

# RECLAMATION

*Managing Water in the West*

## Finding of No Significant Impact

### South Bay Water Recycling Program Milpitas Great Mall Parkway Extension

Recommended by: Douglas Kleinsmith  
Environmental Specialist

date: 4-30-10

Concurrence by: Paul T. White  
Program Manager, Title XVI Program

date: 4-30-10

Approved by: Michael A. Ali  
Chief, Division of Planning

date: 5/3/10

FONSI No. 10-16-MP



## **Background**

The City of San Jose (City) has planned and implemented the San Jose Nonpotable Reclamation Project, now known as the South Bay Water Recycling Program (Program), to provide recycled water from the San Jose/Santa Clara Water Pollution Control Plant for industrial and a variety of irrigation uses, including agriculture and landscaping in institutional, commercial, and residential areas. The Program includes installing pipelines, pump stations, storage tanks, and appurtenant facilities. The Bureau of Reclamation (Reclamation), pursuant to funding provided through Title XVI of Public Law 102-575, the Reclamation Wastewater and Groundwater Study and Facilities Act of 1992, has been providing up to 25 percent of the total cost to the City to help fund the Program.

The City certified a final Environmental Impact Report (EIR) for the Program in November 1992. Reclamation released a final Environmental Impact Statement (EIS) for the Program in May 1996 and issued a Record of Decision in July 1996. The EIR and EIS included both project-level analysis for those facilities and users that had been identified at that time, and programmatic-level analysis for the remainder of the Program.

Since then, the City has expanded the service area and slightly revised the distribution facilities. Reclamation prepared an Environmental Assessment (EA) and signed a Finding of No Significant Impact (FONSI) on December 3, 1996 for these changes. The City prepared an Initial Study/Negative Declaration in 2000.

The City has continued to design additional pipelines and associated facilities within the Program area. For these additional projects, the City has adopted addenda to the Program EIR, as required by the California Environmental Quality Act. Reclamation has continued to provide funding for these projects under Title XVI, and has prepared EAs and categorical exclusion checklists as appropriate, tiering off of the original EIS, as required by the National Environmental Policy Act (NEPA).

## **Project Description**

Since the preparation of the most recent Addendum, an additional pipeline extension within the original Program area has been identified for construction as part of the Program. This pipeline, termed Milpitas Great Mall Parkway Extension, will connect to the existing pipeline on McCandless Drive in the City of Milpitas, and will provide recycled water to the light rail median landscaping and future development (Transit Area Specific Plan). The extension includes a total of about 4,935 feet of 8-inch pipeline.

The additional users will help fulfill the Program's goal of diverting an additional 20 mgd of effluent from discharges to the South San Francisco Bay to beneficial



reuse in the Program area. Construction of the pipeline is scheduled to begin in the 2009/2010 Fiscal Year.

Construction of the pipelines will occur within existing rights-of-way, using the "cut and cover" method. This method involves excavating an open trench sized to accommodate the size of the pipe, laying pipe, and replacing and compacting soil to refill the trench. The trench is then restored to original or better condition. Construction equipment will typically occupy approximately 20 to 26 feet of the affected roadways. The crossing at Penitencia Creek located on Great Mall Parkway will be underground bore and jack construction. The creek is channelized into a 48-inch corrugated metal pipe and box culvert at the crossing location.

## **Findings**

Reclamation has adopted the addendum to the EIR and Supplemental EA that was prepared by the City on March 8, 2010. Based on the addendum, the Division of Planning of the Mid-Pacific Region of Reclamation has found that the Proposed Action is not a major Federal action that would significantly affect the quality of the human environment. Therefore, an environmental impact statement is not required for carrying out the Proposed Action. The EA complies with the Council of Environmental Quality's NEPA Regulations and other requirements such as the Endangered Species Act, the National Historic Preservation Act, and local and State requirements. It meets Reclamation's public involvement requirements.

The following are the reasons why the impacts of the Proposed Action are not significant:

1. *Geology and seismicity.* The project area does not cross a fault line, and is in a level area not subject to landslides. The Proposed Action will comply with measures identified in the Design Guidance Manual for the project. The measures include: seismic design features, protection measures for areas with high liquefaction potential, and measures to protect the pipeline against corrosive and expansive soils. With the implementation of these mitigation measures, the Proposed Action will have no significant impact on geology and seismicity.
2. *Surface water hydrology and water quality.* No aboveground facilities are proposed in flood prone areas. The project area is not subject to standing waves, tsunamis or mudflows, and does not involve the construction of levees or dams. The use of recycled water was analyzed in previous environmental documentation and is approved for use in landscape irrigation. The Proposed Action includes the following measures: monitoring and management of recycled water quality, control of irrigation to avoid runoff from excessive irrigation, and preparation of a Storm Water Pollution Prevention Plan. The Penitencia Creek crossing will be underground bore and jack construction and will not disturb the creek bed, banks, or affect surface water hydrology or quality. With implementation of these



mitigation measures, the Proposed Action will have no significant impact on surface water hydrology and water quality.

