

Oceanside Circulation Element Update

Appendix G

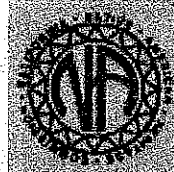
SB 18 Tribal Analysis Coordination Correspondence

Prepared by the City of Oceanside

February 2010



Additional Information



California Native Americans

Cultural Resources

Strategic Plan

Commissioners

Federal Laws and Codes

State Laws and Codes

Local Ordinances and Codes

Additional Information

Return to CNAHC Home Page

LOCAL GOVERNMENT TRIBAL CONSULTATION LIST REQUEST

NATIVE AMERICAN HERITAGE COMMISSION

915 CAPITOL MALL, ROOM 364
SACRAMENTO, CA 95814 (916)
653-4082 (916) 657-5390 - Fax

Project Title: General Plan Amendment (GPA10-00001), the Circulation Element Update

Local Government/Lead Agency: City of Oceanside

Contact Person: Scott Nightingale, Associate Planner

Street Address: 300 N. Coast Highway

City: Oceanside Zip: 92054

Phone: (760) 435-3526 Fax: (760) 754-2958

Specific Area Subject to Proposed Action: The GPA would amend the General Plan Circulation Element for the entire City of Oceanside. The Circulation Element Update will establish Goals and Objectives for the Circulation Element, and the recommended Polices needed to support and achieve them. The Update will address the Master Transportation/Circulation Plan, Level of Service Polices, Transportation issues, Traffic growth, potential future road way improvements.

County: San Diego

City/Community: City of Oceanside

Local Action Type:

General Plan General Plan Element General Plan Amendment

Specific Plan Specific Plan Amendment

Pre-planning Outreach Activity

Project Description: An application requesting approval to amend the City of Oceanside's General Plan to establish Goals and Objectives for the Circulation Element, and the recommended Polices needed to support and achieve them. The Update will address the Master Transportation/Circulation Plan, Level of Service Polices, Transportation issues, Traffic growth, potential future road way improvements.

Sacred Lands File Search and Native American Contacts List Request

Information

**Below is Required for a
Sacred Lands File
Search**

USGS Quadrangle Name

San Luis Rey

Township _____ Range _____ Section(s) _____

NAHC Use Only

Date Received: _____

Date Completed _____

Native American Tribal Consultation lists are only applicable for consulting with California Native American tribes per Government Code Section 65352.3.

Native American Contacts

San Diego County
January 27, 2010

Pauma & Yuima
Christobal C. Devers, Chairperson
P.O. Box 369 Luiseno
Pauma Valley , CA 92061
paumareservation@aol.com
(760) 742-1289
(760) 742-3422 Fax

Rincon Band of Mission Indians
Angela Veltrano, Rincon Culture Committee
P.O. Box 68 Luiseno
Valley Center , CA 92082
council@rincontribe.org
(760) 749-1051
(760) 749-8901 Fax

San Luis Rey Band of Mission Indians
Henry Contreras, Most Likely Descendant
1763 Chapulin Lane Luiseno
Fallbrook , CA 92028
(760) 728-6722 - Home
(760) 908-7625 - Cell

San Luis Rey Band of Mission Indians
Russell Romo
12064 Old Pomerado Road Luiseno
Poway , CA 92064
(858) 748-1586

Pauma Valley Band of Luiseño Indians
Bennae Calac, Tribal Council Member
P.O. Box 369 Luiseno
Pauma Valley , CA 92061
bennaecalac@aol.com
(760) 617-2872
(760) 742-3422 - FAX

San Luis Rey Band of Mission Indians
Carmen Mojado, Co-Chair
1889 Sunset Drive Luiseno
Vista , CA 92081
cjmojado@slrmissionindians.org
(760) 724-8505
(760) 724-2172 - FAX
(760) 917-1736 - cell

Kupa Cultural Center (Pala Band)
Shasta Gaughen, Assistant Director
35008 Pala-Temecula Rd. PMB Box 445 Luiseno
Pala , CA 92059
cupa@palatribe.com
(760) 891-3590
(760) 742-4543 - FAX

La Jolla Band of Mission Indians
ATTN: Rob Roy, Environmental Director
22000 Highway 76 Luiseno
Pauma Valley , CA 92061
lajolla-sherry@aol.com and
(760) 742-3790
(760) 742-1704 Fax

Mel Vernon, Chairperson
San Luis Rey Band of Mission Indians
1044 North Ivy Street Luiseno
Escondido , CA 92026
melvern@aol.com
(760) 746-8692
(760) 703-1514 - cell

Hi Scott, 2/4/10
We need to coordinate &
set a meeting with the
Luiseno's listed on this
page for the Circulation
update, similar to what
we did for Gallant-Coom.
Please follow proper
protocol & see me before
we do this. Thanks,
Jenny

This list is current only as of the date of this document.

