

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



RECEIVED BY
PLANNING DEPARTMENT

APR 07 2009

April 2, 2009

Ms. Debby Linn
CITY OF NEWPORT BEACH
3300 Newport Boulevard
Newport Beach, CA 92685

CITY OF NEWPORT BEACH

Re: SCH#2007011061; CEQA Notice of Completion; draft Environmental Impact Report (DEIR); for the Newport Banning Ranch Project; City of Newport Beach; Orange County, California

Dear Ms. Linn:

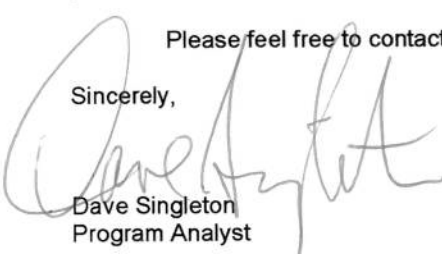
The Native American Heritage Commission (NAHC) is the state 'trustee agency' pursuant to Public Resources Code §21070 designated to protect California's Native American Cultural Resources. The California Environmental Quality Act (CEQA) requires that any project that causes a substantial adverse change 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 2007 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 action:

- ✓ Contact the appropriate California Historic Resources Information Center (CHRIS) for possible 'recorded sites' in locations where the development will or might occur.. Contact information for the Information Center nearest you is available from the State Office of Historic Preservation (916/653-7278)/ <http://www.ohp.parks.ca.gov>. The record search will determine:
 - If a part or the entire APE has been previously surveyed for cultural resources.
 - If any known cultural resources have already been recorded in or adjacent to the APE.
 - If the probability is low, moderate, or high that cultural resources are located in the APE.
 - If a survey is required to determine whether previously unrecorded cultural resources are present.
- ✓ If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.
 - The final report containing site forms, site significance, and mitigation measures should be submitted immediately to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum, and not be made available for public disclosure.
 - The final written report should be submitted within 3 months after work has been completed to the appropriate regional archaeological Information Center.
- ✓ The Native American Heritage Commission (NAHC) performed:
 - * A Sacred Lands File (SLF) search of the project 'area of potential effect (APE)': The results: Numerous known Native American Cultural Resources were identified within one-half mile of the 'area of potential effect' (APE). However the NAHC SLF is not exhaustive and local tribal contacts should be consulted from the attached list and there are Native American cultural resources in close proximity..
 - The NAHC advises the use of Native American Monitors, also, when professional archaeologists or the equivalent are employed by project proponents, in order to ensure proper identification and care given cultural resources that may be discovered. The NAHC, FURTHER, recommends that contact be made with Native American Contacts on the attached list to get their input on potential IMPACT of the project (APE) on cultural resources.. In some cases, the existence of a Native American cultural resources may be known only to a local tribe(s) or Native American individuals or elders.
 - ✓ Lack of surface evidence of archeological resources does not preclude their subsurface existence.
 - Lead agencies should include in their mitigation plan provisions for the identification and evaluation of accidentally discovered archeological resources, per California Environmental Quality Act (CEQA) §15064.5 (f). In areas of identified archaeological sensitivity, a certified archaeologist and a culturally affiliated Native American, with knowledge in cultural resources, should monitor all ground-disturbing activities.
 - Again, a culturally-affiliated Native American tribe may be the only source of information about a Sacred Site/Native American cultural resource.

- Lead agencies should include in their mitigation plan provisions for the disposition of recovered artifacts, in consultation with culturally affiliated Native Americans.
- ✓ Lead agencies should include provisions for discovery of Native American human remains or unmarked cemeteries in their mitigation plans.
 - * 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.
- ✓ 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

Native American Contact

Orange County
April 2, 2009, 2009

Ti'At Society

Cindi Alvitre

6515 E. Seaside Walk, #C
Long Beach , CA 90803

calvitre@yahoo.com

(714) 504-2468 Cell

Gabrielino

Gabrielino Tongva Nation

Sam Dunlap, Tribal Secretary

P.O. Box 86908

Los Angeles , CA 90086

samdunlap@earthlink.net

Gabrielino Tongva

(909) 262-9351 - cell

Juaneno Band of Mission Indians Acjachemen Nation

David Belardes, Chairperson

32161 Avenida Los Amigos

San Juan Capistrano , CA 92675

DavidBelardes@hotmail.com

(949) 493-0959

(949) 493-1601 Fax

Juaneno

Juaneno Band of Mission Indians Acjachemen Nation

Anthony Rivera, Chairman

31411-A La Matanza Street

San Juan Capistrano , CA 92675-2674

arivera@juaneno.com

949-488-3484

949-488-3294 Fax

Juaneno

Tongva Ancestral Territorial Tribal Nation

John Tommy Rosas, Tribal Admin.

