



RESPONSES TO COMMENTS

The following is a list of the written comments received on the IS/MND prior to the close of the public comment period. Each comment letter received is indexed, with a letter below. The following pages provide responses to each of the comment letters. The City's responses immediately follow each letter.

Comment Letter Code	Commenter	Date
A	State of California, Department of Transportation District 8	February 13, 2018
B	South Coast Air Quality Management District	February 15, 2018
C	Pechanga Band of Luiseño Indians	February 26, 2018
D	California Department of Fish and Wildlife	February 26, 2018

LETTER CODE A

Damaris Abraham

From: Agyakwa, Kwasi@DOT <Kwasi.Agyakwa@dot.ca.gov>
Sent: Tuesday, February 13, 2018 2:46 PM
To: Damaris Abraham
Subject: RE: Tige Watersports - (DRAFT) ISMND
Attachments: Tige - TripGen.pdf

Good afternoon,

We will not be able to issue Encroachment Permits for a new driveway connection to SR-74 without a TIA, since its unknown if the use might or might not exceed our trip generation threshold. Our trip generation policy for new development is based on the proposed use but is also connected to a mainline Level of Service standard in the peak hour.

Please refer to the Trip Generation Thresholds Section of our TIS Guide:
http://www.dot.ca.gov/hq/tpp/offices/ocp/igr_ceqa_files/tisguide.pdf

Additionally, the TIA Scoping Agreement uses **ITE Code 140** (Manufacturing); however, **ITE Code 842** (Recreational Vehicle Sales) is more appropriate for the proposed showroom. The issue with ITE Code 842 is that it only provides trip rates for the "Weekday PM Peak Hour of Adjacent Street Traffic" time period. **ITE Code 826** (Specialty Retail Center) is similar when compared for the same timeframe. Therefore we recommend the project proponent use ITE Code 826 for the showroom area and ITE Code 140 for the manufacturing area. Attached are the trip rates for each land use. If you have any questions, feel free to contact me.

Thanks,

Kwasi

LETTER CODE: A
COMMENTS: State of California, Department of Transportation District 8 (Caltrans)
DATE: February 13, 2018

An email from Caltrans requests that a Traffic Impact Analysis (TIA) be provided for the Project. The email further recommends that the Project proponent use ITE Code 826 for the showroom area instead of ITE Code 842 that was used in the TIA Scoping Agreement.

RESPONSE

Based on the TIA scoping agreement, the City has not required additional traffic analysis for this project. However, as Caltrans has jurisdiction over the Highway System, a condition of approval (COA No. 88) requiring the developer to obtain an encroachment permit from Caltrans and to comply with all traffic and roadway requirements imposed by Caltrans, which may include additional traffic analysis has been added to the project. To the extent that such additional traffic analysis is performed, the condition will require the developer to implement all mitigation measures identified in such additional traffic analysis to the satisfaction of Caltrans and the City Engineer.

Additionally, the ITE Code 826 (Specialty Retail Center) has been removed from the latest version of the ITE Trip Generation Manual. According to the project description ITE Code 842 (Recreational Vehicle Sales), appears to closely match the proposed Project.



South Coast Air Quality Management District

21865 Copley Drive, Diamond Bar, CA 91765-4178

(909) 396-2000 • www.aqmd.gov

SENT VIA E-MAIL AND USPS:

February 15, 2018

dabraham@lake-elsinore.org

Damaris Abraham, Senior Planner

City of Lake Elsinore – Community Development Department

130 South Main Street

Lake Elsinore, CA 92530

Mitigated Negative Declaration (MND) for the Proposed

Tige Watersports

(Planning Application No. 2016-113, Industrial Design Review No. 2016-03, and Conditional Use Permit No. 2017-03)

The South Coast Air Quality Management District (SCAQMD) staff appreciates the opportunity to comment on the above-mentioned document. The following comments are meant as guidance for the Lead Agency and should be incorporated into the Final MND.

The Lead Agency is proposing to establish a boat sales, service, manufacturing, and assembly facility of approximately 25,682 square feet on 2.78 acres (Proposed Project). SCAQMD staff recommends that the Lead Agency include a discussion in the Final MND to demonstrate compliance with the requirements of the SCAQMD Rules as follows:

- Rule 1106 – Marine Coating Operations
- Rule 1107 – Coating of Metal Parts and Products
- Rule 1171 – Solvent Cleaning Operations
- Rule 109 – Recordkeeping for Volatile Organic Compound Emissions

Pursuant to CEQA Guidelines Section 15074, prior to approving the Proposed Project, the Lead Agency shall consider the MND for adoption together with any comments received during the public review process. Please provide the SCAQMD with written responses to all comments contained herein prior to the adoption of the Final MND. When responding to issues raised in the comments, response should provide sufficient details giving reasons why specific comments and suggestions are not accepted. There should be good faith, reasoned analysis in response. Conclusory statements unsupported by factual information do not facilitate the purpose and goal of CEQA on public disclosure and are not meaningful or useful to decision makers and to the public who are interested in the Proposed Project.