Distribution of this list does not relieve any person of statutory responsibility under the California Environmental Quality Act, Section 5097.94 of the Public Resources Code and Section 50900 of the

This list is only applicable for contacting local Native Americans with regard to the proposed project. This list is not intended to be used for any other purpose. SCH#2009121020; CEQA Notice of Preparation (NOP); draft Environmental Impact Statement (EIS) for the Oceanside Circulation Element of the General Plan Update: located in the C



CITY OF OCEANSIDE

DEVELOPMENT SERVICES DEPARTMENT / PLANNING DIVISION

February 8, 2010

RE: INVITATION TO CONSULT UNDER SENATE BILL 18

General Plan Amendment (GPA10-00001), Circulation Element Update

To Whom It May Concern:

This letter formally invites you to request consultation pursuant to Senate Bill 18 ("SB 18"; Government Code Section 65352.3) regarding the proposed project. As you may know, SB18 became effective on March 01, 2005 and requires local governments to consult with California Native American Tribes about proposed local land use planning decisions for the purpose of protecting traditional tribal cultural places and sacred sites. The proposed project will require an amendment to the Oceanside General Plan (GPA) and therefore is subject to the requirements of SB18.

The GPA would amend the General Plan Land Use Element to allow the update of the transportation circulation plan, level of service polices, transportation issues, traffic growth, and potential future roadway improvements. A concept site plan is enclosed for your review and to assist you in deciding whether or not to consult with the City of Oceanside on the proposed project.

The intent of consultation is to provide an opportunity for local governments and interested tribes to work together early in the project planning process. Early consultation will assist in the protection of tribal cultural places that might not appear on cultural resource registries. This notice represents your opportunity to participate in the process for this project. SB18 defines tribal cultural places as:

- Native American sanctified cemetery, place of worship, religious or ceremonial site, or sacred shrine
- Native American historic, cultural, or sacred site that is listed or may be eligible for listing in the California Register of Historic Resources including historic or prehistoric ruins and any burial ground, archaeological, or historic site

A request for consultation for this project must be made within ninety (90) days of the date of this notice. Under SB18, if your tribe requests to participate in the consultation process, any sensitive information shared with the City regarding cultural places and/or sacred sites will be kept strictly confidential and will not be divulged to the public. Should your tribe not desire to consult on the proposed project, please inform us in writing of that as well.

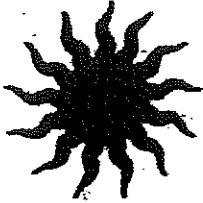
Please direct your correspondence to Scott Nightingale, Associate Planner at the address listed in the letterhead or by e-mail at snightingale@ci.oceanside.ca.us.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Scott Nightingale', written in a cursive style.

Scott Nightingale,
Associate Planner

Enclosure: Concept Site Plan



SAN LUIS REY BAND of Mission Indians

Tribal Council

Mal Vernon

Captain

Carmen Mojado

*Secretary of Government
Relations*

Charlotte Herrera

Secretary of the Treasury

Tom Beltran

*Secretary of Economic
Development*

Al Cerda

*Secretary of Tribal Ethics
and Information*

Clara Guy

Tribal Elder

Henry Contreras

Council Member

David Herrera

Council Member

Mary Lou Beltran

Council Member

Carrie Lopez

Tribal Advisor

Merri Lopez, Esq.
Tribal Legal Advisor

Contact information
1889 Sunset Drive
Vista, CA 92081

Tel: (760) 724-8505
Fax: (760) 724-2172

FEBRUARY 22

2010

Received

FEB 24 2010

Planning Division

Re: Comments on Proposed (PEIR) for General Plan -
Circulation Element Update

Dear City of Oceanside

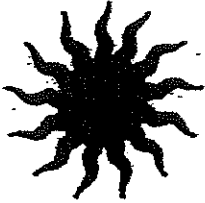
**The San Luis Rey Band of Mission Indians hereby submits the following
comments on the proposed (PEIR) for General Plan- Circulation Element
Update. ("Project").**

**The San Luis Rey Band ("Band" or "Tribe") is a San Diego County Tribe
whose traditional territory includes the current cities of Vista, Oceanside,
Carlsbad, San Marcos and Escondido, among others. The Band's primary
concerns are the preservation and protection of cultural, archaeological, sacred
and historical sites of significant to the Band located within the Project area.**

**The Band is concerned about protecting the unique and irreplaceable
cultural resources which will be affected by the Project. The Tribe is also
concerned about the appropriate and lawful treatment of Native American human
remains and cultural and sacred items which are likely to be disturbed during the
Project's development and ground disturbing activities. The Band does have a
Most Likely Descendant on file with the Native American Heritage Commission
in the event that human remains are discovered during the grading process.**

**The need for mitigation measures for this Project are undisputed. The
strongest protections must be afforded to protect these invaluable resources. The
Band intends to use all appropriate and necessary procedures available to ensure
that these resources are properly addressed via the CEQA and SB 18 processes.**

**To ensure a complete and undisputed understanding by all parties
regarding the protection of these priceless resources, the Band respectfully**



SAN LUIS REY BAND of Mission Indians

Tribal Council

Mel Vernon

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*Secretary of Government
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Council Member

Carrie Lopez
Tribal Advisor

Merrí Lopez, Esq.
Tribe Legal Advisor

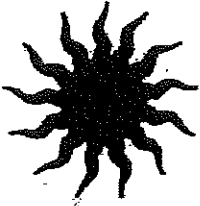
Contact information
1889 Sunset Drive
Vista, CA 92081

Tel: (760) 724-8505
Fax: (760) 724-2172

requests that the following mitigation measures be added as mandatory conditions for approving the grading permit for the Project. The Developer must be required to submit written proof of these requirements before the permit may be issued.

