



PECHANGA CULTURAL RESOURCES
Temecula Band of Luiseño Mission Indians

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April 8, 2013

VIA E-MAIL and USPS

Mr. Mark Gross, AICP
Senior Planner
City of Moreno Valley
Community and Economic Development Dept
14177 Frederick Street
Moreno Valley, CA 92552

Re: Pechanga Tribe Comments on the Draft Environmental Impact Report for the World Logistics Center Project (SCH#2012021045), General Plan Amendment PA12-0010, Development Agreement PA12-0011, Change of Zone PA12-0012, Specific Plan PA12-0013, Annexation PA12-0014, Tentative Parcel Map PA12-0015

Dear Mr. Gross:

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"). The Tribe requests to be directly notified of all public hearings and scheduled approvals concerning this Project. Please also incorporate these comments into the record of approval for this Project.

The Tribe submits these comments concerning the Project's proposed impacts to cultural resources in conjunction with the environmental review of the Project and to assist the City in developing appropriate avoidance and preservation standards for the significant Luiseño Village Complex that the Project will be impacting. The Tribe is very concerned that the proposed mitigation measures do not adequately provide for protection of the cultural resources located within the Project boundaries and those that could be impacted during development and off-site improvements. The Draft Environmental Impact Report (DEIR) states that there will be no impacts to cultural resources/archaeological sites; however, it appears that a portion of P-33-15046/CA-RIV-8007 may be impacted by development and there is very little discussion of CA-RIV-2993 that could be directly impacted by the construction of a water tank.

The Tribe does not agree that the cultural sites located within the Project area are not significant per CEQA and have provided information to the City and the Project archaeologist in

Chairperson:
Germaine Arenas

Vice Chairperson:
Mary Bear Magee

Committee Members:
Evie Gerber
Darlene Miranda
Bridgett Barcello Maxwell
Aurelia Marruffo
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Director:
Gary DuBois

Coordinator:
Paul Macarro

Cultural Analyst:
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our NOP/SB18 comments and in our SB18 consultation describing this significant Village Complex that extends much farther southward along Mt. Russell. The City, Developer and archaeologist seem to have disregarded the Tribe's input about this traditional cultural landscape and have not taken the information into account when analyzing the sites and the impacts to them. Additionally, the DEIR states that a public trail will pass through sensitive cultural locations. There must be mitigation provided in the DEIR to guide and protect any resources from impacts, including a long-term management plan to be developed between the Developer/Applicant and the Pechanga Tribe. Finally, the Tribe is concerned that the archaeological study has been included in the DEIR Technical Appendices. Archaeological studies are considered exempt from the Public Record and provided only on an as needed basis. Sensitive cultural information can be found in the document and the Tribe believes it is inappropriate to include it for public review. More information on this concern is provided below.

**THE CITY OF MORENO VALLEY 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 Pechanga Tribe's traditional territory. Therefore, in order to comply with CEQA and other applicable Federal and California law, it is imperative that the City of Moreno Valley consult with the Tribe in order to guarantee an adequate knowledge base for an appropriate evaluation of the Project effects, as well as generating adequate mitigation measures.

As the City is processing a General Plan Amendment and a Specific Plan for this Project, the City is required to consult with the Pechanga Tribe 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 any Native American sacred places and any geographical areas which could potentially yield sacred places, identify 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)). Consultation must be government-to-government, meaning 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)).

¹See e.g., Executive Memorandum of April 29, 1994 on Government-to-Government Relations with Native American Tribal Governments, Executive Order of November 6, 2000 on Consultation and Coordination with Indian Tribal Governments, Executive Memorandum of September 23, 2004 on Government-to-Government Relationships with Tribal Governments, and Executive Memorandum of November 5, 2009 on Tribal Consultation.

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

Lastly, any information conveyed to the Lead Agency concerning Native American sacred places shall be confidential in terms of the specific identity, location, character and use of those places and associated features and objects. This information is not subject to public disclosure pursuant the California Public Records Act (Cal. Govt. C. 6254(r)).

The Tribe met with the City and subsequently the Applicant on May 30, 2012 with the City pursuant to SB18. At that time, we requested to be sent copies of the Specific Plan, Parcel Map, development plans, archaeological study and geotechnical reports and received all documents by October 8, 2012. We were further provided the opportunity to visit the cultural sites on the Property August 22, 2012. The City has consistently maintained contact with the Tribe throughout the process. Therefore, we are concerned that the City did not include our March 16, 2012 comment letter submitted for the Notice of Preparation (NOP) and SB18 in the DEIR. We hope this was just an oversight and request that the Final EIR be updated to include our letter and requested comments.

