the extent the terms and conditions of Policy 2005 differ from this policy, such terms and conditions under Policy 2005 will apply.
3. Disabled Employees. The District provides reasonable accommodations as required by law to those employees whose drug or alcohol problem classifies them as disabled. While the District will be supportive of those who seek help voluntarily, the District will be equally firm in identifying and disciplining those whose continued substance abuse, even if enrolled in counseling or rehabilitation programs, results in performance deficiencies, danger to the health and safety of others and themselves, and/or violations of federal, state or District laws and/or policies.
4. Confidentiality. The information received in enforcing this Policy shall be disclosed only as necessary for: disciplinary actions and appeals, interactive



process meetings and reasonable accommodation efforts, or resolving legal issues. Any reports or test results generated pursuant to this Policy shall be stored in a confidential file, accessible only by those authorized to receive the information and separate and distinct from the employee's personnel file.

5. Violation of Policy. All persons covered by this Policy should be aware that violations of this policy may result in discipline, up to and including termination, or in not being hired.

#### **2004.40 DEFINITIONS**

1. "Alcohol" shall mean the intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohol including methyl or isopropyl alcohol.
2. "Chain of Custody" shall mean procedures to account for the integrity of each specimen by tracking its handling and storage from point of specimen collection to final disposition of the specimen at the certified laboratory.
3. "District Equipment" shall mean all property and equipment, machinery and vehicles owned, leased, rented or used by the District.
4. "Collection Site" shall mean a designated clinic/facility where applicants or employees may present themselves for the purpose of providing a specimen to be analyzed. The District will select a Collection Site and require that the Collection Site comply with all methods of collection and Chain of Custody and provide documentation of compliance to the District.
5. "Designated Employer Representative (DER)" shall mean the General Manager or designee.
6. "Drug or Drugs" shall mean any controlled substance that is not legally obtainable under State or Federal law, or a prescription drug obtained or used without benefit of a prescription by a licensed physician. Marijuana is included in this definition of "drug" to the extent permitted under California law.
7. "Medical Review Officer (MRO)" shall mean a licensed physician with knowledge of drug abuse disorders as well as appropriate training to interpret and evaluate an employee's positive test results together with an employee's medical history and any other biomedical information. MRO reviews all negative and positive test results and interviews individuals who tested positive to verify the laboratory report before the employer is notified. The District shall select an MRO who is a licensed physician.
8. "Prescription Drug" shall mean any substance that can lawfully be obtained or possessed pursuant to a prescription by a licensed physician.
9. "Positive Test" shall mean to have the presence of a drug or a drug metabolite and/or alcohol in a person's system that is equal to or greater than the levels allowed by this Policy in the confirmation test as determined by appropriate

testing of breath, urine, ~~or~~ blood, or other approved testing specimen and which is determined by the MRO to be the result of the use of drugs and/or alcohol.

10. "Testing Laboratory" shall mean a Substance Abuse and Mental Health Services Administration (SAMHSA) certified testing laboratory.
11. "Substance Abuse Professional (SAP)" shall mean a licensed physician, social worker, psychologist, Employee Assistance Program (EAP) or certified National Association of Alcohol and Drug Abuse Counselors (NAADAC) with knowledge of and clinical experience in diagnosis and treatment of alcohol and controlled substance disorders. A SAP determines whether an employee is "Fit for Duty" following an employee's refusal to test or failed alcohol or drug test, refers employee for a return to duty test and schedules unannounced follow-up testing for a period of up to 36 months from the date the employee tested positive.

## **2004.50 RESTRICTIONS & PROHIBITIONS**

The following are restricted or prohibited:

1. Restrictions on the use of Alcohol. Employees may not use, be under the influence, or possess alcohol under any of the following circumstances: while on District property, while performing their duties (whether or not on District property) or at any time when use of alcohol would impair, to any extent, the employee's ability to perform his/her duties or to operate any District equipment. Any employee who is in an "on-call" status shall be considered to be in a duty status.
2. Prohibition Against the use of Drugs. No employee shall possess, use, sell, transfer, manufacture, purchase or transport drugs, or attempt to do so, or report to work with drugs in his or her system, including marijuana to the extent permitted under California law. No employee shall possess, use, sell, transfer, manufacture, purchase or transport prescription drugs, or attempt to do so, or report to work with prescription drugs in his or her system, unless the prescription drug has been lawfully prescribed to the employee.
3. Restrictions on Smoking. No employee shall smoke tobacco or any substance contained in a pipe, paper, or vapor device (including smokeless and e-cigarettes) within any District facilities, vehicles, machinery or equipment. All employees will be in compliance with the current State Law regarding smoking in and around public facilities and be of legal age. Under no circumstances shall District employees or volunteers of legal age provide smoking or vapor products to another District employee or volunteer or any member of the public under the legal age.
4. Restrictions on Chewing Tobacco. No employee shall chew tobacco in any form within any District facilities, vehicles, machinery or equipment. Employees that choose to use chewing tobacco products must be of legal age as defined by current State and Federal Laws and must use the products outside and in such a manner as to maintain professionalism when in a public setting. No byproducts of chewing tobacco will be discarded into any receptacle or location that has the

potential to spill or that may cause another employee to come in contact with the byproduct. Under no circumstances shall District employees or volunteers of legal age provide chewing tobacco products to another District employee or volunteer or any member of the public under the legal age.

#### **2004.60 CRIMINAL DRUG STATUTE CONVICTIONS**

To fulfill its obligations under the Federal Drug-Free Workplace Act of 1988, the District requires any employee who is convicted of any criminal drug statute, for a violation occurring in the workplace, to provide written notice of the conviction to the General Manager no later than five (5) days after the conviction. -The District is also required and will fulfill its obligations to educate employees on the harmful effects of using and abusing drugs and/or alcohol. -As required by law, the District will notify federal contracting agencies within ten (10) days after receiving notice that an employee, directly engaged in performance of work on a federal contract, has been convicted of a criminal drug statute violation resulting from conduct occurring in the workplace.

1. District Suspicion. Whenever the District has reason to believe that Federal, State or local drug laws are being violated, the District may refer the matter to the appropriate law enforcement agencies for investigation and possible criminal prosecution.
2. Independent Contractors. Independent contractors, or employees of independent contractors, working on District projects are required by law or contract to notify the District's General Manager, Operations Manager or Fire Chief of a drug and/or alcohol related conviction or positive test for drugs and/or alcohol. Said individuals will not be permitted to work on District projects.

#### **2004.70 MEDICATION REPORTING REQUIREMENTS**

Employees shall, in the case of prescription drugs, ask the prescribing physician and/or, in the case of medication available over the counter, review product packaging, to determine whether the use of a prescription drug or over-the-counter medication may impair his/her ability to perform his/her normal job duties or to safely operate District equipment. Any employee taking any over-the-counter medication or prescription drug marked "do not drive," "do not operate heavy equipment" or similarly labeled, shall inform the appropriate Supervisor of the use of the medication or drug prior to reporting for duty.

In the case of prescription drugs, the Supervisor shall determine whether the employee may work, full duty or light duty, based on the written opinion of the employee's medical provider that the use of the medication may impair the employee's ability to perform specific duties. The Supervisor may, upon a determination that the employee is unable to perform his or her normal duties safely, or that a modified work assignment is not available, direct the employee not to work and to return home on paid leave or industrial leave if appropriate. If the employee's personal medical provider provides a written opinion that the use of the drug or medication will not impair the employee's ability to perform his/her normal duties, the Supervisor will allow the employee to perform those duties. Notices or communications required by this Section shall be confidential and disclosed only to the Supervisor and the other employees specifically authorized to

receive information pursuant to this Policy.

## **2004.80 INDICATIONS FOR ALCOHOL AND DRUG TESTING**

### **2004.81 Certain External Job Applicants**

The District has a special need to require certain job applicants to take a drug and alcohol test after a conditional job offer has been given. Those applying for jobs classified by the District as safety sensitive positions (i.e., including, but not limited to, those jobs where individuals perform work that involves a danger to the public, such as operating dangerous instrumentalities including but not limited to heavy trucks used to transport hazardous material, heavy construction equipment, and/or operating natural and liquefied natural gas pipelines) must take and pass a mandatory drug and alcohol test as soon as practical following their acceptance of an offer of employment that is conditioned upon passing a pre-employment physical and drug/ alcohol test. Those external job applicants, described above, who:

1. Refuse to submit to testing or attempt to tamper with or adulterate a test sample, will be considered to have refused to participate in the testing process, shall not be hired, and will not be considered for employment for the certain positions described above for one year from the job applicant's refusal to participate in the testing process.
2. Test positive for drugs and/or alcohol or unauthorized prescription drug use shall not be hired and will not be considered for employment for the certain positions described above for one year from the applicant's last positive test.

### **2004.82 Employees**

The District may require an employee to submit to a drug and/or alcohol screen test under the following circumstances:

1. Following a work-related accident, incident or mishap that resulted in death, or injury requiring medical treatment away from the scene of the accident, or property damage, where drug and/or alcohol use by the employee cannot be ruled out as a contributing factor. See Exhibit A – Reasonable Suspicion Evaluation Form.
2. When a trained Supervisor has reasonable suspicion to believe, based upon specific and documented facts and observations that the employee may be under the influence of drugs and/or alcohol. See Exhibit A.
3. When a trained Supervisor has reasonable suspicion to believe, based upon specific and documented facts and observations, that the employee either possesses, uses, sells, transfers, manufactures, purchases or illegally transports alcohol, drugs and/or drug related paraphernalia or attempts to do so. See Exhibit A.
4. Follow-up testing for employees who have returned to work following a positive test and their participation in a drug and/or alcohol rehabilitation

program.

5. When an on-duty employee is contacted by a police officer who has reasonable suspicion to believe the employee is under the influence of alcohol or drugs or the employee has been involved in an on-duty vehicle-related incident and the officer suspects the employee is under the influence of drugs and/or alcohol.

#### **2004.90 POSITIVE TEST OR REFUSAL TO TEST**

Employees who refuse to take a test after direction to do so, or who test positive, will be subject to discipline up to and including termination. External applicants who test positive or who refuse to take a test after direction to do so will not be considered for employment for a safety sensitive position as described in this policy and will not be considered for such positions for two years from the applicant's last positive test. A refusal to test is defined as any of the following:

1. Not providing the District a written consent to take the test;
2. The applicant or employee does not supply enough quantity of the laboratory required sample for alcohol or drug testing without sufficient or valid medical explanation;
3. Tampering with a specimen or collection process;
4. Tardiness to reporting Collection Site after time allocated for applicant or employee to report without valid explanation.

#### **2004.100 DRUG AND ALCOHOL TESTING**

##### **2004.101 Administration**

The General Manager or his/her designee is the Designated Employer Representative ("DER") and shall be responsible for overseeing implementation of this Policy and the testing procedures. The General Manager will be responsible for reviewing all disciplinary actions resulting from violations of this Policy to ensure that the action proposed or taken is consistent with this Policy and the Manual. The DER shall be responsible for the following:

1. Communications directly with the MRO and/or SAP and SAMHSA regarding any drug and/or alcohol tests;
2. Overseeing testing programs;
3. Providing training to Supervisors and Employees.

##### **2004.102 Procedures**

1. Mandatory Reporting. Any employee who has reason to believe that another employee may be in violation of this Policy shall immediately notify his or her immediate Supervisor. The Supervisor should take whatever immediate

action is deemed prudent to ensure the safety of the public and employees. Should the Supervisor have reasonable suspicion to believe, based upon specific and documented facts and observations, that the employee may be under the influence of drugs and/or alcohol, the employee should be immediately removed from the workplace and placed upon administrative leave with pay until such time as testing results confirm or refute the presence of drugs and/or alcohol. The Supervisor shall use the Reasonable Suspicion Evaluation Form (Exhibit A) to assist in making this determination.

2. Acknowledgement. No drug and/or alcohol test may be administered, sample obtained, or drug and/or alcohol test be conducted on any sample in the pre-employment context without the written acknowledgment of the applicant being tested. See Exhibit B. Refusal of any applicant or employee to submit to testing, or attempt to adulterate or evade the testing process, will be viewed as insubordination and will subject the person to disqualification from employment or disciplinary action, up to and including discharge. The District will pay the cost of all drug and/or alcohol tests required by this Policy.
3. Collection, Integrity and Identification. After the applicant or employee has been advised about the reason for the test by the Supervisor, the applicant or employee will be properly identified and Collection Site personnel will explain the mechanics of the collection process.

Procedures for urine collection will allow for individual privacy unless there is reason to believe the individual may alter or substitute the specimen to be provided. Samples will be tested for temperature and subject to other validation procedures as appropriate.

4. Chain of Custody. Procedures for the storage and transportation of test specimens shall conform to the Mandatory Guidelines for Federal Workplace Drug Testing Programs promulgated by the Department of Health and Human Services as amended from time to time.

The test laboratory shall maintain custody of the specimens.

5. Testing Methods. All tests will be screened using an immunoassay technique and for alcohol an Evidential Breath Testing (EBT) device. All presumptive positive drug tests will be confirmed using gas chromatography/mass spectrometry (GC/MS) and all presumptive positive alcohol tests will be confirmed with a second EBT performed within 15 –30 minutes after the first EBT test is completed. District will test for cannabinoids (marijuana) [to the extent permitted under California law], cocaine, amphetamines, opiates, barbiturates, benzodiazepines, and phencyclidine (PCP) as well as alcohol. Tests will seek only information about the presence of drugs and/or alcohol in an individual's system and will not test for any medical condition.
6. Notification. Any employee who tests positive will be notified by the MRO and will be given an opportunity to provide the MRO any reasons he or she may have that would explain the positive drug and/or alcohol test, other than the

presence of alcohol or the illegal use of drugs. If the employee provides an explanation acceptable to the MRO that the positive drug or alcohol test result is due to factors other than the presence of drugs and/or alcohol in the test specimen, the positive test result will be disregarded and reported to the District as negative. Otherwise, the MRO will report the positive test result to the Designated Employee Representative. Test results will only be disclosed to the extent expressly authorized by this Policy.

7. Split Sample Testing. An employee who has been subjected to drug and/or alcohol screening may request a split sample test be conducted at a certified laboratory chosen by the employee. All costs associated with an employee's decision to pursue split sample testing will be the full responsibility of the employee. The employee must adhere to the following procedures to maintain strict Chain of Custody of the sample and validity of the split sample test results:
  - A. To request a split sample test to be conducted, the employee must submit his or her written request on the required Chain of Custody release form provided by the District's testing laboratory to the Designated Employee Representative.
  - B. The request will be forwarded to the testing laboratory used by the District facility. They will release the split sample to the certified lab chosen by the employee provided they have received the properly executed Chain of Custody release form.
  - C. The laboratory selected by the employee must be a certified laboratory per State regulations and authority and be able to conduct GC/MS method of testing for validation of testing results. Any method of testing performed on the split sample that is not the GC/MS method will be considered invalid.
  - D. The split sample test results will not be released to District without the employee's written consent.

## **2004.110 REHABILITATION**

### **2004.111 Voluntary Disclosure**

An employee requesting assistance may, at the Supervisor's discretion, be transferred, given work restrictions, or placed on leave while receiving treatment and until the employee is drug and/or alcohol free. An employee's voluntary disclosure of a substance or alcohol abuse problem will not terminate any investigation, criminal or administrative action, initiated prior to the disclosure.

Each employee is responsible for seeking assistance before the employee's drug and/or alcohol problem leads to a violation of this Policy, or before the employee is asked to submit to a reasonable suspicion drug and/or alcohol test.

### **2004.112 Leave Time**

Employees must use available sick time, vacation accrual, flex leave or request personal leave of absence without pay if time off from work is necessary for any treatment or rehabilitation program. The costs of long-term rehabilitation or treatment services, whether or not covered by the employee's medical plan, are the ultimate responsibility of the employee. All forms of paid leave must be exhausted prior to requesting other types of leave.



**EXHIBIT A**  
**TWAIN HARTE COMMUNITY SERVICES DISTRICT**  
**ALCOHOL AND DRUG ABUSE POLICY**  
**REASONABLE SUSPICION EVALUATION FORM**

Employee Name: \_\_\_\_\_

Observation Date and Time: \_\_\_\_\_

Location of Employee: \_\_\_\_\_

Location of Supervisor(s): \_\_\_\_\_

Others present during activities or observations: \_\_\_\_\_

Incident(s) observed which give cause for reasonable suspicion: \_\_\_\_\_

(Factors that may be considered in combination with those listed in 1 – 6 below include: takes needless risks, accident(s), disregard for others safety, unusual/distinct pattern of absenteeism/tardiness, increased high/low periods of productivity, lapses of concentration or judgment, etc.)

1. Presence of alcohol, alcohol containers, drugs, and/or drug paraphernalia (specify):

2. Appearance:

- |   |  |   |
|---|--|---|
| <input type="checkbox"/> Flushed                    | <input type="checkbox"/> Disheveled                          | <input type="checkbox"/> Smell of Alcohol |
| <input type="checkbox"/> Bloodshot/Glassy Eyes      | <input type="checkbox"/> Tremors                             | <input type="checkbox"/> Other:           |
| <input type="checkbox"/> Dilated/Constricted Pupils | <input type="checkbox"/> Inappropriate Wearing of Sunglasses |   |
| <input type="checkbox"/> Dry-mouth Symptoms         | <input type="checkbox"/> Runny Nose/Sores                    |   |
| <input type="checkbox"/> Puncture Marks             | <input type="checkbox"/> Profuse Sweating                    |   |

3. Behavior/Speech:

- |                                     |  |  |
|-------------------------------------|--|--|
| <input type="checkbox"/> Incoherent | <input type="checkbox"/> Slurred             | <input type="checkbox"/> Unconscious           |
| <input type="checkbox"/> Confused   | <input type="checkbox"/> Slowed              | <input type="checkbox"/> Hostile/Confrontation |
| <input type="checkbox"/> Agitated   | <input type="checkbox"/> Sleeping on the job | <input type="checkbox"/> Other:                |

4. Awareness:

- |                                    |   |                                      |
|------------------------------------|---|--------------------------------------|
| <input type="checkbox"/> Confused  | <input type="checkbox"/> Mood Swings          | <input type="checkbox"/> Euphoric    |
| <input type="checkbox"/> Lethargic | <input type="checkbox"/> Paranoid             | <input type="checkbox"/> Disoriented |
|                                    | <input type="checkbox"/> Lack of Coordination | <input type="checkbox"/> Other:      |

5. Motor Skills/Balance:

- |                                     |  |   |
|-------------------------------------|--|---|
| <input type="checkbox"/> Unsteady   | <input type="checkbox"/> Swaying                 | <input type="checkbox"/> Falling              |
| <input type="checkbox"/> Staggering | <input type="checkbox"/> Stumbling               | <input type="checkbox"/> Reaching for Support |
|                                     | <input type="checkbox"/> Arms Raised for Balance | <input type="checkbox"/> Other:               |

6. Other observed actions or behaviors: \_\_\_\_\_

Supervisor's Comments: \_\_\_\_\_

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Supervisor's Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Witness(es) Name: \_\_\_\_\_

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT B**  
**TWAIN HARTE COMMUNITY SERVICES DISTRICT**  
**ALCOHOL AND DRUG ABUSE POLICY**  
**ACKNOWLEDGEMENT OF REQUIRED**  
**SUBMISSION TO DRUG AND/OR ALCOHOL TESTING**

I, \_\_\_\_\_ [PRINT NAME], understand and acknowledge that I have reviewed a copy of the Twain Harte Community Services District's Drug and Alcohol Testing Policy ("Policy"). I hereby acknowledge that I am required to submit to drug and/or alcohol testing pursuant to the Policy.

I understand and acknowledge that information regarding the test results will be released to the Twain Harte Community Services District ("District") and that such information may be used as grounds for disciplinary action, up to, and including discharge.

I further understand and acknowledge that:

1. The District will pay the cost of all drug and/or alcohol tests required or requested by the District;
2. I may request in writing a copy of the results of any such test;
3. I may request that a split sample test be sent to a certified testing laboratory of my choice, consistent with the procedures outlined in the District's Drug and Alcohol Testing Policy, and that I will bear all of the costs associated with the split sample testing;
4. By signing this form, I hereby acknowledge that the split sample test results will be released to the District;
5. I have the right to refuse to submit to such testing; however, refusal by me to submit to or cooperate at any stage of the testing shall be considered equivalent to a confirmed "positive" test for purposes of disqualification from employment and/or disciplinary action, up to and including discharge from my employment with the District; and
6. I may also be required to execute forms at the collection site of testing laboratory.

With full understanding and knowledge of the foregoing, I hereby acknowledge my obligation to submit to drug and/or alcohol testing conducted by the clinics and/or Testing Laboratory selected by the District.

I have read the above acknowledgement and certify that I have signed this document with full knowledge and understanding of its contents.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
City and State: \_\_\_\_\_

Witness Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**TWAIN HARTE COMMUNITY SERVICES DISTRICT**  
**Policy and Procedure Manual**

**POLICY TITLE:** Alcohol Drug and Substance Abuse  
**POLICY NUMBER:** 2004  
**ADOPTED:** September 13, 2012  
**AMENDED:** 9/8/2016  
**LAST AMENDED:** May 8, 2024

#### **2004.10 PURPOSE**

This Policy establishes the rules and procedures regarding the use of drugs and/or alcohol as it pertains to employment and the procedures to be used to test for drug and/or alcohol use in the following three circumstances:

1. Pre-employment testing of external applicants for District special need jobs;
2. Reasonable suspicion testing of current employees; and
3. Post-accident testing of current employees.

The District's policy is designed to promote a drug-free workplace and to comply with applicable state and federal laws. In recognition of the public service responsibilities entrusted to District employees, and because drug, alcohol and substance usage can hinder a person's ability to perform duties safely and effectively, the following Policy on drug and alcohol testing is hereby adopted by the District.

#### **2004.20 INTRODUCTION**

The Twain Harte Community Services District ("District") is concerned about employees being impaired for the performance of duty or under the influence of alcohol, drugs and/or controlled substances at work, and the use of such substances in the work environment. The District's position is that any measurable amount of drugs or alcohol in an employee's system while on District time is counter-productive to the goals and mission of the District.

The District is also concerned about the possession, distribution, purchase or sale of illegal drugs and controlled substances in the workplace. These activities may adversely affect work performance, efficiency, safety and health. In addition, they constitute a potential risk to the welfare and safety of others, risks of injury to other persons, property loss or damage, or negative image for the District.

#### **2004.30 POLICY APPLICATION, CONFIDENTIALITY & VIOLATION**

1. General Employees. This Policy applies to external applicants for District special needs jobs and to all employees. Any information about an employee's use of prescription or non-prescription medication, the results of any pre-employment or

reasonable suspicion drug and/or alcohol testing, and/or an employee's past or present participation in rehabilitation or treatment for substance abuse shall be considered confidential personnel information. The information received in enforcing this Policy shall be disclosed only as necessary for: disciplinary actions and appeals, interactive process meetings and reasonable accommodation efforts, or resolving legal issues. Any reports or test results generated pursuant to this Policy shall be stored in a confidential file, accessible only by those authorized to receive the information and separate and distinct from the employee's personnel file.

2. DOT Employees. Employees covered by drug and alcohol testing requirements under the Department of Transportation (DOT) regulations as commercial drivers are also covered under District Policy 2005 (DOT Employee Substance Abuse Policy). To the extent the terms and conditions of Policy 2005 differ from this policy, such terms and conditions under Policy 2005 will apply.
3. Disabled Employees. The District provides reasonable accommodations as required by law to those employees whose drug or alcohol problem classifies them as disabled. While the District will be supportive of those who seek help voluntarily, the District will be equally firm in identifying and disciplining those whose continued substance abuse, even if enrolled in counseling or rehabilitation programs, results in performance deficiencies, danger to the health and safety of others and themselves, and/or violations of federal, state or District laws and/or policies.
4. Confidentiality. The information received in enforcing this Policy shall be disclosed only as necessary for: disciplinary actions and appeals, interactive process meetings and reasonable accommodation efforts, or resolving legal issues. Any reports or test results generated pursuant to this Policy shall be stored in a confidential file, accessible only by those authorized to receive the information and separate and distinct from the employee's personnel file.
5. Violation of Policy. All persons covered by this Policy should be aware that violations of this policy may result in discipline, up to and including termination, or in not being hired.

