

## NATIVE AMERICAN HERITAGE COMMISSION

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RECEIVED BY  
 PLANNING DEPARTMENT

May 4, 2009

MAY 03 2009

CITY OF NEWPORT BEACH

Mr. Jaime Murillo, Planner  
**CITY OF NEWPORT BEACH**  
 3300 Newport Boulevard  
 Newport Beach, CA 92685-8915

Re: SCH#2009041010: CEQA Notice of Preparation (NOP): draft Environmental Impact Report (DEIR) for The Newport Beach City Hall and Park Development Plan Project located in the City of Newport Beach; Orange County, California

Dear Mr. Murillo:

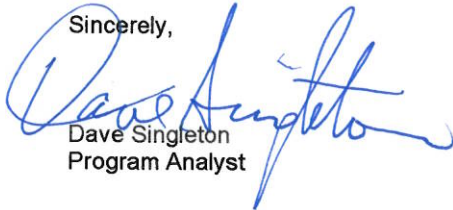
The Native American Heritage Commission (NAHC) is the state 'trustee agency' pursuant to Public Resources Code §21070 designated to protect California's Native American Cultural Resources. The California Environmental Quality Act (CEQA) requires that any project that causes a substantial adverse change 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: No known Native American Cultural Resources were identified within one-half mile of the 'area of potential effect' (APE).. However, there are Native American cultural resources in close proximity to the APE. The NAHC urges caution with any ground-breaking activity. Also, 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  
May 4, 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  
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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

Juaneno Band of Mission Indians  
Alfred Cruz, Culural Resources Coordinator  
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Santa Ana , CA 92799  
alfredgacruz@sbcglobal.net  
714-998-0721  
slfredgacruz@sbcglobal.net  
Juaneno

Gabrieleno/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  
Adolph 'Bud' Sepulveda, Vice Chairperson  
P.O. Box 25828  
Santa Ana , CA 92799  
bssepul@yahoo.net  
714-838-3270  
714-914-1812 - CELL  
bsepul@yahoo.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#2009041010; CEQA Notice of Preparation (NOP) and draft draft Environmental Impact Report (DEIR) for the Newport Beach City Hall and Park Development Plan Project; located in the City of Newport Beach; Orange County, California.

**Native American Contact**  
Orange County  
May 4, 2009

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

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

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