tattnlaw@gmail.com

310-570-6567

Gabrielino Tongva

Gabrielino Tongva Indians of California Tribal Council

Robert Dorame, Tribal Chair/Cultural Resources

P.O. Box 490

Bellflower , CA 90707

gtongva@verizon.net

562-761-6417 - voice

562-925-7989 - fax

Gabrielino Tongva

Gabrielino/Tongva San Gabriel Band of Mission

Anthony Morales, Chairperson

PO Box 693

San Gabriel , CA 91778

(828) 286-1262 -FAX

(626) 286-1632

(626) 286-1758 - Home

(626) 286-1262 Fax

Gabrielino Tongva

Juaneno Band of Mission Indians

Alfred Cruz, Culural Resources Coordinator

P.O. Box 25628

Santa Ana , CA 92799

alfredgcruz@sbcglobal.net

714-998-0721

slfredgcruz@sbcglobal.net

Juaneno

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

Distribution of this list does not relieve any person of statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5097.94 of the Public Resources Code and Section 5097.98 of the Public Resources Code.

This list is only applicable for contacting local Native Americans with regard to cultural resources for the proposed SCH#2009031061; CEQA Notice of Preparation (NOP); draft Environmental Impact Report (DEIR) for the Newport Banning Ranch Project; City of Newport Beach; Orange County, California.

Native American Contact

Orange County
April 2, 2009, 2009

Juaneno Band of Mission Indians
Adolph 'Bud' Sepulveda, Vice Chairperson
P.O. Box 25828 Juaneno
Santa Ana , CA 92799
bssepul@yahoo.net
714-838-3270
714-914-1812 - CELL
bsepul@yahoo.net

Juaneño Band of Mission Indians
Sonia Johnston, Tribal Chairperson
P.O. Box 25628 Juaneno
Santa Ana , CA 92799
sonia.johnston@sbcglobal.net
(714) 323-8312

Juaneno Band of Mission Indians
Anita Espinoza
1740 Concerto Drive Juaneno
Anaheim , CA 92807
(714) 779-8832

Juaneno Band of Mission Indians
Joe Ocampo, Chairperson
1108 E. 4th Street Juaneno
Santa Ana , CA 92701
joeaocampo@netzero.com
(714) 547-9676
(714) 623-0709-cell

United Coalition to Protect Panhe (UCPP)
Rebecca Robles
119 Avenida San Fernando Juaneno
San Clemente , CA 92672
(949) 573-3138

Gabrielino-Tongva Tribe
Felicia Sheerman, Chairperson
501 Santa Monica Blvd, # 500 Gabrielino
Santa Monica , CA 90401
(310) 587-2203
(310) 428-7720 - cell
(310) 587-2281
fsheerman1@GabrielinoTribe.

Gabrielino-Tongva Tribe
Bernie Acuna
501 Santa Monica Blvd, # 500 Gabrielino
Santa Monica , CA 90401
(310) 587-2203
(310) 428-7720 - cell
(310) 587-2281

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This list is only applicable for contacting local Native Americans with regard to cultural resources for the proposed SCH#2009031061; CEQA Notice of Preparation (NOP); draft Environmental Impact Report (DEIR) for the Newport Banning Ranch Project; City of Newport Beach; Orange County, California.



GABRIELINO-TONGVA TRIBE

A California Indian Tribe historically known as San Gabriel Band of Mission Indians

501 Santa Monica Blvd., Ste. 500, Santa Monica, CA 90401-2490

www.gabrielinotribe.org • tel: (310) 587-2203 • fax: (310) 587-2281

April 6, 2009

Debby Linn, Contract Planner
City of Newport Beach
Planning Department
3300 Newport Boulevard
Newport Beach, CA 92658

Reference: Newport Banning Ranch
Native American Monitoring/Most Likely Descendant

Dear Debby:

The above referenced project is in a highly sensitive cultural area and the project can have potentially significant impacts to archaeological resources, paleontological resources and burial sites. Due to the fact it is our concern that the City of Newport Beach appoints Native American Monitors from the largest faction of the Tribe to represent this project.