1. The Developer must execute a Pre-Excavation Agreement with the Band prior to any ground-disturbing activities on the Project site. The agreement will, at minimum, include the following provisions:
 - A. Require appropriate treatment of human remains and cultural items.
 - B. Require a good faith effort by the parties to agree on what is appropriate treatment and dignity when addressing human remains and cultural items.
 - C. Require that any human remains or cultural items recovered during the grading process be returned to the Band, and not curated in a facility absent the express-written consent of the Band.
 - D. Require avoidance for all significant and sacred archaeological sites which may be found during development. Avoidance is the preferred method of preservation under CEQA for such resources.
 - E. Require Native American monitors to be present during all ground-disturbing activities.
 - F. Provide for the compensation of tribal monitors at the expense of the Developer.
2. Additionally, the Band requests that Native American monitors be added as a mandatory requirement, in addition to any archaeological monitor required by state law.

With these clarifications, the San Luis Rey Band believes that the mitigation measures described above will provide adequate protection for the cultural resources and human remains that may be discovered in the Project area. The Band intends to carefully monitor this Project to ensure that the requirements imposed by CEQA and SB 18 are rigorously applied for the duration of the Project.



SAN LUIS REY BAND of Mission Indians

Tribal Council

Mel Vernon

Captain

Carmen Mojado
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Merri Lopez, Esq.
Tribe Legal Advisor

Contact information
1889 Sunset Drive
Vista, CA 92081

Tel: (760) 724-8505

Fax: (760) 724-2172

The Band truly appreciates the commitment of City of Oceanside to continue consultation with the Tribe during the Project. We look forward to continuing this positive relationship and we thank you for your assistance in protecting our invaluable Luiseño cultural resources.

Sincerely,

Mel Vernon

San Luis Rey Band of Mission Indians

NATIVE AMERICAN HERITAGE COMMISSION

915 CAPITOL MALL, ROOM 364
SACRAMENTO, CA 95814
(916) 653-6251
Fax (916) 657-5390
Web Site www.nahc.ca.gov
e-mail: ds_nahc@pacbell.net



January 28, 2010

Received

FEB 01 2010

Planning Division

Mr. Jerry Hittleman, City Planner

CITY OF OCEANSIDE

300 North Coast Highway
Oceanside, CA 92054

Re: SCH#2009121020 CEQA Notice of Preparation (NOP); draft Environmental Impact Report (DEIR) for the City of Oceanside Circulation Element of the General Plan Update; located in the City of Oceanside; San Diego County, California

Dear Mr. Hittleman:

The Native American Heritage Commission (NAHC) is the state 'trustee agency' pursuant to Public Resources Code §21070 for the protection and preservation of California's Native American Cultural Resources.. (Also see *Environmental Protection Information Center v. Johnson* (1985) 170 Cal App. 3rd 604) The California Environmental Quality Act (CEQA - CA Public Resources Code §21000-21177, amended in 2009) requires that any project that causes a substantial adverse change in the significance of an historical resource, that includes archaeological resources, is a 'significant effect' requiring the preparation of an Environmental Impact Report (EIR) per the California Code of Regulations §15064.5(b)(c)(f) CEQA guidelines). Section 15382 of the CEQA Guidelines defines a significant impact on the environment as "a substantial, or potentially substantial, adverse change in any of physical conditions within an area affected by the proposed project, including ... objects of historic or aesthetic significance." In order to comply with this provision, the lead agency is required to assess whether the project will have an adverse impact on these resources within the 'area of potential effect (APE)', and if so, to mitigate that effect. To adequately assess the project-related impacts on historical resources, the Commission recommends the following.

The Native American Heritage Commission did perform a Sacred Lands File (SLF) search in the NAHC SLF Inventory, established by the Legislature pursuant to Public Resources Code §5097.94(a) and Native American Cultural resources were identified within one-half mile of the City-wide APE encompassing the General Plan.