CONFIDENTIALITY OF ARCHAEOLOGICAL STUDIES AND CULTURAL INFORMATION

Protection of archaeological and cultural sites and resources is of critical importance because they are non-renewable resources and easily damaged. Multitudes of amateur archaeologists and explorers roam undeveloped areas in search of “buried treasures.” Anything that provides any information regarding the probable location of a site or the contents of a site is thus more fodder for those who would destroy or pilfer our Tribe’s and the State’s cultural heritage. When SB18, the law designed to protect California Native American cultural heritage, was enacted it clearly indicated that “each city and county [shall] protect the confidentiality of information concerning” cultural resources. (SB 18 §1(b)(3); Govt. Code §§ 65040.2(g)(3), 65352.3, 65352.4, and 65352.5.)

The State of California and its municipalities recognize the importance of protecting archaeological resources through confidentiality of information regarding the resource in other laws and regulations as well. According to the California Office of Historic Preservation, “Archaeological and Traditional Cultural Property (TCP) locations are generally considered confidential and public access to such information is restricted by laws, including: Section 304 of the National Historic Preservation Act, Section 9(e) of the Archaeological Resources Protection Act, Executive Order 13007 and Sections 6254(r) and 6254.10 of the California State Government Code.” Other State agencies and local governments provide assurances within their practices, rules and ordinances for the protection of archaeological, historical and cultural sites and resources through confidentiality of information. (See, e.g. California’s Forest Practice Rules for the Protection of Archaeological, Historical and Cultural Sites, Title 14 CCR; City of Morro Bay Coastal Land Use Plan; County of Riverside Planning Department Cultural Resources Investigations Standard Scopes of Work; and County of San Diego Report Formant and Content Requirements, Cultural Resources.)

More importantly, however, the California Historical Resources Information System (“CHRIS”) allows certain individuals, organizations and governmental entities access to archaeological records, but only after signing a confidentiality agreement. By signing the agreement, an individual, organization or governmental entity agrees to keep archaeological site content and location information confidential by not disclosing archaeological information to unauthorized individuals or including it in publicly distributed documents. A failure to comply with the agreement could mean denial of access to CHRIS information.

As such, multiple jurisdictions make a practice of limiting archaeological information provided in public documents, acknowledging that publication of, or even general public access to, such things as site maps, site records, archaeological reports, and cultural surveys are both prohibited by law and potentially harmful to the resources. Thus, for the protection of the cultural resources located within the Project area, we request that the City remove immediately the archaeological study that was mistakenly published with the other portions of the DEIR.

PECHANGA CULTURAL AFFILIATION TO PROJECT AREA

The Pechanga Tribe has a specific legal and cultural interest in this Project as the Tribe is culturally affiliated with the geographic area that comprises the Project property. The Tribe has been the named the consulting tribe on projects in the vicinity of the proposed Project, and, contrary to statements in the archaeological study that the Tribe did not provide information, has specific knowledge of cultural resources and sacred places within/near the proposed Project that we shared with the City, Applicant and archaeologist. The Tribe asserts that this culturally sensitive area is affiliated specifically with the Pechanga Band of Luiseño Indians because of the Tribe’s specific cultural ties to this area. Pechanga considers any resources located on this Project property to be Pechanga cultural resources and we look forward to working directly with the City to continue preserving and avoiding these sensitive tribal cultural resources. Although the Tribe provided the following in our NOP/SB18 comments, we have included it again for the DEIR.

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 Pechanga 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 Moreno Valley area in their descriptions (Drucker 1937; Heizer and Whipple 1957; Kroeber 1925; Smith and Freers 1994), and such territory

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

descriptions correspond almost identically with what was communicated to the Pechanga people by our elders. While historic accounts and anthropological and linguistic theories 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, in 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. A traditional song recounts the travels of eagle, as he searches for a place where there was no death. His travels begin at Temecula, flying north to San Bernardino and then to the east, south, and west through Julian, Cuyamaca, and Palomar, and returning to Temecula.⁴ 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 *Monívol*, 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 (Pechanga) people and the landmarks made by each to claim title to places in their migrations (DuBois 1908:110). The Native American Heritage Commission (NAHC) Most Likely Descendent (MLD) files substantiate this habitation and migration record from oral tradition. These examples illustrate a direct correlation between the oral tradition and the physical place; proving the importance of songs and stories as a valid source of information outside of the published anthropological data.

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. This is the predominant style of rock art within the Project area and 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,

⁴ Ibid.

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.

Further evidencing the connection between the San Luis Rey rock art style and Luiseno people are these descriptions of how the diamond chain pattern, which is uniquely San Luis style rock art, was incorporated into the Luiseño girls' ceremony. In 1892, Bureau of Ethnology anthropologist H.W. Henshaw compiled information on what was called the "Girls Ceremony." He wrote: 'that during the fourth new moon of the young girl's puberty rite, diamond shaped marks were painted vertically on the cheeks of the girls faces' (Smith & Freers, pg. 19). For Pechanga, the connection to the rock art images held a known meaning. J.P. Harrington would later cross-reference this same "face painting" information in his 1933 work entitled *The Luiseno Girls Ceremony*.

