



PECHANGA CULTURAL RESOURCES
Temecula Band of Luiseño Mission Indians

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TG-1

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April 8, 2013

VIA E-MAIL and USPS

Ms. Cathy Bechtel
Riverside County Transportation Commission
P. O. Box 12008
Riverside, CA 92502

Re: Pechanga Tribe Comments on the Notice of Availability of a Recirculated Draft Environmental Impact Report/Supplemental Draft Environmental Impact Statement for the Mid County Parkway Project

Dear Ms. Bechtel:

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 continue to be notified and involved in the entire CEQA environmental review process for the duration of the above referenced project (the "Project"). Please continue to notify the Tribe of all public hearings and scheduled approvals concerning this Project and incorporate these comments into the record of approval for this 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.

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The Tribe appreciates the efforts the Riverside County Transportation Commission (RCTC), the Federal Highway Administration (FHWA) and the California Department of Transportation (Caltrans) has undertaken to identify, determine significance, consult and communicate with the Tribe on this Project. In general, the Tribe agrees with this Recirculated Draft Environmental Impact Report/Supplemental Draft Environmental Impact Statement (DEIR/SDEIS). We do have concerns, however, that the proposed mitigation measures are vague and unsupportive of tribal monitoring. We understand that a Memorandum of Agreement (MOA), Burial Treatment Agreement (BTA) and a Discovery and Monitoring Plan (DMP) will be developed for the Final EIR/EIS. However, we believe that the mitigation language in the environmental document should support this process more clearly so that the obligations of each agency is transparent. Additional suggested revisions are below.

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PECHANGA CULTURAL AFFILIATION TO PROJECT AREA

As RCTC is aware, 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), village/habitation areas 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 as well as extensive history with both this Project and other projects within the area.

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The Pechanga Tribe has a specific legal and cultural interest in this Project as the Tribe is culturally affiliated with the geographic area, which comprises the Project property. The Tribe has specific knowledge of cultural resources and sacred places near the proposed Project. The Tribe has submitted in great detail information regarding cultural affiliation in previous comment letters for this Project. Please let us know if we can submit anything further regarding our territorial affiliation for this Project. Further, the Tribe welcomes the opportunity to meet with the RCTC, FHWA and Caltrans to further explain and provide documentation should this be desired.

PROJECT MITIGATION MEASURES

The Tribe believes that the proposed Mitigation Measures as posed in Chapter 3, Section 3.8.4 are not sufficient, given the sensitivity of the area, and do not provide enough guidance. We have suggested revisions to these measures below. We also recommend that the measures and procedures outlined in Appendix B: Revised Draft Section 4f Evaluation be used as a starting point to finalize the MOA, MDP and BTA which will need to be drafted in consultation with the Tribe. It is understood that the measures in Chapter 3 and in Appendix B will be revised and finalized prior to release of the FEIR/EIR. The Tribe requests to continue to participate in developing all appropriate measures as well as developing the MOA, MDP and BTA and to be signatories on these documents.

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CUL-1 Discovery of Cultural Material. If cultural materials are discovered during construction, all earth-moving activity within and around the immediate discovery area will be diverted until a qualified archaeologist and a tribal representative can assess the nature and significance of the find. All protocols regarding unanticipated discoveries will be addressed per the Memorandum of Understanding, Monitoring and Discovery Plan and if appropriate, the Burial Treatment Agreement.

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CUL-2 Discovery of Human Remains. If human remains are discovered, State Health and Safety Code Section 7050.5 states that further disturbances and activities shall cease in any area or nearby area suspected to overlie remains, and the County Coroner contacted. Pursuant to Public Resources Code (PRC) Section 5097.98, if the remains are thought to be Native American, the Coroner will notify the Native American Heritage Commission (NAHC) who will

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then notify the Most Likely Descendent (MLD). At this time, the person who discovered the remains will notify the Qualified Archaeologist who will then contact the Riverside County Transportation Commission (RCTC) Project Manager and the Caltrans District 8 Environmental Branch Chief so that they may work with the MLD on the respectful treatment and disposition of the remains. Further provisions of PRC 5097.98 are to be followed as applicable and as outlined in the MOA and other appropriate documents.

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CUL-3 Avoidance of Site 33-3653. During the final design, the RCTC's Project Engineer will designate the part of Site 33-3653 near the project Area of Potential Effects (APE) as an Environmentally Sensitive Area on the project construction plans. The boundary of that site near the APE will be mapped by the Project Archaeologist (to be retained by the RCTC Project Manager) and in consultation with the tribal representative/monitor for incorporation in the final design mapping. The Environmentally Sensitive Area for Site 33-3653 will not be shown as a cultural site on the final design plans to avoid unauthorized artifact collection or vandalism to the site. Prior to any ground-disturbing activities in the vicinity of Site 33-3653, RCTC's Project Engineer will require the Construction Contractor to provide fencing or flags around the boundary of the Environmentally Sensitive Area. The Project Archaeologist and a tribal monitor will monitor the installation of the fencing/flagging. The area in the project disturbance limits near or adjacent to the Environmentally Sensitive Area boundary will be monitored when construction in the MCP APE is adjacent to the site by the Project Archaeologist and a Native American monitor during all ground disturbing and construction activities in this area. The RCTC Project Engineer will require the Construction Contractor to maintain the fencing/flagging throughout the entire construction period in this area. The Project Archaeologist will monitor the condition of the fencing/flagging monthly and will report the need for any repairs to that material to the RCTC Project Engineer and the Construction Contractor. The fencing will be removed once grading activities in this area have been entirely completed and per any other requirements in the MOA or other applicable Caltrans protocol documents.

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CUL-4 Prior to beginning project construction, a Caltrans qualified archaeological monitor shall be retained to monitor all ground-disturbing activities in an effort to identify any unknown archaeological resources. Any newly discovered cultural resource deposits shall be subject to a cultural resources evaluation per the MOA and DMP.

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CUL-5 At least 30 days prior to beginning project construction, the RCTC shall contact the Pechanga Tribe to notify the Tribe of grading, excavation and the monitoring program, and to develop a Cultural Resources Treatment and Monitoring Agreement. 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 for the monitors; and treatment and final disposition of any cultural resources, sacred sites, and human remains discovered on the site.

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CUL-6 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 as outlined in the MOA, DMP and BTA. All sacred sites, should they be encountered within the project area, shall be avoided and preserved as the preferred mitigation, if feasible. Cultural resources may be curated at a facility that meets or exceeds Part 79 standards. The Pechanga Tribe maintains and operates a curatorial facility that meets federal standards and will take all artifacts, excluding human remains, grave goods and sacred/ceremonial items at no charge.

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The Pechanga Tribe thanks you again for working with us on this Project and looks forward to continue working together with the RCTC, FHWA and Caltrans 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 to discuss any further outstanding issues. We look forward to developing the Memorandum of Agreement, Discovery and Monitoring Plan and Burial Treatment Agreement with you. Thank you.

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Sincerely,



Anna Hoover
Cultural Analyst

cc: Pechanga Office of the General Counsel