3. *Groundwater hydrology and water quality.* The Proposed Action does not involve the extraction or use of groundwater and will not cause land subsidence. The surrounding area served by this pipeline extension is developed neighborhood and commercial with landscaping that is already being irrigated, so irrigation of the light rail median with recycled water will not affect groundwater levels or gradients. Reclaimed water quality and application rates will afford adequate groundwater protection. Potential impacts to groundwater associated with application of reclaimed water will be fully mitigated by following appropriate irrigation practices as specified by the Regional Water Quality Control Board (RWQCB). The pipeline will be approximately 19 feet below ground surface, and it is unlikely that it will affect the hydrology of the creek. The project will include the following measures: protect groundwater during construction and implement a Groundwater Monitoring and Mitigation Plan. With implementation of these mitigation measures, the Proposed Action will have no significant impact on groundwater hydrology and water quality.

4. *Land use.* The area of this pipeline extension is commercial, mixed residential, institutional and industrial. No new impacts have been identified. The installation of a buried pipeline will have no long-term impacts on existing land uses; construction impacts will be temporary and not significant. The project will comply with previously identified mitigation measures for traffic, noise, air quality and visual impacts of construction, which will address the construction-period land use impacts. The Proposed Action will have no significant impact on land use.

5. *Air quality.* As noted above land use along the pipeline route is mostly commercial, mixed residential, institutional, and industrial. There are no sensitive receptors such as residential uses, churches, or schools along the pipeline corridor. Surrounding facilities, residences, and businesses could be affected by short-term construction-related emissions and dust. The project will not generate operational emissions, and no odor problems are expected to be associated with pipeline operation. The project will comply with previously identified construction-period mitigation measures for this impact category, which follow the Bay Area Air Quality Management District's Basic Control Measures for construction air quality impacts. With implementation of these mitigation measures, the Proposed Action will have no significant impact on air quality.

6. *Traffic.* Before the start of construction, a traffic management plan will be prepared. The project will comply with previously identified mitigation measures for this impact category, which include time of day restrictions and temporary detours for any areas requiring lane closures. With implementation of these mitigation measures, the Proposed Action will have no significant impact on traffic.



7. *Biological resources.* Because of the urban nature (i.e., highly developed/disturbed) of the pipeline routes, construction will not affect any habitat. Construction will stay within public rights of way. The creek crossing will be underground and will not affect any existing creek habitat. The project will not affect threatened or endangered species. The Proposed Action will have no significant impact on biological resources.

8. *Hazardous materials.* The project will comply with adopted protocols for handling any contaminated materials that might be uncovered during construction activities. The project will comply with all other previously identified mitigation measures for this impact category. The contractor will be informed of any known hazardous materials sites in the area of the proposed pipeline alignment or other construction area, and the contractor will be responsible for implementing the construction-period mitigation measures. With implementation of these mitigation measures, the Proposed Action will have no significant impact on hazardous materials.

9. *Public health.* Previous environmental documentation determined that the use of recycled water for industrial and irrigation uses does not pose significant public health risks. The Proposed Action will comply with previously identified measures, including RWQCB general requirements and Title 22 requirements for water reclamation. With implementation of these mitigation measures, the Proposed Action will have no significant impact on public health.

10. *Noise.* Land uses along the pipeline routes include commercial, mixed residential, institutional, and industrial. These uses could be affected by short-term construction-related noise. Although noise increases during the construction period will be considered significant, the overall impact will be reduced to a less-than-significant level by the short duration of the impact, implementation of noise controls, and limited hours of construction. This construction noise impact was fully addressed in the 1992 EIR and in the 2000 Negative Declaration. There will be no operational noise impacts associated with the pipeline. The project will comply with previously identified noise control measures for construction noise impacts. With implementation of these mitigation measures, the Proposed Action will have no significant impact on noise.

11. *Public services and utilities.* During construction there is the potential for effects on police and fire services due to construction in roadways. However, the project will comply with all required procedures for noticing appropriate agencies regarding roadway work. With these noticing procedures construction is not expected to cause significant problems during construction. With implementation of these mitigation measures, the Proposed Action will have no significant impact on public services and utilities.

12. *Visual resources.* No new impacts have been identified. Because pipelines will be buried and will not be visible after construction, there will be no long-term



visual impacts. The Proposed Action will have no significant impact on visual resources.

13. *Historic and archeological resources.* A single cultural resource, the Union Pacific Railroad, was identified in a survey report for the Area of Potential Effect (APE) for the project. Although lacking the resources, within the constraints of this project, to fully evaluate the linear historic property under National Register of Historic Places (NRHP) criteria, USBR assumed that the resource was eligible under criterion A for the purposes of this undertaking only. As the pipeline will be installed at a depth of approximately 19 feet below this feature, USBR concluded, after additional consultation with SHPO staff via phone and e-mail, that a finding of no adverse effect with conditions (jack and bore installation of pipeline under the railroad grade) is appropriate for this undertaking pursuant to 36 CFR Part 800.5(b).

By a letter dated April 20, 2010 and received at USBR on April 21, 2010, SHPO concurred with USBR's finding that the project would result in no adverse effect to historic properties.

Post-review discoveries shall be handled per 36 CFR Part 800.13(b). The development of a formal Post-Review Discovery Plan is not recommended due to the very low potential for exposing prehistoric or historic archaeological material within or adjacent to the APE. The exposure of any Native American burials shall be handled in accordance with California state law.

The Proposed Action will have no significant impact on historic and archeological resources.

14. *Recreation.* The project will comply with previously identified mitigation measures for this impact category. The Proposed Action will have no significant impact on recreation.

15. *Indian Trust Assets.* There are no Indian Trust Assets (ITAs) within the project area. The Proposed Action will have no significant impact on ITAs.