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).

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 hundred feet of the Project. In fact, the *tóota yixélval* identified close-by are but a small part of the overall Luiseño Village Complex that includes Mt. Russell and other sites to the northwest, south and southeast. The City has identified the area to the north as the Wolfskill Ranch North Complex. The archaeological study also acknowledges the importance of this area and states: "We believed that the nine prehistoric sites should be considered part of the unofficial Wolfskill Ranch North Complex. This Complex is discussed in the City General Plan but is not an officially recognized prehistoric district (p.53)." The Tribe agrees that this area should be included in the City's inventory of significant places and designated as permanent Open Space within the General Plan.

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 Moreno Valley and the Lakeview area are ancestors of the present-day Luiseño/Pechanga people, and as such, Pechanga is culturally affiliated to this geographic area. The Tribe welcomes the opportunity to

meet with the City to further explain and provide documentation concerning our specific cultural affiliation to lands within your jurisdiction, if so desired.

PROJECT IMPACTS TO CULTURAL RESOURCES

As we have continually informed the City, the proposed Project and its Off-Site Impacts are located in a highly sensitive region of Luiseño territory and the Tribe believes that the possibility for recovering subsurface resources during ground-disturbing activities is high. The Tribe has over thirty-five (35) years of experience in 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 Pechanga Band is not opposed to this Project; however, we are opposed to any direct, indirect and cumulative impacts this Project may have to tribal cultural resources. The Tribe's primary concerns stem from the Project's proposed impacts on Native American cultural resources. 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 would 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 has multiple concerns with the DEIR as posed. As indicated above, the Tribe submitted a NOP/SB18 comment letter in March 2012 that was not included in the DEIR or its appendices. The Tribe requests that the Final EIR be updated to include our comment letter and any appropriate Response to Comments.

The Tribe has reviewed the Archaeological studies and Appendix F of the DEIR. We are concerned that the Project archaeologist has not included any of the Tribe's information in the reports which would have assisted with site analysis. The Tribe applauds the archaeological consultant for combining a cultural area into one site. They describe this as, "With the addition of new feature elements discovered during the survey and GPS rendering of the original site locations, it became clear that the three original sites, which were all within an 80-meter radius of each other, should be combined into a single site with the newly discovered site elements added." However, they then proceed to say that the 29 milling features are not significant because there were no artifacts found in the area. By ignoring that this site is part of a larger Complex and ignoring the association between the physical remains and the bare spots between them, they are disregarding the importance of this area and overlooking important information that can contribute to the overall body of archaeological and tribal knowledge. The high number of utilized resources in this area and the identification of resources on the adjacent Highlands Fairview Project prove that Luiseño ancestors were extremely active within the region and that this area was a large habitat area, or village complex, for Indian people. Negatively impacting

and/or destroying the cultural sites within this area are a great irreparable loss to tribal culture and scientific knowledge.

A major problem that the Tribe has been observing over the last few decades is the shift in archaeological practices which look at cultural resources on an individual scale, on a project-by-project basis. This piecemeal type of assessment belies the fact that many of these sites are components of much larger complexes, and thus results in evaluations of the sites as not being significant. Further, this kind of piecemeal approach seems to be contrary to the tenets of archaeology which supposedly strives for a holistic approach. Because of this approach, very little regional or settlement pattern research is conducted within the Riverside County area to connect the dots. This has resulted in the systematic destruction of villages and habitation areas.

The Tribe believes that individual recordation of sites is an attempt to piecemeal obvious complexes/large cultural areas into smaller portions in order to make a “not significant” determination. While we understand that recordation of sites in this manner may assist with the management of such sites and features, it undermines the ability to offer a complete and thorough analysis of the Project impacts to cultural resources. The Tribe believes that division of sites and features into separate sites necessarily takes away from the significance of the sites themselves because they are analyzed by only looking at the particulars of that site/feature while missing the relationship to the other sites/features in the vicinity as well as the topography, geography, plant resources and waterways. A particular feature may be part of a significant village or habitation area, but one would never know that if only the feature was analyzed by itself as is the case on this Project. In addition, the Tribe believes this regional analysis would necessarily suggest that there is a high potential for subsurface resources to be found during grading or ground-disturbing activities for this Project.