SCAQMD staff is available to work with the Lead Agency to address any air quality questions that may arise from this comment letter. Please contact me at lsun@aqmd.gov if you have any questions.

Sincerely,

Lijin Sun

Lijin Sun, J.D.

Program Supervisor, CEQA IGR

Planning, Rule Development & Area Sources

LS

RVC180131-01

Control Number

LETTER CODE: B

COMMENTER: South Coast Air Quality Management District (SCAQMD)

DATE: February 15, 2018

A letter from the SCAQMD requests that the City include a discussion in the Final MND to demonstrate compliance with the requirements of the SCAQMD Rules as follows: Rule 1106 – Marine Coating Operations, Rule 1107 – Coating of Metal Parts and Products, Rule 1171 – Solvent Cleaning Operations, and Rule 109 – Recordkeeping for Volatile Organic Compound Emissions.

RESPONSE

Section III.b. of the IS/MND, as provided below, has been amended to include discussion regarding compliance the applicable SCAQMD Rules. The revision is not required to avoid or reduce a new significant effect; rather, it is intended to clarify that the project is subject to SCAQMD Rules. This change serves only as a clarification and does not constitute a significant change to the analysis or conclusions therein.

Section III.b.

Results from the CalEEMod analysis, shown in Table 2, indicate that no criteria pollutants resulting from the proposed Project would exceed the corresponding SCAQMD daily emission thresholds for any criteria pollutants. In addition, compliance with SCAQMD's Rule 1106 regarding Marine Coating Operations, Rule 1107 regarding Coating of Metal Parts and Products, Rule 1171 regarding Solvent Cleaning Operations, and Rule 109 regarding Recordkeeping for Volatile Organic Compound Emissions will ensure that ~~Therefore,~~ Project-related operational air quality impacts would be less than significant.

Thus, the proposed Project will not result in construction or operational emissions that exceed SCAQMD thresholds for criteria pollutants, impacts related to the violation an air quality standard or substantial contribution to an existing or projected air quality violation. Therefore, impacts are less than significant.

Mitigation Measures: No mitigation measures are required.



PECHANGA CULTURAL RESOURCES
Temecula Band of Luiseño Mission Indians

Post Office, Box 2183 • Temecula, CA 92593
Telephone (951) 770-6300 • Fax (951) 506-9491

February 26, 2018

Chairperson:
Neal Ibanez

Vice Chairperson:
Bridgett Barcello

Committee Members:
Andrew Masiel, Sr.
Darlene Miranda
Evie Gerber
Richard B. Searce, III
Robert Villalobos

Director:
Gary DuBois

Coordinator:
Paul Macarro

Planning Specialist:
Tuba Ebru Ozdil

VIA E-MAIL and USPS

Damaris Abraham, Senior Planner
Community Development Department
City of Lake Elsinore
130 S. Main Street
Lake Elsinore, CA 92530

Re: Pechanga Tribe Comments on the Initial Study\Mitigated Negative Declaration for the Tigé Watersports Project [PA 2016-113; CUP 2017-03]

Dear Ms. Abraham;

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. As the City is aware, the Tigé Watersports Project ("Project") is not only subject to the California Environmental Quality Act, but also the new provisions of AB 52 which now mandate that lead agencies consult with tribal governments regarding a project's potential impacts to tribal cultural resources. The Tribe requested to consult with the City under AB 52 on May 9, 2017, and our consultation occurred in September 2017. Under AB 52, consultation is not complete until the parties agree upon appropriate mitigation measures to avoid or reduce impacts to tribal cultural resources. On September 12, 2017, the Tribe and the City met and agreed upon mitigation measures for this Project. We then closed the AB 52 consultation. However, it appears that the City has now changed those measures without additional consultation and the Tribe no longer agrees that the current measures avoid or reduce impacts to tribal cultural resources as required by the law. Based upon these unilateral changes, the Tribe requests to reopen the AB 52 consultation for this Project to discuss our concerns and once again agree upon appropriate mitigation measures.

As we have notified the City, the Project is located within a very sensitive area, and there is potential to find subsurface cultural resources during earth moving activities. During our consultation, the Tribe identified that the proposed Project is located near known culturally sensitive areas, and the City and Tribe agreed on mitigation measures in order to protect the tribal cultural resources that may be found during this Project. The AB 52 consultation was closed on this Project with the concurrence of both the City and the Tribe regarding appropriate mitigation measures that would be required for the Project.

On October 18, 2017, the Tribe received notification via email that the mitigation measures were to be modified for this and one other project within the City of Lake Elsinore by the same planner. Through consultation on the other project, we informed the City that we are not in

agreement with the modified mitigation language regarding curation. We had discussions with the City staff in general terms regarding this issue and we provided written comments on that project's IS/MND on December 4, 2017. We then received the IS/MND for the Tigé Watersports Project on January 31, 2018, and noticed that the same modified mitigation measures were used and Pechanga's agreed upon language was not implemented. The Tribe assumed that through our previous consultations, for this project and others within the City of Lake Elsinore, that we had made it clear that the modified mitigation measure regarding curation was not acceptable by the Tribe. Therefore, we are submitting our comments on the proposed mitigation measures for this Project pursuant to our rights under AB 52.