16. *Socioeconomics.* The project will have a limited duration and it is not anticipated to cause a change in housing or employment patterns. Temporary construction workers needed for the project will most likely come from nearby communities. The Proposed Action will have no significant impact on socioeconomics.

17. *Environmental justice.* Implementation of the Proposed Action will not disproportionately affect any minority or low-income populations. The Proposed Action will have no significant impact on environmental justice.

18. *Cumulative effects.* The Proposed Action is short term in duration and will have no cumulative effects.

19. *Controversy*. There is no potential for the effects to be considered highly controversial.



**MILPITAS ADDENDUM**  
to the  
**ENVIRONMENTAL IMPACT REPORT**  
And  
**SUPPLEMENTAL ENVIRONMENTAL ASSESSMENT**  
to the  
**ENVIRONMENTAL IMPACT STATEMENT**  
for the  
**SAN JOSÉ NONPOTABLE RECLAMATION PROJECT**  
now known as the  
**SOUTH BAY WATER RECYCLING PROGRAM**

March 8, 2010; modified April 29, 2010 by USBR

**Purpose and Background**

The City of San José certified a Final Environmental Impact Report (FEIR) for the San José Nonpotable Reclamation Project, now known as the South Bay Water Recycling Program (SBWR), on November 18, 1992. This EIR evaluated the City's overall water recycling program and provided project-level analysis for those pipelines and users that had been identified at that time. Twenty-one Addenda to the FEIR have been adopted subsequent to its certification. The Addenda addressed additional pipelines and other facilities to serve users within the original Program area, where impacts were determined to have been fully evaluated in the original Program EIR. These Addenda, and the SBWR projects they cover are listed below:

- Addendum #1 – Diversion Facility (August 1995)
- Addendum #2 – Changes to Golden Triangle facilities (December 1995)
- Addendum #3 – Expanded Phase I Area (April 1996)
- Addendum #4 – Miscellaneous Golden Triangle items (May 1996)
- Addendum #5 – Deferred/Infill Projects (June 1998)
- Addendum #6 – Stage 1 Pipeline Extensions (November 1999)
- Addendum #7 – Additional Santa Clara and Milpitas Pipeline Extensions (December 1999)
- Addendum #8 – Silver Creek Pipeline (September 2001)
- Addendum #9 – Central Park (SC-6) Pipeline (September 2003)
- Addendum #10 – City of Santa Clara Realignment (August 2003)
- Addendum #11 – San José Infill Extension Projects (July 2004)
- Addendum #12 – SJ/SC (SJ12) Connector and Related Extensions (February 2005)
- Addendum #13 – Zone 3 Reservoir and Pipeline (March 2005)
- Addendum #14 – Airport Main (SJ-19) Extension (February 2010)
- Addendum #15 – Central Park (August 2009)



- Addendum #16 - Santa Clara Industrial 1 (August 2009)
- Addendum #17 - Santa Clara Industrial 2 (August 2009)
- Addendum #18 - Industrial 3A Pipeline Extension (November 2009)
- Addendum #19 - San José Laterals and Gardens Pipeline Extension (December 2009)
- Addendum #20 - San José Schools Pipeline Extension (February 2010)
- Addendum #21 - San José State University Pipeline Extension (February 2010)

In addition to the Addenda listed above, the City of San José prepared the following document for the Phase 2 Pipelines pursuant to the California Environmental Quality Act (CEQA), which extended pipelines in Milpitas, Santa Clara, and San José, and slightly expanded the program area:

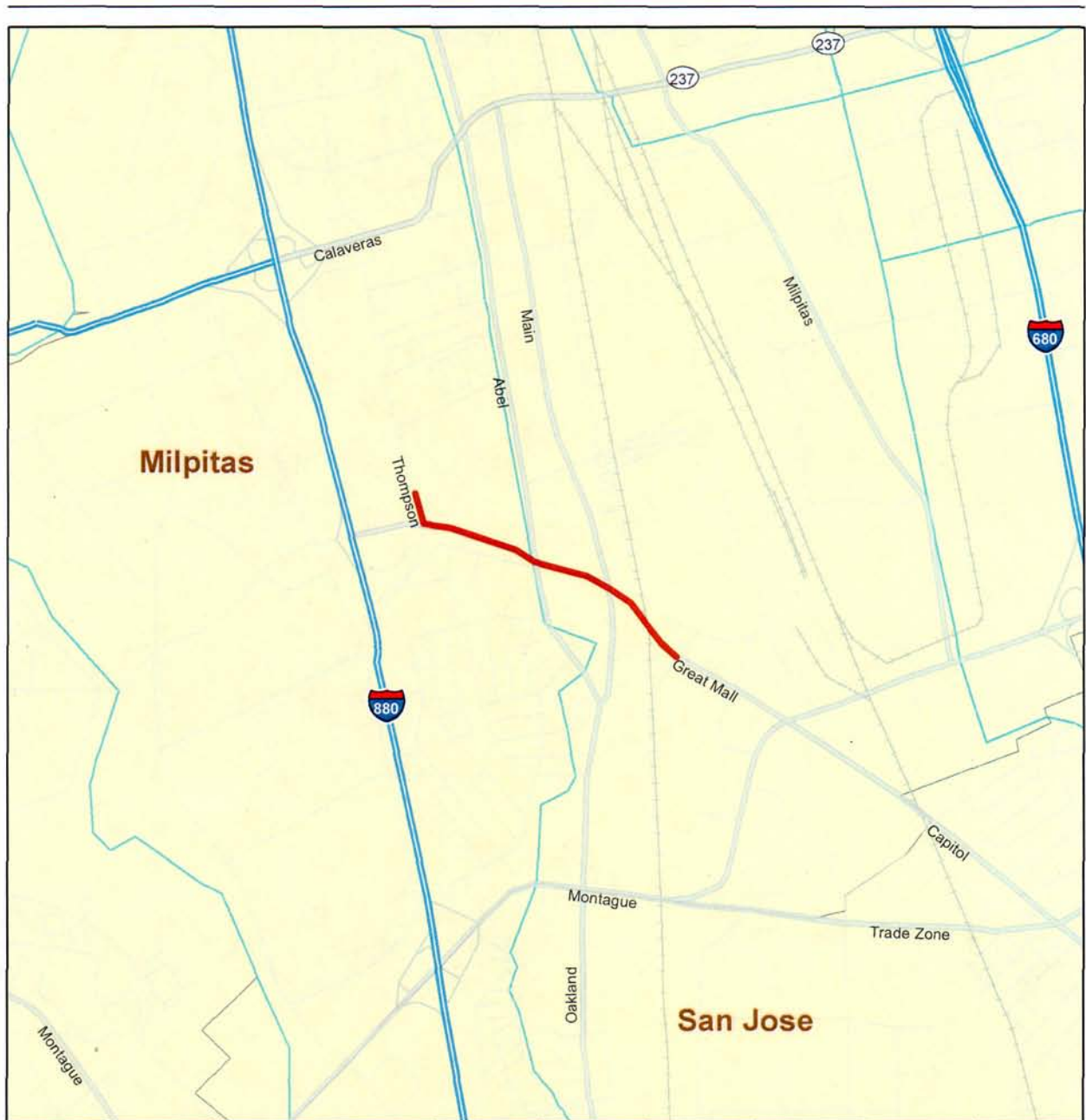
- Initial Study/Environmental Assessment for the South Bay Water Recycling Program Phase 2 (May 2000), which lead to the adoption of a Negative Declaration in July 2000

Because the project is funded in part by the U.S. Bureau of Reclamation (USBR), documentation pursuant to the National Environmental Policy Act (NEPA) has also been prepared for the project, as listed below:

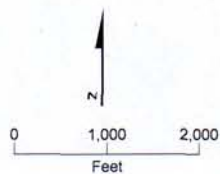
- Final EIS - May 1996
- Record of Decision for EIS - July 1996
- Final EA/FONSI - December 1996

The Addenda described above also are considered supplemental information to the NEPA documents.

Since the preparation of the most recent Addendum, an additional pipeline extension within the original Program area has been identified for construction as part of the South Bay Water Recycling Program. This pipeline, termed Milpitas Great Mall Parkway Extension, would connect to the existing pipeline on McCandless Drive in the City of Milpitas, and would provide recycled water to additional customers within the Program area. The additional users would help fulfill the Program's goal of diverting an additional 20 mgd of effluent from discharge to the South San Francisco Bay to beneficial reuse in the Program area. The purpose of this Addendum is to document that environmental review for this pipeline either has already been accomplished through previously certified environmental documents or to provide additional review where required. Construction of the pipeline is scheduled to begin in the 2009/2010 Fiscal Year. This Addendum has been prepared in accordance with Section 15164 of the CEQA Guidelines, which state that an Addendum to a previously certified EIR may be prepared if only minor technical changes or additions to the EIR are necessary. USBR is using this Addendum for NEPA compliance.



LEGEND  
 MILPITAS GREAT MALL PARKWAY



**FIGURE 1**  
**Milpitas Great Mall Parkway**  
**Pipeline Extension**  
 South Bay Water Recycling Program, California



## Description of Pipeline Extension

Figure 1 shows the Milpitas Great Mall Parkway Extension pipeline extension, which is addressed in this document. Detailed maps showing the pipeline extensions are presented in the Attachment. The pipeline segments and their environmental review status are listed below:

**TABLE 1**  
Light Rail Median Landscaping Pipeline Extension

Extension	Street Segments Included	Environmental Review Status
Milpitas Great Mall Parkway Extension	Thompson Street Great Mall Parkway	Addressed at program level but not at project level in existing environmental documents

This extension is located within the City of Milpitas and would provide recycled water to the light rail median landscaping and future development (Transit Area Specific Plan). The extension includes a total of about 4,900 feet of 8-inch pipeline. The pipeline would connect two sections of the existing recycled water system, which currently ends on Thompson Street and at the intersection of McCandless Drive and Great Mall Parkway. The pipeline would begin on Great Mall Parkway crossing underneath Penitencia Creek, and eventually turning north and terminating on Thompson Street.

Proposed recycled water users are consistent with those described in the 1992 EIR. Operation of the pipelines would be the same as described in previous environmental documents and would be similar to operation of the existing potable water distribution system, with the addition of safeguards for use of recycled water. Signs would be posted to notify the public of areas where recycled water is being used. Pipelines and taps supplying recycled water at user sites would be identified.

## Construction Methods

Construction of the pipelines would occur within existing rights-of-way, using the "cut and cover" method. This method involves excavating an open trench sized to accommodate the size of the pipe, laying pipe, and replacing and compacting soil to refill the trench. The trench is then restored to original or better condition. Construction equipment would typically occupy approximately 20 to 26 feet of the affected roadways in Table 1 above. The crossing at Penitencia Creek located on Great Mall Parkway would be underground bore and jack construction. The creek is channelized into a 48-inch corrugated metal pipe and box culvert at the crossing location.

