

## Appendix F

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### Tribal Cultural Resources Memorandum

# Memorandum

HELIX Environmental Planning, Inc.  
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Folsom, CA 95630  
916.435.1205 tel  
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**Date: May 19, 2023**

**From: HELIX Environmental Planning, Inc. (HELIX)**

**Subject: Tribal Consultation Record for Compliance with Assembly Bill 52 and CEQA for the City of Modesto Municipal Groundwater Improvement Project, City of Modesto**

Greetings:

California Environmental Quality Act (CEQA), as amended by Assembly Bill 52 (AB 52), requires that the City of Modesto (City) provide notice to any California Native American tribes that have requested notice of projects subject to CEQA review and consult with tribes that responded to the notice within 30 days of receipt with a request for consultation. For the City, these included the following tribes that requested such noticing:

- Lone Band of Miwok Indians; and,
- Northern Valley Yokuts.

The purpose of consultation is to identify Tribal Cultural Resources (TCRs) that may be significantly impacted by the proposed project, and to allow the City to avoid or mitigate significant impacts prior to project approval and implementation. Section 21074(a) of the PRC defines TCRs for the purpose of CEQA as:

*Sites, features, places, cultural landscapes (geographically defined in terms of the size and scope), sacred places, and objects with cultural value to a California Native American tribe that are either of the following:*

- a) included or determined to be eligible for inclusion in the California Register of Historical Resources; and/or,*
- b) included in a local register of historical resources as defined in subdivision (k) of Section 5020.1; and/or,*
- c) 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 Section 5024.1. In applying the criteria set forth in subdivision (c) of Section 5024.1 for the purposes of this paragraph, the lead agency shall consider the significance of the resource to a California Native American tribe.*

Because the first two criteria also meet the definition of a Historical Resource under CEQA, a TCR may also require additional consideration as a Historical Resource. TCRs may or may not exhibit archaeological, cultural, or physical indicators and can only be identified by a culturally affiliated tribe, which has been determined under State law to be the subject matter expert for TCRs.

CEQA requires that the City initiate consultation with tribes at the commencement of the CEQA process to identify TCRs. Furthermore, because a significant effect on a TCR is considered a significant impact on the environment under CEQA, consultation is required to develop appropriate avoidance, impact minimization, and mitigation measures. Therefore, in accordance with the requirements summarized above, the City carried out, or attempted to carry out, tribal consultation for the project.

## **1.0 Summary of Consultation**

On April 3, 2023, the City sent project notification letters to the two California Native American tribes named above that had previously submitted general consultation request letters pursuant to Section 21080.3.1(d) of the PRC. The letter provided each tribe with a brief description of the project and its location, the contact information for the City's authorized representative, and a notification that the tribe has 30 days to request consultation.

### **1.1 Lone Band of Miwok Indians**

The Lone Band of Miwok Indians did not respond to the City's notification letter, and therefore, the threshold for conducting tribal consultation with that tribe under PRC 21080.3.1(e) was not met. No further attempts at consultation were required by state law.

### **1.2 Northern Valley Yokuts**

Northern Valley Yokuts did not respond to the City's notification letter, and therefore, the threshold for conducting tribal consultation with that tribe under PRC 21080.3.1(e) was not met. No further attempts at consultation were required by state law.

## **2.0 Recommended Findings**

As the Lone Band of Miwok Indians and Northern Valley Yokuts did not respond to the City's notification letters, it is assumed that the project will not have an impact on known TCRs. There exists a potential for the discovery of previously unknown TCRs during project construction, however. If TCRs are encountered, the project activity could result in a significant impact to those resources. Implementation of unanticipated discovery procedures, as provided in mitigation measure TCR-1 below, would reduce that impact to less than significant.

### **Mitigation Measure TCR-1: Unanticipated Discovery of TCRs**

If potentially significant TCRs are discovered during ground disturbing construction activities, all work shall cease within 50 feet of the find. A Native American Representative from traditionally and culturally affiliated Native American Tribes that requested consultation on the project shall be immediately contacted and invited to assess the significance of the find and make recommendations for further evaluation and treatment, as necessary. If deemed necessary by the City, a qualified cultural resources

specialist, who meets the Secretary of Interior's Standards and Qualifications for Archaeology, may also assess the significance of the find in joint consultation with Native American Representatives to ensure that Tribal values are considered. Work at the discovery location cannot resume until the City, in consultation as appropriate and in good faith, determines that the discovery is either not a TCR, or has been subjected to culturally appropriate treatment, if avoidance and preservation cannot be accommodated.