#### **2004.40 DEFINITIONS**

1. "Alcohol" shall mean the intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohol including methyl or isopropyl alcohol.
2. "Chain of Custody" shall mean procedures to account for the integrity of each specimen by tracking its handling and storage from point of specimen collection to final disposition of the specimen at the certified laboratory.
3. "District Equipment" shall mean all property and equipment, machinery and vehicles owned, leased, rented or used by the District.
4. "Collection Site" shall mean a designated clinic/facility where applicants or

employees may present themselves for the purpose of providing a specimen to be analyzed. The District will select a Collection Site and require that the Collection Site comply with all methods of collection and Chain of Custody and provide documentation of compliance to the District.

5. “Designated Employer Representative (DER)” shall mean the General Manager or designee.
6. “Drug or Drugs” shall mean any controlled substance that is not legally obtainable under State or Federal law, or a prescription drug obtained or used without benefit of a prescription by a licensed physician. Marijuana is included in this definition of “drug” to the extent permitted under California law.
7. “Medical Review Officer (MRO)” shall mean a licensed physician with knowledge of drug abuse disorders as well as appropriate training to interpret and evaluate an employee’s positive test results together with an employee’s medical history and any other biomedical information. MRO reviews all negative and positive test results and interviews individuals who tested positive to verify the laboratory report before the employer is notified. The District shall select an MRO who is a licensed physician.
8. “Prescription Drug” shall mean any substance that can lawfully be obtained or possessed pursuant to a prescription by a licensed physician.
9. “Positive Test” shall mean to have the presence of a drug or a drug metabolite and/or alcohol in a person’s system that is equal to or greater than the levels allowed by this Policy in the confirmation test as determined by appropriate testing of breath, urine, blood, or other approved testing specimen and which is determined by the MRO to be the result of the use of drugs and/or alcohol.
10. “Testing Laboratory” shall mean a Substance Abuse and Mental Health Services Administration (SAMHSA) certified testing laboratory.
11. “Substance Abuse Professional (SAP)” shall mean a licensed physician, social worker, psychologist, Employee Assistance Program (EAP) or certified National Association of Alcohol and Drug Abuse Counselors (NAADAC) with knowledge of and clinical experience in diagnosis and treatment of alcohol and controlled substance disorders. A SAP determines whether an employee is “Fit for Duty” following an employee’s refusal to test or failed alcohol or drug test, refers employee for a return to duty test and schedules unannounced follow-up testing for a period of up to 36 months from the date the employee tested positive.

#### **2004.50 RESTRICTIONS & PROHIBITIONS**

The following are restricted or prohibited:

1. Restrictions on the use of Alcohol. Employees may not use, be under the influence, or possess alcohol under any of the following circumstances: while on District property, while performing their duties (whether or not on District property) or at any time when use of alcohol would impair, to any extent, the

employee's ability to perform his/her duties or to operate any District equipment. Any employee who is in an "on-call" status shall be considered to be in a duty status.

2. Prohibition Against the use of Drugs. No employee shall possess, use, sell, transfer, manufacture, purchase or transport drugs, or attempt to do so, or report to work with drugs in his or her system, including marijuana to the extent permitted under California law. No employee shall possess, use, sell, transfer, manufacture, purchase or transport prescription drugs, or attempt to do so, or report to work with prescription drugs in his or her system, unless the prescription drug has been lawfully prescribed to the employee.
3. Restrictions on Smoking. No employee shall smoke tobacco or any substance contained in a pipe, paper, or vapor device (including smokeless and e-cigarettes) within any District facilities, vehicles, machinery or equipment. All employees will be in compliance with the current State Law regarding smoking in and around public facilities and be of legal age. Under no circumstances shall District employees or volunteers of legal age provide smoking or vapor products to another District employee or volunteer or any member of the public under the legal age.
4. Restrictions on Chewing Tobacco. No employee shall chew tobacco in any form within any District facilities, vehicles, machinery or equipment. Employees that choose to use chewing tobacco products must be of legal age as defined by current State and Federal Laws and must use the products outside and in such a manner as to maintain professionalism when in a public setting. No byproducts of chewing tobacco will be discarded into any receptacle or location that has the potential to spill or that may cause another employee to come in contact with the byproduct. Under no circumstances shall District employees or volunteers of legal age provide chewing tobacco products to another District employee or volunteer or any member of the public under the legal age.

#### **2004.60 CRIMINAL DRUG STATUTE CONVICTIONS**

To fulfill its obligations under the Federal Drug-Free Workplace Act of 1988, the District requires any employee who is convicted of any criminal drug statute, for a violation occurring in the workplace, to provide written notice of the conviction to the General Manager no later than five (5) days after the conviction. The District is also required and will fulfill its obligations to educate employees on the harmful effects of using and abusing drugs and/or alcohol. As required by law, the District will notify federal contracting agencies within ten (10) days after receiving notice that an employee, directly engaged in performance of work on a federal contract, has been convicted of a criminal drug statute violation resulting from conduct occurring in the workplace.

1. District Suspicion. Whenever the District has reason to believe that Federal, State or local drug laws are being violated, the District may refer the matter to the appropriate law enforcement agencies for investigation and possible criminal prosecution.
2. Independent Contractors. Independent contractors, or employees of independent

contractors, working on District projects are required by law or contract to notify the District's General Manager, Operations Manager or Fire Chief of a drug and/or alcohol related conviction or positive test for drugs and/or alcohol. Said individuals will not be permitted to work on District projects.

#### **2004.70 MEDICATION REPORTING REQUIREMENTS**

Employees shall, in the case of prescription drugs, ask the prescribing physician and/or, in the case of medication available over the counter, review product packaging, to determine whether the use of a prescription drug or over-the-counter medication may impair his/her ability to perform his/her normal job duties or to safely operate District equipment. Any employee taking any over-the-counter medication or prescription drug marked "do not drive," "do not operate heavy equipment" or similarly labeled, shall inform the appropriate Supervisor of the use of the medication or drug prior to reporting for duty.

In the case of prescription drugs, the Supervisor shall determine whether the employee may work, full duty or light duty, based on the written opinion of the employee's medical provider that the use of the medication may impair the employee's ability to perform specific duties. The Supervisor may, upon a determination that the employee is unable to perform his or her normal duties safely, or that a modified work assignment is not available, direct the employee not to work and to return home on paid leave or industrial leave if appropriate. If the employee's personal medical provider provides a written opinion that the use of the drug or medication will not impair the employee's ability to perform his/her normal duties, the Supervisor will allow the employee to perform those duties. Notices or communications required by this Section shall be confidential and disclosed only to the Supervisor and the other employees specifically authorized to receive information pursuant to this Policy.

#### **2004.80 INDICATIONS FOR ALCOHOL AND DRUG TESTING**

##### **2004.81 Certain External Job Applicants**

The District has a special need to require certain job applicants to take a drug and alcohol test after a conditional job offer has been given. Those applying for jobs classified by the District as safety sensitive positions (i.e., including, but not limited to, those jobs where individuals perform work that involves a danger to the public, such as operating dangerous instrumentalities including but not limited to heavy trucks used to transport hazardous material, heavy construction equipment, and/or operating natural and liquefied natural gas pipelines) must take and pass a mandatory drug and alcohol test as soon as practical following their acceptance of an offer of employment that is conditioned upon passing a pre-employment physical and drug/ alcohol test. Those external job applicants, described above, who:

1. Refuse to submit to testing or attempt to tamper with or adulterate a test sample, will be considered to have refused to participate in the testing process, shall not be hired, and will not be considered for employment for the certain positions described above for one year from the job applicant's refusal to participate in the testing process.



2. Test positive for drugs and/or alcohol or unauthorized prescription drug use shall not be hired and will not be considered for employment for the certain positions described above for one year from the applicant's last positive test.

#### **2004.82 Employees**

The District may require an employee to submit to a drug and/or alcohol screen test under the following circumstances:

1. Following a work-related accident, incident or mishap that resulted in death, or injury requiring medical treatment away from the scene of the accident, or property damage, where drug and/or alcohol use by the employee cannot be ruled out as a contributing factor. See Exhibit A – Reasonable Suspicion Evaluation Form.
2. When a trained Supervisor has reasonable suspicion to believe, based upon specific and documented facts and observations that the employee may be under the influence of drugs and/or alcohol. See Exhibit A.
3. When a trained Supervisor has reasonable suspicion to believe, based upon specific and documented facts and observations, that the employee either possesses, uses, sells, transfers, manufactures, purchases or illegally transports alcohol, drugs and/or drug related paraphernalia or attempts to do so. See Exhibit A.
4. Follow-up testing for employees who have returned to work following a positive test and their participation in a drug and/or alcohol rehabilitation program.
5. When an on-duty employee is contacted by a police officer who has reasonable suspicion to believe the employee is under the influence of alcohol or drugs or the employee has been involved in an on-duty vehicle-related incident and the officer suspects the employee is under the influence of drugs and/or alcohol.

#### **2004.90 POSITIVE TEST OR REFUSAL TO TEST**

Employees who refuse to take a test after direction to do so, or who test positive, will be subject to discipline up to and including termination. External applicants who test positive or who refuse to take a test after direction to do so will not be considered for employment for a safety sensitive position as described in this policy and will not be considered for such positions for two years from the applicant's last positive test. A refusal to test is defined as any of the following:

1. Not providing the District a written consent to take the test;
2. The applicant or employee does not supply enough quantity of the laboratory required sample for alcohol or drug testing without sufficient or valid medical explanation;

3. Tampering with a specimen or collection process;
4. Tardiness to reporting Collection Site after time allocated for applicant or employee to report without valid explanation.

## **2004.100 DRUG AND ALCOHOL TESTING**

### **2004.101 Administration**

The General Manager or his/her designee is the Designated Employer Representative (“DER”) and shall be responsible for overseeing implementation of this Policy and the testing procedures. The General Manager will be responsible for reviewing all disciplinary actions resulting from violations of this Policy to ensure that the action proposed or taken is consistent with this Policy and the Manual. The DER shall be responsible for the following:

1. Communications directly with the MRO and/or SAP and SAMHSA regarding any drug and/or alcohol tests;
2. Overseeing testing programs;
3. Providing training to Supervisors and Employees.

### **2004.102 Procedures**

1. Mandatory Reporting. Any employee who has reason to believe that another employee may be in violation of this Policy shall immediately notify his or her immediate Supervisor. The Supervisor should take whatever immediate action is deemed prudent to ensure the safety of the public and employees. Should the Supervisor have reasonable suspicion to believe, based upon specific and documented facts and observations, that the employee may be under the influence of drugs and/or alcohol, the employee should be immediately removed from the workplace and placed upon administrative leave with pay until such time as testing results confirm or refute the presence of drugs and/or alcohol. The Supervisor shall use the Reasonable Suspicion Evaluation Form (Exhibit A) to assist in making this determination.
2. Acknowledgement. No drug and/or alcohol test may be administered, sample obtained, or drug and/or alcohol test be conducted on any sample in the pre-employment context without the written acknowledgment of the applicant being tested. See Exhibit B. Refusal of any applicant or employee to submit to testing, or attempt to adulterate or evade the testing process, will be viewed as insubordination and will subject the person to disqualification from employment or disciplinary action, up to and including discharge. The District will pay the cost of all drug and/or alcohol tests required by this Policy.
3. Collection, Integrity and Identification. After the applicant or employee has been advised about the reason for the test by the Supervisor, the applicant or employee will be properly identified and Collection Site personnel will explain the mechanics of the collection process.

Procedures for urine collection will allow for individual privacy unless there is reason to believe the individual may alter or substitute the specimen to be provided. Samples will be tested for temperature and subject to other validation procedures as appropriate.

4. Chain of Custody. Procedures for the storage and transportation of test specimens shall conform to the Mandatory Guidelines for Federal Workplace Drug Testing Programs promulgated by the Department of Health and Human Services as amended from time to time.

The test laboratory shall maintain custody of the specimens.

5. Testing Methods. All tests will be screened using an immunoassay technique and for alcohol an Evidential Breath Testing (EBT) device. All presumptive positive drug tests will be confirmed using gas chromatography/mass spectrometry (GC/MS) and all presumptive positive alcohol tests will be confirmed with a second EBT performed within 15 –30 minutes after the first EBT test is completed. District will test for cannabinoids (marijuana) [to the extent permitted under California law], cocaine, amphetamines, opiates, barbiturates, benzodiazepines, and phencyclidine (PCP) as well as alcohol. Tests will seek only information about the presence of drugs and/or alcohol in an individual's system and will not test for any medical condition.
6. Notification. Any employee who tests positive will be notified by the MRO and will be given an opportunity to provide the MRO any reasons he or she may have that would explain the positive drug and/or alcohol test, other than the presence of alcohol or the illegal use of drugs. If the employee provides an explanation acceptable to the MRO that the positive drug or alcohol test result is due to factors other than the presence of drugs and/or alcohol in the test specimen, the positive test result will be disregarded and reported to the District as negative. Otherwise, the MRO will report the positive test result to the Designated Employee Representative. Test results will only be disclosed to the extent expressly authorized by this Policy.
7. Split Sample Testing. An employee who has been subjected to drug and/or alcohol screening may request a split sample test be conducted at a certified laboratory chosen by the employee. All costs associated with an employee's decision to pursue split sample testing will be the full responsibility of the employee. The employee must adhere to the following procedures to maintain strict Chain of Custody of the sample and validity of the split sample test results:
  - A. To request a split sample test to be conducted, the employee must submit his or her written request on the required Chain of Custody release form provided by the District's testing laboratory to the Designated Employee Representative.
  - B. The request will be forwarded to the testing laboratory used by the

District facility. They will release the split sample to the certified lab chosen by the employee provided they have received the properly executed Chain of Custody release form.

- C. The laboratory selected by the employee must be a certified laboratory per State regulations and authority and be able to conduct GC/MS method of testing for validation of testing results. Any method of testing performed on the split sample that is not the GC/MS method will be considered invalid.
- D. The split sample test results will not be released to District without the employee's written consent.

## **2004.110 REHABILITATION**

### **2004.111 Voluntary Disclosure**

An employee requesting assistance may, at the Supervisor's discretion, be transferred, given work restrictions, or placed on leave while receiving treatment and until the employee is drug and/or alcohol free. An employee's voluntary disclosure of a substance or alcohol abuse problem will not terminate any investigation, criminal or administrative action, initiated prior to the disclosure.

Each employee is responsible for seeking assistance before the employee's drug and/or alcohol problem leads to a violation of this Policy, or before the employee is asked to submit to a reasonable suspicion drug and/or alcohol test.

### **2004.112 Leave Time**

Employees must use available sick time, vacation accrual, flex leave or request personal leave of absence without pay if time off from work is necessary for any treatment or rehabilitation program. The costs of long-term rehabilitation or treatment services, whether or not covered by the employee's medical plan, are the ultimate responsibility of the employee. All forms of paid leave must be exhausted prior to requesting other types of leave.



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Supervisor's Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Witness(es) Name: \_\_\_\_\_

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT B**  
**TWAIN HARTE COMMUNITY SERVICES DISTRICT**  
**ALCOHOL AND DRUG ABUSE POLICY**  
**ACKNOWLEDGEMENT OF REQUIRED**  
**SUBMISSION TO DRUG AND/OR ALCOHOL TESTING**

I, \_\_\_\_\_ [PRINT NAME], understand and acknowledge that I have reviewed a copy of the Twain Harte Community Services District's Drug and Alcohol Testing Policy ("Policy"). I hereby acknowledge that I am required to submit to drug and/or alcohol testing pursuant to the Policy.

I understand and acknowledge that information regarding the test results will be released to the Twain Harte Community Services District ("District") and that such information may be used as grounds for disciplinary action, up to, and including discharge.

I further understand and acknowledge that:

1. The District will pay the cost of all drug and/or alcohol tests required or requested by the District;
2. I may request in writing a copy of the results of any such test;
3. I may request that a split sample test be sent to a certified testing laboratory of my choice, consistent with the procedures outlined in the District's Drug and Alcohol Testing Policy, and that I will bear all of the costs associated with the split sample testing;
4. By signing this form, I hereby acknowledge that the split sample test results will be released to the District;
5. I have the right to refuse to submit to such testing; however, refusal by me to submit to or cooperate at any stage of the testing shall be considered equivalent to a confirmed "positive" test for purposes of disqualification from employment and/or disciplinary action, up to and including discharge from my employment with the District; and
6. I may also be required to execute forms at the collection site of testing laboratory.

With full understanding and knowledge of the foregoing, I hereby acknowledge my obligation to submit to drug and/or alcohol testing conducted by the clinics and/or Testing Laboratory selected by the District.

I have read the above acknowledgement and certify that I have signed this document with full knowledge and understanding of its contents.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
City and State: \_\_\_\_\_

Witness Signature: \_\_\_\_\_ Date: \_\_\_\_\_



# Board Meeting Agenda Item Summary

May 8, 2024

<b>ITEM #:</b>	O8E	<b>ITEM TYPE:</b>	<input type="checkbox"/> Discussion <input type="checkbox"/> Action <input checked="" type="checkbox"/> Both
<b>SUBJECT:</b>	Discussion/action to adopt Policy #2005 – DOT Employee Substance Abuse and Testing.		
<b>RELATION TO STRATEGIC PLAN:</b>	<input type="checkbox"/> N/A <input checked="" type="checkbox"/> Advances Goal/Objective #'s: <u>5.13</u>		

**RECOMMENDED ACTION:**

Adopt Policy #2005 – DOT Employee Substance Abuse and Testing.

**SUMMARY:**

To advance Strategic Plan Objective 5.13, which aims for the review and update (if needed) of all District policies the Board’s Finance/Policy Committee reviewed Policy #2004 (Alcohol-Tobacco-Vapor Products and Drug Abuse Policy) at its recent meeting. Upon review of Policy #2004, the District identified a need for an additional substance abuse Policy for District Employees who hold a Class “A” or Class “B” Driver’s License. Policy #2005 (DOT Employee Substance Abuse and Testing) complies with all applicable Federal regulations governing workplace anti-drug programs in the transportation industry as required by the Department of Transportation (DOT).

The Finance/Policy Committee recommends that the Board adopt Policy #2005 – DOT Employee Substance Abuse and Testing.

**FINANCIAL IMPACT:**

None.

**ATTACHMENTS:**

- Policy #2005 – DOT Employee Substance Abuse and Testing



**TWAIN HARTE COMMUNITY SERVICES DISTRICT**  
**Policy and Procedure Manual**

**POLICY TITLE:** DOT Employee Substance Abuse Policy  
**POLICY NUMBER:** 2005  
**ADOPTED:** May 8, 2024  
**AMENDED:**  
**LAST AMENDED:**

**2005.10 PURPOSE**

The purpose of this policy is to assure worker fitness for duty and to protect District employees and the public from risks posed by the use of alcohol and controlled substances. This policy is also intended to comply with all applicable Federal regulations governing workplace anti-drug programs in the transportation industry. The Federal Highway Administration (FHWA) of the Department of Transportation (DOT) has enacted 49 CFR Part 382 that mandate urine drug testing and breathalyzer alcohol testing for safety-sensitive positions and prevents performance of safety-sensitive functions when there is a positive test result. The Department of Transportation has also enacted 49 CFR Part 40 that sets standards for the collection and testing of urine and breath specimens. In addition, the Department of Transportation has enacted 49 CFR Part 29, "The Drug-Free Workplace Act of 1988," which requires the establishment of drug free workplace policies and the re- porting of certain drug-related offenses to the Department of Transportation. This policy incorporates those requirements of safety-sensitive employees and others when so noted.

The District recognizes that the use of alcohol and/or controlled substances in the workplace is not conducive to safe working conditions. In order to promote a safe, healthy and productive work environment for all employees, it is the objective of the District to have a work force that is free from the influence of alcohol and controlled substances.

**2005.20 APPLICATION OF POLICY**

This policy applies to all employees when they are on District property or when performing any District related business. Certain provisions, where identified, will apply only to safety-sensitive employees. It also applies to off-site lunch periods and breaks when a safety-sensitive employee is scheduled to return to work.

A safety-sensitive employee is:

1. One in any classification requiring the use of a Class "A" or Class "B" commercial driver's license, as listed in Appendix A; or
2. One who has voluntarily driven a District vehicle requiring a commercial license within the last 12- month period, or who desires in the future to voluntarily drive a

District vehicle requiring a commercial license.

The District is dedicated to assuring fair and equitable application of this Substance Abuse Policy. Therefore, supervisors are required to administer all aspects of the policy in an unbiased and impartial manner. Any supervisor who knowingly disregards the requirements of this policy, or who is found to deliberately misuse the policy with respect to his/her subordinates shall be subject to disciplinary action, up to and including termination of employment.

### **2005.30 PROHIBITED SUBSTANCES**

“Prohibited substances” addressed by this policy include the following:

1. Drugs. marijuana, amphetamines, opiates, phencyclidine (PCP) and cocaine.
2. Alcohol. The use of beverages or substances, including any medication, containing alcohol such that it is present in the body at a level in excess of that stated in DOT guidelines while actually performing, ready to perform, or immediately available to perform any District business is prohibited. “Alcohol” is defined as: the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohol, including methyl or isopropyl alcohol.
3. Legal Medications. Using or being under the influence of any legally pre-scribed medication(s), or non-prescription medication(s) while performing district business or while on District property is prohibited to the extent that such use or influence affects job safety or effective and efficient job performance. This prohibition includes the use of medically prescribed marijuana. An employee who feels his/her performance of work-related duties may be impaired by use of any legal substance which carries a warning label that indicates that mental functioning, motor skills and/or judgment may be adversely affected should report it to his/her supervisor, and medical advice should be sought before performing work-related duties. In the above instance, an employee using legal prescribed medication or non-prescription medication may continue to work if the supervisor determines that the employee does not pose a safety threat and that job performance is not affected by such use.

### **2005.40 REQUIRED CONDUCT**

Safety-sensitive employees shall comply with the following conduct requirements:

1. Manufacture, Trafficking, Possession and Use. Engaging in unlawful manufacture, distribution or dispensing of a controlled substance or alcohol on District premises, in a District vehicle or while conducting District business off the premises is absolutely prohibited. Violation may result in termination. Law enforcement shall be notified, as appropriate, where criminal activity is suspected. Engaging in unlawful possession or use of a controlled substance or alcohol on District premises, in a District vehicle or while conducting District business off the premises is absolutely prohibited. Violation will result in removal from duty and referral to a Substance Abuse Professional (SAP) and may result in discipline up to and including termination of employment.

2. Impaired/Not Fit for Duty. Any employee who is reasonably suspected of being impaired, under the influence of a prohibited substance, or not fit for duty shall be removed from job duties and be required to undergo a reasonable suspicion controlled substance or alcohol test. Employees failing to pass this reasonable suspicion controlled substance or alcohol test shall remain off duty and be referred to an SAP. A controlled substance or alcohol test is considered positive (failed) if the individual is found to have a quantifiable presence of a prohibited substance in the body above the minimum thresholds defined in the DOT guidelines.
3. Alcohol Use. No safety-sensitive employee may report for duty or remain on duty when his/her ability to perform assigned functions is adversely affected by alcohol or when his/her breath alcohol concentration is 0.04 or greater. No employee shall use alcohol during working hours. No safety-sensitive employee shall use alcohol within four (4) hours of reporting for duty. Violations of this provision is prohibited and will subject the employee to disciplinary action, including removal from safety-sensitive duty and referral to an SAP.
4. Compliance with Testing Requirements. All safety-sensitive employees are subject to controlled substance testing and breathe alcohol testing. Any safety-sensitive employee who refuses to comply with a request for testing, who provides false information in connection with a test or who attempts to falsify test results through tampering, contamination, adulteration, or substitution shall be removed from duty immediately and be referred to an SAP. Refusal to submit to a test can include an inability to provide a urine specimen or breathe sample without a valid medical explanation, as well as a verbal declaration, obstructive behavior or physical absence resulting in the inability to conduct the test.
5. Notifying the District of Criminal Drug Conviction. Pursuant to the "Drug Free Workplace Act of 1988," any employee who fails to immediately notify the District of any criminal controlled substance conviction shall be subject to disciplinary action, up to and including termination of employment.