Early consultation with Native American tribes in your area is the best way to avoid unanticipated discoveries once a project is underway. Enclosed are the names of the nearest tribes and interested Native American individuals that the NAHC recommends as 'consulting parties,' for this purpose, that may have knowledge of the religious and cultural significance of the historic properties in the project area (e.g. APE). We recommend that you contact persons on the attached list of Native American contacts. A Native American Tribe or Tribal Elder may be the only source of information about a cultural resource.. Also, the NAHC recommends that a Native American Monitor or Native American culturally knowledgeable person be employed whenever a professional archaeologist is employed during the 'Initial Study' and in other phases of the environmental planning processes.. Furthermore we suggest that you contact the California Historic Resources Information System (CHRIS) at the Office of Historic Preservation (OHP) Coordinator's office (at (916) 653-7278, for referral to the nearest OHP Information Center of which there are 11...

Consultation with tribes and interested Native American tribes and individuals, as consulting parties, on the NAHC list, should be conducted in compliance with the requirements of federal NEPA (42 U.S.C. 4321-43351) and Section 106 and 4(f) of federal NHPA (16 U.S.C. 470 [f] *et seq*), 36 CFR Part 800.3, the President's Council on Environmental Quality (CSQ; 42 U.S.C. 4371 *et seq*) and NAGPRA (25 U.S.C. 3001-3013), as appropriate. .

Lead agencies should consider avoidance, as defined in Section 15370 of the California Environmental Quality Act (CEQA) when significant cultural resources could be affected by a project. Also, Public Resources Code Section 5097.98 and Health & Safety Code Section 7050.5 provide for provisions for accidentally discovered archeological resources during construction and mandate the processes to be followed in the event of an accidental discovery of any human remains in a project location other than a 'dedicated cemetery. Discussion of these should be included in your environmental documents, as appropriate.

The authority for the SLF record search of the NAHC Sacred Lands Inventory, established by the California Legislature, is California Public Resources Code §5097.94(a) and is exempt from the CA Public Records Act (c.f. California Government Code §6254.10). The results of the SLF search are confidential. However, Native Americans on the attached contact list are not prohibited from and may wish to reveal the nature of identified cultural resources/historic properties. Confidentiality of "historic properties of religious and cultural significance" may also be protected under Section 304 of the NHPA or at the Secretary of the Interior' discretion if not eligible for listing on the National Register of Historic Places. The Secretary may also be advised by the federal Indian Religious Freedom Act (cf. 42 U.S.C, 1996) in issuing a decision on whether or not to disclose items of religious and/or cultural significance identified in or near the APE and possibly threatened by proposed project activity.

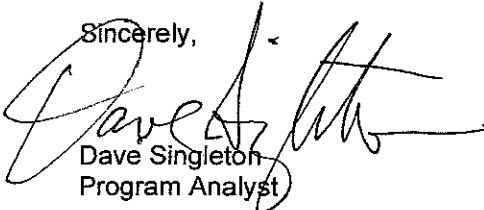
CEQA Guidelines, Section 15064.5(d) requires the lead agency to work with the Native Americans identified by this Commission if the initial Study identifies the presence or likely presence of Native American human remains within the APE. CEQA Guidelines provide for agreements with Native American, identified by the NAHC, to assure the appropriate and dignified treatment of Native American human remains and any associated grave liens.

Health and Safety Code §7050.5, Public Resources Code §5097.98 and Sec. §15064.5 (d) of the California Code of Regulations (CEQA Guidelines) mandate procedures to be followed, including that construction or excavation be stopped in the event of an accidental discovery of any human remains in a location other than a dedicated cemetery until the county coroner or medical examiner can determine whether the remains are those of a Native American. . Note that §7052 of the Health & Safety Code states that disturbance of Native American cemeteries is a felony.

Again, Lead agencies should consider avoidance, as defined in §15370 of the California Code of Regulations (CEQA Guidelines), when significant cultural resources are discovered during the course of project planning and implementation

Please feel free to contact me at (916) 653-6251 if you have any questions.

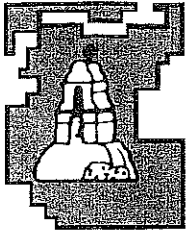
Sincerely,



Dave Singleton
Program Analyst

Attachment: List of Native American Contacts

Cc: State Clearinghouse



PALA BAND OF MISSION INDIANS
Tribal Historic Preservation Office
35008 Pala Temecula Rd. PMB 445
Pala, CA 92059

Ph: (760) 891-3591
Fax: (760) 742-4543

February 24, 2010

Scott Nightingale
City of Oceanside- Development Services Dept.
300 N. Coast Highway
Oceanside, CA 92054

Received
FEB 26 2010
Planning Division

Re: General Plan Amendment (GPA10-00001), Circulation Element Update

Dear Mr. Nightingale:

The Pala Band of Mission Indians Tribal Historic Preservation Office has received your notification of the project referenced above. This letter constitutes our response on behalf of Robert Smith, Tribal Chairman.

We have consulted our maps and determined that the project as described is not within the boundaries of the recognized Pala Indian Reservation. It is, however, within the boundaries of the territory that the tribe considers its Traditional Use Area (TUA). Therefore, we request to be kept in the information loop as the project progresses and would appreciate being maintained on the receiving list for project updates, reports of investigations, and/or any documentation that might be generated regarding previously reported or newly discovered sites. Further, we may recommend archaeological monitoring pending the results of site surveys and records searches associated with the project. If the project boundaries are modified to extend beyond the currently proposed limits, we request updated information and the opportunity to respond to your changes.

