

Appendix B
NOP Comment Letters

DEPARTMENT OF TRANSPORTATION

District 12
3337 Michelson Drive, Suite 380
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PLANNING DEPARTMENT

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June 3, 2009

JUN 08 2009

James Campbell
City of Newport Beach
3300 Newport Blvd.
Newport Beach, CA 92685-8915

CITY OF NEWPORT BEACH

File: IGR/CEQA
SCH#: 2009041010
Log #: 2292
SR-1

Subject: Megonigal Residential (PA2007-133)

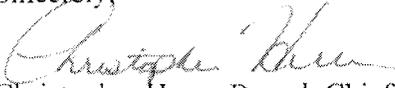
Dear Mr. Campbell,

Thank you for the opportunity to review and comment on the **Notice of Preparation for the Megonigal Residential (PA2007-133) Project**. The proposed project is composed of a single family residential dwelling unit on the property which will have vehicular access to the ground floor from Pacific Drive. The proposed residence will have three stories and total 3,566 total square feet. The nearest State route to the project site is SR-1.

The California Department of Transportation (Department), District 12 is a commenting agency on this project and we have no comment at this time. However, in the event of any activity within the Department's right-of-way, an encroachment permit will be required.

Please continue to keep us informed of this project and any future developments, which could potentially impact State transportation facilities. If you have any questions or need to contact us, please do not hesitate to call Damon Davis at (949) 440-3487.

Sincerely,


Christopher Herre, Branch Chief
Local Development/Intergovernmental Review

C: Terry Roberts, Office of Planning and Research

NATIVE AMERICAN HERITAGE COMMISSION

915 CAPITOL MALL, ROOM 364
 SACRAMENTO, CA 95814
 (916) 653-6251
 Fax (916) 657-5390
 Web Site www.nahc.ca.gov
 e-mail: ds_nahc@pacbell.net



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 PLANNING DEPARTMENT

May 28, 2009

JUN 02 2009

Mr. James Campbell

CITY OF NEWPORT BEACH

3300 Newport Boulevard
 Newport Beach, CA 92685-8915

CITY OF NEWPORT BEACH

Re: SCH#2009051043: CEQA Notice of Preparation (NOP); draft Environmental Impact Report (DEIR) for the Megonigal Residential (PA2007-133) Project; located in the City of Newport Beach; Orange County, California

Dear Mr. Campbell:

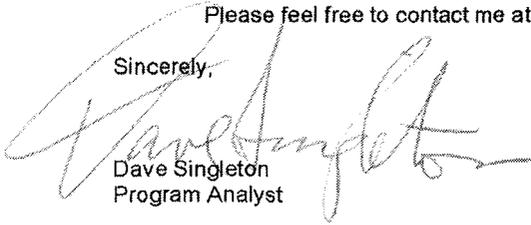
The Native American Heritage Commission (NAHC) is the state 'trustee agency' pursuant to Public Resources Code §21070 designated to protect California's Native American Cultural Resources. The California Environmental Quality Act (CEQA) requires that any project that causes a substantial adverse change in the significance of an historical resource, that includes archaeological resources, is a 'significant effect' requiring the preparation of an Environmental Impact Report (EIR) per the California Code of Regulations §15064.5(b)(c)(f) CEQA guidelines). Section 15382 of the 2007 CEQA Guidelines defines a significant impact on the environment as "a substantial, or potentially substantial, adverse change in any of physical conditions within an area affected by the proposed project, including ... objects of historic or aesthetic significance." In order to comply with this provision, the lead agency is required to assess whether the project will have an adverse impact on these resources within the 'area of potential effect (APE)', and if so, to mitigate that effect. To adequately assess the project-related impacts on historical resources, the Commission recommends the following action:

- √ Contact the appropriate California Historic Resources Information Center (CHRIS) for possible 'recorded sites' in locations where the development will or might occur. Contact information for the Information Center nearest you is available from the State Office of Historic Preservation (916/653-7278)/ <http://www.ohp.parks.ca.gov>. The record search will determine:
 - If a part or the entire APE has been previously surveyed for cultural resources.
 - If any known cultural resources have already been recorded in or adjacent to the APE.
 - If the probability is low, moderate, or high that cultural resources are located in the APE.
 - If a survey is required to determine whether previously unrecorded cultural resources are present.
- √ If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.
 - The final report containing site forms, site significance, and mitigation measures should be submitted immediately to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum, and not be made available for public disclosure.
 - The final written report should be submitted within 3 months after work has been completed to the appropriate regional archaeological information center.
- √ The Native American Heritage Commission (NAHC) performed:
 - * A Sacred Lands File (SLF) search of the project 'area of potential effect (APE)': The results: No known Native American Cultural Resources were identified within one-half mile of the 'area of potential effect' (APE). However, there are Native American cultural resources in close proximity to the APE. The NAHC urges caution with any ground-breaking activity. Also, the NAHC SLF is not exhaustive and local tribal contacts should be consulted from the attached list and there are Native American cultural resources in close proximity.
 - The NAHC advises the use of Native American Monitors, also, when professional archaeologists or the equivalent are employed by project proponents, in order to ensure proper identification and care given cultural resources that may be discovered. The NAHC, FURTHER, recommends that contact be made with Native American Contacts on the attached list to get their input on potential IMPACT of the project (APE) on cultural resources. In some cases, the existence of a Native American cultural resources may be known only to a local tribe(s) or Native American individuals or elders.
 - √ Lack of surface evidence of archeological resources does not preclude their subsurface existence.
 - Lead agencies should include in their mitigation plan provisions for the identification and evaluation of accidentally discovered archeological resources, per California Environmental Quality Act (CEQA) §15064.5 (f). In areas of identified archaeological sensitivity, a certified archaeologist and a culturally affiliated Native American, with knowledge in cultural resources, should monitor all ground-disturbing activities.

- Again, a culturally-affiliated Native American tribe may be the only source of information about a Sacred Site/Native American cultural resource.
 - Lead agencies should include in their mitigation plan provisions for the disposition of recovered artifacts, in consultation with culturally affiliated Native Americans.
- √ Lead agencies should include provisions for discovery of Native American human remains or unmarked cemeteries in their mitigation plans.
- * CEQA Guidelines, Section 15064.5(d) requires the lead agency to work with the Native Americans identified by this Commission if the initial Study identifies the presence or likely presence of Native American human remains within the APE. CEQA Guidelines provide for agreements with Native American, identified by the NAHC, to assure the appropriate and dignified treatment of Native American human remains and any associated grave liens.
- √ Health and Safety Code §7050.5, Public Resources Code §5097.98 and Sec. §15064.5 (d) of the California Code of Regulations (CEQA Guidelines) mandate procedures to be followed, including that construction or excavation be stopped in the event of an accidental discovery of any human remains in a location other than a dedicated cemetery until the county coroner or medical examiner can determine whether the remains are those of a Native American. . Note that §7052 of the Health & Safety Code states that disturbance of Native American cemeteries is a felony.
- √ Lead agencies should consider avoidance, as defined in §15370 of the California Code of Regulations (CEQA Guidelines), when significant cultural resources are discovered during the course of project planning and implementation

Please feel free to contact me at (916) 653-6251 if you have any questions.

Sincerely,



Dave Singleton
Program Analyst

Attachment: List of Native American Contacts

Cc: State Clearinghouse

Native American Contacts

Orange County

May 28, 2009

Ti'At Society Cindi Alvitre 6515 E. Seaside Walk, #C Long Beach , CA 90803 calvitre@yahoo.com (714) 504-2468 Cell	Gabrielino	Gabrielino Tongva Nation Sam Dunlap, Tribal Secretary P.O. Box 86908 Los Angeles , CA 90086 samdunlap@earthlink.net (909) 262-9351 - cell	Gabrielino Tongva
Juaneno Band of Mission Indians Acjachemen Nation David Belardes, Chairperson 32161 Avenida Los Amigos San Juan Capistrano , CA 92675 DavidBelardes@hotmail.com (949) 493-0959 (949) 493-1601 Fax	Juaneno	Juaneno Band of Mission Indians Acjachemen Nation Anthony Rivera, Chairman 31411-A La Matanza Street San Juan Capistrano , CA 92675-2674 arivera@juaneno.com 949-488-3484 949-488-3294 Fax	Juaneno
Tongva Ancestral Territorial Tribal Nation John Tommy Rosas, Tribal Admin. tattnlaw@gmail.com 310-570-6567	Gabrielino Tongva	Gabrielino Tongva Indians of California Tribal Council Robert Dorame, Tribal Chair/Cultural Resources P.O. Box 490 Bellflower , CA 90707 gtongva@verizon.net 562-761-6417 - voice 562-925-7989 - fax	Gabrielino Tongva
Gabrielino/Tongva San Gabriel Band of Mission Anthony Morales, Chairperson PO Box 693 San Gabriel , CA 91778 (828) 286-1262 -FAX (626) 286-1632 (626) 286-1758 - Home (626) 286-1262 Fax	Gabrielino Tongva	Juaneno Band of Mission Indians Alfred Cruz, Culural Resources Coordinator P.O. Box 25628 Santa Ana , CA 92799 alfredgcruz@sbcglobal.net 714-998-0721 slfredgcruz@sbcglobal.net	Juaneno

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, and the federal NEPA ((42 USC 4321-43351) and Sections 106 and 4(f) of NHPA (16 USC 470(f) et seq.