#### **2005.50 TREATMENT/REHABILITATION PROGRAM**

An employee with a controlled substance and/or alcohol problem will be afforded an opportunity for treatment in accordance with the following provisions:

1. Positive Controlled Substance and/or Alcohol Test. A Rehabilitation Program is available for employees who have tested positive for a prohibited substance on a one-time basis only. Employees will be terminated immediately on the occurrence of a second event with a verified positive test result. Program costs and subsequent controlled substance and/or alcohol testing costs will be paid by the employee. When recommended by the SAP, participation and completion of the rehabilitation program is mandatory. Failure of an employee to attend and complete a prescribed program will result in termination from employment. Prior to return-to-duty testing, an employee must follow the rehabilitation program recommended by the SAP and agree to and sign a Return-To- Duty Agreement. The duration and frequency of follow-up testing will be determined by the SAP

but will not be shorter than one (1) year or longer than five (5) years.

2. Voluntary Admittance. All employees who feel they have a problem with controlled substances and/or alcohol may request voluntary admission to a rehabilitation program. Requests must be submitted to the General Manager or his/her designee for review. Program costs and subsequent controlled substance and/or alcohol testing costs will be paid by the employee. An employee completing a rehabilitation program must agree to and sign a Return-To-Duty Agreement, pass a return to duty controlled substance and/or alcohol test and be subject to unannounced follow-up testing for thirty-six (36) months following return to duty. A positive result on the return-to-duty test or on the unannounced follow-up tests will result in termination from employment. Participants in the rehabilitation program may use accumulated sick leave, vacation and floating holidays, if any.

## **2005.60 TESTING FOR PROHIBITED SUBSTANCES**

Analytical urine controlled substance testing and breathe testing for alcohol will be conducted as required under DOT guidelines. All employees shall be subject to testing prior to employment and for reasonable suspicion. All safety-sensitive employees shall be subject to testing randomly and following an accident, as defined in the DOT guidelines. In addition, all safety-sensitive employees will be tested prior to returning to duty after failing a controlled substance and/or alcohol test. Employees who have returned to duty will be subject to unannounced follow-up tests for up to five (5) years, as determined by an SAP. Safety-sensitive employees who perform safety-sensitive functions as defined in the DOT guidelines shall also be subject to testing on a randomly selected and unannounced basis.

Testing shall be conducted in a manner to assure a high degree of accuracy and reliability and using techniques, equipment, and laboratory facilities which have been approved by the Department of Health and Human Services (DHHS), including split-sample testing. All testing will be conducted consistent with the procedures put forth in the DOT guidelines.

An initial controlled substance screen will be conducted on each specimen. For those specimens that are positive, a confirmatory Gas Chromatography/ Mass Spectrometry (GC/MS) test will be performed. The test will be considered positive if the controlled substance levels present are above the minimum thresholds established in the DOT guidelines.

Tests for alcohol concentration will be conducted utilizing an approved Evidential Breath Testing device (EBT) operated by a trained Breath Alcohol Technician (BAT). If the initial test indicated an alcohol concentration of 0.02 or greater, a confirmation test will be performed to confirm the result of the initial test. A safety-sensitive employee who has a confirmed alcohol concentration of 0.02, but less than 0.04 will be removed from his/her position for at least twenty-four (24) hours unless a retest results in an alcohol concentration of 0.02 or less. An alcohol concentration of 0.04 or greater will be considered a positive alcohol test and in violation of DOT guidelines and this policy.

Any employee who has a confirmed positive controlled substance or alcohol test will be removed from his/her position, informed of educational and rehabilitation programs

available, and evaluated by an SAP.

The District affirms the need to protect individual dignity, privacy and confidentiality throughout the testing process.

## **2005.70 CIRCUMSTANCES THAT MAY REQUIRE TESTING**

Employees may be tested under the following circumstances:

1. Pre-Employment Testing. All job applicants for any safety sensitive position who have been offered District employment, including current safety-sensitive employees who promote, de- mote or transfer to another safety sensitive position, shall undergo urine controlled substance testing prior to employment. Receipt of a satisfactory test result is required prior to employment and failure of a controlled substance test will disqualify the candidate from further consideration for employment. Current employees who promote, demote or transfer from non-safety-sensitive to safety-sensitive position shall test negative prior to assignment to a safety-sensitive classification. The District will obtain records from previous employers of new employees in conformance with DOT guidelines. Probationary employees who receive a positive alcohol and/or substance abuse test, or who fail to provide "clean" records from previous employers will fail to complete the District's probationary period.
2. Reasonable Suspicion Testing. All employees will be subject to urine and/or breathe testing when there is a reason to believe that controlled substances or alcohol use is adversely affecting job performance. A reasonable suspicion referral for testing will be made on the basis of documented objective facts and circumstances which are consistent with the effects of sub- stance abuse. Examples of reasonable suspicion include, but are not limited to, the following:
  - A. Adequate documentation of unsatisfactory work performance or on-the-job behavior.
  - B. Physical signs and symptoms consistent with prohibited substance use.
  - C. Occurrence of a serious or potentially serious accident that may have been caused by human error.
  - D. Fights (i.e., physical contact), assaults and flagrant disregard or violations of established safety, security, or other operational procedures.
  - E. Reasonable-suspicion determinations will be made by a supervisor who is trained to detect the signs and symptoms of controlled substance and alcohol use and who reasonably concludes that an employee may be adversely affected or impaired in his/her work performance due to prohibited substance abuse or misuse.
3. Post-Accident Testing. Safety-sensitive employees will be required to undergo controlled substance and/or breathe alcohol testing if they are involved in an accident with a District vehicle that results in a fatality. This includes all safety-sensitive employees who are on duty in the vehicles. In addition, a post-accident test will be conducted if an accident results in injuries requiring transportation to a

medical treatment facility; or where one or more vehicles incurs disabling damage that requires towing from the site; or the safety-sensitive employee receives a citation under State or local law for a moving traffic violation arising from the accident.

Following an accident, the safety-sensitive employee will be tested as soon as possible, but not to exceed eight (8) hours for alcohol and thirty-two (32) hours for controlled substances. Any employee who leaves the scene of the accident without appropriate authorization prior to submission to controlled substance and alcohol testing will be considered to have refused the test and be subject to termination of employment. Post-accident testing of safety-sensitive employees will include not only the operation personnel, but any other employees whose performance could have contributed to the accident.

4. Random Testing. Employees working in safety-sensitive classifications will be subjected to randomly selected, unannounced testing. The random selection will be by a scientifically valid method. Each safety-sensitive employee will have an equal chance of being tested each time selections are made. Safety-sensitive employees will be tested either just before departure, or during duty, or just after the safety-sensitive employee has ceased performing his/her duty.

When safety-sensitive employees are off work due to long-term lay-offs, illness, injury, or vacation, the employee's name will be placed back into the pool and another employee's name selected.

The number of safety-sensitive employees selected for random testing will be the amount required in the DOT guidelines. Currently, 25% of the employee pool is tested for alcohol and 50% for substance abuse. The employee pool will either be all The District safety-sensitive employees or, if the District participates in a consortium of employers, all safety-sensitive employees within the consortium.

5. Return-to-Duty Testing. All employees who previously tested positive for a controlled substance or alcohol test must test negative and be evaluated and released to duty by the SAP before returning to duty. Employees will be required to undergo unannounced follow-up controlled substance and/or alcohol breath testing following returning to duty. The SAP will determine the duration and frequency. However, it shall not be less than six tests during the first 12 months, nor longer than 60 months in total, following return to duty.
6. Employee Requested Testing. Any employee who questions the result of a required controlled substance test may request that an additional test be conducted. This additional test may be conducted at the same laboratory or at a different DHHS certified laboratory. The test must be conducted on the split sample that was provided at the same time as the original sample. All costs for such testing are to be paid by the employee unless the second test invalidated the original test. The method of collecting, storing, and testing the split sample will be consistent with the procedures set forth in the DOT guidelines. The safety-sensitive employee's request for a retest must be made to the Medical Review Officer (MRO) within 72 hours of notice of the initial test result. Requests after 72 hours will only be

accepted if the delay was due to documentable facts that were beyond the control of the employee.

7. Records Retention. The District shall maintain complete records of alcohol and/or controlled substance test results for each employee in a secure location with controlled access. Employee records are confidential and will be available to the DOT or any state or local officials with regulatory authority over the District or any of its drivers only. Records will be kept for a minimum of five (5) years regarding the following: driver alcohol tests; positive controlled substance tests; documentation on refusals to take alcohol or controlled substance tests; and, employee evaluations and referrals. Records will be kept for a minimum of two (2) years regarding the alcohol and controlled substance collection process. Records will be kept for a minimum of one (1) year regarding the following: collection process; collection logbooks; documents of random selection process; calibration documents for breath testing device; and, documentation of breath alcohol technician training.

#### **2005.80 EMPLOYEE ASSESSMENT**

Any employee who tests positive for the presence of controlled substances or whose breath alcohol concentration is above the minimum thresholds set forth in the DOT guidelines will be assessed by an SAP. An SAP is a District selected licensed physician, psychologist, social worker, employee assistance professional, or addiction counselor with knowledge of and clinically experienced in the diagnosis and treatment of drug and alcohol related disorders. The SAP will evaluate each employee to determine what assistance, if any, the employee needs in resolving problems associated with prohibited substance or alcohol abuse or misuse.

If an employee is returned to duty following rehabilitation, he/she must agree to and sign a Return-to- Duty Agreement, pass a return-to-duty controlled substance and/or alcohol test and be subject to unannounced follow-up tests for a period of one (1) to five (5) years, as determined by the SAP. The cost of any rehabilitation and subsequent controlled substance and/or alcohol testing is borne by the employee and is on a one-time basis only. An employee will be immediately terminated from employment on the occurrence of a second verified positive test result. Employees may use accumulated sick leave, vacation, administrative leave, personal necessity leave, and/or floating holidays, if any, to participate in the prescribed rehabilitation program.

#### **2005.90 TEST-RELATED TIME OFF WORK**

Any employee who is relieved from duty due to a positive drug or controlled substance test must use accumulated compensated leave (i.e., vacation, sick leave, administrative leave, personnel necessity leave or floating holidays, if any) during the regularly scheduled work time missed. If the employee has insufficient accumulated compensated leave to cover the regularly scheduled work time missed due to a positive alcohol or controlled substance test, such time shall be without pay. In the event there is a false positive test the District, upon verification, will compensate the employee for any regularly scheduled work time missed as a result thereof.

#### **2005.100 CONTACT PERSON**

Any questions regarding this policy should be directed to the District General Manager or

his/her designated representative.

## **2005.110 DEFINITIONS**

1. Accident - An unintended happening or mishap where there is loss of human life (regardless of fault), bodily injury or significant property damage.
2. Alcohol - The intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohol including methyl or isopropyl alcohol.
3. Alcohol Concentration - The alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test under this policy (e.g., 0.02 means 0.02 grams of alcohol in 210 liters of expired deep lung air).
4. Alcohol Use - Consumption of any beverage, mixture, or preparation, including any medication containing ethyl alcohol. Since ingestion of a given amount of alcohol produces the same alcohol concentration in an individual whether the alcohol comes from a mixed drink or cough syrup, the DOT prohibits the use of any substance containing alcohol, such as prescription or over-the-counter medication or liquor-filled chocolates. Prescription medications containing alcohol may have a greater impairing effect due to the presence of other elements (e.g., antihistamines).
5. Breath Alcohol Technician (BAT) - A person trained to proficiency in the operation of the Evidential Breath Testing (EBT) device that the technician is using in the alcohol testing procedures. BAT's are the only qualified personnel to administer the EBT tests.
6. Chain of Custody - The procedures to account for the integrity of each urine specimen by tracking its handling and storage from point of collection to final disposition.
7. Collection Site - A place designated by the District where individuals present themselves for the purpose of providing a specimen of urine and/or breathe.
8. Commercial Motor Vehicle - A motor vehicle, or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle: (1) has a gross combination weight ratio of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds; or, (2) has a gross vehicle weight rating of 26,001 or more pounds; or, (3) is designed to transport 16 or more passengers, including the driver; or, (4) is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulations.
9. Confirmation Test - For alcohol testing, a second test following a screening test with a result of 0.02 or greater, provides quantitative data of alcohol concentration. For controlled substances testing this is a second analytical procedure to identify the presence of a specific drug or metabolite which is independent of the screen test



and which uses a different technique and chemical principle from that of the screen test in order to ensure reliability and accuracy. (Gas chromatography/mass spectrometry (CG/MS) is the only authorized confirmation method of cocaine, marijuana, opiates, amphetamines, and phencyclidine.)

10. Controlled Substance (Drug) Test - A method of detecting and measuring the presence of alcohol and other controlled substances, whether legal or illegal, in a person's body. A controlled substance test may be either an initial test or confirmation test. An initial controlled substance test is designed to identify specimens having concentrations of a particular class of drug above a specified concentration level. It eliminates negative specimens from further consideration.
11. Covered Employee - A person, including a volunteer or applicant, who performs a safety-sensitive function for the District.
12. Department of Transportation Guidelines - The controlled substance and alcohol testing rules - 49 CFR Part 382 (FWHA - Commercial Motor Vehicle) - setting forth the procedures for controlled substance and alcohol testing (49 CFR Part 40) in all transportation industries.
13. District - Twain Harte Community Services District.
14. District Time - Any period of time in which an employee is actually performing a District function. Any period of time in which a safety-sensitive employee is actually performing, ready to perform, or immediately available to perform any safety-sensitive functions.
15. Driver - Any person who operates a commercial motor vehicle for the District. This includes full time, regularly employed drivers; and casual, intermittent or occasional drivers.
16. Drug (Controlled Substance) Metabolite - The specific substance produced when the human body metabolizes (changes) a given drug (controlled substance) as it passes through the body and is excreted in urine.
17. Evidential Breath Testing Device (EBT) - The device to be used for breath alcohol testing.
18. Medical Review Officer (MRO) - A licensed physician responsible for analyzing laboratory results generated by the District's substance abuse policy testing program. The MRO is knowledgeable about substance abuse disorders and has appropriate medical training to interpret and evaluate positive test results.
19. Performing (Safety-Sensitive Function) - A safety-sensitive employee is considered to be performing a safety-sensitive function and includes any period in which the safety sensitive employee is actually performing, ready to perform, or immediately available to perform such functions.
20. Post-Accident Alcohol and/or Controlled Substance testing - Testing conducted after accidents on employees whose performance could have contributed to the

accident. For drivers this is determined by a citation for a moving traffic violation and for all fatal accidents even if the driver is not cited for a moving traffic violation. See "Accident."

21. Pre-Employment Controlled Substance testing - Testing conducted after an offer to hire has been extended to a job applicant, but before actually performing District functions as an employee. Also required when employees transfer to a safety-sensitive position.
22. Prohibited Drugs (Controlled Substances) - Marijuana, cocaine, opiates, amphetamines, or phencyclidine.
23. Prohibited Substances - Synonymous with drug abuse and/or alcohol misuse or abuse.
24. Random Alcohol and/or Controlled Substance Testing - Testing conducted on a random unannounced basis just before, during or just after performance of safety-sensitive functions.
25. Reasonable Suspicion Alcohol and/or Controlled Substance Testing - Testing conducted when a trained supervisor observes behavior or appearance that is characteristic of alcohol misuse or controlled substance abuse.
26. Refuse to Submit (to an Alcohol and/or Controlled Substance Test) - Failure by an employee to provide an adequate breath or urine sample for testing without a valid medical explanation after that employee received notice of the requirement to be tested, or engages in conduct that clearly obstructs the testing process (i.e., verbal declarations, obstructive behavior or physical absence resulting in the inability to conduct the test).
27. Rehabilitation - The total process of restoring an employee to satisfactory work performance through constructive confrontation, referral to the SAP and participation in SAP recommendations such as education, treatment and/or support groups to resolve personal, physical or emotional/mental problems which contributed to job problems.
28. Return-to-Duty and Follow-Up Alcohol and/or Controlled Substance testing - Testing conducted when an employee who has violated the prohibited alcohol or controlled substance conduct standards returns to performing duties. Follow-up tests are unannounced, and at least six tests must be conducted in the first 12 months after an employee returns to duty. Follow-up testing may be extended for up to 60 months following return-to-duty upon the SAP recommendation.
29. Return-to-Duty Agreement - A document agreed to and signed by the General Manager or his/her designee, the employee, and the SAP, that outlines the terms and conditions under which the employee may return to duty after having had a verified positive controlled substance test result, or an alcohol concentration of 0.04 or greater on an alcohol test.
30. Safety-Sensitive Employee (Function and/or Position) - An employee is considered

to be performing a safety-sensitive function during any period in which that employee is actually performing, ready to perform, or immediately available to perform any safety-sensitive functions. (A complete list of safety-sensitive classifications and functions is listed in Appendix A of this policy.)

31. Screening (Initial) Test - An analytical procedure in alcohol testing to determine whether an employee may have a prohibited concentration of alcohol in their system. In controlled substance testing, it is an immunoassay screen to eliminate negative urine specimens from further consideration
32. Substance Abuse Professional (SAP) - A licensed physician (Medical Doctor or Doctor of Osteopathy), or a licensed or certified psychologist, social worker (with knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol related disorders, the license alone does not authorize this), Certified Employee Assistance Professional (CEAP), or addiction counselor certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission (NAADAC) with knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substances related disorders.
33. Supervisor - Foreman, Superintendent, Division Manager or General Manager who has had one hour of training on the signs and symptoms of alcohol abuse and an additional hour training on the signs and symptoms of controlled substance abuse.
34. Vehicle - Bus, electric bus, van, automobile, rail car, trolley car, trolley bus, or vessel used for mass transportation.

## **2005.120 PROCEDURES**

### **2005.121 Reasonable Suspicion Testing**

1. An employee who may possibly be under the influence of alcohol and/or controlled substances is observed by a supervisor. Any employee may identify someone suspected of alcohol and/or controlled substance abuse to any supervisor (employees should realize, however, that it is against District policy to make false or malicious statements about other employees and doing so can result in disciplinary action). The supervisor must witness first-hand the employee's signs and symptoms.
2. The supervisor is then obligated to ensure that the matter is immediately investigated. If possible, two supervisors determine (independently or together) that the employee in question may be under the influence of alcohol and/or controlled substances.
3. When the supervisor(s) suspect and believe that the employee may be under the influence of alcohol and/or controlled substances, the employee is then immediately suspended from duty (with pay) and driven by a District employee (or others designated) to the District specified collection site. Because of a testing facility requirement, the employee in question must show proof of identification, such as a driver's license photo or state-issued photo identification card. Whenever practical, the General Manager (or his/her

designee) should be notified in advance of the employee being taken to the collection site.

4. At the collection site, the employee will be required to submit a urine sample in the event that controlled substances are suspected, or a breath sample in the event that alcohol intoxication is suspected by the on-duty technician. Care will be taken to provide the employee with maximum privacy without compromising the integrity of the sample.
5. The District will take precautions to prevent the employee being tested from going back to work and driving their own car home if any of the tests are positive. Instead, the employee will be taken home from the collection by a District employee (or others designated).
  - A. The employee whose test results are negative (0.02 alcohol concentration or less) will be reinstated immediately. The employee whose confirmation test results indicate an alcohol concentration greater than 0.02 but less than 0.04, will not be permitted to return to duty or perform a safety-sensitive function for twenty-four (24) hours after administration of the test. The employee whose confirmation test result indicates an alcohol concentration of 0.04 or greater for alcohol will be referred to a District specified SAP who will assess the employee's condition and make a recommendation for treatment which, if accepted by the District, must be followed by the employee. Failure to follow the accepted recommendations or refusal to submit to return-to-duty and unannounced follow-up testing will result in the employee's termination of employment.
  - B. The employee whose controlled substance test results are verified negative will be reinstated immediately. The employee whose controlled substance test is verified positive by the Medical Review Officer will be referred to a District specified SAP who will assess the employee's condition and make a recommendation for treatment which, if accepted by the District, must be followed by the employee. Failure to follow the accepted recommendations or refusal to submit to return-to-duty and unannounced follow-up testing will result in the employee's termination of employment.

#### **2005.122 Random Testing**

1. The compliance company notifies the General Manager, who in turn notifies the supervisor to send the safety-sensitive employee to the collection site for alcohol and/or controlled substance testing.
2. The supervisor notifies the safety-sensitive employee to go to the collection site for alcohol and/or controlled substance testing immediately. Because of a testing facility requirement, the safety-sensitive employee sent to the collection site must have proof of identification, such as a driver's license photo or state-issued photo identification card.

3. At the collection site, the safety-sensitive employee will be required to submit a urine sample (in the event that controlled substances are to be tested for) or a breath sample (in the event that alcohol is being tested for) to the on-duty technician. Care will be taken to provide the safety-sensitive employee with maximum privacy without compromising the integrity of the sample.
4. The safety-sensitive employee whose test results are negative (0.02 alcohol concentration or less) will be released to return to work. The safety-sensitive employee whose confirmation test results indicate an alcohol concentration greater than 0.02 but less than 0.04, will not be permitted to return to duty or perform a safety-sensitive function for 24 hours after administration of the test. The safety-sensitive employee whose confirmation test result indicates an alcohol concentration of 0.04 or greater will be referred to a District specified SAP who will assess the safety-sensitive employee's condition and make a recommendation for treatment which, if accepted by the District, must be followed by the safety-sensitive employee. Failure to follow the accepted recommendations or refusal to submit to return-to-duty and unannounced follow-up testing will result in the safety-sensitive employee's termination of employment.
5. The safety-sensitive employee whose controlled substance test results are verified negative will be released to return to work. The safety-sensitive employee whose controlled substance test is verified positive by the Medical Review Officer will be referred to a District specified SAP who will assess the safety-sensitive employee's condition and make a recommendation for treatment which, if accepted by the District, must be followed by the safety-sensitive employee. Failure to follow the accepted recommendations or refusal to submit to return-to-duty and unannounced follow-up testing will result in the safety-sensitive employee's termination of employment.

#### **2005.123 Post Accident**

1. The safety-sensitive employee notifies a supervisor that an accident has occurred.
2. The supervisor determines that the circumstances of the accident warrant a post-accident test when a citation was issued or a fatality occurred. Thereafter, the supervisor directs the safety-sensitive employee to immediately go to the collection site for alcohol and controlled substance testing. Because of a testing facility requirement, the safety-sensitive employee in question must have proof of identification, such as a driver's license photo or state-issued photo identification card.
3. At the collection site, the safety-sensitive employee will be required to submit a urine sample for controlled substances and a breath sample for alcohol testing to the on-duty technician. Care will be taken to provide the safety-sensitive employee with maximum privacy without compromising the integrity of the sample.
4. The General Manager (or his/her designee) will be notified that an accident has

occurred and that the safety-sensitive employee was instructed to go to the collection site.

5. The safety-sensitive employee whose test results are negative (0.02 alcohol concentration or less) will be released to return to work. The safety-sensitive employee whose confirmation test results indicate an alcohol concentration greater than 0.02 but less than 0.04, will not be permitted to return to duty or perform a safety-sensitive function for 24 hours after administration of the test. The safety-sensitive employee whose confirmation test result indicates an alcohol concentration of 0.04 or greater will be referred to a District specified SAP who will assess the safety-sensitive employee's condition and make a recommendation for treatment which, if accepted by the District, must be followed by the safety-sensitive employee. Failure to follow the accepted recommendations or refusal to submit to return-to-duty and unannounced follow-up testing will result in the safety-sensitive employee's termination.
6. The safety-sensitive employee whose controlled substance test results are verified negative will be released to return to work. The safety-sensitive employee whose controlled substance test is verified positive by the Medical Review Officer will be referred to a District specified SAP who will assess the safety-sensitive employee's condition and make a recommendation for treatment which, if accepted by the District, must be followed by the safety-sensitive employee. Failure to follow the accepted recommendations or refusal to submit to return-to-duty and unannounced follow-up testing will result in the safety-sensitive employee's termination of employment.

