

STATE OF CALIFORNIA

Arnold Schwarzenegger, Governor

NATIVE AMERICAN HERITAGE COMMISSION

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December 29, 2009

Mr. Tom Alo

CALIFORNIA REG. WATER QUALITY CONTROL BOARD - REGION 9

9174 Sky Park Court, Suite 100
 San Diego, CA 92123

Sent by FAX to : 858-571-6972

No. of Pages: 4

Re: SCH#2009111098 CEQA Notice of Preparation (NOP); draft Environmental Impact Report (DEIR) for the Nassco/BAE Shipyard Sediment Site, San Diego located in the San Diego Bay area near National City, San Diego County, California

Dear Mr. Alo:

The Native American Heritage Commission (NAHC) is the state 'trustee agency' pursuant to Public Resources Code §21070 for the protection and preservation of California's Native American Cultural Resources.. (Also see *Environmental Protection Information Center v. Johnson* (1985) 170 Cal App. 3rd 604) The California Environmental Quality Act (CEQA - CA Public Resources Code §21000-21177, amended in 2009) requires that any project that causes a substantial adverse change in the significance of an historical resource, that includes archaeological resources, is a 'significant effect' requiring the preparation of an Environmental Impact Report (EIR) per the California Code of Regulations §15064.5(b)(c)(f) CEQA guidelines). Section 15382 of the CEQA Guidelines defines a significant impact on the environment as "a substantial, or potentially substantial, adverse change in any of physical conditions within an area affected by the proposed project, including ... objects of historic or aesthetic significance." In order to comply with this provision, the lead agency is required to assess whether the project will have an adverse impact on these resources within the 'area of potential effect (APE)', and if so, to mitigate that effect. To adequately assess the project-related impacts on historical resources, the Commission recommends the following.

The Native American Heritage Commission did perform a Sacred Lands File (SLF) search in the NAHC SLF Inventory, established by the Legislature pursuant to Public Resources Code §5097.94(a) and Native American Cultural resources were not identified within one-half mile of the APE. Early consultation with Native American tribes in your area is the best way to avoid unanticipated discoveries once a project is underway. Enclosed are the names of the nearest tribes and interested Native American individuals that the NAHC recommends as 'consulting parties,' for this purpose, that may have knowledge of the religious and cultural significance of the historic properties in the project area (e.g. APE). We recommend that you contact persons on the attached list of Native American contacts. A Native American Tribe or Tribal Elder may be the only source of information about a cultural resource.. Also, the NAHC recommends that a Native American Monitor or Native American culturally knowledgeable person be employed whenever a professional archaeologist is employed during the 'Initial Study' and in other phases of the environmental planning processes.. Furthermore we suggest that you contact the California Historic Resources Information System (CHRIS) at the Office of Historic Preservation (OHP) Coordinator's office (at (916) 653-7278, for referral to the nearest OHP Information Center of which there are 11..

Consultation with tribes and interested Native American tribes and individuals, as consulting parties, on the NAHC list, should be conducted in compliance with the requirements of federal NEPA (42 U.S.C. 4321-43351) and Section 106 and 4(f) of federal NHPA (16 U.S.C. 470 [f])et se),

Native American Contacts
San Diego County
December 29, 2009

Barona Group of the Capitan Grande
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Sycuan Band of the Kumeyaay Nation
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La Posta Band of Mission Indians
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Kumeyaay Cultural Historic Committee
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Santa Ysabel Band of Diegueno Indians
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This list is current only as of the date of this document.

Distribution of this list does not relieve any person of statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5097.94 of the Public Resources Code and Section 5097.98 of the Public Resources Code. Also, federal National Environmental Policy Act (NEPA), National Historic Preservation Act, Section 106, and federal NAGPRA.

This list is only applicable for contacting local Native Americans with regard to cultural resources for the proposed SCH#2009111098; CEQA Notice of Preparation (NOP); draft Environmental Report (DEIR) for the Nassco/BAE Shipyard Sediment Site, San Diego; located in the San Diego Bay area; San Diego County, California.

Native American Contacts
San Diego County
December 29, 2009

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This list is only applicable for contacting local Native Americans with regard to cultural resources for the proposed SCH#2009111090; CEQA Notice of Preparation (NOP); draft Environmental Report (DEIR) for the Nassco/BAE Shipyard Sediment Site, San Diego; located in the San Diego Bay area; San Diego County, California.