### **3.0 Attachments**

Attachment A: AB 52 Non-Confidential Tribal Correspondence

## Attachment A

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AB 52 Non-Confidential Tribal  
Correspondence



***Utilities  
Department***

*1010 Tenth Street  
Suites 4500 & 4600  
P.O. Box 642  
Modesto, CA 95353*

***Administration***  
*(209) 577-5213  
(209) 577-5477 Fax*

***Engineering  
Services  
Division:***

***Water Resources  
Engineering***  
*(209) 571-5557  
(209) 522-1780 Fax*

***Construction  
Administration***  
*(209) 577-5452  
(209) 577-4302 Fax*

***Engineering  
Design***  
*(209) 571-5105  
(209) 522-1780 Fax*

*Hearing and Speech  
Impaired Only  
TDD 1-800-735-2929*

March 29, 2023

Randy Yonemura, Cultural Committee Chair  
Ione Band of Miwuk Indians  
P.O. Box 699  
Plymouth, CA 95669

Re: Notice of Opportunity to Consult under Assembly Bill 52 for the City of Modesto  
Municipal Groundwater Improvement Project, City of Modesto, California

Dear Mr. Yonemura:

The City of Modesto Utilities Department is initiating environmental review under the California Environmental Quality Act (CEQA) for the proposed City of Modesto Municipal Groundwater Improvement Project (project). The project proposes construction and/or operation of five Managed Aquifer Recharge (MAR) basins and their water conveyance in the City of Modesto (City). The five MAR basins would include: Merle Avenue MAR Basin (Assessor's Parcel Number (APN) 085-004-006); Well 65 MAR Basin (APN 077-007-021); Ustach Park MAR Basin (APN 077-009-053); La Coste Lane P1 North MAR Basin (APN 014-037-056); and, La Coste Lane P2 South MAR Basin (APN 014-037-063). Merle Avenue MAR Basin and Well 65 MAR Basin are located on the southern side of Merle Avenue; Ustach Park MAR Basin is located on the eastern side of Bear Club Lane and the northern side of Kodiak Drive; La Coste Lane P1 North MAR Basin is located on the northern side of La Coste Lane and on the western side of Frazine Road; and La Coste Lane P2 South MAR Basin is located on the southern side of La Coste Lane and on the eastern side of Norseman Drive. The project plans are enclosed for your information (**Attachment A**).

Assembly Bill 52 (AB 52) and Section 21080.3. l(d) of the California Public Resources Code (PRC) require that we respond to your written request to be notified of projects in our jurisdiction that will be reviewed under CEQA. Your name was provided to us as the point of contact for your Tribe. We are hereby notifying you of an opportunity to consult with us regarding the potential for this project to impact Tribal Cultural Resources, as defined in Section 21074 of the PRC. The purposes of tribal consultation under AB 52 are to determine, as part of the CEQA review process, if Tribal Cultural Resources are present within the project area, and if so, if those resources would be significantly impacted by implementation of the proposed project. If Tribal Cultural Resources would be significantly impacted, then consultation will also help to determine the most appropriate way to avoid or mitigate those impacts.



In accordance with Section 21080.3. I (d) of the PRC, you have 30 days from the receipt of this letter to request or decline consultation in writing for this project. Please send your written response to my attention at the City of Modesto Utilities Department, 10th Street Place, 1010 10 Street #3300, Modesto, CA 95354. You may also reach me by phone at (209) 571-5557 or by email at [jalves@modestogov.com](mailto:jalves@modestogov.com). If we do not receive a response within 30 days, then we will consider consultation closed for this project.

Sincerely,  
City of Modesto

A handwritten signature in blue ink, appearing to read "J. Alves", written over the typed name.