Almost 25 years ago, Glassow (1985)⁵ addressed the issue of how site complexes and regional complexes (i.e. villages and habitation areas) were being divided into smaller sites for analysis. This procedure misses the full interpretation of the sites, resulting in a “write-off” or dismissal of sites based only on a partial analysis. Small sites are described as those sites which “typically have surface areas on the order of 1,000 m² or less, deposits of less than 50 cm depth, only two or three major classes of cultural remains and very few, most often fragmentary finished artifacts” (59). He states, “...(S)ites on the smaller end of the size range are being systematically neglected by many archaeologists in favor of sites on the larger end of the size range. Not only are small sites seldom investigated, but they are frequently assessed as having no appreciable significance to research and are therefore being destroyed...”(ibid: 58). He further provides an example of an archaeological document that determined a site to be not eligible for the National Register. The assessment stated that although the small site, which contained a lithic scatter and two bifacial tools, contained high integrity, the potential to answer research questions was limited and thus the site was not eligible. This limited data was based

⁵ Glassow, Michael A. The Significance of Small Sites to California Archaeology. Journal of California and Great Basin Anthropology Vol. 7, No.1. PP 58-66 (1985).

solely upon a survey and one posthole test unit. Archaeologists make the mistake of treating each site as an individual “temporary camp site or isolated feature” as opposed to looking at them as elements or components of larger village complexes.

With regard to this Project, the Tribe asserts that the same methodology and resulting dismissal of sites is occurring. The destruction of milling resources is a common practice in western Riverside County, justified because they are so ‘ubiquitous.’ Scientific potential is measured by the amount of artifacts found around the milling feature, not the feature itself. The Tribe views these important cultural features as part of the larger village complex that can aide in the analysis of that complex as well as the fact that they are the remains of the ancestors.⁶ These types of complexes are rare and endangered by continuing development. Within the last seven (7) years, the Tribe has seen at least five (5) Luiseño village complexes negatively impacted and/or destroyed in western Riverside County. The City contains multiple significant village complexes, with other habitation areas spread throughout. The Tribe asserts that a traditional Luiseño village complex is a special element to not only the Tribe but to the City as well as the State. The citizens of Moreno Valley should be proud of such a special resource and should strive to preserve it in perpetuity.

Kroeber⁷ and Heizer⁸ used ethnographic data to describe the Luiseño Indians’ settlement pattern as consisting of permanent villages of 75 to 200 people located in proximity to reliable sources of water and within range of a variety of floral and faunal food resources, which were exploited from temporary camp locations surrounding the main village. It has also been suggested that, frequently, a number of communities would combine to celebrate important festivals, harvest cycles, and other ceremonial events, occasionally inviting distant, linguistically unrelated groups. Expanding on Kroeber and Heizer’s general description, True and Waugh⁹ described Luiseño settlement patterns as;

The bipolar settlement pattern of the San Luis Rey was represented by relatively permanent and stable villages (both winter and summer), inhabited by several groups exploiting well-established territories and resources that were defended against trespass (we follow Flannery [1976:164] in using “village as a generic

⁶ The Tribe would like to challenge archaeologists to begin researching why artifacts aren’t commonly found around milling features. It is time to look at why resources may not be present instead of anticipating or assuming that resources should be present. We should ask ourselves why would a person stand next to a food processing place and make a utility tool where the waste materials could get into the food or cut feet. Do we, today, stand next to a stove that contains open pots with cooking food and sharpen our knives so that metal debris could come into contact with the food? Thinking about these questions while assessing the significance of sites as they relate to the landscape will provide additional research questions and answers. These resources can provide valuable information for future archaeologists in terms of settlement patterns, patterns of domestic life as well as enhancing our understanding of how prehistoric tribal peoples lived with one another and upon the landscape.

⁷ Alfred. L. Kroeber 1925. *Handbook of the Indians of California*. Bulletin 78, Bureau of American Ethnology, Government Printing Office, Washington D.C.

⁸ Robert F. Heizer and M.A. Whipple 1951. *The California Indians*. University of California Press, Berkeley.

⁹ True and Waugh 1982, p. 35

term for any small permanent community”), they saw this as a result of a reasonably long process of adaptation during which several strategic changes take place in settlement location patterns and in procedures for collecting resources. These strategic changes included a “trend toward the congregation of people along the major tributaries, with each tributary and its immediate environs occupied and exploited by a family-based kin group of some kind.