We appreciate involvement with your initiative and look forward to working with you on future efforts. If you have questions or need additional information, please do not hesitate to contact me by telephone at 760-891-3591 or by e-mail at sgaughen@palatribe.com.

Sincerely,

Shasta C. Gaughen, MA
Tribal Historic Preservation Officer
Pala Band of Mission Indians

ATTENTION: THE PALA TRIBAL HISTORIC PRESERVATION OFFICE IS RESPONSIBLE FOR ALL REQUESTS FOR CONSULTATION. PLEASE ADDRESS CORRESPONDENCE TO **SHASTA C. GAUGHEN** AT THE ABOVE ADDRESS. IT IS NOT NECESSARY TO ALSO SEND NOTICES TO PALA TRIBAL CHAIRMAN ROBERT SMITH. PLEASE ALSO NOTE THAT JOE NIXON NO LONGER WORKS FOR THE PALA THPO.

STATE OF CALIFORNIAArnold Schwarzenegger, Governor**NATIVE AMERICAN HERITAGE COMMISSION**

915 CAPITOL MALL, ROOM 364
SACRAMENTO, CA 95814
(916) 653-6251
Fax (916) 657-5390
Web Site www.nahc.ca.gov
e-mail: da_nahc@pacbell.net



February 11, 2010

Mr. Scott Nightingale, Associate Planner

CITY OF OCEANSIDE

300 North Coast Highway
Oceanside, CA 92054

Sent by FAX to 760-754-2958

No. Pages: 2

Re: Tribal Consultation Per SB 18 (Government Code §§ 65352.3, 65352.4, 65560 and 65562.5) and Sacred Lands File Search for General Plan Amendment (GPA10-00001), the Circulation Element Update, located in the City of Oceanside, San Diego County, California

Dear Mr. Nightingale:

Government Code §65352.3 requires local governments to consult with California Native American tribes identified by the Native American Heritage Commission (NAHC) for the purpose of protecting, and/or mitigating impacts to cultural places. Attached is a Native American Tribal Consultation list of tribes with traditional lands or cultural places located within the requested plan boundaries.

Furthermore we suggest that you contact the California Historic Resources Information System (CHRIS) at the nearest Information Center (contact 916- 653-7278) to determine if there are any recorded CHRIS sites within or near the APE.

A NAHC Sacred Lands File search was conducted based on the coordinates of this property or "area of potential effect" (APE) and several Native American Cultural Resources sites were found within one-half mile, within the 'area of potential effect' (e.g. APE) you identified. Local governments should be aware, also that records maintained by the NAHC and CHRIS are not exhaustive, and these searches do not preclude the existence of other cultural resources. A tribe may be the only source of information regarding the existence of a cultural place. I suggest you consult with all of those on the accompanying Native American Contacts list, which has been included separately. If they cannot supply information, they might recommend others with specific knowledge about cultural resources in your plan area. If a response has not been received within two weeks of notification, the Commission requests that you follow-up with a telephone call in about two weeks to ensure that the project information has been received.

If you receive notification of change of addresses and phone numbers from Tribes, please notify me. With your assistance we are able to assure that our consultation list contains current information.

If you have any questions, please contact me at (916) 653-6251.

Sincerely,


Dave Singleton
Program Analyst

Attachment: Native American Tribal Consultation List



PECHANGA CULTURAL RESOURCES
Temecula Band of Luiseño Mission Indians

Post Office, Box 2183 • Temecula, CA 92593
Telephone (951) 308-9295 • Fax (951) 506-9491

May 6, 2010

VIA E-MAIL and USPS

Mr. Scott Nightingale
Associate Planner
City of Oceanside
300 North Coast Highway
Oceanside, CA 92054

Re: Pechanga Tribe Comments on a Request for SB18 Consultation for the Transportation Element Update to the City General Plan, GPA 10-00001

Dear Mr. Nightingale:

Thank you for inviting us to submit comments on the above named Project. This comment letter is written on behalf of the Pechanga Band of Luiseño Indians (hereinafter, "the Tribe"), a federally recognized Indian tribe and sovereign government. The Tribe formally requests, pursuant to Public Resources Code §21092.2, to be notified and involved in the entire CEQA environmental review process for the duration of the above referenced project (the "Project"). Pursuant to your letter of February 8, 2010, these comments are being submitted in addition to, but not in lieu of formal consultation.

Please add the Tribe to your distribution list(s) for public notices and circulation of all documents, including environmental review documents, archeological reports, and all documents pertaining to this Project. The Tribe further requests to be directly notified of all public hearings and scheduled approvals concerning this Project. We request that all comments be made part of the official record of approval for the Project and for SB18 purposes.