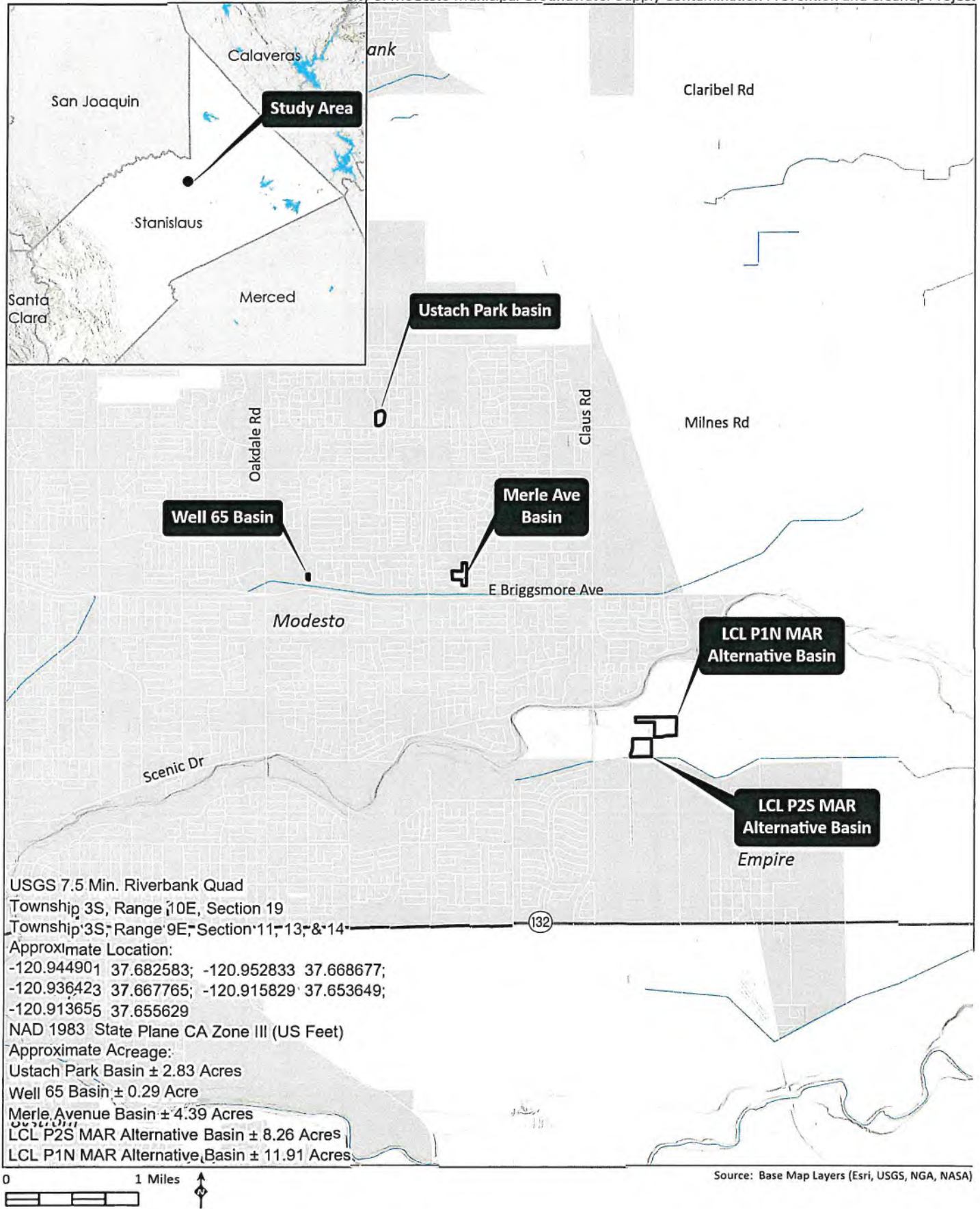
Mr. Jim Alves, P.E.  
Senior Civil Engineer  
Water Resources Engineering  
Utilities Department