**THE CITY OF LAKE ELSINORE 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 Lake Elsinore 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.

PECHANGA CULTURAL AFFILIATION TO PROJECT AREA

The Pechanga Tribe asserts that the Project area is part of 'Atáaxum (Luiseño), and therefore the Tribe's, aboriginal territory as evidenced by the existence of 'Atáaxum place names, *tóota yixélval* (rock art, pictographs, petroglyphs), 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.

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. Of the many anthropologists and historians who have presented boundaries of the Luiseño traditional territory, few have excluded the Lake Elsinore area from their descriptions (Sparkman 1908; Kroeber 1925; White 1963; Harvey 1974; Smith and Freers 1994), and such territory descriptions correspond almost

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

identically with that 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. 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.

PROJECT IMPACTS TO CULTURAL RESOURCES AND PROPOSED MITIGATION MEASURES

The proposed Project is located in Lake Elsinore, a highly sensitive region of Luiseño territory, and the Tribe believes that the possibility for recovering subsurface resources, including human remains, during ground-disturbing activities is high. Additionally, there are multiple previously recorded sites within a one-mile radius of this Project, which raises the potential for resources to be discovered on this project site. The Pechanga Band is not opposed to the Project; however, we are opposed to any direct, indirect and cumulative impacts this Project may have to tribal cultural resources and any impacts that could be avoided by consultation with the Tribe early in the process. 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 is concerned that the mitigation measures in the draft IS/MND are not the same mitigation measures that were agreed upon by the City and the Tribe during AB52 consultation. Specifically, language was added to MM Cul. 2 under Artifact Disposition (section 3) with which the Tribe does not agree. We would like to know the exact basis and reasoning for adding this language, including providing us a copy with the exact City policy and legal basis for this language, so that we can respond accordingly. The Tribe requests the removal of the added sentence regarding curation at the Western Science Center. This language is unnecessary as the City seems to be meeting any internal policies it may have for curation with the requirement that an applicant curate to a repository or curatorial facility that meets the federal standard 36 CFR Part 79, which is already addressed in the Artifact Disposition (section 2) section of MM Cul. 2. Anything beyond that is outside of the scope and jurisdiction of the City to manage and administer.

Furthermore, by adding language concerning potential disagreements, the City seems to be making an assumption, in a public document, that there is or will be a disagreement between the Tribes, which is not the case. To the contrary, Tribes' goals are to protect and preserve the cultural resources. In addition, if there were any disagreement we would trust the City would leave that to the tribes to work out, as the City has no jurisdiction in tribe-to-tribe disputes. We understand you may be proposing this as a way to provide the project applicant with some certainty in these processes; however, please understand that this language will have legal, political and relational ramifications that we believe the City does not intend.

As communicated previously through consultation, the Tribe is in agreement with the existing language regarding curation referencing the federal guidelines because it meets any policy requirements we are assuming the City has, but also because it properly gives options to the applicant so they may carry out their due diligence on choosing a curation facility while meeting established industry standards and legal requirements. For the City to insert itself beyond this scope is unnecessary, unfair to all parties involved, and potentially in violation of the law.

Therefore, the Tribe requests that the following changes to the proposed mitigation measures be incorporated into the final IS/MND, conditions of approval and any other applicable documents, (strikeouts are deletions, underlines are additions). We would be happy to discuss these issues further with the City.

MM Cul 1: *Unanticipated Resources.* The developer/permit holder or any successor in interest shall comply with the following for the life of this permit: If during ground disturbance activities, unanticipated cultural resources* are discovered, the following procedures shall be followed:

1. All ground disturbance activities within 100 feet of the discovered cultural resource shall be halted until a meeting is convened between the developer, the Project Archaeologist, the Native American tribal representative(s) from consulting tribes (or other appropriate ethnic/cultural group representative), and the Community Development Director or their designee to discuss the significance of the find.
2. The developer shall call the Community Development Director or their designee immediately upon discovery of the cultural resource to convene the meeting.
3. At the meeting with the aforementioned parties, the significance of the discoveries shall be discussed and a decision is to be made, with the concurrence of the Community Development Director or their designee, as to the appropriate mitigation (documentation, recovery, avoidance, etc.) for the cultural resource.
4. Further ground disturbance shall not resume within the area of the discovery until a meeting has been convened with the aforementioned parties and a decision is made, with the concurrence of the Community Development Director or their designee, as to the appropriate mitigation measures.