This list is only applicable for contacting local Native Americans with regard to cultural resources for the proposed SCH#2009051043; CEQA Notice of Preparation (NOP); draft Environmental Impact Report (DEIR) for the Megonigal Residential (PA2007-133) Project; located in the City of Newport Beach; Orange County, California.

Native American Contacts

Orange County
May 28, 2009

Juaneno Band of Mission Indians
Adolph 'Bud' Sepulveda, Vice Chairperson
P.O. Box 25828 Juaneno
Santa Ana , CA 92799
bssepul@yahoo.net
714-838-3270
714-914-1812 - CELL
bsepul@yahoo.net

Juaneño Band of Mission Indians
Sonia Johnston, Tribal Chairperson
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Santa Ana , CA 92799
sonia.johnston@sbcglobal.net
(714) 323-8312

Juaneno Band of Mission Indians
Anita Espinoza
1740 Concerto Drive Juaneno
Anaheim , CA 92807
(714) 779-8832

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, and the federal NEPA ((42 USC 4321-43351) and Sections 106 and 4(f) of NHPA (16 USC 470(f) et seq.

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South Coast Air Quality Management District

21865 Copley Drive, Diamond Bar, CA 91765-4178
(909) 396-2000 • www.aqmd.gov

Mr. James Campbell, Principal Planner
City of Newport Beach
Planning Department
PO Box 1768
Newport Beach, CA 92658

RECEIVED BY
PLANNING DEPARTMENT

May 19, 2009

MAY 26 2009

CITY OF NEWPORT BEACH

Dear Mr. Campbell:

Notice of Preparation of a Draft Environmental Impact Report (Draft EIR) for the Megonigal Residence Project

The South Coast Air Quality Management District (SCAQMD) appreciates the opportunity to comment on the above-mentioned document. The SCAQMD's comments are recommendations regarding the analysis of potential air quality impacts from the proposed project that should be included in the draft environmental impact report (EIR). Please send the SCAQMD a copy of the Draft EIR upon its completion. **In addition, please send with the draft EIR all appendices or technical documents related to the air quality analysis and electronic versions of all air quality modeling and health risk assessment files. Electronic files include spreadsheets, database files, input files, output files, etc., and does not mean Adobe PDF files. Without all files and supporting air quality documentation, the SCAQMD will be unable to complete its review of the air quality analysis in a timely manner. Any delays in providing all supporting air quality documentation will require additional time for review beyond the end of the comment period.**

Air Quality Analysis

The SCAQMD adopted its California Environmental Quality Act (CEQA) Air Quality Handbook in 1993 to assist other public agencies with the preparation of air quality analyses. The SCAQMD recommends that the Lead Agency use this Handbook as guidance when preparing its air quality analysis. Copies of the Handbook are available from the SCAQMD's Subscription Services Department by calling (909) 396-3720. Alternatively, the lead agency may wish to consider using the California Air Resources Board (CARB) approved URBEMIS 2007 Model. This model is available on the SCAQMD Website at: www.urbemis.com.

The Lead Agency should identify any potential adverse air quality impacts that could occur from all phases of the project and all air pollutant sources related to the project. Air quality impacts from both construction (including demolition, if any) and operations should be calculated. Construction-related air quality impacts typically include, but are not limited to, emissions from the use of heavy-duty equipment from grading, earth-loading/unloading, paving, architectural coatings, off-road mobile sources (e.g., heavy-duty construction equipment) and on-road mobile sources (e.g., construction worker vehicle trips, material transport trips). Operation-related air quality impacts may include, but are not limited to, emissions from stationary sources (e.g., boilers), area sources (e.g., solvents and coatings), and vehicular trips (e.g., on- and off-road tailpipe emissions and entrained dust). Air quality impacts from indirect sources, that is, sources that generate or attract vehicular trips should be included in the analysis.

The SCAQMD has developed a methodology for calculating PM_{2.5} emissions from construction and operational activities and processes. In connection with developing PM_{2.5} calculation methodologies, the SCAQMD has also developed both regional and localized significance thresholds. The SCAQMD requests that the lead agency quantify PM_{2.5} emissions and compare the results to the recommended PM_{2.5} significance thresholds. Guidance for calculating PM_{2.5} emissions and PM_{2.5} significance thresholds can be found at the following internet address:
http://www.aqmd.gov/ceqa/handbook/PM2_5/PM2_5.html.