## Setting

The environmental setting of the SBWR area has been described in Sections 3.1 through 3.16 of the 1992 EIR (City of San José, 1992), the Final EIS (U.S. Bureau of Reclamation, 1996), and the Environmental Assessment for the Revised South Bay Water Recycling Program (U.S. Bureau of Reclamation, 1996). This information was updated and expanded to include new areas in south San José in the Initial Study/Environmental Assessment for the South Bay Water Recycling Program Phase 2 (City of San José, 2000). The following environmental



analysis section provides a summary description of the setting, including any changes from the information provided in those documents.

The project area is urbanized, with land uses including commercial, industrial, institutional and residential. The zoning designations for the project area alignment (City of Milpitas, 2009) are Single Family Dwelling (R1-6), Mixed Use (MXD), General Commercial (C2), Highway Services (HS), Heavy Industrial (M2), and Institutional (I).

Penitencia Creek is within the Coyote Creek watershed in the eastern Santa Clara Valley. The lower stretches of Penitencia Creek run through the city of Milpitas before joining Berryessa Creek and Coyote Creek just upstream of San Francisco Bay. Upper Penitencia Creek flows through Alum Rock Park and then forms the boundary between the Berryessa and Alum Rock districts of San José. Penitencia Creek is channelized into a 48-inch corrugated metal pipe and box culvert at the crossing location.

### **Environmental Analysis**

The pipeline extension evaluated in this Addendum is located in an area that has been previously addressed in certified environmental documents, as noted above. The conclusions in this Addendum are based on information contained in the certified environmental documents and subsequent field verification. Following are conclusions for each impact category.

#### **Geology and Seismicity**

No new impacts have been identified. The pipeline does not cross a fault zone, and is in a level area not subject to landslides. The project would comply with previously identified mitigation measures for this impact category. These measures include appropriate seismic design features, liquefaction protection in areas of high liquefaction potential, and measures to protect the pipeline against corrosive and expansive soils. With this mitigation there would be no significant impacts.

#### **Surface Water Hydrology and Water Quality**

No new impacts have been identified. No aboveground facilities are proposed in areas subject to flooding. The pipeline extension is not in an area subject to seiches, tsunamis or mudflows, and does not include construction of levees or dams. Recycled water quality was evaluated in previous document and determined to be acceptable for use in landscape irrigation. The project would comply with previously identified mitigation measures for this impact category, which include monitoring and management of recycled water quality, control of irrigation so as to avoid surface runoff from excessive irrigation, and preparation of a Storm Water Pollution Prevention Plan as appropriate to ensure that there are no adverse effects on water quality during pipeline construction. With this mitigation there would be no significant impacts. The Penitencia Creek crossing would be underground bore and jack construction and would not disturb the creek bed, banks, or affect surface water hydrology or quality.

#### **Groundwater Hydrology and Water Quality**

No new impacts have been identified. The project does not involve extraction or use of groundwater and would thus not cause subsidence of land. The surrounding area served



by this pipeline extension is developed neighborhood and commercial with landscaping that is already being irrigated, so irrigation of the light rail median with recycled water would not affect groundwater levels or gradients. Reclaimed water quality and application rates would afford adequate groundwater protection. Potential impacts to groundwater associated with application of reclaimed water would be fully mitigated by following appropriate irrigation practices as specified by the RWQCB. The pipeline would be approximately 19-feet below ground surface and it is unlikely that it would affect the hydrology of the creek. The project would comply with previously identified mitigation measures for this impact category, which include measures to protect groundwater during construction and a Groundwater Monitoring and Mitigation Plan for the South Bay Water Recycling Program. With this mitigation there would be no significant impacts.

### **Land Use**

The area of this pipeline extension is commercial, mixed residential, institutional and industrial. No new impacts have been identified. The installation of a buried pipeline would have no long-term impacts on existing land uses; construction impacts would be temporary and not significant. The project would comply with previously identified mitigation measures for traffic, noise, air quality and visual impacts of construction, which would address the construction-period land use impacts.

### **Air Quality**

As noted above land use along the pipeline route is mostly commercial, mixed residential, institutional, and industrial. There are no sensitive receptors such as residential uses, churches, or schools along the pipeline corridor. Surrounding facilities, residences, and businesses could be affected by short-term construction-related emissions and dust. The project would not generate operational emissions, and no odor problems are expected to be associated with pipeline operation. The project would comply with previously identified construction-period mitigation measures for this impact category, which follow the Bay Area Air Quality Management District's Basic Control Measures for construction air quality impacts. With this mitigation there would be no significant impacts.

### **Traffic**

No new impacts have been identified. Before the start of construction, a traffic management plan would be prepared for the pipeline extension. The project would comply with previously identified mitigation measures for this impact category, which include time of day restrictions and temporary detours for any areas requiring lane closures. With this mitigation there would be no significant impacts.

### **Biological Resources**

Because of the urban nature (e.g., highly developed/disturbed) of the pipeline routes, construction would not have significant impacts on biological resources. Construction would stay within public right of way. The creek crossing would be underground and would not affect any existing creek habitat. The project would not affect threatened or endangered species.