#### **2005.124 Return-to-Duty and Follow Up**

1. The safety-sensitive employee notifies a supervisor that an accident has occurred. The supervisor determines that the circumstances of the accident warrant a post-accident test when a citation was issued or a fatality occurred. Thereafter, the supervisor directs the safety-sensitive employee to immediately go to the collection site for alcohol and controlled substance testing. Because of a testing facility requirement, the safety-sensitive employee in question must have proof of identification, such as a driver's license photo or state-issued photo identification card.
2. At the collection site, the safety-sensitive employee will be required to submit a urine sample for controlled substances and a breath sample for alcohol testing to the on-duty technician. Care will be taken to provide the safety-sensitive employee with maximum privacy without compromising the integrity of the sample.
3. The General Manager (or his/her designee) will be notified that an accident has occurred and that the safety-sensitive employee was instructed to go to the collection site.
4. The safety-sensitive employee whose test results are negative (0.02 alcohol concentration or less) will be released to return to work. The safety-sensitive employee whose confirmation test results indicate an alcohol concentration

greater than 0.02 but less than 0.04, will not be permitted to re- turn to duty or perform a safety-sensitive function for 24 hours after administration of the test. The safety-sensitive employee whose confirmation test result indicates an alcohol concentration of 0.04 or greater will be referred to a District specified SAP who will assess the safety-sensitive employee's condition and make a recommendation for treatment which, if accepted by the District, must be followed by the safety-sensitive employee. Failure to follow the accepted recommendations or refusal to submit to return-to-duty and unannounced follow-up testing will result in the safety-sensitive employee's termination.

5. The safety-sensitive employee whose controlled substance test results are verified negative will be released to return to work. The safety-sensitive employee whose controlled substance test is verified positive by the Medical Review Officer will be referred to a District specified SAP who will assess the safety-sensitive employee's condition and make a recommendation for treatment which, if accepted by the District, must be followed by the safety-sensitive employee. Failure to follow the accepted recommendations or refusal to submit to return-to-duty and unannounced follow-up testing will result in the safety-sensitive employee's termination of employment.

#### **2005.125 Chain of Custody for Controlled Substance Specimens**

1. At the time a specimen is collected, the employee will be given a copy of the specimen collection procedures.
2. Urine will be in a wide-mouthed clinic specimen container which will remain in full view of the employee until split, transferred to, sealed and initialed in two tamper-resistant urine bottles.
3. Immediately after the specimens are collected, the urine bottles will, in the presence of the employee, be labeled and then initialed by the employee. If the sample must be collected at the site other than the controlled substance and/or alcohol testing laboratory, the specimens will then be placed in the transportation container. The container will be sealed in the employee's presence and the employee will be asked to initial or sign the container. The container will be sent to the designated testing laboratory on that day or the earliest business day by the fastest available method.
4. A chain of custody form will be completed by the on-duty technician during the specimen collection process and attached to and mailed with the specimen.

#### **2005.126 Specimen Collection of Strange and/or Unrecognizable Substances**

1. An employee is observed with a strange and/or unrecognizable substance.
2. The supervisor, in the presence of a witness, places the strange and/or unrecognizable substance into a clear plastic bag. The bag is sealed, labeled and signed by both the supervisor and the witness.
3. An incident report is written by the supervisor and signed by both the supervisor

and the witness.

4. The plastic bag containing the specimen and a copy of the incident report is taken to the collection site for transportation to the laboratory for analysis.

#### **2005.127 Alcohol Concentration**

1. The employee and the on-duty Breath Alcohol Technician (BAT) complete the alcohol testing form to ensure that the results are properly recorded.
2. After an explanation of how the breathalyzer works, an initial breath sample is taken.
3. If the results of the initial test show an alcohol concentration of 0.02 or greater, a second or confirmation test must be conducted. The confirmation test must not be conducted less than fifteen (15) minutes after, nor more than twenty (20) minutes after the screening test.
4. The confirmation test will utilize Evidential Breath Testing (EBT) devices that print out the results, date and time, a sequential test number, and the name and serial number of the EBT device to ensure the reliability of the results.

#### **2005.128 Deviations from Procedures**

Unless otherwise provided in DOT guidelines, deviations from the foregoing procedures shall not invalidate the results of any prohibited substance tests verified positive by the Medical Review Officer.





# Board Meeting Agenda Item Summary

May 8, 2024

<b>ITEM #:</b>	O8F	<b>ITEM TYPE:</b>	<input type="checkbox"/> Discussion <input type="checkbox"/> Action <input checked="" type="checkbox"/> Both
<b>SUBJECT:</b>	Discussion/action to approve proposed revisions to Policy #2031 – Vacation.		
<b>RELATION TO STRATEGIC PLAN:</b>	<input checked="" type="checkbox"/> N/A <input type="checkbox"/> Advances Goal/Objective #'s: _____		

**RECOMMENDED ACTION:**

Approve proposed revisions to Policy #2031 – Vacation.

**SUMMARY:**

On March 8, 2023, the District Board revised Policy #2031 (Vacation) so that the Policy was consistent with the vacation provisions in the current labor contracts and Resolution #16-19. This included the addition of a clause that allows for District employees to be compensated for accrued vacation time through a requested pay out. According to Policy #2031, an employee may request compensation for accrued vacation time as follows:

1. Fire Employees: Up to 96 hours per fiscal year.
2. Administrative/Operations Employees: Up to 120 hours per fiscal year

Although the District desires employees to use accrued vacation time to improve quality of life and work, the vacation pay-out clause provides District employees an avenue to get paid for their accrued vacation to meet unexpected life needs. While the existing clause provides for this, it does not allow for special exceptions when an employee experiences an extreme hardship. The proposed revision enables the General Manager, at his/her sole discretion, to approve vacation pay-out requests up to 50% greater than the maximum pay-out limits when an employee experiences an extreme hardship.

The Finance/Policy Committee reviewed the proposed revisions and recommends that the Board adopt the attached revised Policy #2031 – Vacation.

**FINANCIAL IMPACT:**

None.

**ATTACHMENTS:**

- Policy #2031 – Vacation (Proposed Revisions w/Redlines)
- Policy #2031 – Vacation (Proposed Revisions w/o Redlines)

**TWAIN HARTE COMMUNITY SERVICES DISTRICT**  
**Policy and Procedure Manual**

**POLICY TITLE:** Vacation  
**POLICY NUMBER:** 2031  
**ADOPTED:** July 10, 2008  
**AMENDED:** 3/8/2023  
**LAST AMENDED:** March 8, 2023

**2031.10 PURPOSE**

The purpose of this policy is to establish vacation time for benefited employees as a paid period of exemption from work for the purpose of rest, relaxation and recreation. Paid vacation time is a benefit and is intended to aid in maintaining the long-term and consistent productivity and contentment of the employee.

**2031.20 ELIGIBILITY**

Paid vacation time is subject to the following eligibility requirements:

1. Benefited Employees. Only classifications of employees that are eligible for District benefits are eligible to accrue and use paid vacation time.
2. Introductory Employees. Benefited Introductory Employees are eligible to accrue paid vacation time, but may only use accrued paid vacation time after they have served six months of continuous service in the benefited position.

**2031.30 ACCRUAL**

Paid vacation shall be accrued on a prorated basis in each pay period in accordance with the following:

1. Full-Time Benefited Employees. Full-Time Employees will accrue the following number of paid vacation days per year (1 Day is equivalent to 8 hours):
  - 0-5 Years of Continuous Service – 10 days
  - After Employee's 5<sup>th</sup> Service Anniversary – 15 Days
  - After Employee's 10<sup>th</sup> Service Anniversary – 20 Days
  - After Employee's 15<sup>th</sup> Service Anniversary – 25 Days

2. Part-Time Benefited Employees. Part-Time Benefited Employees will accrue the same number of paid vacation days as Regular Full-Time Employees, except that 1 Day will not be equivalent to 8 hours. Instead, it will be prorated based on the employee's number of normally scheduled hours in a forty-hour work week.
3. Full-Time Benefited Fire Shift Employees. Full-Time Fire Shift Employees will accrue the following number of paid vacation tours per year (1 Tour is equivalent to 48 hours):
  - 0-5 Years of Continuous Service – 2 Tours
  - After Employee's 5<sup>th</sup> Service Anniversary – 3 Tours
  - After Employee's 10<sup>th</sup> Service Anniversary – 4 Tours
  - After Employee's 15<sup>th</sup> Service Anniversary – 5 Tours
4. Employees can accrue up to a maximum of two (2) years of earned vacation time. Once this cap is reached, no further paid vacation time will accrue until paid vacation is used. Paid vacation time will only begin to accrue again once total accrued vacation time is below two (2) years of earned vacation time. There is no retroactive grant of vacation time for the period of time the accrued vacation time was at the cap.

#### **2031.40 APPROVAL**

Use of an employee's accrued paid vacation time is subject to the approval of the Department Head or General Manager. The Department Head or General Manager may reject specific requests to utilize paid vacation time in order to ensure sufficient District operations. All such determinations will be at the discretion of the Department Head or General Manager.

#### **2031.50 GENERAL REQUIREMENTS**

Paid vacation time is subject to the following general requirements:

1. Vacation for Illness. The District will not require an employee to take vacation time in lieu of sick leave or leave of absence during periods of illness. However, the employee may elect to take vacation time in case of extended illness where sick leave has been fully used.
2. Holidays During Vacation. If a paid District holiday falls on a workday during a regular employee's vacation period, that day shall be considered as a paid holiday and not vacation time. If a paid District holiday falls on a workday during a fire shift employee's vacation period, that employee shall receive 8 hours of holiday pay and will be required to use accrued vacation time for the remainder of work

hours for that day.

### **2031.60 PAY-OUT OF ACCRUED VACATION TIME**

Although the District desires employees to use accrued vacation time to improve quality of life and work, employees may receive compensation for accrued vacation time.

Compensation for accrued vacation time shall be subject to the following:

1. Requested Pay-Out. An employee may request compensation for accrued vacation time as follows:
  - a. Fire Employees: Up to 96 hours per fiscal year.
  - b. Administrative/Operations Employees: Up to 120 hours per fiscal year
2. Termination. At termination of employment for any reason, the District shall compensate the employee for his/her accumulated vacation time at his/her straight time rate of pay at the time of termination.
3. Payment. All payments for vacation time will be paid during the next regular payroll process after the request for compensation is approved. The District will not grant advance payments for unearned vacation time.
- ~~3.4.~~ Hardship. If an employee experiences an extreme hardship, the General Manager, at his/her sole discretion, may make an exception to the maximum fiscal year pay-out limits stated above and approve a request for up to 50 percent more than said limits. The decision of the General Manager is final and cannot be appealed.

**TWAIN HARTE COMMUNITY SERVICES DISTRICT**  
**Policy and Procedure Manual**

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# Board Meeting Agenda Item Summary

May 8, 2024

<b>ITEM #:</b>	08G	<b>ITEM TYPE:</b>	<input type="checkbox"/> Discussion <input type="checkbox"/> Action <input checked="" type="checkbox"/> Both
<b>SUBJECT:</b>	Discussion/action to approve proposed revisions to Policy #2161 – Whistleblowers Policy.		
<b>RELATION TO STRATEGIC PLAN:</b>	<input type="checkbox"/> N/A <input checked="" type="checkbox"/> Advances Goal/Objective #'s: <u>5.13</u>		

**RECOMMENDED ACTION:**

Approve proposed revisions to Policy #2161 – Whistleblowers Policy.

**SUMMARY:**

The Board’s Finance/Policy Committee reviewed Policy #2161 (Whistleblowers Policy) at its recent meeting to advance Strategic Plan Objective 5.13, which aims for the review and update (if needed) of all District policies. Policy #2161 was adopted on September 9, 2010, and has never been amended.

Proposed revisions generally include the following:

- Re-organizing the policy for clarification and ease of use.
- Updating the policy to comply with the most recent law changes to local, state or federal rule or regulation.

The Finance/Policy Committee recommends that the Board adopt the attached proposed revisions to Policy #2161 – Whistleblowers Policy

**FINANCIAL IMPACT:**

None.

**ATTACHMENTS:**

- Policy #2161 – Whistleblowers Policy (Proposed Revisions w/Redlines)
- Policy #2161 – Whistleblowers Policy (Proposed Revisions w/o Redlines)



**TWAIN HARTE COMMUNITY SERVICES DISTRICT**  
**Policy and Procedure Manual**

**POLICY TITLE:** Whistleblowers Policy

**POLICY NUMBER:** 2161

**ADOPTED:** September 9, 2010

**AMENDED:**

**LAST AMENDED:** **May 8, 2024**

### **2161.10 PURPOSE**

It is public policy of the State of California to encourage employees to notify an appropriate government or law enforcement agency, person with authority over the employee, or another employee with authority to investigate, discover, or correct the violation or noncompliance, and to provide information to and testify before a public body conducting an investigation, hearing or inquiry, when they have reason to believe their employer is violating a state or federal statute, or violating or not complying with a local, state or federal rule or regulation.

### **2161.20 DEFINITION**

A “whistleblower” is an employee who discloses information to a government or law enforcement agency, person with authority over the employee, or to another employee with authority to investigate, discover, or correct the violation or noncompliance, or who provides information to or testifies before a public body conducting an investigation, hearing, or inquiry, where the employee has reasonable cause to believe that the information discloses:

1. A violation of a state or federal statute,
2. A violation or noncompliance with a local, state or federal rule or regulation, or
3. With reference to employee safety or health, unsafe working conditions or work practices in the employee’s employment or place of employment.

A whistleblower can also be an employee who refuses to participate in an activity that would result in a violation of a state or federal statute, or a violation of or noncompliance with a local, state, or federal rule or regulation.

### **2161.30 PROTECTION FOR WHISTLEBLOWERS**

The District must abide by the following requirements:

1. An employer may not make, adopt, or enforce any rule, regulation, or policy preventing an employee from being a whistleblower.

THCSD 2161 Whistleblowers Policy\_REV 2024-05-08

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2. An employer may not retaliate against an employee who is a whistleblower.
3. An employer may not retaliate against an employee for refusing to participate in an activity that would result in a violation of state or federal statute, or violation or noncompliance with a [local](#), state or federal rule or regulation.
4. An employer may not retaliate against an employee for having exercised his or her rights as a whistleblower in any former employment.

#### **2161.40 RETALIATION**

Under California Labor Code Section [98-61102.5](#), if an employer retaliates against a whistleblower, the employer may be required to reinstate the employee's employment and work benefits, pay lost wages, and take other steps necessary to comply with the law.

#### **2161.50 REPORTING IMPROPER ACTS**

Any information regarding possible violations of state or federal statutes, rules or regulations, or violations can be reported to the California State Attorney General's Whistleblower Hotline 1-800 952-5225. The Attorney General will refer the call to the appropriate government authority for review and possible investigation.

**TWAIN HARTE COMMUNITY SERVICES DISTRICT**  
**Policy and Procedure Manual**

**POLICY TITLE:** Whistleblowers Policy  
**POLICY NUMBER:** 2161  
**ADOPTED:** September 9, 2010  
**AMENDED:**  
**LAST AMENDED:** May 8, 2024

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1. A violation of a state or federal statute,
2. A violation or noncompliance with a local, state or federal rule or regulation, or
3. With reference to employee safety or health, unsafe working conditions or work practices in the employee’s employment or place of employment.

A whistleblower can also be an employee who refuses to participate in an activity that would result in a violation of a state or federal statute, or a violation of or noncompliance with a local, state, or federal rule or regulation.

**2161.30 PROTECTION FOR WHISTLEBLOWERS**

The District must abide by the following requirements:

1. An employer may not make, adopt, or enforce any rule, regulation, or policy preventing an employee from being a whistleblower.

THCSD 2161 Whistleblowers Policy\_REV 2024-05-08

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3. An employer may not retaliate against an employee for refusing to participate in an activity that would result in a violation of state or federal statute, or violation or noncompliance with a local, state or federal rule or regulation.
4. An employer may not retaliate against an employee for having exercised his or her rights as a whistleblower in any former employment.

#### **2161.40 RETALIATION**

Under California Labor Code Section 1102.5, if an employer retaliates against a whistleblower, the employer may be required to reinstate the employee's employment and work benefits, pay lost wages, and take other steps necessary to comply with the law.

#### **2161.50 REPORTING IMPROPER ACTS**

Any information regarding possible violations of state or federal statutes, rules or regulations, or violations can be reported to the California State Attorney General's Whistleblower Hotline 1-800 952-5225. The Attorney General will refer the call to the appropriate government authority for review and possible investigation.



# Board Meeting Agenda Item Summary

May 8, 2024

<b>ITEM #:</b>	<b>08H</b>	<b>ITEM TYPE:</b>	<input type="checkbox"/> Discussion <input type="checkbox"/> Action <input checked="" type="checkbox"/> Both
<b>SUBJECT:</b>	Discussion/action to approve an Agreement for Professional Services with Watershed Progressive for the Office and Training Parking Lot Stormwater Improvements Design.		
<b>RELATION TO STRATEGIC PLAN:</b>	<input checked="" type="checkbox"/> N/A <input type="checkbox"/> Advances Goal/Objective #'s: _____		

## RECOMMENDED ACTION:

Approve an Agreement for Professional Services with Watershed Progressive for the Office and Training Parking Lot Stormwater Improvements Design and authorize the General Manager to amend the Agreement within the adopted budget as needed to complete the work.

## SUMMARY:

In April 2023, the District entered into a \$3,748,732 grant funding agreement for the Twain Harte Community Stormwater Enhancement Project (Stormwater Project). The Stormwater Project includes four projects that capture and treat stormwater throughout the Twain Harte community:

1. Twain Harte Meadows Park
2. Twain Harte School Stormwater Improvements
3. Twain Harte Storm Drain Rehabilitation
4. Twain Harte CSD Office and Training Parking Lot Stormwater Improvements (Project)

Projects 1-3 are either in construction or nearing design completion. All four projects must be fully constructed by fall 2024 to continue to be eligible for grant funding. Design for the fourth project, CSD Office and Training Parking Lot Stormwater Project (Project), has not been initiated.

District staff requested proposals for the Project design from several of its on-call consultants, who were previously selected and approved by the Board. Staff also requested a proposal from Watershed Progressive due to their previous experience with the Project (they provided preliminary Project design as a donation to the District) and their familiarity with the overall Stormwater Project and grant requirements. One on-call consultant declined the offer to submit a proposal and two other on-call consultants chose to submit proposals as subconsultants to Watershed Progressive instead of providing a separate proposal. Two proposals were submitted. District staff reviewed proposals and selected the one that provided the best value.

In order to complete the Project, staff recommends that the Board approve the attached Agreement for Professional Services with Watershed Progressive to design the Project.

## FINANCIAL IMPACT:

Approval of the Agreement will authorize design work in the amount of \$70,000. This cost is already included in the Fiscal Year 2023-24 Fire Fund Budget for the Training Parking Lot Project.

## ATTACHMENTS:

- Agreement for Professional Services – Training Parking Lot Stormwater Improvements Design.

**AGREEMENT FOR PROFESSIONAL SERVICES**  
***Office and Training Parking Lot Stormwater Improvements Design***

THIS AGREEMENT for Professional Services (“Agreement”) is made on \_\_\_\_\_, 2024 (“Effective Date”), by and between the Twain Harte Community Services District (“District”), a special district of the State of California, and Mountain Sage Landscapes, DBA Watershed Progressive (“Consultant”) (together sometimes referred to as the “Parties”).

**Section 1. SERVICES.** Subject to the terms and conditions set forth in this Agreement, Consultant shall provide to District the services described in the Proposal attached as Exhibit A at the time and place and in the manner specified therein. In the event of a conflict in or inconsistency between the terms of this Agreement and Exhibit A, the Agreement shall prevail.

- 1.1 Time for Completion of Work.** All work shall be completed no later than July 31, 2024, unless the term of the Agreement is otherwise terminated or extended, as provided for in Section 8. The time provided to Consultant to complete the services required by this Agreement shall not affect the District’s right to terminate the Agreement, as referenced in Section 8.
- 1.2 Deletion of Work.** The District reserves the right to delete work from the Proposal set forth in Exhibit A. Such deletion of work must be in writing and must expressly state that certain portion of work being deleted. Consultant shall be entitled to no compensation for any work that is deleted.
- 1.3 Standard of Performance and Responsibility for Work.** Consultant shall perform all services required pursuant to this Agreement in the manner and according to the standards observed by a competent practitioner of the profession in which Consultant is engaged. The Consultant shall be solely responsible for the work described in Exhibit A.
  - a. The District is under no duty or obligation to review or verify the appropriateness, quality or accuracy of any of the Consultant’s work. The District’s review, approval, and/or adoption of any designs, plans, specifications or any other work shall be in reliance on the Consultant’s specialized expertise and shall not relieve the Consultant of its sole responsibility for the work.
  - b. All information which the Consultant receives from the District should be independently verified by the Consultant. The Consultant shall not rely upon such information, unless otherwise stated by the District in writing, until it has independently verified its accuracy.
  - c. If Consultant ever has reason to believe that any of its general or professional duties of care conflict with any requirements of this Agreement, the Consultant shall promptly notify the District in writing.

- 1.4 Assignment of Personnel.** All work performed under this Agreement shall be performed by the personnel identified in the Proposal, attached hereto as Exhibit A. Consultant shall assign only competent personnel to perform services pursuant to this Agreement. In the event that District, in its sole discretion, at any time during the term of this Agreement, desires the reassignment of any such persons, Consultant shall, immediately upon receiving notice from District of such desire of District, reassign such person or persons.
- 1.5 Time.** Consultant shall devote such time to the performance of services pursuant to this Agreement as may be reasonably necessary to meet the standard of performance provided in Section 1.2 above and to satisfy Consultant's obligations hereunder.

**Section 2. COMPENSATION.** District hereby agrees to pay Consultant in full for all work required by this Agreement a sum not to exceed the total Agreement amount of **\$70,000**. Progress payments will be made to Consultant based on compensable services provided and allowable costs incurred at the rates set forth in the Proposal, attached hereto as Exhibit A.

- 2.1 Invoices.** Consultant shall submit invoices, not more often than once a month during the term of this Agreement, based on the cost for services performed and reimbursable costs incurred prior to the invoice date. Invoices shall be based on the Cost Proposal contain the following information:
- Invoice number;
  - The beginning and ending dates of the billing period;
  - A Task Summary containing the original contract amount, the amount of prior billings, the total due this period, the balance available under the Agreement, and the percentage of completion;
  - The total number of hours of work performed under the Agreement by Consultant and each employee, agent, and subcontractor of Consultant performing services hereunder;
- 2.2 Monthly Payment.** District shall make monthly payments, based on invoices received, for actual services satisfactorily performed, and for authorized reimbursable costs incurred, as set forth in Exhibit A. District will pay Consultant no later than 30 days from the receipt of a compliant invoice.
- 2.3 Final Payment.** Consultant shall only submit a final invoice upon completion of all services. The final 10% of the total sum due to pursuant to this Agreement will only be paid if all services required have been satisfactorily performed.
- 2.4 Excess Payments.** District shall pay only for the services to be rendered by Consultant pursuant to this Agreement and shall not pay any additional sum for any expense or cost whatsoever incurred by Consultant for said services or for

any other services, unless the Agreement is modified by amendment to include said additional costs or services.

In no event shall Consultant submit any invoice for an amount in excess of the maximum amount of compensation provided above either for a task or for the entire Agreement, unless the Agreement is modified prior to the submission of such an invoice by a properly executed amendment.

- 2.5 Hourly Fees.** Fees for work performed by Consultant shall be on an hourly basis and shall not exceed the amounts shown on the hourly rate schedule attached hereto as Exhibit A.
- 2.6 Reimbursable Expenses.** Reimbursable expenses shall not exceed the amount specified in Exhibit A. Expenses not listed in Exhibit A are not chargeable to District. Reimbursable expenses are included in the total amount of compensation provided under this Agreement that shall not be exceeded.
- 2.7 Payment upon Termination.** In the event that the District or Consultant terminates this Agreement pursuant to Section 8, the District shall compensate the Consultant for all outstanding costs and reimbursable expenses incurred for work satisfactorily completed as of the date of written notice of termination. District, however, may condition payment of such compensation upon Consultant delivering to District any or all documents, photographs, computer software, video and audio tapes, and other materials provided to Consultant or prepared by or for Consultant or the District in connection with this Agreement. Consultant shall maintain adequate logs and timesheets to verify costs incurred to that date.
- 2.8 Total Payment.** Consultant and District acknowledge and agree that compensation paid by District to Consultant under this Agreement is based upon Consultant's estimated costs of providing the services required hereunder, including salaries, taxes, employment taxes and benefits of employees and subcontractors of Consultant. Consequently, the parties further agree that compensation hereunder is intended to include the costs of contributions to any pensions and/or annuities to which Consultant and its employees, agents, and subcontractors may be eligible. District therefore has no responsibility for such contributions beyond compensation required under this Agreement.