We are the largest faction of the Gabrielino-Tongva Tribe, with over 85% of descendants of the historic Gabrielino Tribe. We have approximately 1,600 members and the next largest faction has less than 150 members. A membership Table is enclosed to help guide you through the various factions of the Tribe.

We strongly recommend the City of Newport Beach hire Native American monitors approved by our faction. The contact information for the six approved six monitors is enclosed. Their work is arranged through our administrative headquarters which is staffed fulltime.

The Tribe has had continuing problems in the past with Native American monitors that are not approved by the Tribe, including Anthony Morales, Sam Dunlap & Robert Dorame.

Native American Monitoring projects under the supervision of monitors not approved by our Tribe have been delayed, have caused controversy, and have lead to difficult inter- and intra-tribal relationships.

In particular, the above stated individuals and other Most Likely Descendents misrepresent our Tribe by failing to consult with our Tribe on sensitive archaeological findings and reburial issues. These controversies have been extremely painful for our elders who were not invited to participate in reburials for our ancestors.

Tribal Council

Hon. Bernie Acuna
Hon. Charles Alvarez
Hon. Linda Candelaria

Hon. Martha Gonzalez Lemos
Hon. Felicia Sheerman

Tribal Administrator: Barbara Garcia
Tribal Controller: Steven K. Johnson

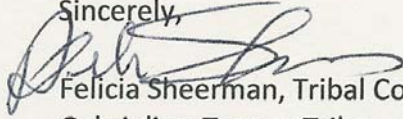


From left to right: Councilman Charles Alvarez, Councilwoman Linda Candelaria, Councilwoman Martha Gonzalez, Councilwoman Felicia Sheerman, Councilman Bernie Acuna

Name of Tribal Faction (Updated on January 29, 2009)	Class B Members (BIA documentation)	Class C Members (no documentation)
Gabrielino-Tongva Tribe, a California Indian Tribe historically known as San Gabriel Band of Mission Indians (www.gabrielinotribe.org) (1630 members, 85.7% of all members)	646 (87 %)	984 (85%)
Gabrielino/Tongva Nation (Sam Dunlap, Virginia Carmelo, www.tongvatribenet.net) (238 members, 12.5% of all members)	65 (9%)	173 (15%)
Gabrielino-Tongva Indians of San Gabriel Band, (Anthony Morales, www.tongva.com) (28 members, 1.5% of all members)	28 (4%)	None (0%)
Beaumont Group (no formal name, no website) (6 members, 0.32% of all members)	None (0%)	6 (1/2%)
Coastal Gabrielinos & Dieguenos (no formal name, no website)	Unknown	Unknown
Totals (1902 All Members)	739 (100%)	1163 (100%)

Please also see the attached most updated NA Contact List from the Native American Heritage Commission. We're requesting the City of Newport Beach in making the ethical choice in selecting a Native American Monitor/MLD for your project.

Sincerely,

A handwritten signature in black ink, appearing to read 'Felicia Sheerman', written over the printed name.

Felicia Sheerman, Tribal Councilwoman
Gabrielino-Tongva Tribe

Enclosures

Native American Contact

Los Angeles County

March 26, 2009

Ti'At Society

Cindi Alvitre

6515 E. Seaside Walk, #C
Long Beach, CA 90803

calvitre@yahoo.com

(714) 504-2468 Cell

Gabrielino

Gabrielino Tongva Indians of California Tribal Council

Robert Dorame, Tribal Chair/Cultural Resources

P.O. Box 490

Bellflower, CA 90707

gtongva@verizon.net

562-761-6417 - voice

562-925-7989 - fax

Gabrielino Tongva

Tongva Ancestral Territorial Tribal Nation

John Tommy Rosas, Tribal Admin.