**Hazardous Materials**

No new impacts have been identified. The project would comply with adopted protocols for handling any contaminated materials that might be uncovered during construction activities. The project would comply with all other previously identified mitigation measures for this impact category. The contractor would be informed of any known hazardous materials sites in the area of the proposed pipeline alignment or other construction area, and would be responsible for implementing the construction-period mitigation measures. With this mitigation there would be no significant impacts.

**Public Health**

Previous environmental documents have determined that use of recycled water does not pose significant risks. No new impacts have been identified. The project would comply with previously identified mitigation measures for this impact category, including Regional Water Quality Control Board general requirements and Title 22 requirements for water reclamation. With this mitigation there would be no significant impacts.

**Noise**

Land uses along the pipeline routes include commercial, mixed residential, institutional, and industrial. These uses could be affected by short-term construction-related noise. Although noise increases during the construction period would be considered significant, the overall impact would be reduced to a less-than-significant level by the short duration of the impact, implementation of noise controls, and limited hours of construction. This construction noise impact was fully addressed in the 1992 EIR and in the 2000 Negative Declaration. There would be no operational noise impacts associated with the pipeline. The project would comply with previously identified noise control measures for construction noise impacts.

**Public Services and Utilities**

No new impacts have been identified. During construction there is the potential for effects on police and fire services due to construction in roadways. However, the project would comply with all required procedures for noticing appropriate agencies regarding roadway work. With these noticing procedures construction would not be expected to cause significant problems during construction. Measures are also in place to prevent disruption of utility lines.

**Visual Resources**

No new impacts have been identified. Pipelines would be buried and would not be visible after construction, and would thus have no long-term visual impacts.

**Historic and Archaeological Resources**

SBWR hired archaeological consulting firm Basin Research Associates to complete the cultural resource identification effort for compliance with Section 106 of the National Historic Preservation Act. The consultant produced a survey report in February 2010 that covered the entire area of potential effects (APE) entitled, "Historic Property Survey Report/Finding of Effect, South Bay Water Recycling (SBWR) Stimulus Projects, Milpitas Light Rail Median, City of Milpitas, Santa Clara County".



A single cultural resource, the Union Pacific Railroad, was identified in the APE. Although lacking the resources, within the constraints of this project, to fully evaluate the linear historic property under National Register of Historic Places (NRHP) criteria, USBR assumed that the resource was eligible under criterion A for the purposes of this undertaking only. As the pipeline will be installed at a depth of approximately 19 feet below this feature, USBR concluded, after additional consultation with SHPO staff via phone and e-mail, that a finding of no adverse effect with conditions (jack and bore installation of pipeline under the railroad grade) is appropriate for this undertaking pursuant to 36 CFR Part 800.5(b).

On a letter dated April 20th, 2010 and received at USBR on April 21st, 2010, SHPO concurred with USBR's finding that the project would result in no adverse effect to historic properties

Post-review discoveries shall be handled as per 36 CFR Part 800.13(b). The development of a formal Post-Review Discovery Plan is not recommended due to the very low potential for exposing prehistoric or historic archaeological material within or adjacent to the APE. The exposure of any Native American burials shall be handled in accordance with state law.

### **Recreation**

No new impacts have been identified. The project would comply with previously identified mitigation measures for this impact category.

### **Indian Trust Assets**

Indian trust assets (ITAs) are legal interests in assets that are held in trust by the U.S. government for Federally-recognized Indian tribes or individuals. Assets can be real property, physical assets, or intangible property rights, such as a lease, or right to use something. ITAs may include lands, minerals, and natural resources, as well as hunting, fishing, and water rights. Indian reservations, Rancherias, and public domain allotments are examples of lands that are often considered trust assets.

The proposed action does not have a potential to affect Indian Trust Assets. The nearest ITA is Lytton Rancheria approximately 44 miles NW of the project location.

### **Environmental Justice**

Federal actions are required to address environmental justice in minority populations and low-income populations. The purpose is to avoid the disproportionate placement of any adverse environmental, economic, social, or health effects resulting from Federal actions and policies on minority and low-income populations.

The Project would supply recycled water to customers and includes construction of an additional recycled water pipeline to an existing system. The proposed project would have construction impacts that would be temporary and limited to the area of pipeline being constructed each day. Operation of the Project would be conducted in accordance with all applicable federal and state requirements. There are no Federal standards governing wastewater reuse in the United States. The California Department of Public Health established water quality criteria for reclamation operations, which are set forth in Title 22,



Division 4, Chapter 3, of the California Code of Regulations. The Project would be designed and operated in accordance with the applicable Title 22 requirements and would therefore not have a significant impact on public health or water quality.

Project impacts would be temporary (during construction) and would be mitigated to less than significant levels. Implementation of the Project would not disproportionately affect any minority or low-income populations.

### **Cumulative Impacts**

No new impacts have been identified.

### **Conclusions**

The proposed additional pipeline extensions would not result in any new environmental impacts that were not previously identified in certified environmental documents. The project would comply with all appropriate mitigation measures that have already been identified and incorporated into the SBWR Mitigation Monitoring Program. Pursuant to Section 15164 of the CEQA Guidelines, the minor changes made to the project by the additional pipeline extension do not raise important new issues about significant impacts on the environment.

### **References**

Basin Research Associates. 2010. Historic Property Survey Report/Finding of Effect for South Bay Water Recycling (SBWR) Stimulus Projects, Milpitas Light Rail Median, City of Milpitas, Santa Clara County. Prepared for U.S. Department of the Interior, Bureau of Reclamation (Project 09-SCAO-092.9). February 2010.