**Section 3. FACILITIES AND EQUIPMENT.** Except as set forth herein, Consultant shall, at its sole cost and expense, provide all facilities and equipment that may be necessary to perform the services required by this Agreement. District shall make available to Consultant only the facilities and equipment listed in this section, and only under the terms and conditions set forth herein.

**Section 4. INSURANCE REQUIREMENTS.** Consultant, at its own cost and expense, unless otherwise specified below, shall procure the types and amounts of insurance listed below against claims for injuries to persons or damages to property that may arise from



or in connection with the performance of the work hereunder by the Consultant and its agents, representatives, employees, and subcontractors. Consultant shall maintain the insurance policies required by this section throughout the term of this Agreement and for any additional period required below.

#### **4.1 All Policies Requirements.**

**4.1.1 Acceptability of insurers.** All insurance required by this section is to be placed with insurers with a Best's rating of no less than A:VII.

**4.1.2 Verification of coverage.** Prior to beginning any work under this Agreement, Consultant shall furnish District with complete copies of all policies, in a form satisfactory to the District, including complete copies of all endorsements attached to those policies. If the District does not receive the required insurance documents prior to the Consultant beginning work, it shall not waive the Consultant's obligation to provide them at the request of the District.

**4.1.3 Deductibles and Self-Insured Retentions.** Consultant shall disclose to and obtain the District's written approval for the self-insured retentions and deductibles before beginning any of the work called for in this Agreement. At the option of the District, the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the District, its officers, employees, and volunteers; or the Consultant shall provide a financial guarantee satisfactory to the District guaranteeing payment of losses and related investigations, claim administration and defense expenses.

**4.1.4 Wasting Policies.** No policy required by this Section 4 shall include a "wasting" policy limit (i.e. limit that is eroded by the cost of defense).

**4.1.5 Waiver of Subrogation.** Consultant hereby agrees to waive subrogation which any insurer or contractor may require from vendor by virtue of the payment of any loss. Consultant agrees to obtain any endorsements that may be necessary to affect this waiver of subrogation.

**4.1.6 Subcontractors.** Consultant shall include all subcontractors as insureds under its policies or shall furnish separate certificates and certified endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein. Consultant shall not allow any subcontractor to commence work on any subcontract until Consultant has obtained all insurance required herein for the subcontractor(s) and provided evidence that such insurance is in effect to District.

**4.2 Workers' Compensation.** Consultant shall, at its sole cost and expense, maintain Statutory Workers' Compensation Insurance and Employer's Liability

Insurance for any and all persons employed directly or indirectly by Consultant. The Statutory Workers' Compensation Insurance and Employer's Liability Insurance shall be provided with limits of not less than **\$1,000,000** per accident. In the alternative, Consultant may rely on a self-insurance program to meet those requirements, but only if the program of self-insurance complies fully with the provisions of the California Labor Code. Determination of whether a self-insurance program meets the standards of the Labor Code shall be solely in the discretion of the Contract Administrator. The insurer, if insurance is provided, or the Consultant, if a program of self-insurance is provided, shall provide an endorsement waiving all rights of subrogation against the District and its officers, officials, employees, and volunteers for loss arising from work performed under this Agreement.

### **4.3 Commercial General and Automobile Liability Insurance.**

**4.3.1 General requirements.** Consultant, at its own cost and expense, shall maintain commercial general and automobile liability insurance for the term of this Agreement in an amount not less than **\$1,000,000** per occurrence, combined single limit coverage for risks associated with the work contemplated by this Agreement. If a Commercial General Liability Insurance or an Automobile Liability form or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the work to be performed under this Agreement or the general aggregate limit shall be at least twice the required occurrence limit. Such coverage shall include but shall not be limited to, protection against claims arising from bodily and personal injury, including death resulting therefrom, and damage to property resulting from activities contemplated under this Agreement, including the use of owned and non-owned automobiles.

**4.3.2 Minimum scope of coverage.** Commercial general coverage shall be at least as broad as Insurance Services Office Commercial General Liability occurrence form CG 0001 (most recent edition) covering comprehensive General Liability on an "occurrence" basis. Automobile coverage shall be at least as broad as Insurance Services Office Automobile Liability form CA 0001, Code 1 (any auto). No endorsement shall be attached limiting the coverage.

**4.3.3 Additional requirements.** Each of the following shall be included in the insurance coverage or added as a certified endorsement to the policy:

- The Insurance shall cover on an occurrence or an accident basis, and not on a claims-made basis.
- District, its officers, officials, employees, and volunteers are to be covered as insureds as respects: liability arising out of work or operations performed by or on behalf of the Consultant; or automobiles owned, leased, hired, or borrowed by the Consultant

- For any claims related to this Agreement or the work hereunder, the Consultant's insurance covered shall be primary insurance as respects the District, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the District, its officers, officials, employees, or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.
- Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled by either party, except after 30 days' prior written notice has been provided to the District.

#### **4.4 Professional Liability Insurance.**

**4.4.1 General requirements.** Consultant, at its own cost and expense, shall maintain for the period covered by this Agreement professional liability insurance for licensed professionals performing work pursuant to this Agreement in an amount not less than **\$1,000,000** covering the licensed professionals' errors and omissions. Any deductible or self-insured retention shall not exceed \$150,000 per claim.

**4.4.2 Claims-made limitations.** The following provisions shall apply if the professional liability coverage is written on a claims-made form:

- a. The retroactive date of the policy must be shown and must be before the date of the Agreement.
- b. Insurance must be maintained and evidence of insurance must be provided for at least five years after completion of the Agreement or the work, so long as commercially available at reasonable rates.
- c. If coverage is canceled or not renewed and it is not replaced with another claims-made policy form with a retroactive date that precedes the date of this Agreement, Consultant shall purchase an extended period coverage for a minimum of five years after completion of work under this Agreement.
- d. A copy of the claim reporting requirements must be submitted to the District for review prior to the commencement of any work under this Agreement.

**4.4.3 Additional Requirements.** A certified endorsement to include contractual liability shall be included in the policy

**4.5 Remedies.** In addition to any other remedies District may have if Consultant fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, District may, at its sole option, exercise any of the following remedies:

- a. Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the Agreement;
- b. Order Consultant to stop work under this Agreement or withhold any payment that becomes due to Consultant hereunder, or both stop work and withhold any payment, until Consultant demonstrates compliance with the requirements hereof; and/or
- c. Terminate this Agreement.

**Section 5. INDEMNIFICATION.** Consultant shall, to the fullest extent allowed by law, with respect to all work performed in connection with this Agreement, defend with counsel acceptable to District, indemnify, and hold District, its officers, employees, agents, and volunteers, harmless from and against any and all claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant, (“Claims”). Consultant will bear all losses, costs, damages, expense and liability of every kind, nature and description that arise out of, pertain to, or relate to such Claims, whether directly or indirectly (“Liability”). Such obligations to defend, hold harmless and indemnify the District shall not apply to the extent that such Liabilities are caused by the sole negligence, active negligence, or willful misconduct of the District.

Notwithstanding the forgoing, to the extent this Agreement is a “construction contract” as defined by California Civil Code section 2783, as may be amended from time to time, such duties of Consultant to indemnify shall not apply when to do so would be prohibited by California Civil Code Section 2782.

**Section 6. STATUS OF CONSULTANT.**

- 6.1 Independent Contractor.** At all times during the term of this Agreement, Consultant shall be an independent contractor and shall not be an employee of District. District shall have the right to control Consultant only insofar as the results of Consultant's services rendered pursuant to this Agreement and assignment of personnel pursuant to Subsection 1.4; however, otherwise District shall not have the right to control the means by which Consultant accomplishes services rendered pursuant to this Agreement. Notwithstanding any other District, state, or federal policy, rule, regulation, law, or ordinance to the contrary, Consultant and any of its employees, agents, and subcontractors providing services under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any and all claims to, any compensation, benefit, or any incident of employment by District, including but not limited to eligibility to enroll in the California Public Employees Retirement System (PERS) as an employee of District and entitlement to any contribution to be paid by District for employer contributions and/or employee contributions for PERS benefits.
- 6.2 Consultant Not an Agent.** Except as District may specify in writing, Consultant shall have no authority, express or implied, to act on behalf of District in any capacity whatsoever as an agent. Consultant shall have no authority, express or implied, pursuant to this Agreement to bind District to any obligation whatsoever.

## **Section 7. LEGAL REQUIREMENTS.**

- 7.1 **Governing Law.** The laws of the State of California shall govern this Agreement.
- 7.2 **Compliance with Applicable Laws.** Consultant and any subcontractors shall comply with all federal, state and local laws, ordinances and regulations applicable to the performance of the work hereunder. Consultant's Failure to comply with any law(s) or regulation(s) applicable to the performance of the work hereunder shall constitute a breach of contract.
- 7.3 **Other Governmental Regulations.** To the extent that this Agreement may be funded by fiscal assistance from another governmental entity, Consultant and any subcontractors shall comply with all applicable rules and regulations to which District is bound by the terms of such fiscal assistance program.
- 7.4 **Licenses and Permits.** Consultant represents and warrants to District that Consultant and its employees, agents, and any subcontractors have all licenses, permits, qualifications, and approvals of whatsoever nature that are legally required to practice their respective professions. Consultant represents and warrants to District that Consultant and its employees, agents, any subcontractors shall, at their sole cost and expense, keep in effect at all times during the term of this Agreement any licenses, permits, and approvals that are legally required to practice their respective professions. In addition to the foregoing, Consultant and any subcontractors shall obtain and maintain during the term of this Agreement valid Business Licenses.
- 7.5 **Nondiscrimination and Equal Opportunity.** Consultant shall not discriminate, on the basis of a person's race, religion, color, national origin, age, physical or mental handicap or disability, medical condition, marital status, sex, or sexual orientation, against any employee, applicant for employment, subcontractor, bidder for a subcontract, or participant in, recipient of, or applicant for any services or programs provided by Consultant under this Agreement. Consultant shall comply with all applicable federal, state, and local laws, policies, rules, and requirements related to equal opportunity and nondiscrimination in employment, contracting, and the provision of any services that are the subject of this Agreement, including but not limited to the satisfaction of any positive obligations required of Consultant thereby. Consultant shall include the provisions of this Subsection in any subcontract approved by the Contract Administrator or this Agreement.

## **Section 8. TERMINATION AND MODIFICATION.**

- 8.1 **Termination.** District may cancel this Agreement at any time and without cause upon written notification to Consultant. Consultant may cancel this Agreement upon thirty (30) days' written notice to District and shall include in such notice the reasons for cancellation.

- 8.2 Extension.** District may, in its sole and exclusive discretion, extend the end date of this Agreement beyond that provided for in Subsection 1.1. Any such extension shall require a written amendment to this Agreement, as provided for herein. Consultant understands and agrees that, if District grants such an extension, District shall have no obligation to provide Consultant with compensation beyond the maximum amount provided for in this Agreement. Similarly, unless authorized by the District, District shall have no obligation to reimburse Consultant for any otherwise reimbursable expenses incurred during the extension period.
- 8.3 Amendments.** The parties may amend this Agreement only by a writing signed by all the parties.
- 8.4 Assignment and Subcontracting.** District and Consultant recognize and agree that this Agreement contemplates personal performance by Consultant and is based upon a determination of Consultant's unique personal competence, experience, and specialized personal knowledge. Moreover, a substantial inducement to District for entering into this Agreement was and is the professional reputation and competence of Consultant. Consultant may not assign this Agreement or any interest therein without the prior written approval of the District. Consultant shall not subcontract any portion of the performance contemplated and provided for herein, other than to the subcontractors noted in the proposal, without prior written approval of the District.
- 8.5 Survival.** All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between District and Consultant shall survive the termination of this Agreement.
- 8.6 Options upon Breach by Consultant.** If Consultant materially breaches any of the terms of this Agreement, District's remedies shall include, but not be limited to, the following:
- a. Immediately terminate the Agreement;
  - b. Retain the plans, specifications, drawings, reports, design documents, and any other work product prepared by Consultant pursuant to this Agreement;
  - c. Retain a different consultant to complete the work described in Exhibit A not finished by Consultant; or
  - d. Charge Consultant the difference between the cost to complete the work described in Exhibit A that is unfinished at the time of breach and the amount that District would have paid Consultant pursuant to Section 2 if Consultant had completed the work.

## **Section 9. KEEPING AND STATUS OF RECORDS.**

- 9.1 Records Created as Part of Consultant's Performance.** All reports, data, maps, models, charts, studies, surveys, photographs, memoranda, plans, studies, specifications, records, files, or any other documents or materials, in electronic or any other form, whether complete or in process, that Consultant prepares or obtains pursuant to this Agreement and that relate to the matters covered hereunder shall be the property of the District. Consultant hereby agrees to deliver those documents to the District upon termination of the Agreement. The Consultant shall assume no responsibility for the unintended use by others of any such documents. District and Consultant agree that, until final approval by District, all data, plans, specifications, reports and other documents are confidential and will not be released to third parties without prior written consent of both parties.
- 9.2 Consultant's Books and Records.** Consultant shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services or expenditures and disbursements charged to the District under this Agreement for a minimum of 3 years, or for any longer period required by law, from the date of final payment to the Consultant to this Agreement.
- 9.3 Inspection and Audit of Records.** Any records or documents that Section 9.2 of this Agreement requires Consultant to maintain shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of the District. Under California Government Code Section 8546.7, if the amount of public funds expended under this Agreement exceeds \$10,000.00, the Agreement shall be subject to the examination and audit of the State Auditor, at the request of District or as part of any audit of the District, for a period of 3 years after final payment under the Agreement.

## **Section 10. MISCELLANEOUS PROVISIONS.**

- 10.1 Attorneys' Fees.** If a party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees in addition to any other relief to which that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.
- 10.2 Venue.** In the event that either party brings any action against the other under this Agreement, the parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of Tuolumne or in the United States District Court for the Eastern District of California.
- 10.3 Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this

Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.

- 10.4 No Implied Waiver of Breach.** The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.
- 10.5 Successors and Assigns.** The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and assigns of the parties.
- 10.6 Conflict of Interest.** Consultant may serve other clients, but none whose activities within the corporate limits of District or whose business, regardless of location, would place Consultant in a “conflict of interest,” as that term is defined in the Political Reform Act, codified at California Government Code Section 81000 *et seq.*

Consultant shall not employ any District official in the work performed pursuant to this Agreement. No officer or employee of District shall have any financial interest in this Agreement that would violate California Government Code Sections 1090 *et seq.*

Consultant hereby warrants that it is not now, nor has it been in the previous 12 months, an employee, agent, appointee, or official of the District. If Consultant was an employee, agent, appointee, or official of the District in the previous twelve months, Consultant warrants that it did not participate in any manner in the forming of this Agreement. Consultant understands that, if this Agreement is made in violation of Government Code §1090 *et seq.*, the entire Agreement is void and Consultant will not be entitled to any compensation for services performed pursuant to this Agreement, including reimbursement of expenses, and Consultant will be required to reimburse the District for any sums paid to the Consultant. Consultant understands that, in addition to the foregoing, it may be subject to criminal prosecution for a violation of Government Code § 1090 and, if applicable, will be disqualified from holding public office in the State of California.

- 10.7 Professional Endorsement.** The Consultant shall endorse all reports, maps, plans, documents, materials and other data in accordance to the laws of the State of California.
- 10.8 Notices.** Any written notice to Consultant shall be sent to:  
Regina Hirsch, President  
Watershed Progressive  
P.O. Box 1063  
Groveland, CA 95321

Any written notice to District shall be sent to:  
Tom Trott, General Manager



Twain Harte Community Services District  
P.O. Box 649  
Twain Harte, CA 95383

**10.9 Integration.** This Agreement, including the following exhibits attached hereto and incorporated herein represents the entire and integrated agreement between District and Consultant and supersedes all prior negotiations, representations, or agreements, either written or oral:

Exhibit A            Proposal

**10.10 Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.

The Parties have executed this Agreement as of the Effective Date.

**DISTRICT**

**CONSULTANT**

\_\_\_\_\_  
Gary Sipperley  
District Board President

\_\_\_\_\_  
Regina Hirsch  
President

**Attest:**

\_\_\_\_\_  
Kimberly Silva  
District Board Secretary

**EXHIBIT A  
PROPOSAL**



## Twain Harte Community Stormwater Enhancement Project (THCSEP): Community Services District Office PROPOSAL for Design and Engineering

DATE: 3 May 2024

TO: Tom Trott, P.E.  
General Manager  
Twain Harte Community  
Services District  
[ttrott@twainhartecsd.com](mailto:ttrott@twainhartecsd.com)  
P.O. Box 649, Twain Harte,  
CA 95383  
PH: (209) 586-3172

SITE ADDRESS: 22912 Vantage Point Dr,  
Twain Harte, CA 95383

FROM: Watershed Progressive  
*Project Manager Contact:*  
Nicole Stern, PLA, Environmental Design Director  
505.699.7428  
[nicole@h2oprogressive.com](mailto:nicole@h2oprogressive.com)  
Central Coast Office: 206. N. Signal St. Ste S. Ojai, CA 93023

*Billing Contact:*  
Deanna Roller, Chief Financial Officer  
209.352.3512  
[deanna@h2oprogressive.com](mailto:deanna@h2oprogressive.com)  
Sierra Office: 18653 Main St, Groveland, CA 95321  
Mailing: P.O.Box 1063, Groveland, CA 95321

### SUMMARY and PROJECT UNDERSTANDING

This proposal addresses design of the Twain Harte Community Service District Office site. As a multiple benefit-based technical stormwater project with intention to provide demonstration of Low Impact Tools, as well as certified workforce development and youth engagement, this integrated proposal requires a special project understanding and unique qualifications to provide the deliverables in the THCSEP Scope of Work. These unique qualifications and approach are outlined in this brief proposal in Table 1, as well as tied to the THCSEP Scope of Work.

Watershed Progressive (Contractor) will perform all administration and coordination efforts needed to meet the requirements of the State Water Resources Control Board (SWRCB) Storm Water Grant Program Funding Agreement (Funding Agreement) for the Twain Harte Community Stormwater Enhancement Project (THCSEP). Watershed Progressive (Professional Landscape Architect License No. 6640, Landscape Contractor License No. C27-925678) and Black Water Consulting Engineers (Subcontractor) propose the following tasks and phases.

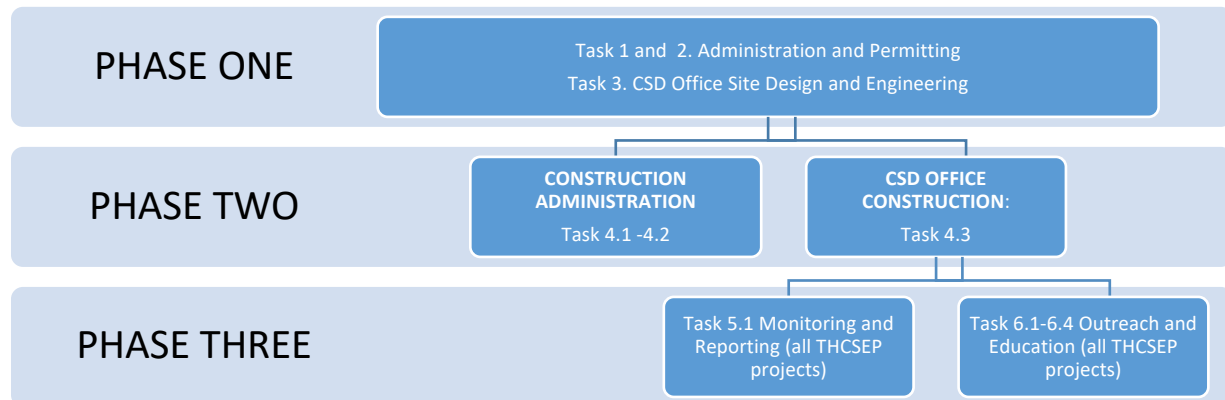


Figure 1. Phase Sequence of Twain Harte CSD Office Stormwater Enhancement Project: CSD Office

Phasing will occur to organize project by three primary elements, as shown by Figure 1. Initial administration and all project design elements for the Twain Harte CSD Office site will be initialized in Phase One, covered in the following scope. After final adoption of 100% design plans are final, Client may request a new proposal for Bidding Package and Phase Two: Construction.

The following scope includes Phase One tasks only.

## ***PHASE 1 - SCOPE OF WORK (CSD Office Design and Engineering)***

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### **Task 1. Project Administration & Coordination**

Watershed Progressive will perform all Project-related administration and coordination efforts needed to meet the requirements of the State Water Resources Control Board (SWRCB) Storm Water Grant Program Funding Agreement (Funding Agreement) for the Twain Harte Community Stormwater Enhancement Project (THCSEP). Among other tasks, this includes coordinating with SWRCB to respond to inquiries; providing documentation needed to satisfy SWRCB requirements; coordinating design with other THCSEP subprojects to ensure the overall THCSEP Funding Agreement goals are met; and working with the District's Project Manager to create and update project schedules, budgets, progress reports and invoices.

Coordinate all Project design activities, including but not limited to: management of design activities, including invoicing and internal staff management; providing design status updates to the District; any necessary design-related meetings with the District, SWRCB, subconsultants, subcontractors and other parties. Design coordination activities shall be sufficient to ensure that the Project design meets SWRCB requirements, including providing documentation, design calculations and other explanations necessary to satisfy SWRCB during the course of the project and the development of the SWRCB funding agreement.

### **Task 2. Environmental Compliance and Permitting (NOT INCLUDED)**

CEQA and permitting review for this Project are complete. This scope does not include permitting. If any permits are required, the Consultant may assist the District in preparing the permit applications and answering any questions raised by the permitting agency *as additional services*. The District will be ultimately responsible for obtaining required permits (if any).

### **Task 3. Design and Engineering**

The Consultant and Subconsultant Team will complete Project design and engineering. The result of the design will be creation of construction documents, including plans, specifications and estimates that can be used for the District's design-bid-build project delivery method required by the SWRCB.

At a minimum, the Project design shall include the following components:

- One (1) new rainwater collection tank with a minimum design storage capacity of four thousand five hundred (4,500) gallons to capture runoff from rooftops and use it to irrigate on-site landscaping including the below components.
- Remove and replace nine thousand (9,000) square feet of impermeable pavement with permeable surface for parking use.
- Four thousand six hundred (4,600) square feet of new vegetated bioswales.
- One thousand six hundred (1,600) square feet of new rain garden.

### **Task 3.1 Design Report**

The Consultant and Subconsultant Team will prepare a Design Report including sufficient detail and design calculations to provide a clear basis of design and to justify the measurable benefits provided by the Project. Work shall include preparation of a Design Report following the same format as the other three THCSEP subprojects which have already been approved by SWRCB.

As part of the design report task, the Consultant will perform percolation testing for the site drainage study and to inform project design. The results of this testing will be included in the design report.

The Project shall be designed so that, when combined with the other THCSEP sub-projects, the THCSEP shall capture, treat, infiltrate, and/or re-use storm water and dry weather runoff collected from a minimum of three hundred thirty-seven (337) acre drainage area. The Project shall be designed to manage a 1.01-inch rainfall event (85th percentile, 24-hour storm).

Deliverables:

- Design Report

### **Task 3.2 60% Design Plans**

The Consultant and Subconsultant Team will prepare 60% design level plans based on the Design Report and the 50% preliminary design plans prepared by Watershed Progressive. Design may be different from the preliminary design, if it better meets the intent and Project budget; however, the design will include the minimum components listed above.

Plans will include sufficient detail to enable SWRCB to clearly understand the various Project design components and benefits derived by each component. All new designed pathways shall be accessible per ADA.