tattnlaw@gmail.com

310-570-6567

Gabrielino Tongva

Gabrielino-Tongva Tribe

Felicia Sheerman

501 Santa Monica Blvd, # 500 Gabrielino

Santa Monica, CA 90401

(310) 587-2203

(310) 428-7720 - cell

(310) 587-2281 FAX

fsheerman1@GabrielinoTribe.org

Gabrielino/Tongva San Gabriel Band of Mission

Anthony Morales, Chairperson

PO Box 693

San Gabriel, CA 91778

(828) 286-1262 -FAX

(626) 286-1632

(626) 286-1758 - Home

(626) 286-1262 Fax

Gabrielino Tongva

Gabrielino Tongva Nation

Sam Dunlap, Tribal Secretary

P.O. Box 86908

Los Angeles, CA 90086

samdunlap@earthlink.net

Gabrielino Tongva

(909) 262-9351 - cell

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This list is only applicable for contacting local Native Americans with regard to cultural resources for the proposed Telecommunications Facility Project No. IE25736-A; located in the City of Walnut; Los Angeles County, California for which a Sacred Lands File search and Native American Contacts list were requested.

List of Approved Native American Monitors/Most Likely Descendant

- 1) Robert Dominguez
- 2) Bernie Acuna
- 3) Charles Alvarez
- 4) Linda Candelaria
- 5) Martha Gonzalez Lemos
- 6) Felicia Sheerman

Please use the following contact information for all Monitors:

Gabrielino-Tongva Tribe
501 Santa Monica Blvd, Suite 500
Santa Monica, CA 90401
Phone: (310) 587-2203
Cell: (310) 428-7720
Fax: (310) 587-2281

Most Likely Descendant Approved by the Native American Heritage Commission:

Bernie Acuna, Gabrielino-Tongva, Most Likely Descendant

Please use the following contact information for MLD:

Gabrielino-Tongva Tribe
501 Santa Monica Blvd, Suite 500
Santa Monica, CA 90401
Phone: (310) 587-2203
Cell: (310) 428-7720
Fax: (310) 587-2281

STATE OF CALIFORNIA

Arnold Schwarzenegger, Governor

NATIVE AMERICAN HERITAGE COMMISSION

915 CAPITOL MALL, ROOM 864
SACRAMENTO, CA 95814
(916) 653-6251
Fax (916) 657-5390
Web Site www.nahc.ca.gov
e-mail: ds_nahc@pacbell.net



May 5, 2009

Mr. Patrick O. Maxon, RPA, Director – Cultural Resources
Bonterra Consulting on behalf of
CITY OF NEWPORT BEACH
151 Kalmus Drive, Suite E-200
Costa Mesa, CA 92626

Sent by FAX to: 714-444-9599 & 562-433-9444 (Debby Linn)
Number of pages: 2

Re: Tribal Consultation Per SB 18(CA Gov. Code §§65352.3, 65352.4, 65560) and Sacred Lands
File Search for Project- General Plan Amendment for Banning Ranch Project; Located in the
City of Newport Beach; Orange County, California

Dear Mr. Maxon:

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.

As a part of consultation, the NAHC recommends that local governments conduct record searches through the NAHC and California Historic Resources Information System (CHRIS) (please contact Stacy St. James at Cal State Fullerton (714-278-5395) to determine if any cultural places are located within the area(s) affected by the proposed action.

A NAHC Sacred Lands File search was conducted based on the township, range, and section information included in your request and Native American Cultural sites were identified within the area of potential effect (APE) you identified. Therefore, the NAHC urges caution with any ground-breaking activity in the APE. Also, local governments should be aware that records maintained by the NAHC and CHRIS are not exhaustive, and a negative response to these searches does not preclude the existence of a cultural place. 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 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 Contacts

Native American Tribal Consultation List
Orange County
May 5, 2009

Juaneno Band of Mission Indians Acjachemen Nation

David Belardes, Chairperson

32161 Avenida Los Amigos Juaneno

San Juan Capistrano , CA 92675

DavidBelardes@hotmail.com

(949) 493-0959

Gabrielino/Tongva San Gabriel Band of Mission

Anthony Morales, Chairperson

PO Box 693 Gabrielino Tongva

San Gabriel , CA 91778

(828) 286-1262 -FAX

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(626) 483--3564 cell

Gabrielino Tongva Nation

Sam Dunlap, Tribal Secretary

P.O. Box 86908 Gabrielino Tongva

Los Angeles , CA 90086

samdunlap@earthlink.net

(909) 262-9351 - cell

Juaneno Band of Mission Indians Acjachemen Nation

Anthony Rivera, Chairman

31411-A La Matanza Street Juaneno

San Juan Capistrano , CA 92675-2674

arivera@juaneno.com

949-488-3484

949-488-3294 Fax

Juaneño Band of Mission Indians

Sonia Johnston, Tribal Chairperson

P.O. Box 25628

Santa Ana , CA 92799 Juaneno

sonia.johnston@sbcglobal.net

(714) 323-8312

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This list is applicable only for consultation with Native American tribes under Government Code Section 65352.3.