Of great importance to the Luiseño people is how this would look on the landscape. For example, during his visit to Luiseño settlements in the La Jolla region in 1901, Merriam noted that “in many cases the Indians have great masses of tuna, 10-20 feet high, about or near their adobe houses” which “are not near together but scattered about, usually 1/8 or 1/4 of a mile apart and on a cleared place surrounded by chaparral.”¹⁰ Luiseño settlement patterns have also been described ethnographically by Sparkman¹¹ and Strong¹² as sedentary and territorial, with the extended families residing in villages with individual living areas separated anywhere from ¼ of a mile to ½ a mile apart. The proposal that a village foot print covers an expansive area, with each family having its own milling feature is supported by Bean when he argues that “homes were located some distance apart to provide privacy for families, if terrain permitted.”¹³ Bean and Smith also suggest that “a village might occupy three to five square miles.”¹⁴ While Oxendine’s¹⁵ dissertation is often cited when discussing late prehistoric village attributes and locations, little has been done to expand on her definition of a village foot print. The idea that villages could cover an expansive area is supported by True et al. Here, True et al¹⁶ suggest that the larger outcrops containing multiple milling features are community milling areas and that each group or family within the community had its own specific milling boulder. In other words “each group then had its milling area and each family woman had her mortar or group of milling elements.” To support this claim, True et al. gives the following example: The milling stones located at Silver Crest (Palomar Mountain State Park) belonging to the adjacent Pauma Village were identified by Max Peters as the property of a specific family. Each family had its own “place” and each mortar hole belonged to a particular “lady.” “If the pattern at Molpa in protohistoric times followed that of the adjacent Pauma Village, it is likely that these “holes” were passed down from mother to daughter and were used until they became too deep to be

¹⁰ Merriam, C. Hart. *Studies of California Indians*. The Staff of the Department of Anthropology of the University of California, eds. Berkeley: University of California Press. 1955

¹¹ Sparkman, Philip Stedman, *The Culture of the Luiseño Indians*. University of California Publications in American Archaeology and Ethnology 1908, 8(4).

¹² Strong, William D. *Aboriginal Society in Southern California*. University of California Publications in American Archaeology and Ethnology 26, 1929

¹³ Bean, Lowell J. *Mukat's People: The Cahuilla Indians of Southern California*. University of California Press, Berkeley, 1972, p. 71

¹⁴ Bean, Lowell J. and Charles R. Smith. Serrano: In *Handbook of North American Indians, Volume, 8, California*, edited by Robert Heizer, Smithsonian Institution, Washington D.C., p. 43.

¹⁵ Oxendine, Joan. *The Luiseño Village During the Late Prehistoric Era*. Ph.D. Dissertation, University of California, Riverside, 1983

¹⁶ True et al 1974 p. 43

functional.”¹⁷ Thus there is support for the Tribe’s assertion that each milling feature signifies an integral portion of the much larger village present at the site.

Glassow argues, “(A) small site and its contents gain importance as a document of a set of activities that occurred at a specific place within a particular setting. While the same set of activities might have occurred at a number of other places, it is often important to know the number of such places and variations in their settings.”¹⁸ Even smaller projects, like the currently proposed Project, is the appropriate time for Settlement Pattern research and comparisons of artifact collections to occur and to start piecing the bigger picture together. Trade and travel patterns can be assessed; site formation, ceremonial comparisons, and site type comparisons can continue to be made. Habitation/village sites are often identified, but the necessary scientific and archival research needed to produce a thorough report is not taken. The practice of recording isolated features and artifacts which results in a “negative finding” is slowly destroying larger cultural sites that could have been identified as a significant complex. This lack of context results in destruction of the individual sites, and not only of our cultural heritage, but that of the greater community and the overall history of California.

In addition, by piecemealing projects, archeologists are not necessarily saving the correct portions of the complexes and villages, but only the portions they deem to have scientific value. By archaeologists using this methodology, we as a society are likely missing the most essential pieces of the puzzle and, most importantly, ignoring the cultural value. True and Waugh¹⁹ pointed out that the Luiseño Mission Indians were resourceful with almost an innate ability to adapt to changing circumstances. They argue that either pre-contact or post-contact San Luis Rey Luiseño people had demonstrated a high degree of adaptable behavior as they consolidated to form more complex systems, placing their villages in locations that are situated near the most reliable regional water supplies. True and Waugh proposed that this could only occur within a social matrix capable of sustaining the mosaic of productive, ritual, and social relationships inherent to “village” organizations. In other words, the Luiseño people had developed a very complex sense of community and permanent Settlement Pattern: it was embedded in their Social History. On this Project, the combination of physical archaeological remains, knowledge of resources being identified from adjacent properties and important tribal named places, traditional landscape analysis and oral traditions, a much broader, complex patter can be identified for this area.

At this time, the Tribe thanks the Project Applicant/Developer for placing the majority of the cultural sites within Open Space for preservation. The Tribe is concerned that potentially a portion of P-33-15046 may be impacted by development. We request additional clarification from the City and Developer/Applicant regarding this site. Additionally, the site identified as P-

¹⁷ Ibid 1974 p. 43

¹⁸ Glassow 1985: 60

¹⁹ True, D. L. and George Waugh. Proposed Settlement Shifts during San Luis Rey Times: Northern San Diego County, California. *Journal of California and Great Basin Anthropology* 1982, 4(2):34-54.

