

Comment Set A0031, cont.
Pechanga Indian Reservation

Addendum 1
Treatment Plan for Archaeological Resources
Guidelines for Evaluation of Resources and Unexpected
Discoveries

General Methodology

This Plan shall take into account the sensitive nature of any ceremonial and/or sacred items that may be found in the course of the archaeological investigations, including Native American human remains and grave goods. If cultural resources and/or features are sacred, ceremonial or associated with a burial, such features will not be subject to complete exposure and/or removal, without prior consultation with the Pechanga Tribe in accordance with the requirements of Public Resources Code Section 5097.98(a). The Tribe requests that any such items not found on Federal lands, if determined by the Tribe, be immediately relinquished to the Tribe on site upon meeting the recording requirements for each item. Such recording should be completed on site if possible, and the items shall not be transported to the office or lab of the Project Archaeologist unless approved by the Pechanga Tribe. The Tribe's preference may be for the items to be immediately relinquished to the Tribe for appropriate treatment, which could include reburial in place so that the items are not subject to further disturbance, reburial in another area on the Project not subject to further disturbance, reburial in another area on the Project not subject to further disturbance, or transportation to the Tribe's facilities by the Tribe.

All cultural resources, including ceremonial, sacred and burial items should be treated in accordance with the customs and traditions of the Tribe, which could include, but not be limited to, the following: no washing, minimal cleaning that is necessary to determine the nature of the item and handling in a manner as determined appropriate by Tribal representatives.

The Tribe may request additional units and/or testing in areas that may yield "sensitive" resources such as ceremonial or sacred items, and in areas that yield or may be likely to yield Native American human remains. The Tribe also may request to reduce the number of units and/or the amount of testing if the testing activities encounter a "sensitive" area that the Tribe prefers not to be further disturbed until new or additional methods of testing or treatment can be ascertained.

*Pechanga Cultural Resources • Temecula Band of Luiseño Mission Indians
Post Office Box 2183 • Temecula, CA 92592*

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Requests by the Pechanga Tribe or the Project Archeologist to conduct additional excavation or other work or to treat or avoid new discoveries of potentially significant archaeological or cultural deposits will be determined through consultation between the Lead Agency, Applicant, Pechanga, and the Project Archaeologist.

Moreover, all Native American Human remains, including all grave goods, are not to be displaced or removed from the place of discovery, especially if they are discovered “in-situ,” without prior consultation with the Tribe.

Lastly, it is the Tribe’s request that no invasive or destructive testing or analysis be imposed upon resources unnecessarily. The Tribe is also opposed to any “invasive or destructive testing” and any “invasive/destructive dating procedures” being applied or used on Native American human remains, burial goods, grave goods, ceremonial items or sacred items. Any testing that is planned or desired for these items should not be conducted, without prior approval of the Tribe. Such activities are in direct conflict with the Tribe’s goal of protecting and preserving as many of the resources as possible. The Tribe is not opposed to the archeological testing methods contained in this Plan, and has approved such activities in many situations, but the Tribe requests the methods contained herein take into account the Tribe’s desire to limit destructive testing and analysis.

Collection Procedures

All cultural materials discovered during grading will be collected, sorted, labeled and placed in a re-sealable plastic container or bag unless determined to be a sacred or ceremonial item. All collected samples will be clearly labeled with proper provenience values such as the date, the site number, location and level depth or actual depth. Care taken for specific material types/samples recovered is discussed in the appropriate sections on those cultural materials.

Unexpected Feature Discovery

If features are discovered during construction monitoring, archaeological units will be placed so that the entire feature is exposed. All features will be mapped and photographed before and/or during cultural material recovery. If features are sacred, ceremonial or associated with a burial, such features will not be subject to complete exposure and/or removal, without prior consultation with the Pechanga Tribe in a manner consistent with the requirements of Public Resources Code Section 5097.98(a).