JUANEÑO BAND OF MISSION INDIANS ACJACHEMEN NATION

Tribal Council

Anthony Rivera, Jr. • Chairman Fran Yorba • Vice Chair
Nathan K. Banda • Secretary Treasurer
Chris M. Lobo • Member at Large Cecelia V. Martinez • Member at Large

May 19, 2009

Debby Linn, Contract Planner
City of Newport Beach
3300 Newport Boulevard
Newport Beach, CA 92658-8915

**RE: Invitation to Consult under Senate Bill (SB) 18, (Government code 65352.3):
General Plan Amendment for the Newport Banning Ranch Project, Newport Beach, CA.**

The Juaneño Band of Mission Indians, Acjachemen Nation (the “Tribe”), a State-recognized Native American Indian Tribe, and the indigenous people of Orange County and surrounding areas including but not limited to the proposed project areas, submit comment on the City’s Planning Department request for consultation of proposed project and General Plan Amendment in the City of Newport Beach, California.

The Tribe would like to thank you for the opportunity to engage in government to government consultation between the City of Newport Beach Planning Department and the Juaneño Band of Mission Indians, Acjachemen Nation. We are pleased that the City of Newport Beach wishes to receive the Tribe’s comments and concerns regarding the planning and development of projects. We are providing this letter to address concerns related to the proposed project and express the cultural importance and significance of the project area located in the City of Newport Beach, California.

The Tribe requests a private and confidential consultation with the Newport Beach Planning Department as part of the process for consulting with Native American Indian tribes during the adoption or amendment of local general plans or specific plans, in accordance with the statutory requirements of California Government Code section 65352.3. Tribe wishes to establish this practice as the standard protocol for future consultations under the statutory requirements of California Government Code section 65352.3. As ancient inhabitants of Newport Beach, we are extremely concerned with the treatment and protection of our ancestral homeland and cultural heritage of the Tribe within the project area. The current project demonstrates a possibility of inadvertent discovery of cultural resources due to the presence of Cultural Resources within the project area, therefore, the Tribe requires direct comment on the amending of the General and Specific Plans in favor of this project. The Tribe requests that a treatment and Native American monitoring plan be agreed upon between the Tribe, the City, and Developer in order to establish preventive measures and in the case of inadvertent discovery of Acjachemen cultural resources and or burial remains. Finally, the Tribe requires that the Newport Beach Planning Department

continue to work directly with the Governing Body of the Tribe under the leadership of Chairman Anthony Rivera Jr. in any and all amendments, adjustments, and improvements of the project plan. The Tribe can also assist the City by taking the lead to facilitate additional input from other Native American interested parties. The Tribe appreciates being added to all future public notices and community correspondence in order to be kept apprised of the project's status.

In conclusion, the Tribe is a State-recognized Tribe, designated as the "Governing Body" of the Acjachemen Nation by the U.S. Department of Interior, and a licensed and insured tribal corporation and therefore has authority to consult in behalf of the Tribe. Again, the Tribe wishes to work cooperatively with the City and Developer to accomplish the goals of the project. Thank you for contacting the Tribe and we look forward to continued consultation. Please contact myself via email at arivera@juaneno.com or Jim Rivera, Project Manager, by email at jrivera@juaneno.com. You may also notify our Tribal Office by phone (949) 488-3484, fax (949) 488-3294, or via the internet at www.juaneno.com should you have any questions or comments.

Sincerely,

A handwritten signature in blue ink that reads "Anthony Rivera, Jr." with a stylized flourish at the end.

Anthony Rivera, Jr.
Tribal Chairman
Juaneño Band of Mission Indians,
Acjachemen Nation
949.488.3484
arivera@juaneno.com

cc: Dave Singleton, Native American Heritage Commission