33-2993, located in the southwest portion appears that it could be impacted by a proposed water tank. This site is briefly addressed in the archaeological study as not having been tested or evaluated for impacts in any way. As it seems that water tank location has not been finalized, the Tribe urges the Developer/Applicant and the City to design the tank to avoid this site and any potential impacts to the possible midden in the area.

Additionally, the DEIR states that a public trail will pass through sensitive cultural locations. There must be mitigation provided in the DEIR to guide and protect any resources from impacts. The Tribe would like to assist the City and Developer/Applicant with planning the trail through this area and with landscaping options that will discourage these sites from becoming an attractive nuisance. This will include developing a long-term management plan, to be developed between the Developer/Applicant and the Pechanga Tribe, to ensure that the protection planned during this DEIR process is maintained and that the sites do not become a burden to preserve.

REQUESTED TRIBAL INVOLVEMENT AND RECOMMENDED PROJECT MITIGATION MEASURES

The Tribe believes that the proposed mitigation measures as posed are not sufficient, given the sensitivity of the area, to protect and ensure that development activities will not impact buried cultural resources. Neither are they sufficient to provide for long-term protection and care once development activities have been completed. The lack of specificity of the mitigation measures and the lack of a requirement for tribal monitors does not bring the Project into compliance with CEQA nor reduce the impacts to a level below significant. While the Tribe understands that the Property has been subjected to previous disturbances such as the existing residences and agricultural usage, as the Project site lies within such a culturally-sensitive area, the Tribe believes that the possibility exists for the recovery of subsurface resources during earthmoving activities. Furthermore, as the DEIR acknowledges, cultural resources were identified during monitoring on the adjacent Highland Fairview property. These resources, some of which were deeply buried, as well as the known resources in this area that are also deep, are good indicators that additional resources could be found within the Project at a greater distance than the recommended 3,750 feet from the southwest corner. This distance is not realistic and could hinder the archaeologist and the Tribe from identifying significant resources. Therefore, the Tribe submits the revised mitigation measures for inclusion into the final EIR. Please contact the Tribe to discuss these mitigation measures and to review any proposed language changes prior to finalizing the Final EIR (strikeouts are deletions; underlines are additions.)

4.5.6.1A Prior to the approval of any grading or other discretionary permit for any of the “Light Logistics” parcels, the parcels shall be evaluated for significance by a qualified archaeologist since they were not available for survey during preparation of the EIR. A Phase I Cultural Resources Assessment shall be conducted by the project archaeologist

and an appropriate tribal²⁰ representative on each of the "Light Logistics" parcels prior to development to determine if it contains significant archaeological or historical resources. A Phase II evaluation shall be completed for any of these sites in order to determine if they that are determined to contain significant archaeological or historical resources based on the results of the Phase I assessment. Cultural resources include but are not limited to stone artifacts, bone, wood, shell, or features, including hearths, structural remains, or historic dumpsites. If a particular resource is determined to be significant, it All resources determined to be prehistoric or historic shall be adequately documented using DPR523 forms for archival research/storage in the Eastern Information Center (EIC). If the particular resource is determined to be not significant, no further documentedation is required. Any artifacts If historic resources are determined to be significant, they shall be considered for relocation or archival documentation, as appropriate, depending on whether the building or buildings are determined to be significant under CEQA. If any building is determined to be significant, a Phase III recovery study shall be conducted to recover remaining significant cultural artifacts. If necessary, a feasibility study shall be conducted to determine if a significant structure can be relocated effectively to off-site parcels. The study shall also identify if there are appropriate parcels available within or close to the Moreno area of the City. If the structure cannot be feasibly relocated, or there is not an appropriate parcel to relocate the structure to, the structure shall be demolished after complete archival recordation in a manner determined by the project archaeologist. If prehistoric archaeological/cultural resources are discovered during the Phase I survey and it is determined that they cannot be avoided through site design, they shall be subject to a Phase II testing program. The project archaeologist, in consultation with the appropriate Tribe, shall determine the significance of the resource(s) and determine the appropriate mitigation for the resources.

4.5.6.1B Prior to the approval of any grading or ground-disturbing permit by the City for construction of off-site improvements for the WLCSP, the developer requesting the permit shall retain a qualified archaeologist to prepare a Phase I cultural resource assessment (CRA) of the project site if an up to date CRA (within 5 years of the current year for which the permit above is sought) is not available for the site at the time of development. If archaeological resources are uncovered or discovered during construction activities, no further excavation or disturbance of the area where the resources were found shall occur until a qualified archaeologist, in consultation with the appropriate Tribe, evaluates the find. Pursuant to Calif. Pub. Res. Code § 21083.2(b) avoidance is the preferred method of preservation for archaeological resources. If the find is determined to be a unique or significant archaeological resource, appropriate action shall be taken to include but not be limited to: (a) planning