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Geo- Archaeology of Features

A micromorphological description of the site soils will be completed based upon the hand excavated unit profiles and physical analysis of the soils of any excavated feature. Physical analysis in the field will include at least a description of the soil profile such as color, texture, bed size and strength, depositional sequence, plasticity and presence or absence of charcoal, roots and krotovina.

Radiocarbon Samples

If present, radiocarbon samples will be collected from inside or below fire hearth and oven features. Carbon or soil deposits will be removed with a clean trowel and placed in clean, re-sealable plastic containers/bags. Solid fragments of charcoal and/or bone will be wrapped in clean foil and placed in clean, re-sealable plastic containers/bags. All samples proposed for radiocarbon testing will be approved by the Pechanga Tribe. Native American remains, ceremonial items, sacred items and animal bone associated with burials or ceremonial use shall not be radiocarbon samples.

Quartz Samples

Large quartz tools should be wrapped in paper and placed in an appropriate container separately to minimize edge damage. Due to the expected large sample size, quartz flakes, tools and debitage will be sub-sampled for sourcing either during the laboratory process or by the specialty analyst during analysis. Native American ceremonial items, sacred items, and items associated with burials or ceremonial uses shall not be removed without prior consultation with the Tribe in a manner consistent with the requirements of Public Resources Code Section 5097.98(a).

Diagnostic Artifacts (formed tools, ceramics, shell beads)

Diagnostic artifacts found in situ on the surface or subsurface will be point plot provenienced, collected, labeled and placed in a clean, re-sealable plastic container/bag. If fragile in nature, these materials will be wrapped in tissue paper to prevent damage. Native American ceremonial items, sacred items, and items associated with burials or ceremonial uses shall not be removed without prior consultation with the Tribe in a manner consistent with the requirements of Public Resources Code Section 5097.98(a).

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Faunal Samples

Faunal remains, which have been positively identified as faunal, may be found in the site context and/or in and around features located on the site. Bones will be identified to genus and species, or at least as small, medium or large vertebrate as possible. The Number of Identifiable Specimens (NISP) will be the minimal level of analysis, with Minimum Number of Individuals (MNI) as the optimal level of analysis. Faunal remains that are ceremonial, sacred or associated with a burial will not be subject to any destructive archaeological testing, and all actions concerning such specimens will be subject to prior consultation with the Pechanga Tribe in a manner consistent with the requirements of Public Resources Code Section 5097.98(a). The Tribe's burial practices include ceremonial burnings, which often include animals and items of a personal nature related to the deceased. Therefore, the Tribe interprets the term "human remains" to encompass more than the human bones themselves. The Tribe considers ashes and other remnant of burning ceremonies to be treated in the same manner as human remains. In addition, if faunal remains, burned or not burned, are found in close proximity to a burial or human remains, the Tribe requests that such faunal remains be treated as burial goods.

Macrobotanical Samples

Macrobotanical remains may be found in and around features located on the site or in soil samples taken for that purpose. Whenever possible or practical, macrobotanical remains will be collected from any hearth or oven features, or a soil sample should be removed from the feature for flotation. Any samples or testing performed pursuant to this provision shall be done in accordance with the Tribe's customs and traditions as set forth above in the General Methodology section.

Flotation Samples From Features

Whenever possible or practical, flotation samples for macro and microbotanical material will be retrieved from within, beneath and around hearth and oven features. Flotation samples will be collected using a clean trowel and distilled water, labeled and placed in a clean, resealable plastic container/bag. Any samples or testing performed pursuant to this provision shall be done in accordance with the Tribe's customs and traditions as set forth in the General Methodology section.

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Replicative Studies

If practical for analytical purposes, replicative studies will proceed with two goals in mind. First, to ascertain the technology used to produce the tools and second, for the replication of tools for comparative use wear analysis. The Tribe does not condone replication of any ceremonial personal items. The Project Archaeologist shall confer with Tribal Representatives to determine the true nature of any item prior to replication.