~~* A cultural resource site is defined, for this condition, as being a feature and/or three or more artifacts in close association with each other, but may include fewer artifacts if the area of the find is determined to be of significance due to sacred or cultural importance.~~

MM Cul 2: *Archaeologist/CRMP.* Prior to issuance of grading permits, the applicant/developer shall provide evidence to the Community Development Department, Planning Division, that a Secretary of Interior Standards qualified and certified Registered Professional Archaeologist (RPA) has been contracted to implement a Cultural Resource Monitoring Program (CRMP) that addresses the details of all activities that must be completed and procedures that must be followed regarding cultural resources associated with this project. The CRMP document shall be provided to the Community Development Director or their designee for review and approval prior to issuance of the grading permit. The CRMP provides procedures to be followed and are to ensure that impacts on cultural resources will not occur

without procedures that would reduce the impacts to less than significant. These measures shall include, but shall not be limited to, the following:

Archaeological Monitor - An adequate number of qualified monitors shall be present to ensure that all earth-moving activities are observed and shall be on-site during all grading activities for areas to be monitored including off-site improvements. Inspections will vary based on the rate of excavation, the materials excavated, and the presence and abundance of artifacts and features. The frequency and location of inspections will be determined by the Project Archaeologist, ~~and if required,~~ in consultation with the Tribal monitor.

Cultural Sensitivity Training - The Project Archaeologist and ~~if required,~~ a representative designated by the consulting Tribe(s) shall attend the pre-grading meeting with the contractors to provide Cultural Sensitivity Training for all Construction Personnel. Training will include a brief review of the cultural sensitivity of the Project and the surrounding area; what resources could potentially be identified during earthmoving activities; the requirements of the monitoring program; the protocols that apply in the event unanticipated cultural resources are identified, including who to contact and appropriate avoidance measures until the find(s) can be properly evaluated; and any other appropriate protocols. This is a mandatory training and all construction personnel must attend prior to beginning work on the project site. A sign-in sheet for attendees of this training shall be included in the Phase IV Monitoring Report.

Unanticipated Resources - In the event that previously unidentified potentially significant cultural resources are discovered, the Archaeological and/or Tribal Monitor(s) shall have the authority to divert or temporarily halt ground disturbance operations in the area of discovery to allow evaluation of potentially significant cultural resources. The Project Archaeologist, in consultation with the Tribal monitor(s) shall determine the significance of the discovered resources. The Community Development Director or their designee must concur with the evaluation before construction activities will be allowed to resume in the affected area. Before construction activities are allowed to resume in the affected area, artifacts shall be recovered and features recorded using professional archaeological methods. The Project Archaeologist shall determine the amount of material to be recovered for an adequate artifact sample for analysis. Isolates and clearly non-significant deposits shall be minimally documented in the field and the monitored grading can proceed.

Artifact Disposition - The landowner(s) shall relinquish ownership of all cultural resources, (with the exception of sacred items, burial goods, and Human Remains) including all archaeological artifacts and non-human remains as part of the required mitigation for impacts to cultural resources. This shall include any and all artifacts collected during any previous archaeological investigations. The applicant shall relinquish the artifacts through one or more of the following methods and provide the Community Development Director or their designee with evidence of same:

1. A fully executed reburial agreement with the Consulting Native American tribe(s) or band(s). This shall include measures and provisions to protect the future reburial area from any future impacts, in perpetuity. Reburial shall not occur until all legally required cataloging, analysis and special studies have been completed on the cultural

resources and approved by the Community Development Director or their designee. No recordation of sacred items is permitted without the written consent of all Consulting Native American Tribal Governments as defined in MM Cul 3.

2. A curation agreement with an appropriate qualified repository within Riverside County that meets federal standards pursuant to 36 CFR Part 79 and therefore would be professionally curated and made available to other archaeologists/researchers and Native American tribal members for further study. The collections and associated records shall be transferred, including title, to an appropriate curation facility within Riverside County, to be accompanied by payment of the fees necessary for permanent curation.

3. ~~If more than one Native American Group was involved with AB52 or SB18 consultation for the project and a consensus cannot be reached as to the disposition of artifacts (cultural resources), the Project Archaeologist shall then proceed with the cultural resources being curated at the Western Science Center. The applicant is responsible for all costs related to curation.~~

Phase IV Report - A final archaeological report shall be prepared by the Project archaeologist and submitted to the Community Development Director or their designee prior to grading final. The report shall follow County of Riverside requirements and shall include at a minimum: a discussion of the monitoring methods and techniques used; the results of the monitoring program including any artifacts recovered; an inventory of any resources recovered; updated DPR forms for all sites affected by the development; final disposition of the resources including GPS data; artifact catalog and any additional recommendations. A final copy shall be submitted to the City, Project Applicant, the Eastern Information Center (EIC), and the Tribe.

MM Cul 3: Tribal Monitoring. Prior to the issuance of a grading permit, the applicant shall contact the consulting Native American Tribe(s) that have requested monitoring through consultation with the City during the AB 52 and/or the SB 18 process ("Monitoring Tribes"). The applicant shall coordinate with the Tribe(s) to develop individual Tribal Monitoring Agreement(s). A copy of the signed agreement(s) shall be provided to the City of Lake Elsinore Planning Department prior to the issuance of a grading permit. The Agreement shall address the treatment of any known tribal cultural resources (TCRs) including the project's approved mitigation measures and conditions of approval; the designation, responsibilities, and participation of professional 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/burial goods discovered on the site per the Tribe(s) customs and traditions and the City's mitigation measures/conditions of approval. The Tribal Monitor will have the authority to stop and redirect grading in the immediate area of a find in order to evaluate the find and determine the appropriate next steps, in consultation with the Project archaeologist.