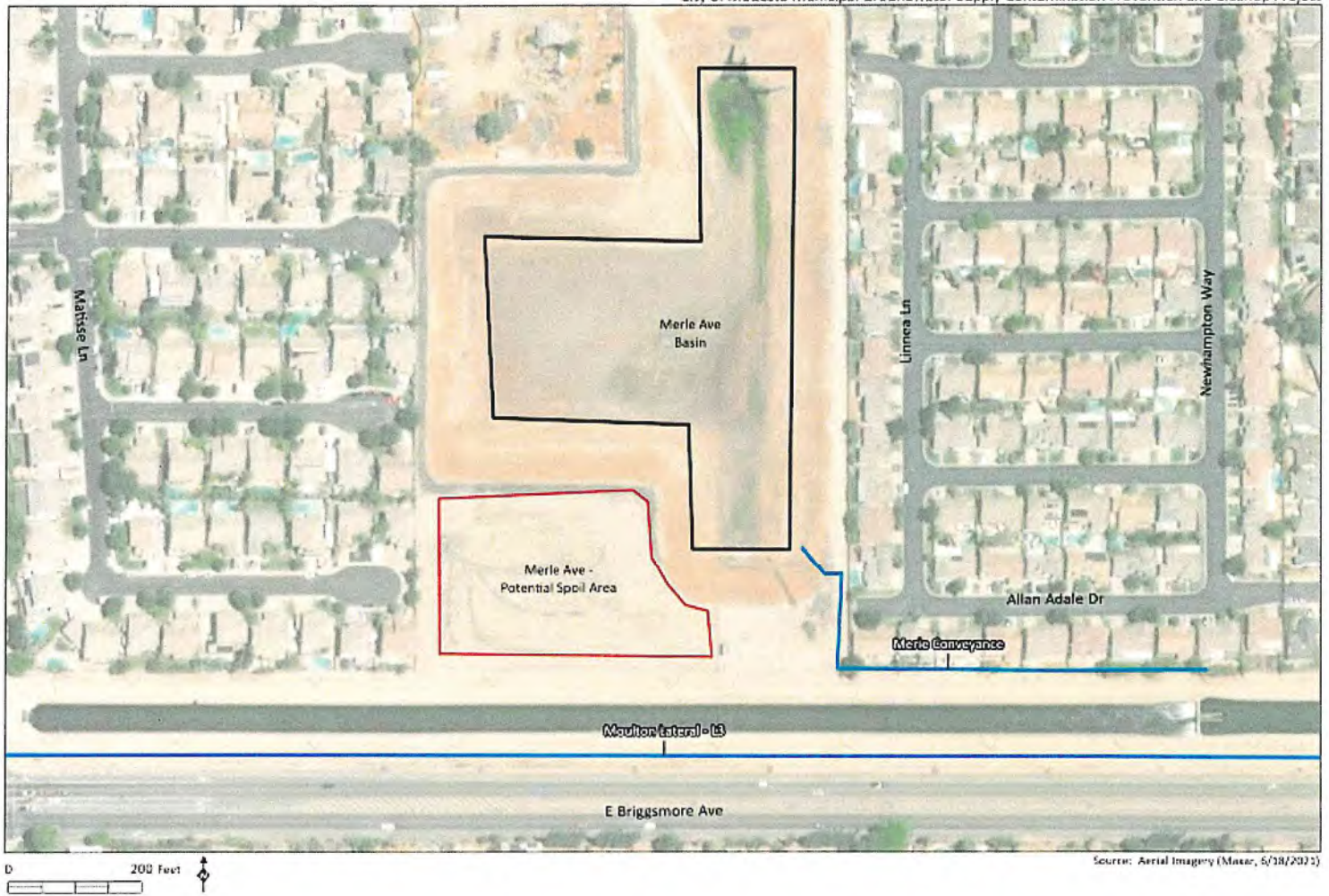




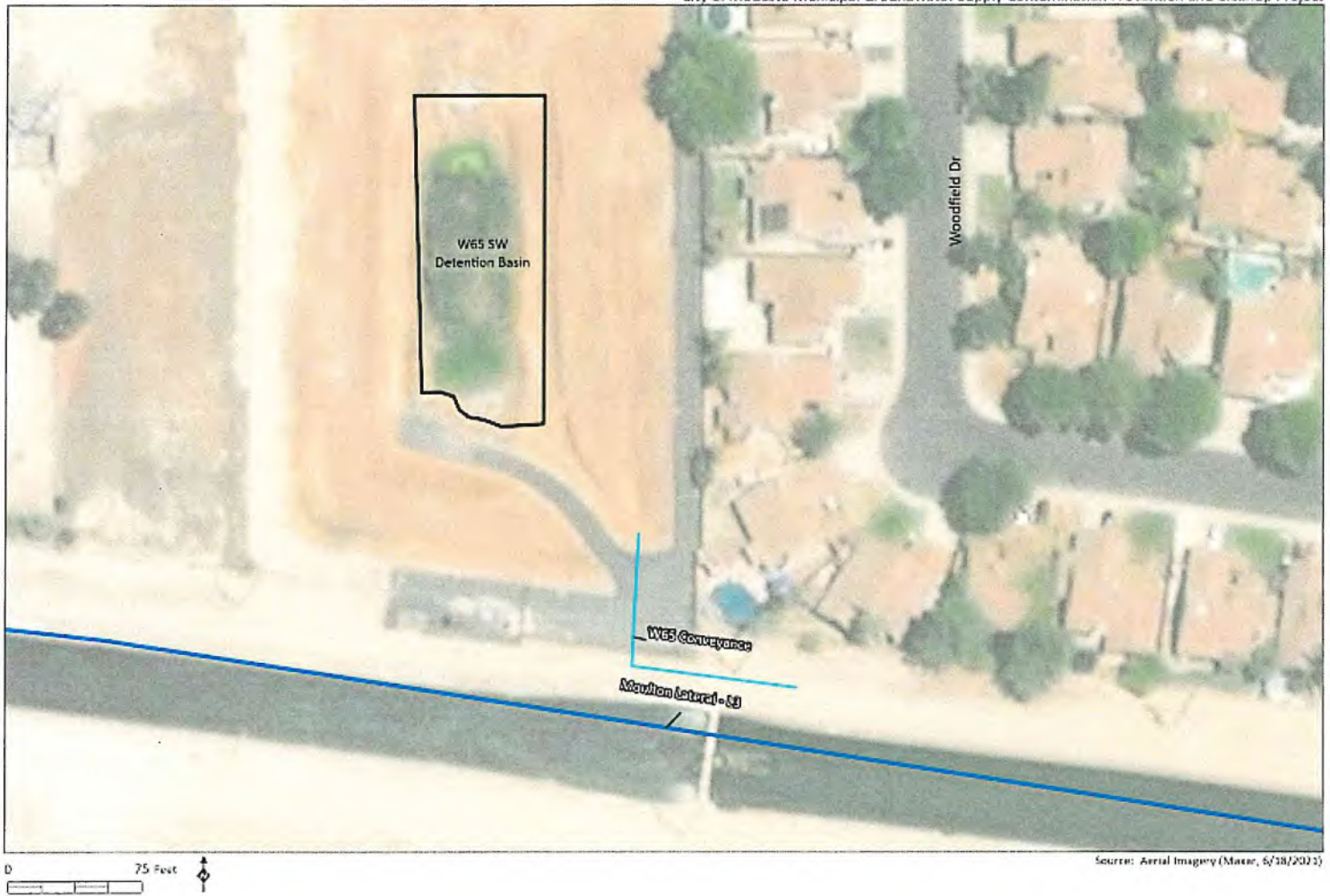
## ATTACHMENT A



















**HELIX**  
Environmental Planning

## La Costa Lane P1N & P2S MAR Alternative Basin Site Plan

Figure 5



***Utilities  
Department***

*1010 Tenth Street  
Suites 4500 & 4600  
P.O. Box 642  
Modesto, CA 95353*

***Administration***  
*(209) 577-5213  
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*Hearing and Speech  
Impaired Only  
TDD 1-800-735-2929*

March 29, 2023

Katherine Erolinda Perez  
Northern Valley Yokuts  
990 North Fine Road  
Linden, CA 95236

RE: Notice of Opportunity to Consult under Assembly Bill 52 for the City of Modesto  
Municipal Groundwater Improvement Project, City of Modesto, California

Dear Ms. Perez:

The City of Modesto Utilities Department is initiating environmental review under the California Environmental Quality Act (CEQA) for the proposed City of Modesto Municipal Groundwater Improvement Project (project). The project proposes construction and/or operation of five Managed Aquifer Recharge (MAR) basins and their water conveyance in the City of Modesto (City). The five MAR basins would include: Merle Avenue MAR Basin (Assessor's Parcel Number (APN) 085-004-006); Well 65 MAR Basin (APN 077-007-021); Ustach Park MAR Basin (APN 077-009-053); La Coste Lane P1 North MAR Basin (APN 014-037-056); and, La Coste Lane P2 South MAR Basin (APN 014-037-063). Merle Avenue MAR Basin and Well 65 MAR Basin are located on the southern side of Merle Avenue; Ustach Park MAR Basin is located on the eastern side of Bear Club Lane and the northern side of Kodiak Drive; La Coste Lane P1 North MAR Basin is located on the northern side of La Coste Lane and on the western side of Frazine Road; and La Coste Lane P2 South MAR Basin is located on the southern side of La Coste Lane and on the eastern side of Norseman Drive. The project plans are enclosed for your information (**Attachment A**).