Laboratory Process

All artifacts and ecofacts will be washed and/or brushed to remove residue soil matrix and then catalogued. Artifacts will be further sorted into classes such as bifaces, cores, flakes, milling tools, ceramics, beads and bone tools. Specialized studies will be performed after this initial cataloguing and sorting of artifact classes. There shall be no archaeological studies or testing, other than documentation, performed on sacred items, ceremonial items or associated grave goods, without prior approval of the Tribe.

Curation

Artifacts, ecofacts, field notes and photographs will be permanently curated at a location determined by the Pechanga. Interim curation during analysis and report preparation will be held at the offices of the qualified Project Archaeologist.

Additional Evaluation and Consultation

If archaeological materials are recovered during ground disturbing activities, they will be field identified to determine if they are part of a larger subsurface deposit or are related to a human burial/cremation. Significant deposits or culturally important finds would require further evaluation by the Project Archaeologist in consultation with Pechanga to determine appropriate treatment in accordance with applicable law and Tribal custom and tradition. Further, should the Pechanga Tribal monitors determine that different testing or investigation needs to be performed, further evaluation and consultation will occur between the Lead Agency, Applicant, and Pechanga.

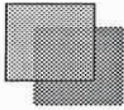
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TOMARAS & OGAS, LLP

10755-F SCRIPPS POWAY PARKWAY #281 • SAN DIEGO, CALIFORNIA 92131
TELEPHONE (858) 554-0550 • FACSIMILE (858) 777-5765 • WWW.MTOWLAW.COM

Kathryn A. Ogas
Brenda L. Tomaras

kogas@mtowlaw.com
tomaras@mtowlaw.com



June 15, 2006

Mr. Greg A. Morrison
Director of Legislative and Community Affairs
Elsinore Valley Municipal Water District
31315 Chaney Street
P.O. Box 3000
Lake Elsinore, CA 92531

Re: LEAPS Project Revised Notice of Preparation of DEIR

Dear Mr. Morrison:

Our firm represents the Pechanga Band of Luiseño Indians. The Pechanga Band of Luiseño Indians of the Pechanga Indian Reservation, a federally recognized Indian Tribe (hereinafter "Pechanga Band" or "Tribe"), submits the following response to your Revised Notice of Preparation (NOP) of a Draft Environmental Impact Report (DEIR) for the LEAPS and TE/VS Interconnect Project (hereinafter "the Project")

The Tribe has been participating in the EIS process through FERC, and formally requests that it be involved in the entire Environmental Impact Report (EIR) process for the proposed Project. The Pechanga Tribe looks forward to submitting more detailed comments when it receives further information on the specific cultural resources impacts. At this time the Pechanga Band is submitting general comments regarding its interests and concerns with this Project. We request that these comments as well as subsequent comments submitted by the Pechanga Tribe be included in the record for approval of the Project.

In addition, the Pechanga Tribe, a federally recognized Indian tribe and sovereign government, is formally requesting, pursuant to Public Resources Code §21092.2, to be notified and involved in the CEQA environmental review process for the duration of the Project. Please add both the Pechanga Band and Tomaras & Ogas, LLP to your mailing list for this and other projects which will impact Luiseño sites.

Pechanga Indian Reservation
Pechanga Cultural Resources Committee
P.O. Box 2183
Temecula, CA 92593

Brenda L. Tomaras
Tomaras & Ogas, LLP
10755-F Scripps Poway Parkway #281
San Diego, CA 92131

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Tribal Interest

The Pechanga Tribe's primary concern regarding this Project is the impact it will have on significant cultural resources, Luiseño sacred sites, and Native American human remains. The Pechanga Tribe has a long history of involvement with development Projects, local, State and Federal, that impact cultural resources affiliated with the Pechanga Tribe and, as is discussed more fully below, the Pechanga Band has a strong cultural affiliation with the Project Area. The Pechanga Tribe is not opposed to this Project at this time. The Pechanga Tribe is concerned, however, about both the protection of unique and irreplaceable cultural resources, such as Luiseño village sites and archaeological items which would be displaced by ground-disturbing work on the project or impacted by water upon completion of the project, and on the proper and lawful treatment of ceremonial and sacred items, including Native American human remains and likely to be discovered in the course of the work.