MM Cul 4: Phase IV Report. Upon completion of the implementation phase, a Phase IV Cultural Resources Monitoring Report shall be submitted that complies with the Riverside County Planning Department's requirements for such reports for all ground disturbing activities associated with this grading permit. The report shall follow the

County of Riverside Planning Department Cultural Resources (Archaeological) Investigations Standard Scopes of Work posted on the County website. The report shall include results of any feature relocation or residue analysis required as well as evidence of the required cultural sensitivity training for the construction staff held during the required pre-grade meeting.

MM Cul 5: *Discovery of Human Remains:* ~~If human remains are found on this site, the developer/permit holder or any successor in interest shall comply with the following codes: Pursuant to State Health and Safety Code Section 7050.5, if human remains are encountered, no further disturbance shall occur until the County Coroner has made the necessary findings as to origin. If the Riverside County Coroner determines the remains to be Native American, the Native American Heritage Commission (NAHC) shall be contacted by the Coroner within the period specified by law (24 hours). The NAHC shall immediately notify those persons it believes to be most likely descended from the deceased Native American. The descendants may, inspect the site of the discovery of the Native American human remains and may recommend means for treatment or disposition, with appropriate dignity, of the human remains and any associated grave goods. The descendants shall make recommendations or preferences for treatment within 48 hours of being granted access to the site. Upon the discovery of Native American remains, the landowner shall ensure that the immediate vicinity, where the Native American human remains are located, is not damaged or disturbed.~~

~~The landowner shall discuss and confer with the descendants all reasonable options regarding the descendants' preferences for treatment. The descendants' preference for treatment may include the following:~~

- ~~1. The nondestructive removal and analysis of human remains and items associated with Native American human remains.~~
- ~~2. Preservation of Native American human remains and associated items in place.~~
- ~~3. Relinquishment of Native American human remains and associated items to the descendants for treatment.~~
- ~~4. Other culturally appropriate treatment.~~

~~The parties may also mutually agree to extend discussions, taking into account the possibility that additional or multiple Native American human remains, as defined in this section, are located in the project area, providing a basis for additional treatment measures. Human remains of a Native American may be an inhumation or cremation, and in any state of decomposition or skeletal completeness. Any items associated with the human remains that are placed or buried with the Native American human remains are to be treated in the same manner as the remains, but do not by themselves constitute human remains.~~

~~Whenever the commission is unable to identify a descendant, or the descendants identified fail to make a recommendation, or the landowner or his or her authorized representative rejects the recommendation of the descendants and the mediation provided for in subdivision (k) of Section 5097.94, if invoked, fails to provide measures acceptable to the landowner, the landowner or his or her authorized representative shall reinter the human remains and items associated with Native American human remains with appropriate dignity on the property in a location not~~

~~subject to further and future subsurface disturbance. To protect these sites, the landowner shall do one or more of the following:~~

- ~~1. Record the site with the commission or the appropriate Information Center.~~
 - ~~2. Utilize an open-space or conservation zoning designation or easement.~~
 - ~~3. Record a document with the county in which the property is located. The document shall be titled "Notice of Reinternment of Native American Remains" and shall include a legal description of the property, the name of the owner of the property, and the owner's acknowledged signature, in addition to any other information required by this section. The document shall be indexed as a notice under the name of the owner.~~
- ~~Upon the discovery of multiple Native American human remains during a ground disturbing land development activity, the landowner may agree that additional conferral with the descendants is necessary to consider culturally appropriate treatment of multiple Native American human remains. Human remains from other ethnic/cultural groups with recognized historical associations to the project area shall also be subject to consultation between appropriate representatives from that group and the City.~~

In the event that human remains (or remains that may be human) are discovered at the project site during grading or earthmoving, the construction contractors, project archaeologist, and/or designated Native American Monitor shall immediately stop all activities within 100 feet of the find. The project applicant shall then inform the Riverside County Coroner and the City of Lake Elsinore Community and Economic Development Department immediately, and the coroner shall be permitted to examine the remains as required by California Health and Safety Code Section 7050.5(b). Section 7050.5 requires that excavation be stopped in the vicinity of discovered human remains until the coroner has made the necessary findings as to origin. If human remains are determined to be Native American, the applicant shall comply with the state law relating to the disposition of Native American burials that fall within the jurisdiction of the NAHC (PRC Section 5097). The coroner shall contact the NAHC within 24 hours and the NAHC will make the determination of most likely descendant(s). The MLD shall complete his or her inspection and make recommendations or preferences for treatment within 48 hours of being granted access to the site. Treatment and disposition of the remains shall be determined in consultation with the most likely descendant(s) to determine the most appropriate disposition of human remains and any associated grave artifacts. In the event that the applicant and the MLD are in disagreement regarding the disposition of the remains, State law will apply and the mediation process will occur with the NAHC, if requested (see PRC Section 5097.98(e) and 5097.94(k)).


The specific locations of Native American burials and reburials are confidential and may not be disclosed to the general public. The locations will be documented by the consulting archaeologist in conjunction with the various stakeholders and a report of findings will be filed with the Eastern Information Center. A Sacred Lands File form will be submitted to the NAHC by the project archaeologist and the Monitoring Tribe(s).