²⁰ ²⁰ It is anticipated that the Pechanga Tribe will be the "appropriate" Tribe due to their prior and extensive participation in the Highlands Fairview project and the current Project and their coordination with the City and project applicant in determining potentially significant impacts and appropriate mitigation measures.

construction to avoid archeological sites; (b) capping or covering archeological sites with a layer of soil before building on the affected site; or (c) excavation to adequately recover the scientifically consequential information from and about the resource. Appropriate mitigation shall take into account the religious beliefs, customs, and practices of the appropriate Tribe. Work may continue on other parts of the project site while the unique archaeological resource mitigation takes place. This measure shall be implemented to the satisfaction of the City Planning Division. If the qualified archaeologist, in consultation with the appropriate Tribe, determines that the find is a unique archaeological resource, the resource site shall be evaluated and recorded in accordance with requirements of the State Office of Historic Preservation (OHP) and as described in 4.5.61A. If the site is determined to be significant and cannot be avoided through site design, an adequate amount of data at the specific site shall be collected by the qualified archaeologist and the findings of the report shall be submitted to the City. If the site is not determined to be not significant, the site need not be mitigated for as described above.

4.5.6.1C Prior to any discretionary approvals for development ~~within 3,750 feet of the southwest corner of the site,~~ the project developer shall retain a qualified archaeologist to monitor grading as this area has been identified as having moderate to high sensitivity for cultural resources. Project-related archaeological monitoring shall include the following requirements:

1. All construction-related earthmoving shall be monitored to a depth of ten (10) feet below grade by the Project Archaeologist or his/her designated representative and the appropriate Tribe;
2. Once 50 percent of the earth to be moved has been examined, the Project Archaeologist may, at his or her discretion and in consultation with the appropriate Tribe, terminate monitoring if and only if no buried cultural resources have been detected;
3. If buried cultural resources are detected, monitoring shall continue until 100 percent of virgin earth within the permit area has been disturbed and inspected by the Project Archaeologist or his/her designated representative and the appropriate Tribe.
4. Grading shall cease in the area of a cultural artifact or potential cultural artifact as delineated by the Project Archaeologist or his/her designated representative and the appropriate Tribe. Grading should continue in other areas of the site while particular find are investigated; and
5. If cultural artifacts are uncovered during grading, they shall be Phase II tested by the Project Archaeologist and the appropriate Tribe, evaluated for significance in accordance with §15064.5 the *CEQA Guidelines*, and curated in a museum²¹ chosen

²¹ The Pechanga Tribe would like the City to know that we own and maintain a curation facility that meets or exceeds 36 CFR Part 79 standards. Currently we do not charge to store Luiseño cultural items. The only exception

by the City if the resource(s) are determined to be significant. Appropriate actions for significant resources include but are not limited to avoidance or capping (except of human remains), incorporation of the site in green space, parks, or open space, or data recovery excavations of the finds (Phase III recovery). A mitigation-monitoring report must accompany any archived artifacts.

6. No further grading shall occur in the area of the discovery until the City approves specific actions to protect identified resources. Any archaeological artifacts recovered as a result of mitigation shall be handled as outlined in 5 above. ~~donated to a qualified scientific institution approved by the City where they would be afforded long term preservation to allow future scientific study.~~

7. The developer shall make reasonable efforts to avoid, minimize, or mitigate significant adverse impacts on cultural resources on the WLCSP property, and the SHPO and local Native American tribes will be consulted and the Advisory Council on Historic Preservation (should there be Federal involvement on this Project) will be notified within 48 hours in compliance with 36 CFR 800.13(b)(3). This measure shall be implemented to the satisfaction of the City Planning Division.

8. The landowner shall relinquish ownership of all cultural resources, including sacred items, burial goods and all archaeological artifacts that are found on the project area to the appropriate Tribe for proper treatment and disposition. All sacred sites, should they be encountered within the project area, shall be avoided and preserved as the preferred mitigation, if feasible.

4.5.6.1D ~~Prior to the issuance of any grading permit within 3,750 feet of the southwest corner of the site, the City and the applicant shall invite interested Tribal Group(s) representatives to help monitor grading if they so desire. Qualified representatives of the Tribal Group(s) shall be granted access to the permit site to monitor grading as long as they provide 48-hour notice to the developer of their desire to monitor, so the developer can make appropriate safety arrangements on the site. the project developer shall retain a qualified tribal monitor from the appropriate tribe and develop a Cultural Resources Treatment Agreement to monitor grading as this area has been identified as having moderate to high sensitivity for cultural resources, in which they have a direct ancestral connection. The Agreement shall address the treatment of known cultural resources, the designation, responsibilities, and participation of professional Native American Tribal monitors during grading, excavation and ground disturbing activities; project grading and development scheduling; terms of compensation by the developer for the monitors; and treatment and final disposition of any cultural resources, sacred sites, and human remains discovered on the site. This measure shall be implemented to the satisfaction of the City Planning Division.~~

is for human remains, sacred/ceremonial items or grave goods in which the Tribe requests that these items be reburied in an appropriate location of the Project property.