Design shall incorporate educational signs and exhibits that will be designed, procured, and installed under the existing contract for the design, construction management and partial construction of Twain Harte Meadows Park.

Deliverables:

- 60% Design Plans

### **Task 3.3 100% Design Plans, Specifications, and Cost Estimate**

The Consultant and Subconsultant Team will prepare 100% design level plans and specifications based on the Design Report, SWRCB and District comments, and engineering. 100% plans and specifications shall clearly illustrate that the minimum Project quantities and benefits required in the Funding Agreement are met. Draft 100% plans and specifications shall include a written summary identifying any changes from the 60% plans and specifications submittal, including any changes that may affect required Project quantities and benefits.

Project plans shall include sufficient detail for Contractor's construction. The plans, specifications and estimate shall include sufficient detail for bidding.

Work shall include preparation of draft 100% plans, specifications and estimate for comment by the District and SWRCB, response to comments, and completion of final 100% plans, specifications, and estimate.

It will be the Contractor's responsibility to design the Project so that it can be constructed within the confines of the construction budget.

Deliverables:

- Summary of Changes from 60% Plans
- Draft 100% Plans & Specifications
- Final 100% Plans, Specifications
- Engineer's Construction Cost Estimate

### **SCHEDULE**

The project schedule is proposed as follows:

May 24, 2024 - Design Report & 60% Design (Tasks 3.1/3.2)  
June 15, 2024 - 100% Design (Task 3.3)

As reference for Phase 1 Schedule, the current Funding Agreement schedule requires the following deadlines for this Project after completion of Phase 1:

June 30, 2024 - Advertised Bid Documents  
July 31, 2024 - Bid Summary  
August 15, 2024 - Notice to Proceed  
October 31, 2024 - As-built Drawings and Summary of Changes  
November 15, 2024 - Operations and Maintenance Plan

The schedule may be adjusted, subject to the approval of SWRCB; however, all Project work must be complete no later than December 31, 2024.

### **BUDGET**

The budget for this work is:

TASK	BUDGET
Task 1. Project Administration & Coordination	\$5,000
Task 3. Design and Engineering	\$65,000
TOTAL	\$70,000

## PROPOSED CHANGES

The District may accept changes to this Project scope of work or to the approach to Project design and implementation, in order to best fit the budget and schedule requirements. All proposed changes must be presented to the District and may require SWRCB approval.

## EXCLUSIONS AND ADDITIONAL SERVICES

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This Scope of Work does NOT include the following items although they may be added as additional services:

- Signage design and procurement (included as part of Twain Harte Meadows Park contract separately)
- Geotechnical Investigations (to be obtained by Client)
- CEQA and Permitting as noted in Task 2
- Bidding and Construction Phase Tasks

Additional tasks, services, or studies not specifically included in the above contract can be added to this contract under the terms of a written change order.

- 1.0 If authorized in writing by District, WATERSHED PROGRESSIVE shall furnish or obtain from others Additional Services which are not considered normal or customary Basic Services except to the extent provided otherwise in the Scope of Work. These will be paid for by District as indicated in Rate Schedule.
- 2.0 Services resulting from significant changes in extent of the Project or its design, including but not limited to changes in size, complexity, District's schedule, character of construction or method of financing; and revising previously accepted documents or Contract Documents when such revisions are due to causes beyond WATERSHED PROGRESSIVE'S control.
- 3.0 Furnishing the services of special consultants for other than identified TEAM.
- 4.0 Additional services in connection with the Project stated, including services normally furnished by District and services not otherwise in this Proposal.

## NOTICE TO PROCEED

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Upon receipt or written notice to proceed and signed contract, WATERSHED PROGRESSIVE will proceed with proposed, agreed upon scope, fee, and schedule.



# Board Meeting Agenda Item Summary

May 8, 2024

<b>ITEM #:</b>	09A	<b>ITEM TYPE:</b>	<input checked="" type="checkbox"/> Discussion <input type="checkbox"/> Action <input type="checkbox"/> Both
<b>SUBJECT:</b>	President and Board member reports.		
<b>RELATION TO STRATEGIC PLAN:</b>	<input checked="" type="checkbox"/> N/A <input type="checkbox"/> Advances Goal/Objective #'s: _____		

**RECOMMENDED ACTION:**

None.

**SUMMARY:**

This item provides an opportunity for individual Board members to provide a verbal report of District-related activities undertaken in the previous month.

**FINANCIAL IMPACT:**

None.

**ATTACHMENTS:**

None.



**T-S IRWMA 2024-2025 Budget**

**Revenue**

Membership - Board Members	\$44,920.00
Membership - WAC Members	\$2,200.00
<b>Total Revenue:</b>	<b>\$47,120.00</b>

**Expenses by Budget Category**

<b>Communications</b> Includes maintaining efficient and effective communication with: organizations with in the region, neighboring IRWM Regions, DWR IRWM Program Staff, and local, state, and federal agencies.	\$7,189.00
<b>Meetings</b> Includes developing schedules, agendas, content, summaries, etc.	\$16,550.00
<b>Outreach &amp; Website</b> Includes website administration and public outreach.	\$930.00
<b>Financial Management</b> Includes development of annual budget, financial tracking, and management of income and expenditures.	\$1,950.00
<b>Data Management</b> Includes gathering, managing, and providing access to the Region's data.	\$680.00
<b>Project Solicitation</b> Includes project solicitation, plan review and revisions.	\$1,700.00
<b>Misc.</b>	\$1,780.00
<b>Grant Opportunities</b> Improve project integration, select projects for inclusion in grant applications, and research grants.	\$11,900.00
<b>Subtotal:</b>	<b>\$42,679.00</b>

<b>Legal Services</b>	\$500.00
<b>Travel</b>	\$1,200.00
<b>Liability Insurance</b>	\$2,600.00
<b>Audit</b>	\$141.00
<b>Subtotal:</b>	<b>\$4,441.00</b>
<b>Total Expenses:</b>	<b>\$47,120.00</b>

**Membership Dues**

TUD	\$10,332
Tuolumne Co.	\$10,332
CCWD	\$8,086
GCSD	\$6,289
THCSD	\$4,941
MSD	\$4,941
<b>WAC Members (each),</b>	<b>\$200.00</b>

*Approved*

**T-S IRWMA Budget Comparison**

	Proposed 2024-2025	2023-2024 YTD	2023-2024 Budget	2022-2023 Budget	2021-2022 Budget	2020-2021 Budget	2019-2020 Budget	
<b>Revenue</b>								
Membership - Board Members	\$44,920.00	\$44,920.00	\$44,920	\$44,920.00	\$44,800.00	\$44,800.00	\$65,000.00	
Membership - WAC Members	\$2,200.00	\$2,200.00	\$2,000	\$2,200.00	\$2,400.00	\$2,400.00	\$4,000.00	
<b>Total Revenue:</b>	<b>\$47,120.00</b>	<b>\$47,120.00</b>	<b>\$46,920</b>	<b>\$47,120.00</b>	<b>\$47,200.00</b>	<b>\$47,200.00</b>	<b>\$69,000.00</b>	
<b>Expenses by Budget Category</b>								
<b>Communications</b>	\$7,189.00	\$5,899.75	\$2,699.00	\$2,630.00	\$2,710.00	\$2,710.00	\$5,420.00	
Includes maintaining efficient and effective communication with: organizations with in the region, neighboring IRWM Regions, DWR IRWM Program Staff, and local, state, and federal agencies.								
<b>Meetings</b>	\$16,550.00	\$6,586.50	\$22,740.00	\$24,760.00	\$24,760.00	\$24,760.00	\$28,640.00	
Includes developing schedules, agendas, content, summaries, etc.								
<b>Outreach &amp; Website</b>	\$930.00	\$418.50	\$930.00	\$1,780.00	\$1,780.00	\$1,780.00	\$1,735.00	
Includes website administration and public outreach.								
<b>Financial Management</b>	\$1,950.00	\$1,546.00	\$1,950.00	\$1,950.00	\$1,950.00	\$1,950.00	\$2,444.00	
Includes development of annual budget, financial tracking, and management of income and expenditures.								
<b>Data Management</b>	\$680.00	\$2,400.00	\$680.00	\$1,020.00	\$1,020.00	\$1,020.00	\$1,020.00	
Includes gathering, managing, and providing access to the Region's data.								
<b>Project Solicitation</b>	\$1,700.00	\$850.00	\$1,700.00	\$1,700.00	\$1,700.00	\$1,700.00	\$1,700.00	
Includes project solicitation, plan review and revisions.								
<b>Misc.</b>	\$1,780.00	\$59.05	\$1,780.00	\$1,780.00	\$1,780.00	\$1,780.00	\$1,082.50	
<b>Grant Opportunities</b>	\$11,900.00	\$9,210.25	\$10,200.00	\$6,800.00	\$6,800.00	\$6,800.00	\$1,222.00	
Improve project integration and select projects for inclusion in grant applications.								
<b>Subtotal:</b>	<b>\$42,879.00</b>	<b>\$26,770.05</b>	<b>\$42,879.00</b>	<b>\$42,420.00</b>	<b>\$42,500.00</b>	<b>\$42,500.00</b>	<b>\$43,263.50</b>	
<b>Legal Services</b>	\$500.00	\$0.00	\$500.00	\$1,000.00	\$1,000.00	\$1,000.00	\$1,000.00	
<b>Travel</b>	\$1,200.00	\$0.00	\$1,000.00	\$1,000.00	\$1,000.00	\$1,000.00	\$1,000.00	
<b>Liability Insurance</b>	\$2,600.00	\$2,591.00	\$2,600.00	\$2,400.00	\$2,400.00	\$2,200.00	\$2,100.00	
<b>Audit</b>	\$141.00	\$14.00	\$141.00	\$300.00	\$300.00	\$500.00	\$500.00	
<b>Subtotal:</b>	<b>\$4,441.00</b>	<b>\$2,605.00</b>	<b>\$4,241.00</b>	<b>\$4,700.00</b>	<b>\$4,700.00</b>	<b>\$4,700.00</b>	<b>\$25,736.50</b>	
<b>Total Expenses:</b>	<b>\$47,120.00</b>	<b>\$29,375.05</b>	<b>\$46,920.00</b>	<b>\$47,120.00</b>	<b>\$47,200.00</b>	<b>\$47,200.00</b>	<b>\$68,000.00</b>	
		<i>Year to Date thru March 2024</i>		<i>Remaining Budget at Year End:</i>	\$ -	\$7,226.00	\$6,324.02	\$15,822.88

\*Mapping & Website Update

\*SPIT Project Cost \$14,000 from Reserves



## IRWM 2.0: Working Together for Resilience and Sustainability

The 48 Integrated Regional Water Management (IRWM) planning regions, serving 99 percent of the state's population, have an established track record achieving successful regional planning, grant acquisition, engagement with disadvantaged and other under-represented communities, and the development of multi-benefit water resource portfolios.

Regional approaches integrate all facets of water management including water supply, water quality, wastewater, recycled water, flood water, stormwater, and habitat restoration. IRWM regions cross jurisdictional and political boundaries.

**What is IRWM 2.0?** The IRWM Roundtable of Regions advocates for a new vision for IRWM, referred to as "IRWM 2.0," that retains and strengthens the successful elements of the program and uses it as the key process through which federal, state, and local water planning resources are directed.

Using key elements from the Association of California Water Agencies' (ACWA) *IRWM Policy Principles*, and the California Department of Water Resources' (DWR) *IRWM Stakeholder Perspectives*, **the Roundtable recommends 9 strategies for local and state policy makers to adopt to take regional planning to the next level.**



Photo courtesy of Kern IRWM



Photo courtesy of SAWPA IRWM



Photo courtesy of Santa Barbara IRWM



Photo courtesy of Stella Shao, South Orange County IRWM

*"The success of IRWM is due to the steadfast dedication and commitment of people who 15 years ago, never heard of IRWM."*

### Strengths of the IRWM Program Approach

**Integrated planning that concurrently achieves social, environmental, and economic objectives:** IRWM planning differs from traditional water resource management approaches by focusing at a local level with a regional perspective.

**Collaborative planning:** IRWM stakeholders include state, local and federal agencies; water providers; wastewater agencies; flood control agencies; resource conservation districts; environmental and other community organizations; disadvantaged and other under-represented communities; Tribes; groundwater management agencies; business and labor leaders; and interested individuals.

**Identifies and achieves water management solutions at a regional scale:** IRWM Regional Water Management Groups (RWMGs) have established regional governance structures responsible for long-term planning, identification and selection of projects. Each Region has created an IRWM Plan that sets out a vision for regional water management into the future.

**Project implementation to meet IRWM Plan goals and regional needs:** In addition to the projects funded and implemented at the local and regional level, the state's IRWM Grant Program has funded more than 840 regional projects providing multiple benefits in such areas as improved water quality, increased resiliency to climate change,

and better flood, stormwater and headwaters management.

**High rate of return for state investment:** IRWM projects represent an investment of 3.2 times that of the state through local grant funding match and coordinated project planning (approximately \$4.2 billion local funds versus \$1.3 billion state funding).

**Ensures the involvement of under-represented voices:** IRWM involves underserved and disadvantaged communities, Tribes, environmental and non-governmental organizations, and other interested stakeholders into local water resources decision-making, planning and management.

# Strategies to Achieve IRWM 2.0

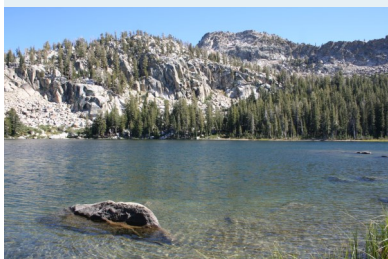


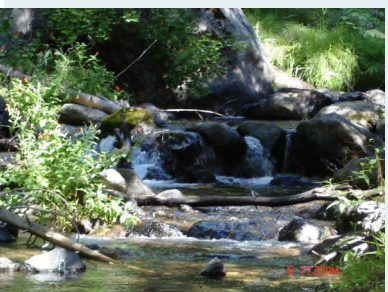
Photo courtesy of Southern Sierra IRWM



Photo courtesy of Ventura IRWM



Photo courtesy of Mojave IRWM



Phot courtesy of Madera IRWM



Photo courtesy of Tuolumne-Stanislaus

- 1. Use IRWM as the framework to implement Water Resilience Portfolio Recommendations and other requirements:** Governor Gavin Newsom's Water Resilience Portfolio embodies priorities such as concentrating on multi-benefit approaches and encouraging regional collaboration among water users within a watershed. IRWM regions can provide a forum to collaboratively engage all water-related stakeholder processes including the Sustainable Groundwater Management Act (SGMA). The IRWM Program should be the major venue for local agencies to develop and pursue priority regional projects that are generated through California's Water Resilience Portfolio Initiative. State water resource-related grants that intersect with the goal statements in the final Water Resilience Portfolio should be solicited through the IRWM regions as is done currently with IRWM Implementation and Disadvantaged Community-related grants. This will ensure that local agencies are engaged in the process, projects with multiple and regional benefits are selected, and water-related grant applications from the various State agencies are consistent.
- 2. Form a Stakeholder Advisory Group** with representatives from the Roundtable of Regions and other entities to enhance coordination with DWR and other related state agencies regarding long-range water management. The Stakeholder Advisory Group could address the lack of alignment of government policies, regulations, and programs—a barrier to successful implementation of IRWM in some regions. Agency policies and programs often lack integration with other aspects of water management, especially at the regional level. Improving the alignment of state, local, and federal agencies in support of IRWM would allow more timely implementation of multi-beneficial water-related projects. The Group could also advise on ways to improve regional assistance services and grant administration processes.
- 3. Provide baseline funding for IRWM stakeholder participation:** Participation in Regional Water Management Groups can be challenging, particularly in large rural regions with a high percentage of disadvantaged communities. Many rural IRWM programs lack funding for dedicated staffing and coordination; they also can lack the capacity to submit grant applications and may not have the on-hand funding to manage the long reimbursement times in State grants. DWR should provide noncompetitive base-level funding or administrative support, subject to State accountability requirements, for individual IRWM regions to help support key operations. By providing stable funding the State will help support stakeholder engagement, coordination and collaboration, IRWM plan updates, and participation of underrepresented groups, such as disadvantaged communities, Tribes, and local agencies with budget constraints.
- 4. Expand engagement with disadvantaged and other under-represented communities:** Establish a Task Force that includes representatives of disadvantaged and under-represented communities, RWMG representatives, and DWR staff to facilitate and monitor the implementation of necessary initiatives and actions to ensure the involvement of members of disadvantaged communities in IRWM. Collaborate with RWMGs, State Water Board, and community members to identify tools and processes for improving coordination and collaboration. Continue to identify the capacity-building and technical assistance needs of disadvantaged communities, and provide the resources necessary to meet those needs. Develop a training program for community representatives to enhance understanding of roles,

*“The value of IRWM is measured by the millions of dollars that California taxpayers have committed to a vision articulated in consecutive bond measures—on faith—towards implementing hundreds of projects that serve to build resilience and sustainability in an incredibly complex water delivery system.”*

responsibilities, policies, and procedures related to the program services offered by DWR’s IRWM program and other State agency services.

5. **Commit to expanded Tribal participation:** Provide funding to Tribes to support participation in IRWM planning and implementation. Establish a Tribal task force that includes Tribal, RWMG, and State representatives to facilitate and monitor the implementation of necessary initiatives and actions to increase the involvement of Tribes in IRWM. Collaborate with DWR, Tribes, and RWMGs to identify tribal needs and identify approaches for enabling tribal involvement in IRWM processes.
6. **Adhere to legislative intent and state code sections related to IRWM projects and funding:** The state should work with its IRWM Stakeholder Advisory Group (to be established) to ensure maximum deference to regional project priorities and decision-making processes consistent with legislative intent. State agencies administering water management-related grant and loan programs should take necessary steps to implement the provisions of California Water Code sections 10544 and 10608.50 to give preference to projects included in an adopted IRWM plan, to the extent allowed by funding program statutes. Preferences for IRWM projects could be in the form of reduced matching fund requirements and/or additional points in competitive application scoring. Improving the timeliness and efficacy of grant agreement development and contract execution is also necessary to ensure participating in IRWM is not a burden for stakeholders in smaller regions.
7. **Increase Public Education and Awareness:** IRWM is the primary platform for developing shared goals, identifying shared interest and potential conflicts in water management at the regional scale, and then using these understandings to prioritize, design and implement water related projects that benefit regional resilience. Limited funding restricts the number of projects that can be implemented. In some cases, IRWM stakeholders have forgone

funding to support others in their regions with greater needs. However, the average beneficiary of IRWM projects is unaware of the benefits derived from IRWM. A public awareness campaign to educate California residents on the value of regional coordination, integration, and multi-benefit projects from IRWM is needed. In addition, include support for educational programs and projects in IRWM project portfolios; coordination to establish, state dedication to, and legislative outreach to move forward with, prioritization of increasing the public’s awareness of the “one water” approach to managing water - i.e. the importance of water as a resource.

8. **Allocate Funding More Strategically:** The formulas used to distribute funding from the Proposition 84 and Proposition 1 grant programs were based largely on population. Funding areas with small populations receive substantially fewer grant dollars. This imbalance is most notable in the Sierra which supplies 60% of the state’s water yet received less than 5% of Prop 1 funding. Funding should balance investment between supporting regional goals and issues of statewide impact, including headwaters.
9. **Streamline Permitting:** IRWM projects seek to achieve regulatory compliance but often conflicting permitting requirements extend the timeframe for projects. State and federal entities should streamline permit processes or allow flexibility on the development of regulatory requirements for projects supported by IRWM. Such regulatory alignment supports efficient, integrated water resource management. A possible pilot project is the development of a “one-stop shop” environmental permitting for projects included in an adopted IRWM plan. The shop would reduce transaction costs and improve regional outcomes. A state task force should be established to identify where regulatory goals and authorities are working at cross purposes, to better identify how policy change can align state goals such that disparate regulatory authorities are seeking similar outcomes.

*“IRWM is unique because of the determination and willingness of interests that have not been in the same room together for decades to sit down at the same table one more time. It brings together sincere individuals seeking to bridge diverse perspectives, motives, and objectives to build relationships , support communities, and connect across differences—and in some cases, setting aside their own interests to support smaller or less affluent groups with greater needs.”*

## SUPPORTING DOCUMENTS

ACWA *Integrated Regional Water Management Policy Principles* <https://www.acwa.com/resources/integrated-regional-water-management-policy-principles/>

CA Department of Water Resources *Stakeholder Perspectives: Recommendations for Sustaining and Strengthening Integrated Regional Water Management* [https://water.ca.gov/LegacyFiles/irwm/docs/IRWM\\_Recommendations.pdf](https://water.ca.gov/LegacyFiles/irwm/docs/IRWM_Recommendations.pdf)

CA Department of Water Resources *Water Plan Update 2018: Managing Water Resources for Sustainability* <https://www.acwa.com/resources/integrated-regional-water-management-policy-principles/>

Water Education Foundation *Layperson's Guide to Integrated Regional Water Management* <https://www.watereducation.org/publication/laypersons-guide-integrated-regional-water-management-0>

## CONTACT US:

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Jodie Monaghan  
(916) 616-1134

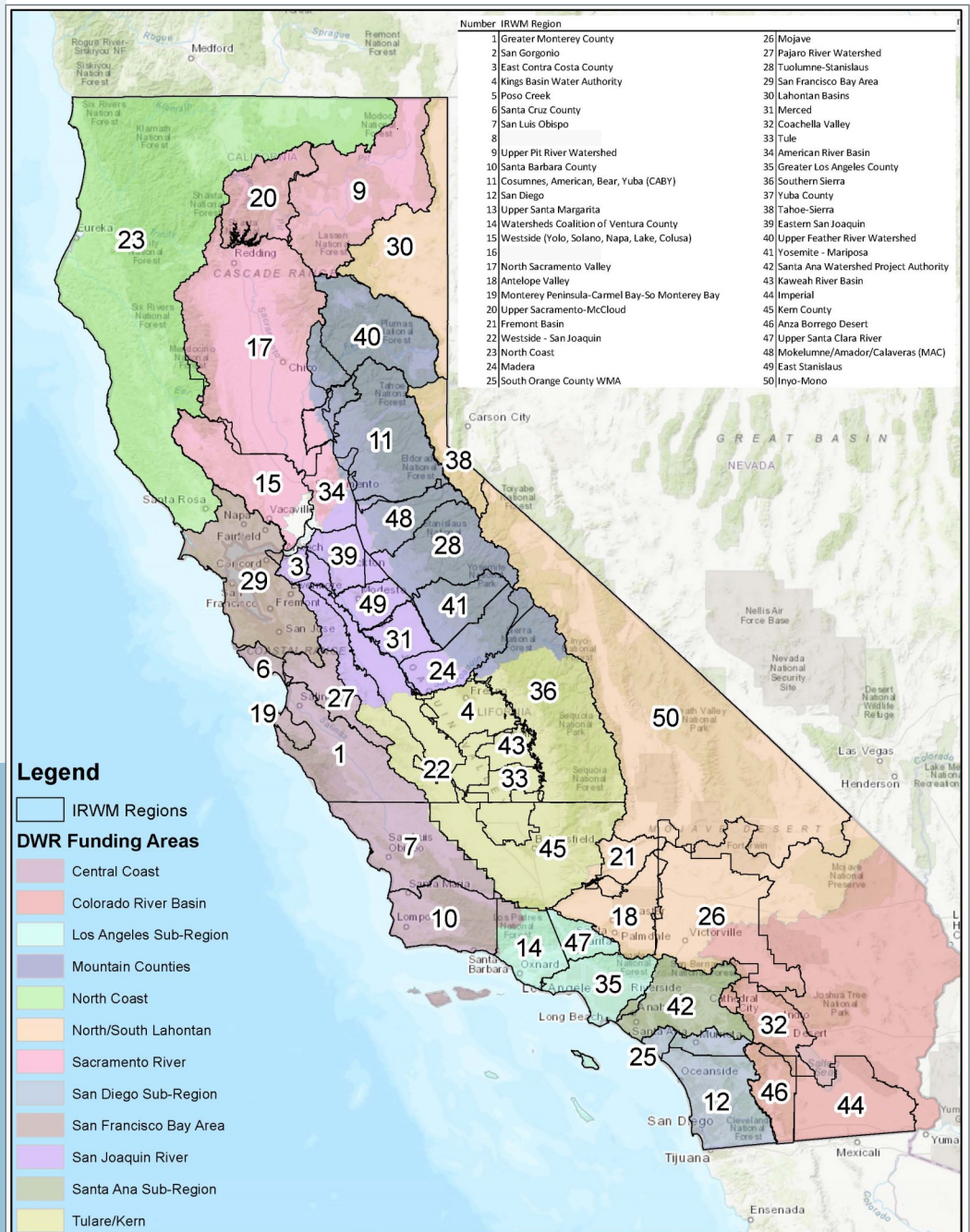
Find more information at:  
[www.RoundtableofRegions.org](http://www.RoundtableofRegions.org)

## What IRWM Regions are saying:

*"The IRWM program incentivized the formation of the North Coast Resource Partnership (NCRP) -- an effective, stakeholder-driven collaboration among local government, Tribes, and watershed groups in the North Coast region. The NCRP has provided opportunities for the partnership to work collaboratively on water, forestry, and climate change management challenges to reduce conflicts, integrate federal, state, regional and local priorities and utilize a multi-benefit approach to identify and seek funding for the highest priority project needs in the region."*

*"Our IRWM has enhanced collaborative efforts in the region, fostering greater interaction and planning among water districts, municipalities, public works, resource agencies, and NGOs. A few examples include IRWM planning related to conjunctive use, aquifer recharge, and inter-agency water transfers (among others). These efforts have resulted in projects and management actions to implement these strategies and yielded multi-agency collaborations and leveraged funding to continue this work."*

Map of IRWM Regions and Funding Areas





# Board Meeting Agenda Item Summary

May 8, 2024

<b>ITEM #:</b>	09B	<b>ITEM TYPE:</b>	<input checked="" type="checkbox"/> Discussion <input type="checkbox"/> Action <input type="checkbox"/> Both
<b>SUBJECT:</b>	Fire Chief's report.		
<b>RELATION TO STRATEGIC PLAN:</b>	<input checked="" type="checkbox"/> N/A <input type="checkbox"/> Advances Goal/Objective #'s: _____		

## RECOMMENDED ACTION:

None.