According to the California Health and Safety Code, six or more human burials at one location constitutes a cemetery (Section 8100), and disturbance of Native American cemeteries is a felony (Section 7052).

The Tribe reserves the right to continue 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 continue to work together with the City of Lake Elsinore in protecting the invaluable Pechanga cultural resources found in the Project area. Please contact me at 951-770-6313 or at eozdil@pechanga-nsn.gov once you have had a chance to review these comments so that we might address the issues concerning the IS/MND and the mitigation language. Thank you.

Sincerely,

PP 

Ebru Ozdil
Planning Specialist

Cc Pechanga Office of the General Counsel

LETTER CODE: C
COMMENTS: Pechanga Band of Luiseño Indians (Pechanga)
DATE: February 26, 2018

A letter from the Pechanga raises concerns about the mitigation measures in the draft IS/MND the language in Mitigation Measure (MM) Cul 2 under Artifact Disposition (section 3). The Tribe is requesting the removal of the added sentence regarding curation at the Western Science Center. The Tribe is also requesting changes to MM Cul 1 and MM Cul 5.

RESPONSE

MM Cul 1 and Cul 5, as provided below, has been amended to include the changes requested by Pechanga. Staff believes the language in **MM Cul 2** is appropriate and will remain as is. This clarification is not required to avoid or reduce a new significant effect; rather, it is intended to clarify compliance with cultural resources. This change serves only to clarify the mitigation proposed in the Draft IS/MND and does not constitute a significant change to the analysis or conclusions therein.

MM Cul 1: *Unanticipated Resources*. The developer/permit holder or any successor in interest shall comply with the following for the life of this permit:

If during ground disturbance activities, unanticipated cultural resources* are discovered, the following procedures shall be followed:

1. All ground disturbance activities within 100 feet of the discovered cultural resource shall be halted until a meeting is convened between the developer, the Project Archaeologist, the Native American tribal representative(s) from consulting tribes (or other appropriate ethnic/cultural group representative), and the Community Development Director or their designee to discuss the significance of the find.
2. The developer shall call the Community Development Director or their designee immediately upon discovery of the cultural resource to convene the meeting.
3. At the meeting with the aforementioned parties, the significance of the discoveries shall be discussed and a decision is to be made, with the concurrence of the Community Development Director or their designee, as to the appropriate mitigation (documentation, recovery, avoidance, etc.) for the cultural resource.
4. Further ground disturbance shall not resume within the area of the discovery until a meeting has been convened with the aforementioned parties and a decision is made, with the concurrence of the Community Development Director or their designee, as to the appropriate mitigation measures.

~~* A cultural resource site is defined, for this condition, as being a feature and/or three or more artifacts in close association with each other, but may include fewer artifacts if the area of the find is determined to be of significance due to sacred or cultural importance.~~

~~**MM Cul 5: *Discovery of Human Remains*.** If human remains are found on this site, the developer/permit holder or any successor in interest shall comply with the following codes: Pursuant to State Health and Safety Code Section 7050.5, if human remains are encountered, no further disturbance shall occur until the County Coroner has made the necessary findings as to origin. If the Riverside County Coroner determines the remains to be Native American, the Native American Heritage Commission~~

~~(NAHC) shall be contacted by the Coroner within the period specified by law (24 hours). The NAHC shall immediately notify those persons it believes to be most likely descended from the deceased Native American. The descendants may, inspect the site of the discovery of the Native American human remains and may recommend means for treatment or disposition, with appropriate dignity, of the human remains and any associated grave goods. The descendants shall make recommendations or preferences for treatment within 48 hours of being granted access to the site. Upon the discovery of Native American remains, the landowner shall ensure that the immediate vicinity, where the Native American human remains are located, is not damaged or disturbed.~~

~~The landowner shall discuss and confer with the descendants all reasonable options regarding the descendants' preferences for treatment. The descendants' preferences for treatment may include the following:~~

- ~~1. The nondestructive removal and analysis of human remains and items associated with Native American human remains.~~
- ~~2. Preservation of Native American human remains and associated items in place.~~
- ~~3. Relinquishment of Native American human remains and associated items to the descendants for treatment.~~
- ~~4. Other culturally appropriate treatment.~~

~~The parties may also mutually agree to extend discussions, taking into account the possibility that additional or multiple Native American human remains, as defined in this section, are located in the project area, providing a basis for additional treatment measures. Human remains of a Native American may be an inhumation or cremation, and in any state of decomposition or skeletal completeness. Any items associated with the human remains that are placed or buried with the Native American human remains are to be treated in the same manner as the remains, but do not by themselves constitute human remains.~~

~~Whenever the commission is unable to identify a descendant, or the descendants identified fail to make a recommendation, or the landowner or his or her authorized representative rejects the recommendation of the descendants and the mediation provided for in subdivision (k) of Section 5097.94, if invoked, fails to provide measures acceptable to the landowner, the landowner or his or her authorized representative shall reinter the human remains and items associated with Native American human remains with appropriate dignity on the property in a location not subject to further and future subsurface disturbance. To protect these sites, the landowner shall do one or more of the following:~~

