

NATIVE AMERICAN HERITAGE COMMISSION

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May 16, 2008

Dr. Ralph Appy

LOS ANGELES HARBOR DEPARTMENT

425 S. Palos Verdes Street
 San Pedro, CA 90731

Re: SCH#2003061153; Joint NEPA/CEQA Notice of Completion; draft Environmental Impact Report (DEIR)/Environmental Impact Statement (DEIS) for the Berth 97-109 [Shina Shipping Container Terminal Port Project, South Bay Area; Los Angeles County, California]

Dear Dr. Appy:

The Native American Heritage Commission is the state agency 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) (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.
- √ Contact the Native American Heritage Commission (NAHC) 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 the attached list to get their input on potential project impact (APE). In some cases, the existence of a Native American cultural resources may be known only to a local tribe(s).
- √ 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.
 - 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.

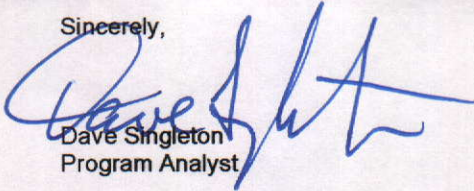
* CEQA Guidelines, Section 15064.5(d) requires the lead agency to work with the Native Americans identified by this Commission if the initial Study identifies the presence or likely presence of Native American human remains within the APE. CEQA Guidelines provide for agreements with Native American, 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,

A handwritten signature in blue ink, appearing to read "Dave Singleton".

Dave Singleton
Program Analyst

Attachment: List of Native American Contacts

Cc: State Clearinghouse

Native American Contacts

Los Angeles County

May 16, 2008

LA City/County Native American Indian Comm
Ron Andrade, Director
 3175 West 6th Street, Rm. 403
 Los Angeles , CA 90020
 (213) 351-5324
 (213) 386-3995 FAX

Ti'At Society
Cindi Alvitre
 6515 E. Seaside Walk, #C
 Long Beach , CA 90803
 calvitre@yahoo.com
 (714) 504-2468 Cell

Tongva Ancestral Territorial Tribal Nation
John Tommy Rosas, Tribal Admin.
 ,
 Gabrielino Tongva
 tattnlaw@gmail.com
 310-570-6567

Gabrieleno/Tongva San Gabriel Band of Mission
Anthony Morales, Chairperson
 PO Box 693
 San Gabriel , CA 91778
 ChiefRBwife@aol.com
 (626) 286-1632
 (626) 286-1758 - Home
 (626) 286-1262 Fax

Gabrielino/Tongva Council / Gabrielino Tongva Nation
Sam Dunlap, Tribal Secretary
 761 Terminal Street; Bldg 1, 2nd floor Gabrielino Tongva
 Los Angeles , CA 90021
 office @tongvatribes.net
 (213) 489-5001 - Office
 (909) 262-9351 - cell
 (213) 489-5002 Fax

Gabrielino Tongva Indians of California Tribal Council
Robert Dorame, Tribal Chair/Cultural Resources
 5450 Slauson, Ave, Suite 151 PMB
 Culver City , CA 90230
 gtongva@verizon.net
 562-761-6417 - voice
 562-925-7989 - fax

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#2003061153; Joint CEQA/NEPA ; Re-circulated DEIR5/16/2008DEIS for the Berth 97-109 [China Shipping] Container Terminal Port; Los Angeles Harbor Department; Los Angeles County, California.