## SUMMARY:

This item includes a written and verbal report from the Fire Chief regarding general operations of the District's Fire Division over the previous month.

## FINANCIAL IMPACT:

None.

## ATTACHMENTS:

- Fire Operations Report
- CERT Monthly Newsletter

# April 2024 Operations Report Fire Division





# April Staffing

Full-Time Captains-3

Intern Operators-2

Relief Captains-4

Reserve Firefighters-4

Intern Firefighters-2



# April Training Hours-290



**On April 24th, Twain Harte Fire, in conjunction with Ranchireia Fire, Sponsered, and Auto Extercation class. Over 25 students from all over the state came to learn from some of the best instructors on this topic.**



# April Responses-29



On April 9th, THFD responded to a Residential Structure Fire in the Crystal Falls area. One Firefighter from Cal Fire sustained an injury during this incident.



On April 14th, THFD responded to a phone-in report of a possible electrical fire on Vantage Point Drive.



On April 19th, THFD responded to Ponderosa Drive in Twain Harte for power lines down in the residence's backyard.



On April 21, THFD responded to a Residential Structure Fire in the Ponderosa Hills area. Crews assisted with water supply and overhaul

# April Awards



**On April 28th, the Twain Harte Fire Department received a Partnership award from the Tuolumne County Fire Department (TCFD)/ Cal Fire Tuolumne Calaveras Unit. For our continued dedication to improve fire protection in Tuolumne County.**



# April Incidents by Type



EMS Incidents-20



Fires -6



Good Intent-2



Hazardous incident-1



# Responses by District

## April 2024



Twain Harte District 80%



Tuolumne County Fire-20%



# TWAIN HARTE AREA



**SERVING OUR COMMUNITY**

## MONTHLY UPDATE

April 2024

PIO: Leo Marroquin  
Editor: Carol Hallett  
Proof reader: Lise Lemonnier

### Contents:

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Safety-Wildfire	Page 11
What's next?	Page 12



We hope you enjoy this month's issue. Our goal is to provide information to the community, focusing on preparedness, safety and health. If you have a suggestion for future articles, please contact: [twainhartecert@gmail.com](mailto:twainhartecert@gmail.com) for consideration of the topic by the board.

## NOTES FROM THE PROGRAM MANAGER

by Carol Hallett



Rain, rain go away. Come again another day.

Rain! Are you kidding me, we did better than that, it snowed in April. Snowshoeing in April in Twain Harte. WOW!

But the rain and snow did not slow us down. I think you will be as amazed as I am how much this team got accomplished in a month. We fixed-up the container even more and added an office for Pops, we did a "Go Bag" demo, hung smoke alarms with Red Cross, held our annual Basic Training Course, we were the "Coalition Spotlight" for Public Health, we have some safety tips on wildfire, and much more. We even took time to bake some cookies. I hope you enjoy the recipe.

I also added a new page, that I hope you find interesting. I have a report from the THCSD Operations Manager, Lewis Giambruno that I can share each month. It shows the statistics of the work being done around town.

The really good news is that it snowed on the dogwood and the snow flowers are blooming so that should be the end of the snow for this year, according to the old wives tale.

This month we are celebrating THA-CERT's 10th anniversary. I am proud to be one of the founding members and the last one to be active with the group. I miss working with the founders as well as each and every past member. The contributions from those past members make us who we are today. I am always excited to work with the new members, they have new ideas and capabilities.

Here we come 11th year, watch us continue to grow.



# THCSD GENERAL MANAGER REPORT

by Tom Trott, THCSD General Manager



## GM REPORT

April 10, 2024

### ADMIN ACTIVITIES

- FY 2024-25 Budget Preparation
- THCSD Median Household Income Survey
- Grant Management – Prop 1 and Prop 68
- TH Meadows Park Construction Management
- Parking Lot, Pickleball and Tennis Courts Projects
- FEMA Storm Damage Reimbursement Coordination
- TH Trail Eagle Scout Project Coordination

### MEETINGS OF INTEREST

- 3/19 Kickoff Meeting – RGS Financial
- 3/26 SDRMA Spring Education Day
- 4/3 Congressman McClintock – HR 7525
- 4/4 Stop Cyber Attacks Training
- 4/12 TH Trail Eagle Scout Scoping Meeting

### CAPITAL PROJECTS

#### Twain Harte Meadows Park

Budget: \$3,000,000

Grading, pavilion framing, restroom building, some planting and most of the water play area is complete. If weather permits, planting, water play area, parking area and pavilion construction will continue this month. Project completion is anticipated in early fall 2024.

#### Tennis/Pickleball Court Improvements

Budget: \$310,000

The sport grid surface for the pickleball courts expansion has been ordered and construction is anticipated in June. Coordination and contracting for the tennis court improvements is underway and construction to convert the tennis courts to a hybrid clay surface is anticipated in early summer.

#### Community Center Improvements

Budget: \$74,000 Fire / \$74,000 Park

Kitchen remodel, ADA bathrooms, flooring and exterior repaint is complete. Work to construct a concrete ADA parking space, path, and entryway has begun and will be complete this month. Paving will also be complete this month. New front doors and signage will be installed in the next two months.

#### Motor Control Center (MCC) Upgrade

Budget: \$185,000

Construction submittals to replace the MCC at the water treatment plant are finalized. Manufacturing delays have pushed construction out until the next low water demand month in November.

### PLANNING PROJECTS

#### Water System Evaluation/Analysis

Budget: \$777,151

Hydraulic model, water loss analysis, condition assessment and identification of priority capital projects is complete. Sherwood Forest water lines design and grant application is ready to submit.

### FUNDING OPPORTUNITIES

#### SRF / BUDGET EARMARK - \$4.5M

TH Sewerline Project / Award: Summer 2024

#### SRF / BUDGET EARMARK - \$6.55M

Sherwood Forest Water / Award: Summer 2024

#### ASSISTANCE TO FIREFIGHTERS GRANT - \$75,000

Structural Fire Turnouts / Award: Fall 2024

#### TECHNICAL ASSISTANCE GRANT - \$24,000

Median Household Income Survey / AWARDED

#### PROP 1 STORMWATER GRANT - \$1.75M

TH Meadows Park / AWARDED

#### PROP 68 RURAL RECREATION - \$1.25M

TH Meadows Park / AWARDED

#### PROP 68 PER CAPITA - \$178K

Tennis & Pickleball Improvements / AWARDED

To learn more details, join us at our monthly THCSD board meetings.

# TWAIN HARTE FIRE DEPARTMENT REPORT

by Neil Gamez, THFD Fire Chief



Full-Time Captains-3  
Intern Operators-3  
Relief Captains-4  
Reserve Firefighters-4  
Intern Firefighters-2



## Operations Report Fire Division



## Community Projects



FEMA

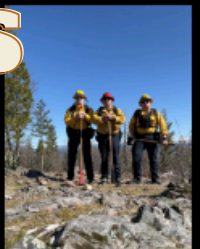


Chief Gamez completed the Multi-Hazard Mitigation Plan for Strawberry and Twain Harte CSD. We are waiting for FEMA to approve the document.

# 32 RESPONSES



# 267 TRAINING HOURS



Congratulations to Captain Orozco, Captain Dixon, and Intern Firefighter Luke Fulkerson on successfully passing the EMT course.



# THCSD WATER & SEWER REPORT

by Lewis Giambruno, THCSD Operations Manager



Each month I present to the THCSD Board an update on the work we do to keep our town looking and working well. There are a lot of details that go behind these graphs, join our board meeting to learn more.

## WATER & SEWER STATISTICS



## ITEMS OF NOTE



# SMOKE ALARM PROJECT

by Mike Mandell, Team Leader



We had a plan to mosey around town on Saturday, April thirteenth to install smoke alarms to anyone that wanted one.

There was a lot of upfront planning that happened beforehand, conversations, emails and follow-ups. We sent out inquiries to residents to see who needed a replacement smoke detector. The Fire Chief, Neil Gamez collected the data and came up with a plan.

We met at the firehouse at 9:30 am. We were a team of 13 made up of THFD, Red Cross and THA-CERT members. Red Cross gave a 30 minute review of the paperwork and procedure that they needed to follow. The Chief gave us the area to canvas and we were on our way.

We were able to install 71 smoke alarms and hand out safety brochures to all those that we helped that day. It was a good day of collaboration and comradery.

Red Cross provided water, snacks and lunch so that we could easily keep going to 1400 (2:00 pm). The really good news was that we beat the storm...the rain and snow chased us to the finish line.

You all know that I have been working on installing smoke alarms for many, many years so this project made me really happy. I sleep better knowing that more of the residents in Tuolumne County have working smoke alarms.



# RAIN, RAIN GO AWAY

by Leo Marroquin, PIO



The first English version of this short nursery rhyme dates back to the 17th century when James Howell, an Anglo-Welsh historian and writer, added a line about the Spanish Armada. "Rain, rain, go to Spain, Never show your face again"! In the late 16th century, Spain and England were rivals at sea.

The Spaniards were forced to turn and head back home, making England the victors. In Howell's version of the tune, he added a line that read "Rain, Rain, Go To Spain/Never Show Your Face Again" as a nod to the fateful encounter between the two armies.



Today, it is a nursery rhyme that children sing in the playground without the knowledge of the history. This month we all felt like chanting it loudly as the rain was coming from the heavens.

I try to remind myself that the rain is watering the flowers that will bloom over the coming weeks.

Awe spring is on it way!

# POPS HAS A NEW OFFICE

by Bob Schreiner, Logistics Section Chief



Pops took a trip to Italy and so while he wasn't around we took that time to move him into his new office space. When you have a team of volunteers, a plan and a leader that said, "let's get it done" it happens quickly.

Our fix for the leak in the ceiling worked. We had plenty of snow and rain to test it out. Now we can take that off our to-do list. No rain coming into Pops new office will make him happy and more comfortable.

Our walk through door is working like a champ so now we are working on insulation, rubber seal, sheathing and paint. It is going to look as great as it works. We have been working on this project for a while now but we can finally see the light at the end of the tunnel or in this case the end of the project.

Just wait until you see what we are planning next!

# COALITION MEMBER SPOTLIGHT

by Nicholas Olson, Program Specialist  
Hospital Preparedness Program



As the Program Specialist one of my duties is to host a quarterly meeting with all the Coalition Members. The members include first responders, Police, Fire, Ambulance personnel and our core members are: Public Health, OES, EMS, Adventist Health Sonora. There are other organizations that support our community like Red Cross, Area 12 and CERT who round out the coalition. I want to offer a huge thank you to the members of Twain Harte Area Community Emergency Response Team (THA-CERT) for braving the snow so they could be our Coalition Member Spotlight! THA-CERT is always there to lend a helping hand but on Thursday they proved that they would go that extra mile.

The snow was predicted but the weather reports have been hit and miss most of the winter, this time it was underestimated. The gigantic snowflakes started coming down just before the meeting and part way through the offices were being closed down so that people could get home. It cumulated fast!

THA-CERT had planned on having all of their staff (15 staff members) join the meeting to share their background, job description and how their group contributes to our community. One-by-one Carol Hallett (Program Manager) called her staff and told them they did not have to attend. She wanted them to be safe. It turned out that she was joined by Mike Mandell (Team Leader) and Linda Postma (Fundraiser Coordinator) they

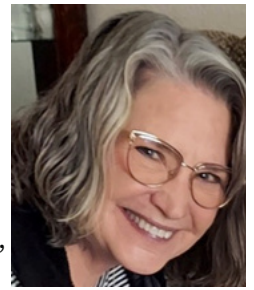


were already on their way and decided to continue to help support. Carol quickly went through the organization and shared information about the group.

The meeting was shortened and when we went outside it looked like Christmas. Huge snowflakes were falling from the sky and piling on the ground. I wonder what our next Coalition Member Spotlight has in store for us!

# GO BAG DEMO FOR LWVML

by Carol Hallett, Program Manager



The League of Women Voters of the Mother Lode (LWVML) is more of a diverse group than one would think before doing a little research. Their core focus is working to protect and expand voting rights in our community, inform local leaders on the biggest challenges facing Tuolumne and Calaveras counties (after careful study) and ensure everyone is empowered to participate in our democracy. Which is amazing on its own.



But they do not stop there, they have a fire interest and water interest group(s) that focus on ways that they can help make a difference in our community. They have another group that did research on the homeless and collected data to be able to share with our leaders so that they can make more educated decisions based on facts. I found the group to be very engaging, smart, lively and fun.

Saturday's meeting was hosted by the Fire Interest Group which is chaired by Maria Benech. She is familiar with CERT and knew League members would benefit from this training. The meeting was called to order by Brenda McHenry, the President of LWVML. She had a few announcements and then quickly gave the floor to Margaret Lawrence, THA-CERT Training Officer.



Margaret shared with the group of 25-30 people in attendance how she has organized her routine to get her go bag, family and pets out of the house within 5 minutes. The group interacted with Margaret sharing personal experiences and ideas that might help others.

We all recognize that fire season is fast approaching and getting prepared is so important. This is a great time to be thinking about your "go bag". Go through and make sure that it is up-to-date, review the clothing in your bag for the warmer season and check to make sure that the clothes still fit!

If you need a review we have a video on our website [www.thacert.org](http://www.thacert.org) as a refresher and/or you can invite us to come to a meeting and we will happily do a "go bag" demo for your group! To make that request send a note to: [twainhartecert@gmail.com](mailto:twainhartecert@gmail.com)

## THA-CERT IS TEN YEARS OLD

I tell the story often, I am still proud of it and the "Founding Members of the THA-CERT". We started as a direct result of the RIM fire. I was simply amazed that we as a community were not more prepared for a wildland fire when we live in and are surrounded by a forest. After the RIM fire was under control I scheduled a meeting with our then Fire Chief, Todd McNeal and expressed my concern. He said that he had the same concern and was looking into a program called CERT.

There are so many details that happened over the past decade, I guess I could write a book but instead I will say that the foundation laid by this group has made it possible for us to accomplish all that we have done. Thank you!



Todd McNeal, Doug Tucker, Carol Hallett, Eric & Susan Marvel, Gary Sipperley, Rich & Marilyn Knudson, Bill & Frances McManus, Bill Schiavo, Wes Jordan, Alan Wallace, Dori Bietz

# CERT BASIC TRAINING ACADEMY

by Margaret Lawrence, Training Officer



I can only say WOW. What an incredible 20 hour Basic Training Academy. This training helps fulfill one of our goals in our mission statement which is to help the community to be more prepared when an emergency happens. This was accomplished in spades!

There were countless hours in preparation by the instructors and our CERT volunteers... I put in a few hours too! The caliber of the instructors, subject matter experts that came from the Bay Area as well as local community members made the class intriguing and interesting. Twain Harte Fire Department (THFD) was there each day to support this important community preparedness class. A special thanks to Captain Dixon and Captain Orozco (along with their crew) for your support and time.

It was a full class. Each morning the class started with delicious snacks and the aroma of coffee, thanks to Mary Dearborn. The students were engaged, attentive and eager for every subject. The instructors interwove the course material with real life experiences and/or community events which brought it all home and made it even more compelling.



There was always something more to learn and discuss which added to the repertoire of knowledge for everyone. Carol Hallett taught "CERT Org" & Mary Dearborn went over "Disaster Psychology".



THFD went over "Fire Safety" and then the students geared up, went outside and took turns not only putting out the fire but taking care of their buddy. With each rotation the teams got more confidence.



Michelle Wagner (retired Deputy Sheriff/EMT) and Mary Kirkwood (retired nurse/currently with the Coast Guard) dazzled us with the two "Medical Operations" modules. There was so much information to absorb but they made it easy by relating it into simple terms that we can use in our everyday life as well as when an emergency occurs.

Unbeknownst to the students they would be using these skills later in the weekend.

# CERT BASIC TRAINING ACADEMY



Randie Revilla retired Fire Captain from the Bay Area taught “Light Search and Rescue” and then the students went outside to practice cribbing. They made a human chain to take the material out of storage which was yet another lesson. Then they practiced the art of safely removing someone from under a pile of rubble. The students took to it like professionals.



On the last day the students get to pull it all together in a practice simulation with “injured” victims. Thank you to the THA-CERT members and community volunteers that dressed up to play the part of injured victims. The moulage by Mary Kirkwood and Michelle Wagner was simply amazing. It made the simulation even more realistic.



The simulation is a great opportunity for the students to utilize all the skills and knowledge that they collected over the weekend. They reported to the incident command (IC) to get their deployment assignment and then off they went. Each team had a mentor observing and to guide them as needed. The teams went to different locations and found the victims with unique medical issues. With their backpacks in tow, filled with the supplies they needed, they assessed the victims condition. They reported back to IC by radio, another skill they learned from Mike Mandell (Team Leader). They used their learned skills to care for the victims until EMS arrived.

When the final exam and simulation were complete we gathered for a graduation ceremony with pizza debrief. The students attending this class were willing participants which made it all worthwhile. For the first time ever we had all the students sign up to be part of the THA-CERT or Groveland CERT.



The training was a huge success, what an honor it is to be part of this amazing group.

Congratulations to the CERT Class of ‘24



We are not having training in the Month of May. Have a safe Memorial Day. Come join us June 29 for another fabulous training; CPR/AED class where you can obtain more life saving techniques. Learn how to do CPR or come join us for a refresher. We will also be instructed on how to use an AED or automated external defibrillator. To join you must sign up at: [twainhartecert@gmail.com](mailto:twainhartecert@gmail.com), this class is limited in size. We will fill the class on a first come, first serve basis. Look for more details in next month’s newsletter.





# Polka-dot Macaroons



4 ½ doz  
cookies



15 min prep  
10 min bake/batch  
cool

## INGREDIENTS

- 5 cups Sweetened Coconut
- ½ cup all purpose flour
- 1 ½ cups mini m&m's
- 1 can (14 oz) sweetened condensed milk

## NOTES

Quick and easy, they look like a party to me. I love to make these cookies, you can make them without the m&m's but why?

I cut the coconut with half unsweetened coconut.

You can freeze these cookies, layered between waxed paper, in freezer containers.

To use, thaw before serving.

## DIRECTIONS

1. Preheat oven to 350°
2. In a large bowl, mix coconut, milk and flour until blended; stir in M&M's.
3. Drop mixture by rounded tablespoonfuls 2 in. apart onto greased baking sheets.
4. Bake 8-10 minutes or until edges are lightly browned.
5. Remove from baking sheets onto a wire rack to cool.



Recipe shared by: Carol Hallett

# WHERE DOES THE TIME GO?

by Lise Lemonnier, Planning Section Chief

The total THA-CERT volunteer hours for April are:

Administration =	259
Training =	610
Deployment =	55
Total hours =	924



# MAY IS WILDFIRE AWARENESS MONTH

by John Buckingham, Safety Officer

As we transition from spring into summer, it's a good time to stop and consider what changes need to be made around your residence to resist fires. We have to be very vigilant as the weather warms!



Some steps to follow:

- Fire prep the land around your residence by picking up dried leaves, branches, pieces of wood, paper, and anything flammable. Clearing space around your home is good.
- Remove weeds while they are small, young and easy to pull.
- Incorporate fire resistant plants into your landscaping or add hard-scape such as pavers, stone walkways or decorative stones. It looks nice and is easy to maintain.
- The trees in your yard have had plenty of water and sunlight, they have grown over the season. It is time to trim up those branches, thin out some trees. This will help alleviate a fire threat.
- Take the debris from your yard to a yard waste site or burn if you have the space. Get a burn permit first. Know outdoor burning rules and regulations. Don't burn outside until you know these rules.
- Find a local Firewise community, there are several in Twain Harte and around the county. It can be a great way to get to know your neighbors.
- Review and refresh the items in your "go bag" so that you are prepared if you have to evacuate. Review your evacuation plan with your family in case a wildfire poses a threat.
- Ready.gov suggests taking selfies at your safe place. This could be a fun family outing.



2013 RIM fire prompted the development of two resilience centers in Tuolumne County. Have you checked them out? Take a tour of Resilience Center(s) in Tuolumne City and in Groveland.



For more information go to: <https://www.ready.gov/wildfires>

# WHAT'S NEXT?

## Events

Visit Tuolumne County:

<https://www.visittuolumne.com/events>

Twain Harte Chamber of Commerce:

<https://www.twainhartecomm.com/events>



Spring is in the Air

**COLUMBIA AIRPORT FATHER'S DAY FLY-IN**  
55th Annual "Remember when..."

FLY-IN CAMPING • WARBIRD FLYBYS • AIRPLANE RIDES • WWII AIRCRAFT • WWII VEHICLES • CLASSIC CAR SHOW • KIDS ZONE • TRICYCLE RACES • GREAT FOOD & DRINKS

OPENING CEREMONY WITH VETERANS HONORS 11 AM

**HONORING WWII VETERANS**  
SATURDAY, JUNE 15, 2024, 10AM-3PM [www.fathersdayflyin.org](http://www.fathersdayflyin.org)

## MOTHERLODE ROUND UP PARADE & RODEO

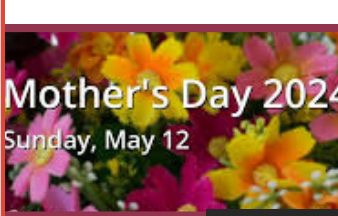


Starts: May 11, 2024  
Ends: May 12, 2024  
Time: All Day  
Parade: Free  
Location: Sonora  
Mother Lode Fairgrounds

## MEMORIAL DAY FLAG DEDICATION



Starts: May 27, 2024  
Ends: May 27, 2024  
Time: 11:30 am  
Location: Arch Twain Harte



**Greenwaste Dollar Dump Days**  
SATURDAYS  
April 27, 2024 - **NEW!**  
June 29, 2024  
September 28, 2024

**Earth Resource Facility**  
14909 CAMAGE AVENUE  
8:00 a.m. to 12:00 p.m. and 1:00 p.m. to 3:30 p.m.  
(Closed noon-1 p.m.)