- ~~1. Record the site with the commission or the appropriate Information Center.~~
- ~~2. Utilize an open-space or conservation zoning designation or easement.~~
- ~~3. Record a document with the county in which the property is located. The document shall be titled "Notice of Reinternment of Native American Remains" and shall include a legal description of the property, the name of the owner of the property, and the owner's acknowledged signature, in addition to any other information required by this section. The document shall be indexed as a notice under the name of the owner.~~

~~Upon the discovery of multiple Native American human remains during a ground disturbing land development activity, the landowner may agree that additional conferral with the descendants is necessary to consider culturally appropriate treatment of multiple Native American human remains. Human remains from other ethnic/cultural groups with recognized historical associations to the project area shall also be subject to consultation between appropriate representatives from that group and the City.~~

In the event that human remains (or remains that may be human) are discovered at the project site during grading or earthmoving, the construction contractors, project archaeologist, and/or designated Native American Monitor shall immediately stop all activities within 100 feet of the find. The project applicant shall then inform the Riverside County Coroner and the City of Lake Elsinore Community Development Department immediately, and the coroner shall be permitted to examine the remains as required by California Health and Safety Code Section 7050.5(b). Section 7050.5 requires that excavation be stopped in the vicinity of discovered human remains until the coroner has made the necessary findings as to origin. If human remains are determined to be Native American, the applicant shall comply with the state law relating to the disposition of Native American burials that fall within the jurisdiction of the NAHC (PRC Section 5097). The coroner shall contact the NAHC within 24 hours and the NAHC will make the determination of most likely descendant(s). The MLD shall complete his or her inspection and make recommendation or preference for treatment within 48 hours of being granted access to the site. Treatment and disposition of the remains shall be determined in consultation with the most likely descendant(s) to determine the most appropriate disposition of human remains and any associated grave artifacts. In the event that the applicant and the MLD are in disagreement regarding the disposition of the remains. State law will apply and the mediation process will occur with the NAHC, if requested (see PRC Section 5097.98(e) and 5097.94(k)).

The specific location of Native American burials and reburials are confidential and may not be disclosed to the general public. The locations will be documented by the consulting archaeologist in conjunction with the various stakeholders and a report of findings will be filed with the Eastern Information Center. A Sacred Lands File form will be submitted to the NAHC by the project archaeologist and the Monitoring Tribe(s).

According to the California Health and Safety Code, six or more human burial at one location constitutes a cemetery (Section 81 00), and disturbance of Native American cemeteries is a felony (Section 7052).

LETTER CODE D



State of California - Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Inland Deserts Region
3602 Inland Empire Blvd., Suite C-220
Ontario, CA 91764
(909) 484-0459
www.wildlife.ca.gov

EDMUND G. BROWN, Jr., Governor
CHARLTON H. BONHAM, Director



February 26, 2018
Sent via email

Damaris Abraham
Senior Planner
Community Development Department
City of Lake Elsinore
130 South Main Street Lake Elsinore, CA 92530
dabraham@lake-elsinore.org

Subject: Initial Study and Mitigated Negative Declaration
Tige Watersports Project
State Clearinghouse No. 2014011009

Dear Damaris Abraham:

The Department of Fish and Wildlife (Department) appreciates the opportunity to comment on the Initial Study and proposed Mitigated Negative Declaration (MND) for the Tige Watersports Project (Project) [State Clearinghouse No. 2018011047]. The Department is responding to the DEIR as a Trustee Agency for fish and wildlife resources (California Fish and Game Code Sections 711.7 and 1802, and the California Environmental Quality Act [CEQA] Guidelines Section 15386), and as a Responsible Agency regarding any discretionary actions (CEQA Guidelines Section 15381), such as the issuance of a Lake or Streambed Alteration Agreement (California Fish and Game Code Sections 1600 *et seq.*) and/or a California Endangered Species Act (CESA) Permit for Incidental Take of Endangered, Threatened, and/or Candidate species (California Fish and Game Code Sections 2080 and 2080.1).

The proposed project is located at 29400 Enterprise Way, in the City of Lake Elsinore, in Criteria Cell 4266. The Project is proposing to develop a 25,682 sq ft industrial building that will include a boat showroom, office, service and manufacturing. The project abuts Collier Marsh, Proposed Linkage 2 in the Elsinore plan area and the terminus of Arroyo Del Toro channel, which is a 1.4-acre basin that includes 0.54 acres wetland mitigation. Collier Marsh provides live-in and foraging habitat for multiple MSHCP covered species, specifically yellow-breasted chat, San Diego ambrosia, downy woodpecker, least Bell's vireo, yellow warbler, and southwestern willow flycatcher.

The Department has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and the habitat necessary for

Conserving California's Wildlife Since 1870

biologically sustainable populations of those species (i.e., biological resources); and administers the Natural Community Conservation Planning Program (NCCP Program). The Department offers the comments and recommendations presented below to assist the City of Lake Elsinore (City; the CEQA lead agency) in adequately identifying and/or mitigating the project's significant, or potentially significant, impacts on biological resources. The comments and recommendations are also offered to enable the Department to adequately review and comment on the proposed project with respect to impacts on biological resources and the project's consistency with the Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP).