The Tribe submits these comments concerning the Project's potential impacts to cultural resources in conjunction with the environmental review of the Project. The Tribe reserves the right to fully participate in the environmental review process, as well as to provide further comment on the Project's impacts to cultural resources and potential mitigation for such impacts. Further, the Tribe reserves the right to participate in the regulatory process and provide comment on issues pertaining to the regulatory process and Project approval.

Chairperson:
Germaine Arenas

Vice Chairperson:
Mary Bear Magee

Committee Members:
Evie Gerber
Darlene Miranda
Bridgett Barcello Maxwell
Aurelia Marruffo
Richard B. Searce, III

Director:
Gary DuBois

Coordinator:
Paul Macarro

Cultural Analyst:
Anna Hoover

Monitor Supervisor:
Jim McPherson

**THE CITY OF OCEANSIDE MUST INCLUDE INVOLVEMENT OF AND
CONSULTATION WITH THE PECHANGA TRIBE IN ITS ENVIRONMENTAL
REVIEW PROCESS**

It has been the intent of the Federal Government¹ and the State of California² that Indian tribes be consulted with regard to issues which impact cultural and spiritual resources, as well as other governmental concerns. The responsibility to consult with Indian tribes stems from the unique government-to-government relationship between the United States and Indian tribes. This arises when tribal interests are affected by the actions of governmental agencies and departments. In this case, it is undisputed that the project lies within the traditional territory of the Luiseño People, including the Pechanga Tribe. Therefore, in order to comply with CEQA and other applicable Federal and California law, it is imperative that the City of Oceanside consult with the Tribe in order to guarantee an adequate basis of knowledge for an appropriate evaluation of the Project effects, as well as generating adequate mitigation measures.

**LEAD AGENCY CONSULTATION WITH THE PECHANGA TRIBE REQUIRED
PURSUANT TO CAL. GOVT. C. §§ 65351, 65352, 65352.3, AND 65352.4
(SENATE BILL 18 – TRADITIONAL TRIBAL CULTURAL PLACES LAW)**

As this Project entails a General Plan Amendment, the Lead Agency must consult with the Pechanga Tribe, and other tribes with traditional lands in their jurisdiction, pursuant to a State law entitled Traditional Tribal Cultural Places (also known as SB 18; Cal. Govt. C. § 65352.3). The purpose of consultation is to identify Native American sacred places and geographical areas which could potentially yield sacred places, identifying proper means of treatment and management of such places, and to ensure the protection and preservation of such places through agreed upon mitigation (Cal. Govt. C. 65352.3; SB18, Chapter 905, Section 1(4)(b)(3)). All consultations shall be government-to-government, meaning they shall be directly between the Tribe and the Lead Agency, seeking agreement where feasible (Cal. Govt. C. § 65352.4; SB18, Chapter 905, Section 1(4)(b)(3)). Lastly, any information conveyed to the Lead Agency shall be confidential in terms of the specific identity, location, character and use of sacred places and associated features and objects, and is not subject to public disclosure pursuant the California Public Records Act (Cal. Govt. C. 6254(r)).

¹ See Executive Memorandum of April 29, 1994 on Government-to-Government Relations with Native American Tribal Governments and Executive Order of November 6, 2000 on Consultation and Coordination with Indian Tribal Governments.

² See California Public Resource Code §5097.9 et seq.; California Government Code §§65351,65352,65352.3 and 65352.4

PECHANGA CULTURAL AFFILIATION TO PROJECT AREA

The Pechanga Tribe asserts that the Project area is part of Luiseño, and therefore the Tribe's, aboriginal territory as evidenced by the existence of Luiseño place names, *tóota yixélval* (rock art, pictographs, petroglyphs), and an extensive Luiseño artifact record in the vicinity of the Project. This culturally sensitive area is affiliated with the Pechanga Band of Luiseño Indians because of the Tribe's cultural ties to this area.

D. L. True, C. W. Meighan, and Harvey Crew³ stated that the California archaeologist is blessed "with the fact that the nineteenth-century Indians of the state were direct descendents of many of the Indians recovered archaeologically, living lives not unlike those of their ancestors." Similarly, the Tribe knows that their ancestors lived in this land and that the Luiseño peoples still live in their traditional lands. The Tribe's knowledge of our ancestral boundaries is based on reliable information passed down to us from our elders; published academic works in the areas of anthropology, history and ethno-history; and through recorded ethnographic and linguistic accounts. Many anthropologists and historians who have presented boundaries of the Luiseño traditional territory have included the Project area in their descriptions (Drucker 1937; Heiser and Whipple 1957; Kroeber 1925; Smith and Freers 1994), and such territory descriptions correspond with what was communicated to the Pechanga people by our elders. While we agree that anthropological and linguistic theories as well as historic accounts are important in determining traditional Luiseño territory, the most critical sources of information used to define our traditional territories are our songs, creation accounts and oral traditions.