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City of Modesto

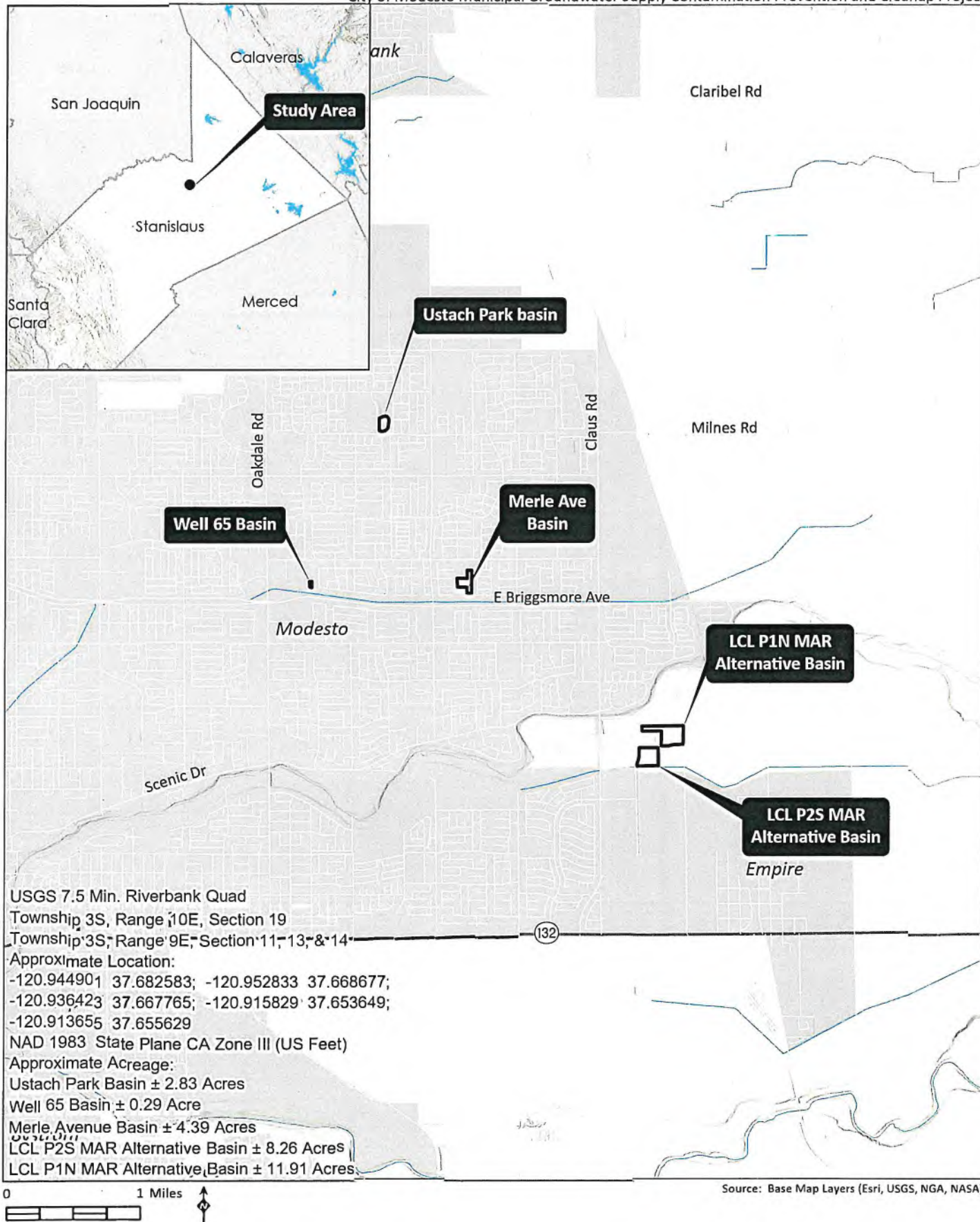
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Mr. Jim Alves, P.E.  
Senior Civil Engineer  
Water Resources Engineering  
Utilities Department





