

8.3 COMMENT LETTER 3: NATIVE AMERICAN HERITAGE COMMISSION, MARCH 4, 2013

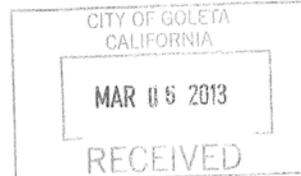
Comment Letter 3

STATE OF CALIFORNIA

Arnold Schwarzenegger, Governor

NATIVE AMERICAN HERITAGE COMMISSION

915 CAPITOL MALL, ROOM 364
 SACRAMENTO, CA 95814
 (916) 653-6251
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 (916) 657-5390 - Fax



March 4, 2013

Ms. Patricia Saley, Project Planner

City of Goleta

130 Cremona Drive, Suite B
 Goleta, CA 93117

RE: SCH# 2007121058 CEQA Notice of Completion; Revised Draft Environmental Impact Report (RDEIR) – **“Marriott Residence Inn and Hollister Center Project;”** located in the City of Goleta; Santa Barbara County, California

Dear Ms. Saley:

The Native American Heritage Commission (NAHC) has reviewed the Notice of Completion regarding the above referenced project. Advice concerning this project, provided in previous NAHC correspondence remains the same. In the 1985 Appellate Court decision (170 Cal App 3rd 604), the court held that the NAHC has jurisdiction and special expertise, as a state agency, over affected Native American resources impacted by proposed projects, including archaeological places of religious significance to Native Americans, and to Native American burial sites.

3-1

The California Environmental Quality Act (CEQA) states that any project that causes a substantial adverse change in the significance of an historical resources, which includes archeological resources, is a significant effect requiring the preparation of an EIR (CEQA guidelines 15064(b)). To adequately comply with this provision and mitigate project-related impacts on archaeological resources, the Commission recommends the following actions be required:

- ✓ Contact the appropriate Information Center for a record search to determine:
 - If a part or all of the area of project effect (APE) has been previously surveyed for cultural resources, which we know that it has.
 - The NAHC recommends that known cultural resources recorded on or adjacent to the APE be listed in the draft Environmental Impact Report.
- ✓ If an additional 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. We suggest that this be coordinated with the NAHC, if possible.
 - 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 pursuant to California Government Code Section 6254.10.
- ✓ Contact has been made to the the Native American Heritage Commission for:
 - A Sacred Lands File Check, and cultural resources have been identified to your agency.
 - A list of appropriate Native American Contacts for consultation concerning the project site has been provided and is attached to this letter.
 - Lack of surface evidence of archeological resources does not preclude their subsurface existence once ground-breaking activity begins. If that occurs, the NAHC suggests that inadvertent discoveries be coordinated with the NAHC;

3-2

3-3

3-4

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3-4
cont.

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 in their mitigation plan. Health and Safety Code §7050.5, CEQA §15064.5(e), and Public Resources Code §5097.98 mandates the process to be followed in the event of an accidental discovery of any human remains in a location other than a dedicated cemetery.

Sincerely,

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

Dave Singleton
Program Analyst
(916) 653-6251

CC: State Clearinghouse

Attachment: Native American Contacts list

**Native American Contacts
Santa Barbara County
March 4, 2013**

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Chumash

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Chumash

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Chumash
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Chumash

This list is current only as of the date of this document.

Distribution of this list does not relieve any person of the 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#2007121058; CEQA Notice of Completion; Revised Draft Environmental Impact Report (RDEIR) for the Marriott Residence Inn and Hollister Center Project; located in the City of Goleta; Santa Barbara County, California.

**Native American Contacts
Santa Barbara County
March 4, 2013**

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Chumash

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Chumash

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**Native American Contacts
Santa Barbara County
March 4, 2013**

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Response to Comment No. 3-1

The comment reaffirms the NAHC's jurisdiction and special expertise over affected Native American resources potentially impacted by the proposed project, and reiterates the Commission's previously submitted comments.

Comment noted. Refer to responses to Comments 1-1 through 1-9 for previously submitted comments.

Response to Comment No. 3-2

The comment recommends that the City contact the appropriate Information Center for a record search to determine if part of the area of potential effect (APE) was previously surveyed for cultural resources and that the EIR list all known cultural resources recorded on or adjacent to the APE.

The City and CRMS (City-contracted archaeological consultants) each submitted Sacred Lands File search request letters to the NAHC, on 9/2/09 and 12/7/09, respectively, which are included in Final EIR Appendix R1.

City efforts to inform and request input from individuals identified on the NAHC-provided Native American contact list are identified under the heading of "Native American Consultation" in Section 4.4 of the EIR, Cultural Resources. The discussion of Native American Consultation has been supplemented. Additional discussion has been added to include past City efforts associated with the prior, similar Marriott Residence Inn project in 2008, including requests made by the Native American Chumash community (e.g., applicant agreement to hand-dig in piling areas). Additional City efforts associated with the current project request that were not described in the Draft EIR have also been added (i.e., the Notice of Preparation of an EIR in 2009, additional field work in May 2010, an August 2010 meeting to discuss the Draft CRMS report, and a May 2013 meeting to discuss the Revised Draft EIR Cultural Resources section and final CRMS report [see Final EIR Appendix R1]).

The EIR identifies archaeological site CA-SBA-58, part of which is located on the project site.

Section 4.4.1.3, Project Site, Native American Consultation, is revised as follows:

The Chumash Native American community considers CA-SBA-58 to be a large and permanent prehistoric village site, occupied during the Middle and Late Periods of Chumash prehistory, which is significant to their heritage. Further, the Chumash Native American community is concerned for sites and places that provide or may provide ties to the lifeways of the ancestral Chumash and their predecessors, including village sites such as the project site, at the edges of the former boundaries of the current Goleta Slough.