Pechanga Affiliation with Project Area

The Pechanga Band of Luiseño Indians has a rich and varied history within the Project Area and maintains strong cultural ties with the Project Area. A more detailed description of the Pechanga Band's history and affiliation with the Project Area is discussed in greater detail in the Confidential Appendix attached hereto.

Because of the sensitive nature of the information contained in the Confidential Appendix, the Pechanga Band is specifically requesting the District and any and all affiliates, whether governmental agencies or private entities, to maintain the confidentiality of the information by withholding it from publication and public review.

Project Impacts to Luiseño Sacred Site, Cultural Traditional Properties and Archaeological Sites

With respect to the proposed alternatives, of particular concern is the Morrell Canyon upper reservoir alternative which would destroy or damage four prehistoric sites, the Santa Rosa and Ortega Oaks powerhouse sites which would each affect a prehistoric site and any of the routes that pass through the Pechanga Tribe's traditional territories. A copy of Luiseño traditional territory map is enclosed for your convenience. The Tribe has an interest in any portion of the Project within those territory boundaries.

Potential Impacts to Morrell Canyon Sites and Other Project Sites

Within the Morrell Canyon region, numerous archeological sites have been identified and recorded. It is important to evaluate each site from a cultural perspective in order to determine appropriate treatment pursuant to the Pechangas Band's cultural values based on its knowledge of cultural resources and their importance. Listed below within the Confidential Appendix are the archeological sites which have been identified as potentially being impacted by the Project with recommendations for treatment from Pechanga.

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Given the expected impacts to prehistoric cultural resources sites, the Tribe is requesting that the Decker Canyon and Evergreen alternatives be selected for the upper reservoir and powerhouse sites respectively. This would avoid impacts to any cultural resources for those two portions of the project.

Requested Involvement

The Pechanga Tribe will itself be engaging in further assessment of the Project area, in consultation with tribal elders, to identify more specific information about this culturally sensitive area. Moreover, the Tribe possesses necessary information about the archeological and cultural sensitivity that an archeological survey alone will not reveal, and should be consulted with at the earliest possible stage of the environmental review to assist in identifying and mitigating the cultural resources impacts for this Project, as the applicant has already agreed to do. Given that Native American cultural resources will likely be affected by the Project, the Pechanga Tribe requests it be allowed to be involved and participate with the District in creating mitigation plans for the duration of the Project under California Public Resources Code § 21081.

Further, given the significant potential for archaeological resources within the Project area, it is the position of the Pechanga Tribe that Pechanga tribal monitors should be required according to set guidelines agreed upon between the parties. The Pechanga Tribe also requests that the District include a mitigation measure requiring a preservation plan or treatment agreement with the Pechanga Tribe, which addresses inadvertent discoveries of cultural resources, sacred sites and Native American human remains.

According to the California Public Resources Code, § 5097.98, if Native American human remains are discovered, the Native American Heritage commission must name a “most likely descendant,” who shall be consulted as to the appropriate disposition of the remains. Given the Project’s location in Pechanga aboriginal territory, the Pechanga Tribe intends to assert its right pursuant to California law with regard to any remains or items discovered in the course of this Project.

Conclusion

The Pechanga Band is happy to be a partner of the Elsinore Valley Municipal Water District in protecting cultural resources; and with that partnership in mind, requests that the draft EIR specifically commit to the inclusion of the Pechanga Band as a partner in the assessment of impacts on cultural resources and drafting and negotiating the mitigation and monitoring concerning cultural resources.

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The Pechanga Band looks forward to working together with the District and other interested agencies in protecting the invaluable Luiseño cultural resources found in the Project area.

Very Truly Yours,

TOMARAS & OGAS, LLP

A handwritten signature in black ink that reads "Brenda L. Tomaras". The signature is fluid and cursive, with the first name "Brenda" being more prominent than the last name "Tomaras".