Busby, Colin I., Donna M. Garaventa, Melody E. Tannam and Stuart A. Guedon, 1996. Historic Properties Treatment Plan: South Bay Water Recycling Program [Cities of Milpitas, San José, Santa Clara, Santa Clara County, California]. On file with City of San José.

City of San José 1992. Final EIR for the San José Nonpotable Reclamation Project. November.

City of San José, August 1995. Addendum #1 to the Final EIR for the South Bay Water Recycling Program (Diversion Facility).

City of San José, December 1995. Addendum #2 to the Final EIR for the South Bay Water Recycling Program (Golden Triangle).

City of San José, April 1996. Addendum #3 to the Final EIR for the South Bay Water Recycling Program (Expanded Phase I Area).

City of San José, May 1996. Addendum #4 for the Final EIR for the South Bay Water Recycling Program (Miscellaneous Golden Triangle items).

City of San José 1998. Addendum #5 to Final Environmental Impact Report (FEIR) for the San José Nonpotable Reclamation Project—Deferred/Infill Projects (June 1998).

City of San José 1999. Addendum #6 to Final Environmental Impact Report (FEIR) for the San José Nonpotable Reclamation Project—Stage 1 Pipeline Extensions (November 1999).



City of San José 2000. Addendum #7 to Final Environmental Impact Report (FEIR) for the San José Nonpotable Reclamation Project—Milpitas Extension, Tasman Drive Interconnection Extension (November 2000).

City of San José 2000. Initial Study/Environmental Assessment for the South Bay Water Recycling Program Phase 2, May.

City of San José 2000. Negative Declaration for the South Bay Water Recycling Program Phase 2, July 12.

City of San José 2003. Addendum #8 to Final Environmental Impact Report (FEIR) for the San José Nonpotable Reclamation Project—Silver Creek Pipeline (September 2003).

City of San José 2003. Addendum #9 to Final Environmental Impact Report (FEIR) for the San José Nonpotable Reclamation Project—now known as the South Bay Water Recycling Program—Central Park Pipeline (September 2003).

City of San José 2003. Addendum #10 to Final Environmental Impact Report (FEIR) for the San José Nonpotable Reclamation Project—now known as the South Bay Water Recycling Program—City of Santa Clara Realignment (August 2003).

City of San José 2004. Addendum #11 to Final Environmental Impact Report (FEIR) for the San José Nonpotable Reclamation Project—San José Infill Extension Projects (2004/2005).

City of San José 2005. Addendum #12 to Final Environmental Impact Report (FEIR) for the San José Nonpotable Reclamation Project—San José/Santa Clara Connector and Related Extensions (February 2005).

City of San José 2005. Addendum #13 to Final Environmental Impact Report (FEIR) for the San José Nonpotable Reclamation Project—Zone 3 Reservoir and Pipeline (March 2005).

City of San José 2009. Addendum #14 to Final Environmental Impact Report (FEIR) for the San José Nonpotable Reclamation Project—Airport Main (SJ-19) Extension (August 2009).

City of San José 2009. Addendum #15 to Final Environmental Impact Report (FEIR) for the San José Nonpotable Reclamation Project—Central Park (August 2009).

City of San José 2009. Addendum #16 to Final Environmental Impact Report (FEIR) for the San José Nonpotable Reclamation Project—Santa Clara Industrial 1 (August 2009).

City of San José 2009. Addendum #17 to Final Environmental Impact Report (FEIR) for the San José Nonpotable Reclamation Project—Santa Clara Industrial 2 (August 2009).

City of San José 2009. Addendum #18 – Industrial 3A Pipeline Extension (November 2009)

City of San José 2009. Addendum #19 – San José Laterals and Gardens Pipeline Extension (December 2009)

City of San José 2010. Addendum #20 – San José Schools Pipeline Extension (February 2010)

City of San José 2010. Addendum #21 – San José State University Pipeline Extension (February 2010)

Santa Clara County 2002. Santa Clara County Fault Rupture Hazard Zones,  
<http://www.sccplanning.org>. Section 11.



**From:** Overly, Stephen A  
**Sent:** Thursday, April 22, 2010 9:27 AM  
**To:** Kleinsmith, Douglas H  
**Cc:** White, David T; Barnes, Amy J; Bruce, Brandee E; Goodsell, Joanne E; Leigh, Anastasia T; Nickels, Adam M; Perry, Laureen (Laurie) M; Ramsey, Dawn  
**Subject:** 09-SCAO-092.9 SBWR Milpitas Light Rail Section 106 Complete  
**Attachments:** 09-SCAO-092.9\_CASHPO\_Concurrence.pdf

09-SCAO-092.9  
 Title XVI Project  
 SBWR Phase 1C Milpitas Light Rail Median

Doug,

The proposed undertaking to provide federal appropriations to the South Bay Water Recycling Program (SBWRP) through the Title XVI funds for the Milpitas Light Rail Median Project was determined to be the type of action that had the potential to cause effects to historic properties. The project involves installation of approximately 4,935 lineal feet of pipeline on Thompson Street and the Great Mall Parkway in the City of Milpitas, California.

SBWRP hired archaeological consulting firm Basin Research Associates to complete the cultural resource identification effort for compliance with Section 106 of the National Historic Preservation Act. The consultant produced a survey report in February 2010 that covered the entire area of potential effects (APE) entitled, "Historic Property Survey Report/Finding of Effect, South Bay Water Recycling (SBWR) Stimulus Projects, Milpitas Light Rail Median, City of Milpitas, Santa Clara County".