## ATTACHMENT A





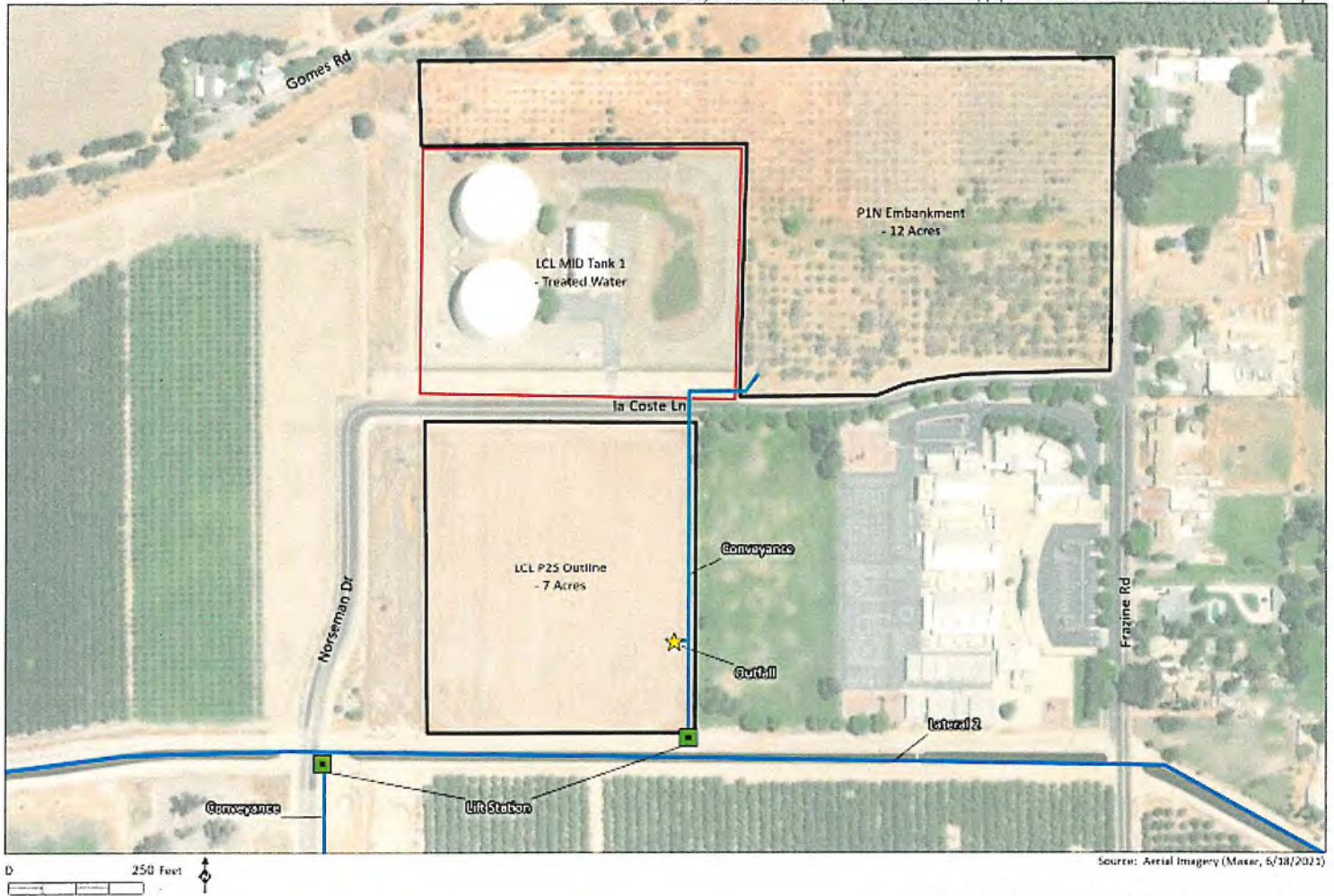












**HELIX**  
Environmental Planning

## La Costa Lane P1N & P2S MAR Alternative Basin Site Plan

Figure 5