4.5.6.1E It is possible that ground-disturbing activities during construction may uncover previously unknown, buried cultural resources (archaeological or historical). In the event that buried cultural resources are discovered during grading and no Project Archaeologist or Historian or tribal representative is present, grading operations shall stop in the immediate vicinity of the find and a qualified archaeologist and the appropriate tribe shall be retained to determine the most appropriate course of action regarding the resource. The Archeologist, in consultation with the appropriate tribe shall make recommendations to the City on the actions that shall be implemented to protect the discovered resources, including but not limited to excavation of the finds and evaluation of the finds in accordance with §15064.5 of the *CEQA Guidelines* as a matter of last resort. Cultural resources could consist of, but are not limited to, stone artifacts, bone, wood, shell, or features, including hearths, structural remains, or historic dumpsites. Any previously undiscovered resources found during construction within the project area should be recorded on appropriate DPR forms and evaluated for significance in terms of CEQA criteria. If the resources are determined to be unique historic resources as defined under §15064.5 of the *CEQA Guidelines*, mitigation measures shall be identified by the Archaeologist and the appropriate tribe and recommended to the City. Appropriate protective actions for significant resources could include avoidance or capping, incorporation of the site in green space, parks, or open space, or data recovery excavations of the finds. No further grading shall occur in the area of the discovery until the City approves the measures to protect these resources. Any archaeological artifacts recovered as a result of mitigation shall be returned to the appropriate tribe as provided for in 4.5.6.1C(5), above. In addition, reasonable efforts to avoid, minimize, or mitigate adverse effects to the property will be taken and the SHPO and Native American tribes with concerns about the property, as well as the ~~Advisory Council on Historic Preservation~~ native American Heritage Commission will be notified within 48 hours in compliance with 36 CFR 800.13(b)(3). If the project archaeologist and the Tribe cannot agree on the significance or the mitigation for such resources, not including human remains or grave goods, these issues will be presented to the Planning Director or appropriate City representative for decision. The Planning Director or appropriate City representative shall make the determination based on the provisions of the California Environmental Quality Act with respect to archaeological resources and Notwithstanding any other rights available under the law, the decision of the Planning Director shall be appealable to the Planning Commission and/or City Council.

4.5.6.1F If human remains are encountered, California Health and Safety Code Section 7050.5 states that no further disturbance shall occur until the Riverside County Coroner has made the necessary findings as to origin. Further, pursuant to California Public Resources Code Section 5097.98(b) remains shall be left in place and free from disturbance until a final decision as to the treatment and disposition has been made. If the Riverside County Coroner determines the remains to be Native American, the Native American Heritage Commission must be contacted within 24 hours. The

Native American Heritage Commission must then immediately identify the "most likely descendant(s)" of receiving notification of the discovery. The most likely descendant(s) shall then make recommendations within 48 hours, and engage in consultations concerning the treatment of the remains as provided in Public Resources Code 5097.98 and the Treatment Agreement described in 4.5.6.1D.

- 4.5.7** For cultural resources that are known or discovered during earth-moving activities and which will be preserved either in open space or in areas of no development, a long-term preservation plan must be completed between the Developer and the Pechanga Tribe. The preservation plan must include, but is not limited to, how the resources will be protected (i.e., fencing, native plants, etc.), who has responsibility for the long-term care, who shall pay for the long-term care, the role of the Tribe in maintaining and preserving the resources, approved uses and prohibited uses of the property, access rights and any other relevant provisions related to preservation and protection of cultural resources.
- 4.5.8** For the trails anticipated to be required for this Project, the Developer must consult with the appropriate tribe regarding the location of such trails. Sensitive cultural resources exist on the property and the alignment of the trail could impact subsurface cultural materials. In addition, a long-term maintenance and preservation plan for said trails must be completed between the developer and the Pechanga Tribe to ensure that at a minimum, cultural resources are not damaged through misuse by trail users, vandalism, maintenance needs for the trail and/or improvements or expansion of the trails.

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. The Pechanga Tribe looks forward to working together with the City of Moreno Valley in protecting the invaluable Pechanga cultural resources found in the Project area. Please contact me at 951-770-8104 or at ahoover@pechanga-nsn.gov once you have had a chance to review these comments so that we may discuss the proposed mitigation measure language. Thank you.

Sincerely,



Anna Hoover
Cultural Analyst

Cc Pechanga Office of the General Counsel