The Department reviewed the MND for compliance with the MSHCP. A Joint Project Review 17-10-06-02 (JPR) was submitted to the Department and the U.S. Fish and Wildlife Service (Service) on November 16, 2017 for review. Correspondence via email on November 30, 2017 to the City of Lake Elsinore indicated conditions of approval preferred by both the Department and Service, further details provided below.

The Department and Service indicated in our email November 30, 2017 response for the JPR that we agreed with the Western Riverside County Regional Conservation Authority's (RCA) finding that the Reserve Assembly can still be achieved on remaining parcels and that the project does not affect Reserve Assembly goals. However, we also stated that due to the proximity of the project to sensitive resources such as Collier Marsh and occupied Least Bell's vireo habitat that it is important to implement the Guidelines Pertaining to Urban/Wildlands Interface (Section 6.1.4 of the MSHCP). We supported the measures identified by the RCA in item "d." in the JPR which recommended "due to the proximity of the Project site to LBVI [Least Bell's Vireo] habitat and the potential of LBVI nesting occurring within 100 m of the Project site a permanent barrier is needed between the southwestern boundary of the Project site and Collier Marsh. The City of Lake Elsinore shall condition the Project to include a 6ft solid masonry barrier wall along the southwest boundary of the Project site."

Following review of the MND the Department has concerns that while the Project includes the majority of measures recommended in the JPR, the recommended permanent block wall has been reduced to sound walls during construction. The Draft Initial Study states "to avoid indirect impacts that may include fugitive dust, excess noise, increased artificial lighting, and the attraction of predators to the Project site, a Sound walls shall be erected during the construction phase to reduce construction-generated noise levels to less than 60 dBA outside the sound walls at the western and northern boundary of the Project site. Implementation of mitigation measure MM Bio 3 and MM Bio 4 will ensure that nesting bird species that may or may not be covered under the MSHCP will be protected and impacts will be less than significant." Mitigation Measure Bio 3 and 4 pertain to measure that will only occur during construction. The Department

strongly disagree that a temporary construction measure will adequately address long-term impacts to nesting birds in the Collier Marsh. We request that the project is conditioned to include a permanent block wall to minimize permanent noise impacts from the project site.

The Department recommends that the Initial Study and proposed MND are revised to include the avoidance and minimization measures specified in the JPR.

We appreciate the opportunity to provide comments on this MND, and look forward to continuing to work with the City on this project. We are available to meet with the City to discuss the MND, JPR and the MSHCP consistency. If you have any questions or comments regarding this letter, or to schedule a meeting, please contact Carly Beck at Carly.Beck@wildlife.ca.gov or by telephone at 909-945-3294.

Sincerely,

A handwritten signature in blue ink that reads "Heather A. Bent". There is a small mark below the signature.

Leslie MacNair
Regional Manager

Enclosure.

ec: Jeff Brandt, CDFW
Karin Cleary-Rose, USFWS
Charles Landry, RCA
State Clearinghouse

LETTER CODE: D
COMMENTS: California Department of Fish and Wildlife (CDFW)
DATE: February 26, 2018

A letter from the CDFW identifies its role as a Trustee Agency for fish and wildlife resources and as a Responsible Agency regarding discretionary actions, such as the issuance of a Lake or Streambed Alteration Agreement and/or a California Endangered Species Act Permit for Incidental Take of Endangered, Threatened, and/or Candidate species. Following review of the MND, the CDFW has concerns that while the Project includes the majority of measures recommended in the Joint Project Review (JPR), the recommended permanent block wall has been reduced to sound walls during construction. The CDFW is requesting that the Project be conditioned to include a permanent block wall to minimize permanent noise impacts from the project site.

RESPONSE

Mitigation Measure Bio 4, as provided below, has been amended to include a permanent block wall to minimize permanent noise impacts from the project site. This clarification is not required to avoid or reduce a new significant effect; rather, it is intended to clarify compliance with Guidelines Pertaining to Urban/Wildlands Interface (Section 6.1.4 of the MSHCP). This change serves only to clarify the mitigation proposed in the Draft IS/MND and does not constitute a significant change to the analysis or conclusions therein.

MM Bio 4: *Construction Sound of Walls*. Sound walls shall be erected during the construction phase to reduce construction-generated noise levels to less than 60 dBA outside the sound walls at the western and northern boundary of the Project site where the Project site is adjacent to natural lands. The sound walls should be constructed of tight-fitting plywood walls 8 feet high, or another suitable replacement, with no gaps that would facilitate noise waves to permeate the wall and enter the natural environment. In addition, due to the proximity of the Project site to Least Bell's vireo (LBVI) habitat and the potential of LBVI nesting occurring within 100 m of the Project site, a six (6) foot high solid masonry barrier wall shall be constructed along the southwest boundary to provide a permanent barrier needed between the southwestern boundary of the Project site and Collier Marsh.