

NATIVE AMERICAN HERITAGE COMMISSION

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July 20, 2007



Dr. Ralph G. Appy
Los Angeles Harbor Department
 425 South Palos Verdes Street
 San Pedro, CA 90731

Re: SCH#2003104005; NEPA/CEQA Draft Environment Impact Statement (EIS)/draft Environmental Impact Report (EIR) Environmental Assessment (EA) for Berth 136-147 Container Terminal Project; Los Angeles County, California

Dear Dr. Appy:

Thank you for the opportunity to comment on the above-referenced document. We write you as the lead agency for the above-referenced project. The Native American Heritage Commission helps facilitate Tribal Consultation with federal agencies under NEPA and under Section 106 of the National Historic Preservation Act as well as other federal laws and regulations and those of the State of California that focus on cultural resources issues. The processes in preparing and commenting on these documents provides this Commission and California Native American tribes (both federally-recognized and non federally-recognized) the opportunity to assess energy corridor routes, the 'areas of potential effect (APEs)' in order to determine their possible or potential impact on native American cultural resources.

The Native American Heritage Commission is the state's Trustee Agency for 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 CEQA guidelines § 15064.5(b)(c). 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. The National Environmental Policy Act (NEPA) has similar provisions as does Executive Order 13175 and the Archaeological Resources Protection Act. 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). Contact information for the CHRIS system are available from the Office of Historic Preservation (Eric Allison, Coordinator: 916/653-7278). 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.
- √ Contact the Native American Heritage Commission (NAHC) directly or through a contractor for:
 - * A Sacred Lands File (SLF) search of the project area and information on tribal contacts in the project vicinity that may have additional cultural resource information. Please provide this office with the following citation format to assist with the Sacred Lands File search request: USGS 7.5-minute quadrangle citation with name, township, range and section.
 - The NAHC advises the use of Native American Monitors to ensure proper identification and care given cultural resources that may be discovered. The NAHC recommends that contact be made with Native American



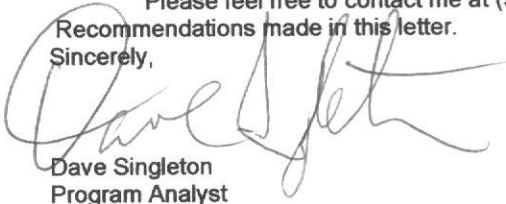
Contacts on a list that is appropriate to the location of the energy corridor proposed route or alternative route to get their input on potential project impact (APE).

- √ 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.
- 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 burial sites in their mitigation plans. We wish to point that many Native American burial sites are not listed as 'dedicated' cemeteries or included in the list of "Indian Cemeteries," published by the Bureau of Indian Affairs (BIA) or other public agencies. Many Native American burial grounds in California are unmarked and known only to family members or are the result of historic hostile action.
 - * 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 CEQA Guidelines mandate procedures to be followed in the event of an accidental discovery of any human remains in a location other than a dedicated cemetery.
- √ Lead agencies should consider avoidance, as defined in § 15370 of the CEQA Guidelines, when significant cultural resources are discovered during the course of project planning.

Please feel free to contact me at (916) 653-6251 if you have any comments about the concerns and

Recommendations made in this letter.

Sincerely,



Dave Singleton
Program Analyst

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July 20, 2007

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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 American with regard to cultural resources for the proposed SCH#2003104005; NEPA/CEQA draft Environmental Impact Statement (EIS)/draft Environmental Impact Report (EIR) for Berth 136-147 Container Terminal Project; Los Angeles County, California.