Brenda L. Tomaras
Attorneys for the Pechanga Band of Luiseño Indians

cc: Laura Miranda, Deputy General Counsel
Pechanga Band of Luiseno Indians
12705 Pechanga Road
P.O. Box 1477
Temecula, CA 92593

Responses to Comment Set A0031

Pechanga Indian Reservation

A0031-1 It is acknowledged that traditional lands and cultural resources of concern to the Pechanga Band of Luiseño Indians (Pechanga Tribe) would be affected by the LEAPS Project Alternatives (LEAPS Transmission-Only Alternative and LEAPS Generation and Transmission Alternative), and possibly by future system expansions if they are built. It is understood that the Pechanga Tribe wishes to continue government-to-government consultation on the Proposed Project in accordance with requirements of NEPA, CEQA, and NHPA. As stated in Section D.7.7, the BLM (or the USFS in the case of LEAPS), as lead federal agency, would initiate or continue Section 106 consultation in the event that the Proposed Project or an alternative is selected for construction. As detailed in the mitigation measures, the Tribes would continue to be involved in identification of historic properties and resolution of adverse effects that would be conducted under a Programmatic Agreement once an undertaking has been identified.

Because resources of concern to the Pechanga Tribe would be affected by only the LEAPS Project Alternatives or future expansion projects, the tribe was not originally consulted about the Proposed Project. However, when the LEAPS Project Alternatives were identified as possible alternatives to the Proposed Project, the Pechanga Tribe was included by the BLM and CPUC in all consultation related to NEPA and CEQA. Nonetheless, if either of the LEAPS Project Alternatives is selected for construction, the existing LEAPS and TE/VS Project Final EIS (incorporated by reference; published by the Federal Energy Regulatory Commission as Lead Agency, with U.S. Forest Service as a cooperating agency, FERC Project No. 11858, FERC/FEIS-0191F, January 2007) has separately and completely satisfied NEPA requirements for the project. The Pechanga Tribe's letter to the FERC, dated April 25, 2006 (and appended to the Tribe's comments on the Sunrise Powerlink Project), documents that the Tribe has participated in the NEPA process for the LEAPS and TE/VS Project. In addition, the Section 106 compliance process for the LEAPS and TE/VS Project has already resulted in a draft Programmatic Agreement between the Federal Energy Regulatory Commission (the licensing agency, FERC No. 1185-002)) and the SHPO for managing historic properties that may be affected by LEAPS. That Agreement, to which the licensees, USFS, BLM, U.S. Marine Corps, BIA, and as many as ten Indian Tribes would be concurring parties, allows for continuing consultation with the Tribes during formulation and implementation of a Historic Properties Management Plan. The transmission and generation components of the LEAPS Project Alternatives, as alternatives to the Proposed Sunrise Powerlink Project, are unchanged from the Staff Alternative LEAPS and TE/VS Project originally considered by the FERC, with the exception that the FERC did not consider a transmission-only project. Other agencies with discretionary authority over the LEAPS Project Alternatives may use the Sunrise Powerlink Project EIR/EIS for CEQA/NEPA compliance in issuing additional permits or certifications required for these alternatives.

A0031-2 As detailed in Response to Comment A0031-1, above, it is acknowledged that the Pechanga Tribe has concerns about the LEAPS Project, should it be selected as the build alternative to the Proposed Project. Environmental review of the LEAPS Project has been conducted for NEPA, separately, by the FERC, with substantial input from the

Pechanga Tribe regarding avoidance or treatment of archaeological resources and Traditional Cultural Properties. This Final EIR/EIS for the Sunrise Powerlink Project would not alter agreements that have been reached between the FERC and the Pechanga Tribe regarding treatment of cultural resources for the LEAPS Project. Additionally, the attached comment letter to the LEAPS DEIS (P-11858-002) does not address the impact conclusions or the mitigation measures of the Sunrise Draft EIR/EIS, therefore no further response is necessary.