Luiseño history originates with the creation of all things at *'éxva Teméeku*, the present day City of Temecula, and dispersing out to all corners of creation (what is today known as Luiseño territory). It was at Temecula that the Luiseño deity *Wuyóot* lived and taught the people, and here that he became sick, finally expiring at Lake Elsinore. Many of our songs relate the tale of the people taking the dying *Wuyóot* to the many hot springs at Elsinore, where he died (DuBois 1908). He was cremated at *'éxva Teméeku*. It is the Luiseño creation account that connects Elsinore to Temecula, and thus to the Temecula people who were evicted and moved to the Pechanga Reservation, and now known as the Pechanga Band of Luiseño Mission Indians (the Pechanga Tribe). From Elsinore, the people spread out, establishing villages and marking their territories. The first people also became the mountains, plants, animals and heavenly bodies.

Many traditions and stories are passed from generation to generation by songs. One of the Luiseño songs recounts the travels of the people to Elsinore after a great flood (DuBois 1908). From here, they again spread out to the north, south, east and west. Three songs, called *Moniivol*, are songs of the places and landmarks that were destinations of the Luiseño ancestors, several of which are located near the Project area. They describe the exact route of the Temecula

³ D. L. True, C. W. Meighan, and Harvey Crew. Archaeological Investigations at Molpa, San Diego County, California, *University of California Press* 1974 Vol. 11, 1-176

(Pechanga) people and the landmarks made by each to claim title to places in their migrations (DuBois 1908:110).

Tóota yixélval (rock art) is also an important element in the determination of Luiseño territorial boundaries. *Tóota yixélval* can consist of petroglyphs (incised) elements, or pictographs (painted) elements. The science of archaeology tells us that places can be described through these elements. Riverside and Northern San Diego Counties are home to red-pigmented pictograph panels. Archaeologists have adopted the name for these pictograph-versions, as defined by Ken Hedges of the Museum of Man, as the San Luis Rey style. The San Luis Rey style incorporates elements which include chevrons, zig-zags, dot patterns, sunbursts, handprints, net/chain, anthropomorphic (human-like) and zoomorphic (animal-like) designs. Tribal historians and photographs inform us that some design elements are reminiscent of Luiseño ground paintings. A few of these design elements, particularly the flower motifs, the net/chain and zig-zags, were sometimes depicted in Luiseño basket designs and can be observed in remaining baskets and textiles today.

An additional type of *tóota yixélval*, identified by archaeologists also as rock art or petroglyphs, are cupules. Throughout Luiseño territory, there are certain types of large boulders, taking the shape of mushrooms or waves, which contain numerous small pecked and ground indentations, or cupules. Many of these cupule boulders have been identified within a few miles of the Project. Additionally, according to historian Constance DuBois:

When the people scattered from Ekvo Temeko, Temecula, they were very powerful. When they got to a place, they would sing a song to make water come there, and would call that place theirs; or they would scoop out a hollow in a rock with their hands to have that for their mark as a claim upon the land. The different parties of people had their own marks. For instance, Albañas's ancestors had theirs, and Lucario's people had theirs, and their own songs of Munival to tell how they traveled from Temecula, of the spots where they stopped and about the different places they claimed (1908:158).

As you may know, the City of Oceanside is rich with Luiseño history, not only relating to the Mission Period of California but also centuries before European contact. This history is very important to the Luiseño People. The Tribe is aware of multiple place names and cultural resources that will be impacted by the proposed changes to the City's Circulation element. For example, there are 11 traditional names that are located on or within a close vicinity to SR76. There are many more, as well as Village Complexes and habitation sites, that are located very near portions of the proposed Project as well.

Thus, our songs and stories, our indigenous place names, as well as academic works, demonstrate that the Luiseño people who occupied what we know today as the City of Oceanside are ancestors of the present-day Luiseño people, and as such, Pechanga is culturally affiliated to this geographic area.

The Tribe welcomes the opportunity to meet with the City of Oceanside to further explain and provide documentation concerning our specific cultural affiliation to lands within your jurisdiction, as well as the sensitive resources located therein.

PROJECT IMPACTS TO CULTURAL RESOURCES

The Pechanga Tribe understands that the San Luis Rey Band of Mission Indians has traditionally been the Lead Tribe in the City of Oceanside. These comments are being submitted to provide additional information and traditional knowledge to the City and in assistance to the San Luis Rey Band. We also understand that the proposed GPA 10-0001 will be used as a planning tool by the City for future development, and that no development is proposed at this time. However, the proposed GPA is located in a *highly sensitive* region of Luiseño territory and the Tribe knows that the possibility for recovering cultural resources during any ground-disturbing activities is high. The Tribe has over thirty-five (35) years of experience working with various types of construction projects throughout its territory. The combination of this knowledge and experience, along with the knowledge of the culturally-sensitive areas and oral tradition, is what the Tribe relies on to make fairly accurate predictions regarding the likelihood of subsurface resources in a particular location.