During processing of the original Marriott Residence Inn and Hollister Center Project in 2007–2008, a "meet and confer" process was conducted between staff, the applicant, and interested members of the Chumash Native American community. Four meet and confer discussions were held (May 5, 2008; May 19, 2008; June 18, 2008; and August 6, 2008). According to the letter from former City of Goleta Planning Director Steve Chase to Katy Sanchez of the Native American Heritage Commission (NAHC) dated October 7, 2008 (included in Appendix R1), more than 12 hours of discussion occurred during these

meetings and at least another 40 hours of various discussions took place between the parties in other meetings and phone conversations in support of these discussions. The earlier Marriott Residence Inn project would have been located on the same property, although it would have included a larger building with different site preparation/grading details and greater disturbance to the archaeological site. The revisions that have been incorporated into the current project design are, in part, a result of input from the 2008 meetings with the Chumash Native American community. The applicant also incorporated the required hand-digging of all piling locations not included in the Phase 3 data recovery excavations in response to comments received at these meetings. (This requirement is further included as required mitigation to ensure implementation of this aspect of the project description.)

The current project includes dividing a single 10.71-acre parcel into two smaller parcels—one that includes an existing building and one that is vacant, but is envisioned for development of a hotel. The current request does not involve an amendment to the City's General Plan or a change in the property's zoning. In July 2009, the project applicant requested that the City rescind its 2008 project approval and proceed with preparation of an EIR for a similar project. A Notice of Preparation of an EIR and an EIR Scoping document were prepared, and these documents were provided to the NAHC. (The current project described in this Final EIR has been revised since July 2009.)

On January 20, 2010, CRMS sent a letter to individuals included on the Native American contact list, which CRMS received from the NAHC. This letter requested that comments be submitted to CRMS in writing. (See letter and related emails between F. Arredondo and N. Campbell in Appendix R1.)

The City informed the local Native American community when additional borings were performed on the project site on April 26 and May 28, 2010, (correspondence dated April 23 and May 22, 2010 included in Appendix R1).

In addition, notification was provided regarding a consultation with CRMS to discuss draft findings following their review of previous cultural resources reports as well as field work related to the project site (correspondence included in Appendix R1). Members of the Chumash Native American community were provided the Draft CRMS report prior to a noticed August 12, 2010 meeting, which was scheduled for the purpose of explaining the preliminary conclusions of the Draft CRMS report and to obtain comments from the Native American community about the draft report. Staff scheduled this meeting to accommodate the schedules of several Native Americans who had been involved in previous project discussions. The purpose of providing the draft report before the meeting was to allow individuals to review the preliminary analyses themselves, prior to receiving CRMS's summary of the report at the meeting. The intent was further to allow for the most effective opportunity for discussion and comment on the draft report at the August meeting before the report was finalized and incorporated into Section 4.4 of the EIR, Cultural Resources. Other than the applicant, only individuals from the NAHC contact list were invited to the meeting or provided with a copy of the draft report. This meeting was discussed and scheduled in coordination with members of the Native American community. (See emails included in Appendix R1.)

The consultation was held at the City of Goleta office on August 12, 2010. The Native American Contact List provided with the Native American Heritage Commission's (NAHC) NOP comment letter, was used to notify interested members of the Chumash

Native American community of the above field work and consultation. Frank Arredondo was the only Native American in attendance at the August 12, 2010, meeting. At the meeting, CRMS archaeologists presented their draft report, followed by comment and discussion. Staff also explained that there would be continued opportunities for participation by interested members of the Native American community ~~will occur~~ through completion of the environmental process and decision maker hearings.

Response to Comment No. 3-3

The comment states that, if an additional archaeological inventory survey is required, a professional report detailing the findings/recommendations and including site forms, site significance, and mitigation measures should be prepared and coordinated with the NAHC, if possible. A separate confidential addendum should be made for site locations, Native American human remains, and associated funerary objects.

The primary focus of the recent CRMS report was to review and synthesize existing archaeological reports and related data associated with the project site. The CRMS report, excluding confidential information, is summarized in the Cultural Resources section of the EIR (Section 4.4).

Culturally sensitive and confidential information included in the archaeological reports (e.g., boundaries of archaeological sites) is not included in the EIR or other public documents for the project.

Response to Comment No. 3-4

The comment requests that the City contact the NAHC for a Sacred Lands File Check and a list of appropriate Native American contacts. The comment also advises that monitoring should occur in areas of archaeological sensitivity by a certified archaeologist and a culturally affiliated Native American.

See response to Comment 3-2 regarding efforts and contacts made with appropriate Native American contacts.

The project design, along with the mitigation measures recommended in the EIR, will reduce impacts to cultural resources and ensure the project is implemented in a manner that avoids or reduces impacts. The project proposal and EIR-identified mitigation measures include requirements to avoid and/or minimize direct impacts of such standard construction methods such over-excavation and re-compaction. The project design and mitigation measures would also minimize impacts to cultural resources by protecting buried resources in place. These requirements include: (1) a foundation design that avoids or minimizes over-excavation and earth disturbance; (2) utility/paving/landscape installation standards that avoid disturbance to sensitive, intact soil areas; (3) capping of the project site with fill between any underlying resources and new structural development/hardscape areas/new landscaped areas; (4) implementation of a data recovery program; and (5) mandatory monitoring of all development activities involving earth disturbance by an archaeologist and Native American observer. The archaeologist/Native American observer shall have the ability to stop work to evaluate and address cultural resource impacts if potentially significant resources are encountered or if there are changes to the grading and construction plans that could impact sensitive cultural/archaeological resources.