**YES!**  
ACCEPTABLE items include:  
• Grass clippings, leaves  
• Pine needles, flowers  
• Tree trimmings & limbs, brush  
• Dead plants

**NO!**  
UNACCEPTABLE items include:  
• Waste, liquids, trash, ash or plastic bags  
• Plastic, glass, or wire items  
• Pet waste or kitty litter  
• Tree Stumps  
• Palm trees/leaves  
• Agave Cactus

Residents may dispose of one (1) cubic yard of green waste for \$1.00. Any waste over one (1) cubic yard will be charged the regular rate for disposal.

Participants will be required to provide identification (photo ID or utility bill with address) verifying they live in Tuolumne County. This program is for the residents of Tuolumne County ONLY.

Sorry NO contractors or commercial businesses permitted.

For questions and additional information please contact the Tuolumne County Public Works Department's Solid Waste Division at (209) 533-5588.

Don't Trash Tuolumne!

TWAIN HARTE AREA CERT COMMUNITY EMERGENCY RESPONSE TEAM  
SERVING OUR COMMUNITY

TWAIN HARTE AREA CHAMBER OF COMMERCE

**PRESENTS**

**THE WORLD CLASS TWAIN HARTE OUTHOUSE RACES**

**June 1, 2024**

Parade at 9:00 AM - Race 10:00 AM to 4:00 PM  
Eproson Park, Twain Harte, CA  
(AKA "Flushing Downs")

Firefighter Challenge-Perpetual Trophy  
Wine, Beer & Margaritas  
Local Food Vendors  
Craft Vendors  
Tot Pot Races

When It's Truly An Emergency

For more information:  
[twainhartecert@gmail.com](mailto:twainhartecert@gmail.com)  
(209) 481-5790

For vendor information:  
[mountainmeadowproductions@gmail.com](mailto:mountainmeadowproductions@gmail.com)

This fundraiser benefits: Twain Harte Volunteer Fire Department (THVED) & THA-CERT

**2024 HOUSEHOLD HAZARDOUS WASTE COLLECTION DAYS**

**Sonora Area**  
Saturday, May 18  
9:00 am - 1:00 pm  
Event Location: Sierra Recycling Center  
1909 Camage Ave.  
Follow the Signs  
For Appointment Call After April 15, 2024 - 24/7  
1-800-811-2435

**Big Oak Flat / Groveland Area**  
Saturday, August 24  
9:00 am - 1:00 pm  
Event Location: Take Hwy 120 to Big Oak Flat, Take Catholic Cemetery Rd. & Follow the Signs  
No Appointment Required  
For Groveland Event

**TUOLUMNE COUNTY RESIDENTS**  
Now is the time to dispose of the hazardous materials hanging around your house and garage.

Follow these simple steps:

1. Keep waste in original container
2. Do not mix material
3. Prevent leakage or spills (Place container in tub or box and surround with paper or kitty litter)
4. Transport wastes in trunk or secured in bed of truck

**Restrictions:**

- No containers larger than 5 gallons
- Limit toxic items to 15 gal. or 125 lb. per trip (California State Law)

**We do not accept:**

- Ammunition or explosives
- Asbestos, tires, or medical waste
- Radioactive waste
- Marine flares
- Non-hazardous wastes or regular trash

For Small Business Hazardous Waste or any other questions please contact Tuolumne County Solid Waste Division (209) 533-5588 or visit [www.tuolumnecounty.ca.gov/swd](http://www.tuolumnecounty.ca.gov/swd)

If you want to race, contact us and we will get you the rules and specifications for building an Outhouse or go to: <https://www.twainhartecsd.com/twain-harte-outhouse-race-2024>



Join the weekly:  
**Twain Harte Neighborhood Radio Watch**  
Wed: 7:00 PM Sun: 9:00 AM  
FRSM: ch 18

## Meetings

**THCSD Board Meeting**, 22912 Vantage Point, TH  
<https://www.twainhartecsd.com/board-meetings>  
Wednesday, May 8, 2024 9:00 am



To learn more about Neighborhood Radio Watch contact: Lee Smith at 209-988-8832  
**THA-CERT & Fire Association Board Meeting**  
Vantage Point Brd Mtg Rm, 22912 Vantage Point, TH  
Thursday, May 2, 2024 9:30 am



# Board Meeting Agenda Item Summary

May 8, 2024

<b>ITEM #:</b>	09C	<b>ITEM TYPE:</b>	<input checked="" type="checkbox"/> Discussion <input type="checkbox"/> Action <input type="checkbox"/> Both
<b>SUBJECT:</b>	Operations Manager's report.		
<b>RELATION TO STRATEGIC PLAN:</b>	<input checked="" type="checkbox"/> N/A <input type="checkbox"/> Advances Goal/Objective #'s: _____		

**RECOMMENDED ACTION:**

None

**SUMMARY:**

This item includes a written and verbal report from the Operations Manager regarding general operations of the District's Operations Division over the previous month. The Operations Division is responsible for water, sewer, and parks and recreations services.

**FINANCIAL IMPACT:**

None.

**ATTACHMENTS:**

- Operations Manager Report

# TWAIN HARTE CSD OPERATIONS REPORT

WATER/SEWER/PARK  
DIVISION

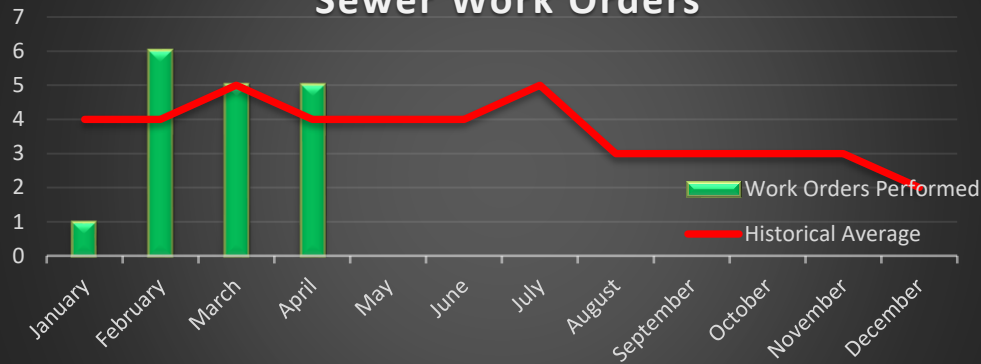
APRIL 2024



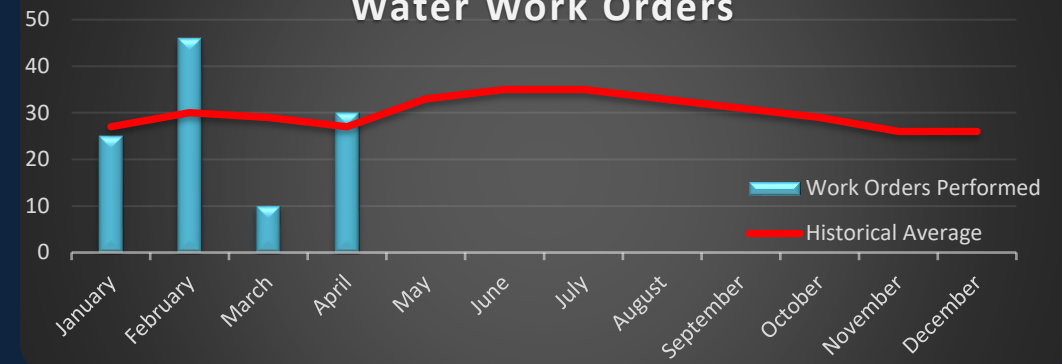
# WATER & SEWER STATISTICS



## Sewer Work Orders

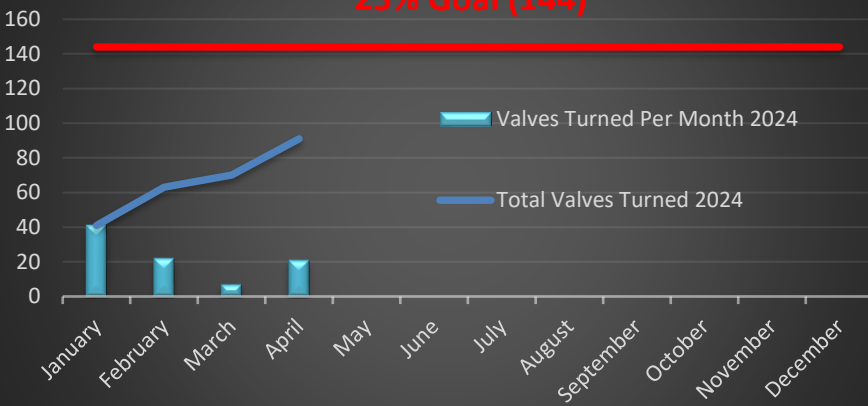


## Water Work Orders



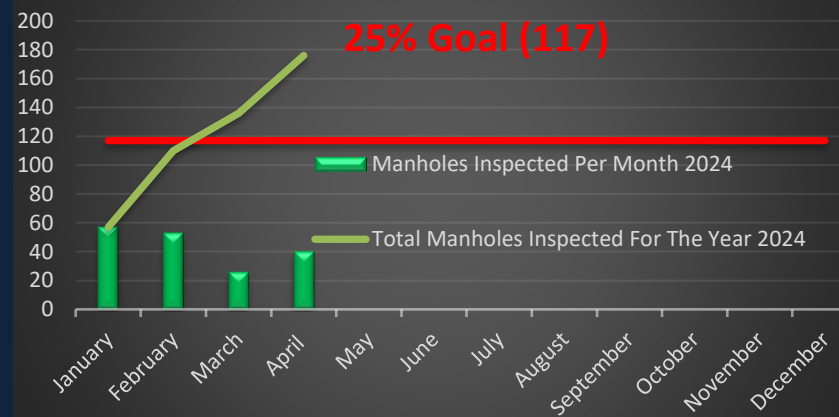
## Valve Exercising

**25% Goal (144)**



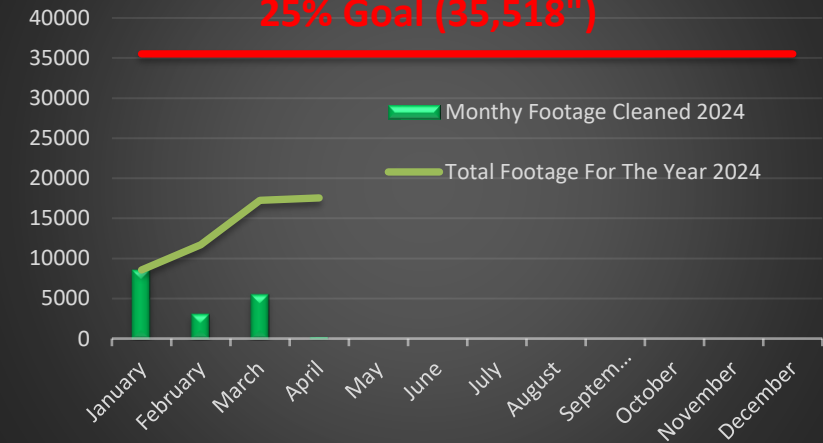
## Manhole Inspections

**25% Goal (117)**

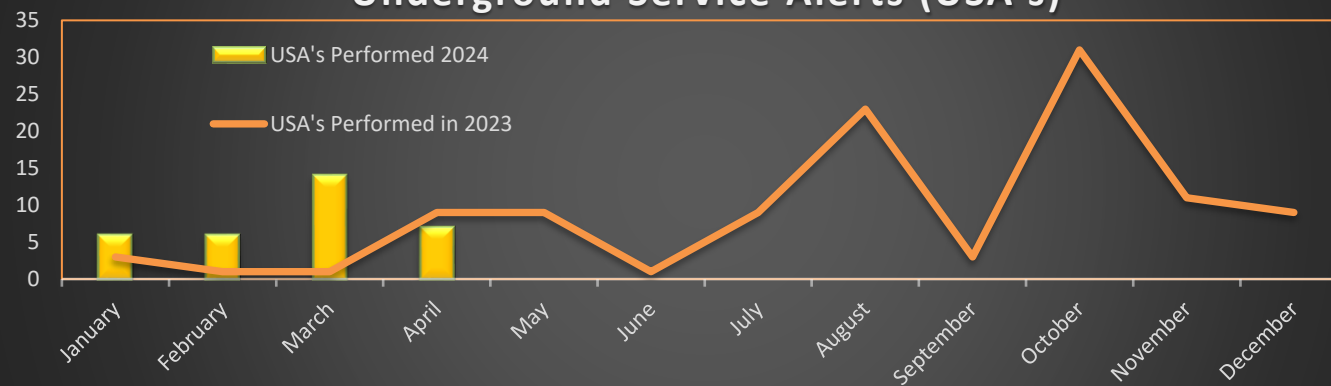


## Sewer Cleaning

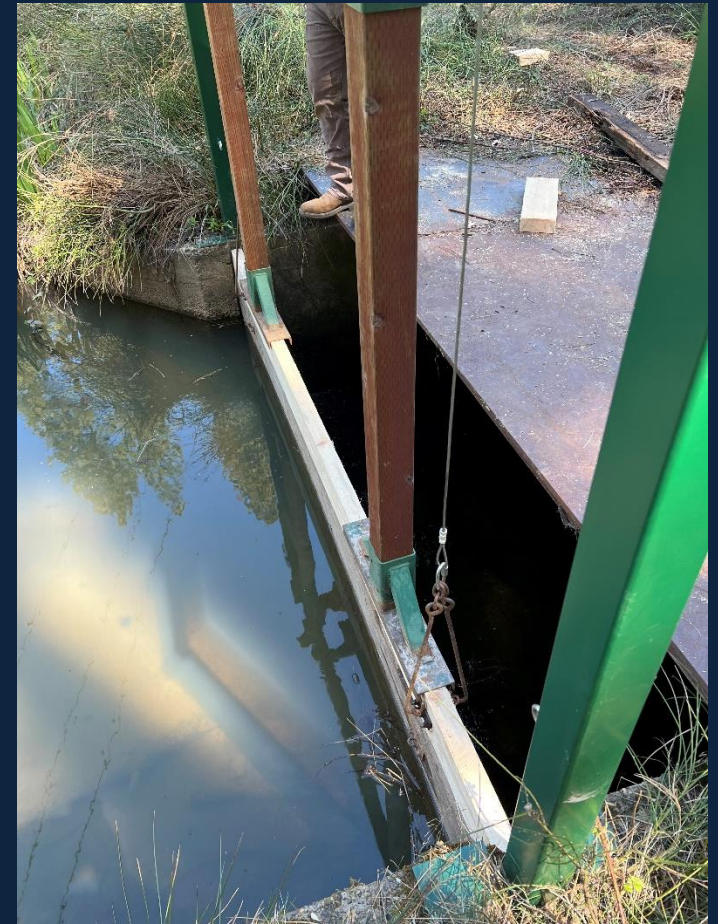
**25% Goal (35,518")**



## Underground Service Alerts (USA's)



# ITEMS OF NOTE

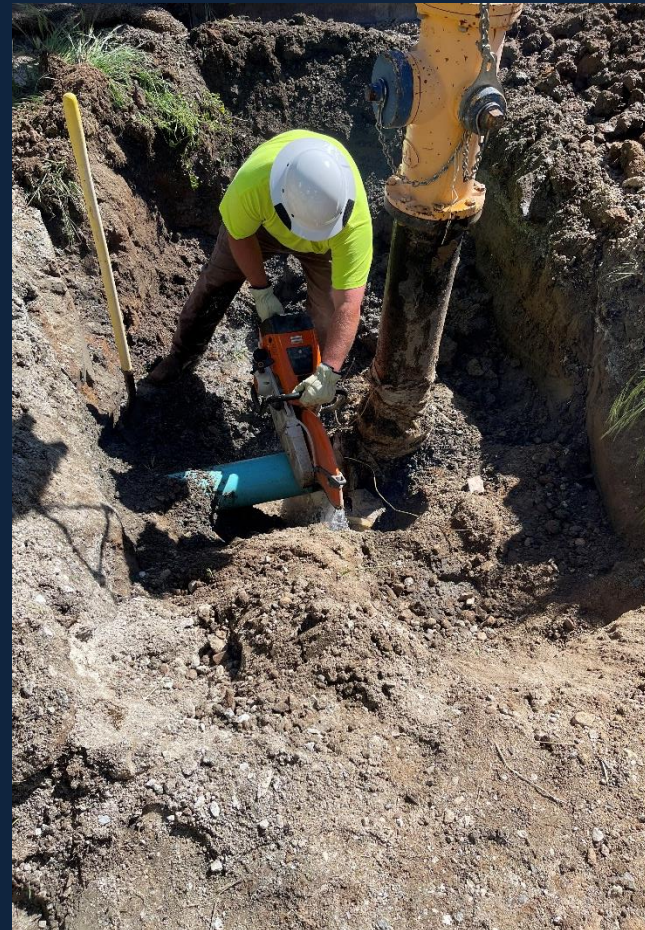


Top Left and Top Right: Shadybrook overflow maintenance and ditch outage preparations by Rick Diaz and Curtis Smithers

Bottom Left and Bottom Right: Well #2 Training with Rick Diaz and Curtis Smithers also for ditch outage preparations

Center: Dogwood blossom at Shadybrook Reservoir

# Twain Harte Meadows Fire Hydrant Removal & Training





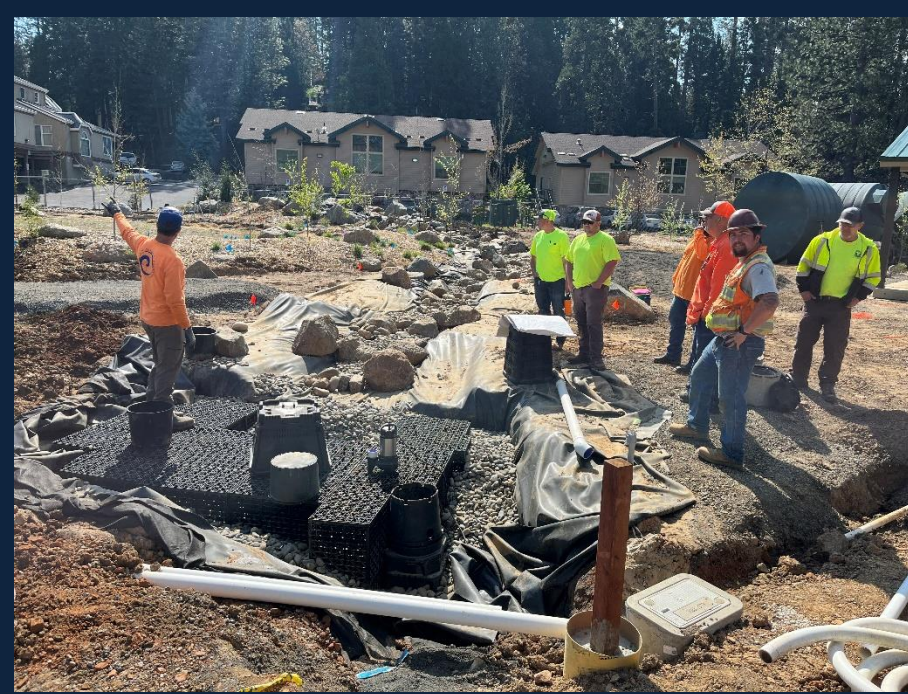


**Left:** Curtis Smithers and Robert Smith replacing 3 failed floats. This type of work was done by contractors in the past but can now be done by THCS D due to Curtis’s previous background in the sewer industry.



**Bottom Right:** Approximately 65% blockage caused by roots in a section of pipe that requires multiple visits per year to keep clear. This section of pipe has been submitted as part of our relining/repairing project.





**THCSD crews went through operations and maintenance training for the Twain Harte Meadows park e.g. water feature maintenance and water drainage operations.**



# WATER PRODUCTION TOTALS

Year: 2024

Month	SWTP Treatment Plant (Gal)	Well #1 (Gal)	Well #2 (Gal)	Well #3 (Gal)	Total Recycled (Gal)	Total Production (Gal)	2013 Total Production (Gal)	Decrease in Demand (%)	Rain (inches)	Snow (inches)
Jan	6,069,877	0	0	0	467,389	6,069,877	8,304,262	26.91%	9.18	4
Feb	4,711,186	850,253	0	0	463,285	5,561,439	5,836,362	4.71%	12.33	11
Mar	5,162,968	115,786	0	0	477,761	5,278,754	5,776,198	8.61%	8.5	7.5
Apr	5,319,388	249,643	1,185,037	0	378,949	6,754,068	6,737,931	-0.24%	1.811	13.1
May						0				
Jun						0				
Jul						0				
Aug						0				
Sep						0				
Oct						0				
Nov						0				
Dec						0				
Total	21,263,419	1,215,682	1,185,037	0	1,787,384	23,664,138	26,654,753	11.22%	31.82	35.6



# Board Meeting Agenda Item Summary

May 8, 2024

<b>ITEM #:</b>	09D	<b>ITEM TYPE:</b>	<input checked="" type="checkbox"/> Discussion <input type="checkbox"/> Action <input type="checkbox"/> Both
<b>SUBJECT:</b>	General Manager's report.		
<b>RELATION TO STRATEGIC PLAN:</b>	<input checked="" type="checkbox"/> N/A <input type="checkbox"/> Advances Goal/Objective #'s: _____		

## RECOMMENDED ACTION:

None.

## SUMMARY:

This item includes a written and verbal report from the General Manager regarding overall District operations and operations of the District's Administration Division over the previous month.

## FINANCIAL IMPACT:

None.

## ATTACHMENTS:

- General Manager's Report

# GM REPORT

May 8, 2024



## ADMIN ACTIVITIES

- FY 2024-25 Budget & Capital Outlay Plans
- TH Meadows Park Grand Opening Preparation
- Workplace Violence Prevention Plan
- State Controller Office Annual Reporting
- TH Meadows Park Construction Management
- Fire Training Parking Lot Design Coordination
- Community Center and Pickleball Projects

## CAPITAL PROJECTS

### Twain Harte Meadows Park

Budget: \$3,000,000

Pavilion framing, restroom building, most planting and most of the water play area is complete. Pathway, water play area, parking area and pavilion construction will continue this month. Project completion is anticipated in mid-summer.

### Tennis/Pickleball Court Improvements

Budget: \$310,000

Pickleball expansion and surface conversion to a sport grid surface is scheduled for June. Contracting to convert the tennis courts to a hybrid clay surface is underway and construction is anticipated in late summer or early fall.

### Community Center Improvements

Budget: \$74,000 Fire / \$74,000 Park

Kitchen remodel, ADA bathrooms, flooring and exterior repaint is complete. Parking lot drainage is complete and the ADA parking improvements are complete. Parking lot paving will be complete this month and new front doors and signage will be installed in the next two months.

### Fire Training Parking Lot

Budget: \$331,000

Design of a grant-funded project to enlarge the parking lot used for the fire training facility and offices has begun. The new lot includes a permeable parking surface and landscaping watered by captured rainwater, providing more parking for fire trainings and fixing drainage issues. Construction is anticipated in early fall.

## MEETINGS OF INTEREST

- 4/12 TH Trail Eagle Scout Scoping Meeting
- 4/19 County Drought Task Force
- 4/24 County OES Pre-Fire Season
- 4/29 TH Meadows Sign Design
- 5/21 CSDA Legislative Days

## PLANNING PROJECTS

### Water System Evaluation/Analysis

Budget: \$777,151

Hydraulic model, water loss analysis, condition assessment and identification of priority capital projects is complete. Sherwood Forest water lines design and grant application is ready to submit.

## FUNDING OPPORTUNITIES

### SRF / BUDGET EARMARK - \$4.5M

TH Sewerline Project / Award: Fall 2024

### SRF / BUDGET EARMARK - \$6.55M

Sherwood Forest Water / Award: Fall 2024

### ASSISTANCE TO FIREFIGHTERS GRANT - \$75,000

Structural Fire Turnouts / Award: Fall 2024

### TECHNICAL ASSISTANCE GRANT - \$24,000

Median Household Income Survey / AWARDED

### PROP 1 STORMWATER GRANT - \$1.75M

TH Meadows Park / AWARDED

### PROP 68 RURAL RECREATION - \$1.25M

TH Meadows Park / AWARDED

### PROP 68 PER CAPITA - \$178K

Tennis & Pickleball Improvements / AWARDED