The Tribe believes this culturally sensitive area has been used by the Luiseño since time immemorial. There is an unbroken, consistent archaeological and oral record of use in this area since before European settlers, through the various Mission, Rancho and later time periods to modern use today. The Tribe knows that cultural sites and traditional place names within this GPA are connected to a larger network of extensively used village complexes/habitation areas that extend for many miles in every direction. As such, any plans created or modified during this GPA have the potential to negatively impact cultural resources.

Given the sensitivity of the area, inadvertent discoveries are foreseeable impacts and must be appropriately mitigated for by the City. It is imperative that adequate cultural resources assessments be performed in conjunction with any Projects proposed within the GPA boundaries and to continue consultation with the Tribe during this Project and future proposed Developments. The identification of surface resources during an archaeological survey should not be the sole determining factor in deciding whether mitigation measures for inadvertent discoveries are required. The cultural significance of the area, provided in consultation with the Pechanga Tribe, should play a large part in determining whether specifications concerning unanticipated discoveries should be included.

REQUESTED TRIBAL INVOLVEMENT AND MITIGATION

The proposed Project is on land that is within the traditional territory of the Luiseño Peoples and therefore, the Pechanga Band of Luiseño Indians. The Tribe is not opposed to this

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General Plan Amendment. The Tribe's primary concerns stem from the proposed impacts on Native American cultural resources that may occur during future development. The Tribe is concerned about both the protection of unique and irreplaceable cultural resources, such as Luiseño village sites, sacred sites and archaeological items which could be displaced by ground disturbing work on the Project, and on the proper and lawful treatment of cultural items, Native American human remains and sacred items likely to be discovered in the course of the work.

The Tribe requests to be involved in the Project and to participate with the City in developing all monitoring and mitigation plans and measures for the duration of the GPA and on future proposed development projects. In addition, given the sensitivity of the lands within the GPA, it is the position of the Tribe that Luiseño tribal monitors, preferably from the San Luis Rey Band because of their long-standing participation in Oceanside projects, be required to be present during all cultural resource surveys, and archaeological and ground-disturbing activities conducted in connection with this GPA.

Even though the GPA itself does not anticipate ground-disturbing activities, the Tribe would like to note that for future developments, provisions for inadvertent discoveries of cultural resources must be required as appropriate mitigation measures (CEQA Guidelines §15064.5). These measures must also address the inadvertent discovery of human remains.

PROJECT MITIGATION MEASURES

The Pechanga Tribe will itself engage in further assessment of the GPA area, in consultation with tribal elders, to identify more specific information about this culturally sensitive area. The Tribe understands that environmental documents still must be prepared. The Tribe requests that the City work directly with the Tribe and with the San Luis Rey Band to thoroughly evaluate and assess potential impacts within the GPA area, including any potential off-site impacts. Moreover, the Tribe possesses necessary information about the archaeological and cultural sensitivity that archaeological surveys alone will not reveal, and should be consulted with at the earliest possible stage of the environmental review for proposed development projects within the GPA to assist in identifying and mitigating the cultural resources impacts. In the event that archaeological surveys and/or studies will be prepared, the Tribe requests to be included on all site visits and surveys to assist the Project Archaeologist in fully assessing impacts to cultural resources, along with a representative from the San Luis Rey Band.

Because the proposed GPA does not itself require ground-disturbing activities and it is therefore not possible to develop appropriate mitigation measures at this time, please note that mitigation for individual projects proposed under the new land use/zoning designations will be required. The DEIR should note that mitigation measures for future projects should be prepared in consultation with the Pechanga Tribe and the San Luis Rey Band and must adequately address probable impacts to the cultural resources located within the GPA's boundaries.

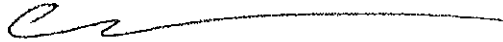
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Sacred Is The Duty Trusted Unto Our Care And With Honor We Rise To The Need

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The Pechanga Tribe looks forward to working together and continuing consultation with the City of Oceanside in protecting the invaluable Pechanga cultural resources found in the GPA area. Please contact me at 951-308-9295 X8104 once you have had a chance to review these comments so that we might address the issues concerning the mitigation language. Thank you.

Sincerely,



Anna Hoover
Cultural Analyst

Cc Pechanga Office of the General Counsel

*Pechanga Cultural Resources • Temecula Band of Luiseño Mission Indians
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Sacred Is The Duty Trusted Unto Our Care And With Honor We Rise To The Need

Scott Nightingale

From: Anna Hoover [ahoover@pechanga-nsn.gov]
Sent: Friday, May 07, 2010 10:44 AM
To: Scott Nightingale
Cc: Tina Johnson
Subject: Pechanga comments to Request for SB18 Consultation for GPA 10-00001
Attachments: Pechanga Cmnts SB18 GPA10-0001 final 5.6.10.pdf

Mr. Nightingale;

Electronically attached are the Pechanga Tribe's comments regarding the request for SB18 consultation dated February 8, 2010 and received in our offices February 25, 2010. Please respond to this e-mail for confirmation of receipt. A hard copy will also follow via USPS.

Please do not hesitate to contact me should the attachment not open or if you have any questions or comments.

Thank you!

Anna M. Hoover
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