A single cultural resource, the Union Pacific Railroad, was identified in the APE. Although lacking the resources, within the constraints of this project, to fully evaluate the linear historic property under National Register of Historic Places (NRHP) criteria, Reclamation assumed that the resource was eligible under criterion A for the purposes of this undertaking only. As the pipeline will be installed at a depth of approximately 19 feet below this feature, Reclamation concluded, after additional consultation with SHPO staff via phone and e-mail, that a finding of no adverse effect with conditions (jack and bore installation of pipeline under the railroad grade) is appropriate for this undertaking pursuant to 36 CFR Part 800.5(b).

On a letter dated April 20th, 2010 and received at Reclamation on April 21st, 2010, SHPO concurred with Reclamation's finding that the project would result in no adverse effect to historic properties (attached).

After receiving SHPO concurrence, the Section 106 process has been completed. Please retain a copy of this e-mail memo and the concurrence with the administrative record of the EA for this project. Please note that if project plans or actions change, these revisions may require additional Section 106 consultation with the SHPO.

Sincerely,

Tony

Stephen (Tony) Overly, M.A.  
 Archaeologist  
 U.S. Bureau of Reclamation  
 Mid-Pacific Region  
 2800 Cottage Way, MP-153  
 Sacramento, CA 95825  
 916-978-5552



P.O. BOX 942896  
SACRAMENTO, CA 94296-0001  
(916) 653-6624 Fax: (916) 653-9624  
calshpo@ohp.parks.ca.gov  
www.ohp.parks.ca.gov

April 20, 2010

In Reply Refer To: BUR100401A

Michael A. Chotkowski  
Regional Environmental Officer  
United States Department of the Interior  
Bureau of Reclamation  
Mid-Pacific Regional Office  
2800 Cottage Way  
Sacramento, CA 95825-1898

Re: South Bay Water Recycling Program (SBWRP) Phase 1C Projects (Milpitas Light Rail Median) Santa Clara County, California (Project No. 09-SCAO-092.9).

Dear Mr. Chotkowski:

Thank you for seeking consultation with me regarding the above noted undertaking. Pursuant to 36 CFR Part 800 (as amended 8-05-04) regulations implementing Section 106 of the National Historic Preservation Act (NHPA), the Bureau of Reclamation (BUR) is the lead federal agency for this undertaking and is seeking my comments on the effects that the proposed project will have on historic properties. The project will be implemented with Title XVI funds. The BUR has identified this use of federal expenditures as an undertaking subject to compliance with Section 106 regulations. The proposed project is an extension of the existing SBWRP system that services three cities and eight special districts in the Santa Clara Valley.

The undertaking consists of the installation of approximately 4,935 feet of 8-inch recycled water pipeline on Thompson Street and the Great Mall Parkway in the City of Milpitas in Santa Clara County. This new pipeline extension of the SBWRP will provide recycled water service to the Milpitas Light Rail median landscaping, a new car dealership, and the correctional facility in the City of Milpitas. The project will be installed within the two existing paved roadways from a connection with an existing recycled water pipeline located at the intersection of Great Mall Parkway and McCandless Drive.

The BUR has defined the Area of Potential Effects (APE) as a 40-foot wide corridor along Thompson Street and an 80-foot wide corridor along the Great Mall Parkway. The pipeline will be installed in open trenches from five to 20 feet in depth except at the crossing of Penitencia Creek and the Union Pacific Railroad where jack and bore installation will be employed. The total APE encompasses an area of approximately 8.2 acres. An architectural APE was not determined as the visual effects of the undertaking will be transitory.

[illegible]

where jack and bore  
area of approximately 8.2  
effects of the undertaking

ENV 300  
214  
Control No. 100256  
Folder I.D. 1114652  
Date Input & Initials 4-11-2000



In addition to your letter of March 30, 2010, you have submitted the following report as documentation of your efforts to identify and evaluate historic properties in the project APE:

- *Historic Property Survey Report/Finding of Effect South Bay Water Recycling (SBWR) Stimulus Projects Milpitas Light Rail Median, City of Milpitas, Santa Clara County (Basin Research Associates: February 2010).*

Historic property identification efforts by the BUR concluded that the only historic property in the APE is the Union Pacific Railroad. Although lacking the resources, within the constraints of this undertaking, to fully evaluate this linear historic property under National Register of Historic Places (NRHP) criteria, the BUR assumes that it is eligible under criterion A for the purposes of this undertaking only. As the pipeline will be installed at a depth of approximately 19 feet below this feature, the BUR has concluded, after additional consultation with my staff via both phone and email, that a finding of No Adverse Effect with conditions (jack and bore installation of pipeline under the railroad grade) is appropriate for this undertaking pursuant to 36 CFR Part 800.5(b). I have no objection to this finding.

Be advised that under certain circumstances, such as unanticipated discovery or a change in project description, the BUR may have additional future responsibilities for this undertaking under 36 CFR Part 800. Thank you for seeking my comments and for considering historic properties in planning your project. If you require further information, please contact William Soule, Associate State Archeologist, at phone 916-654-4614 or email [wsoule@parks.ca.gov](mailto:wsoule@parks.ca.gov).

Sincerely,

*Susan A. Stratton for*

Milford Wayne Donaldson, FAIA  
State Historic Preservation Officer