In addition to analyzing regional air quality impacts the SCAQMD recommends calculating localized air quality impacts and comparing the results to localized significance thresholds (LSTs). LST's can be used in addition to the recommended regional significance thresholds as a second indication of air quality impacts when preparing a CEQA document. Therefore, when preparing the air quality analysis for the proposed project, it is recommended that the lead agency perform a localized significance analysis by either using the LSTs developed by the SCAQMD or performing dispersion modeling as necessary. Guidance for performing a localized air quality analysis can be found at <http://www.aqmd.gov/ceqa/handbook/LST/LST.html>.

It is recommended that lead agencies for projects generating or attracting vehicular trips, especially heavy-duty diesel-fueled vehicles, perform a mobile source health risk assessment. Guidance for performing a mobile source health risk assessment ("Health Risk Assessment Guidance for Analyzing Cancer Risk from Mobile Source Diesel Idling Emissions for CEQA Air Quality Analysis") can be found on the SCAQMD's CEQA web pages at the following internet address: http://www.aqmd.gov/ceqa/handbook/mobile_toxic/mobile_toxic.html. An analysis of all toxic air contaminant impacts due to the decommissioning or use of equipment potentially generating such air pollutants should also be included.

Mitigation Measures

In the event that the project generates significant adverse air quality impacts, CEQA requires that all feasible mitigation measures that go beyond what is required by law be utilized during project construction and operation to minimize or eliminate significant adverse air quality impacts. To assist the Lead Agency with identifying possible mitigation measures for the project, please refer to Chapter 11 of the SCAQMD CEQA Air Quality Handbook for sample air quality mitigation measures. Additional mitigation measures can be found on the SCAQMD's CEQA web pages at the following internet address: www.aqmd.gov/ceqa/handbook/mitigation/MM_intro.html Additionally, SCAQMD's Rule 403 – Fugitive Dust, and the Implementation Handbook contain numerous measures for controlling construction-related emissions that should be considered for use as CEQA mitigation if not otherwise required. Other measures to reduce air quality impacts from land use projects can be found in the SCAQMD's Guidance Document for Addressing Air Quality Issues in General Plans and Local Planning. This document can be found at the following internet address: <http://www.aqmd.gov/prdas/aqguide/aqguide.html>. In addition, guidance on siting incompatible land uses can be found in the California Air Resources Board's Air Quality and Land Use Handbook: A Community Perspective, which can be found at the following internet address: <http://www.arb.ca.gov/ch/handbook.pdf>. Pursuant to state CEQA Guidelines §15126.4 (a)(1)(D), any impacts resulting from mitigation measures must also be discussed.

Data Sources

SCAQMD rules and relevant air quality reports and data are available by calling the SCAQMD's Public Information Center at (909) 396-2039. Much of the information available through the Public Information Center is also available via the SCAQMD's World Wide Web Homepage (<http://www.aqmd.gov>).

The SCAQMD is willing to work with the Lead Agency to ensure that project-related emissions are accurately identified, categorized, and evaluated. Please call Daniel Garcia, Air Quality Specialist, CEQA Section, at (909) 396-3304 if you have any questions regarding this letter.

Sincerely,



Steve Smith, Ph.D.

Program Supervisor, CEQA Section

Planning, Rule Development and Area Sources

SS:DG:AK

ORC090512-14AK

Control Number

Mark D. Simon

2420 First Avenue, Corona del Mar, CA 92625

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PLANNING DEPARTMENT

May 27, 2009

JUN 01 2009

Mr. James Campbell
Planning Department
City of Newport Beach
3300 Newport Blvd.
Newport Beach, CA 92663

CITY OF NEWPORT BEACH

Dear Mr. Campbell:

We are in receipt of the Notice of Preparation regarding PA2007-133 and while we agree with the majority of your findings on the Environmental Checklist, we do take exception with a couple.

Section V a and b indicates that a unique geologic and archeologic resource will be "less than significantly impacted with mitigation incorporated". However, once construction is complete these resources will be completely altered and built upon, which we feel constitutes a potential significant impact which can not be mitigated.

Similarly, Section VI b indicates that substantial soil erosion or loss of topsoil will be "less than significantly impacted with mitigation incorporated". However, we submit that once construction is complete these resources will be completely altered and built upon, which we feel constitutes a potential significant impact which can not be mitigated.

For these reasons we feel the Environmental Checklist prepared for PA2007-133 should be modified.

Thank You,



Mark D. Simon

Campbell, James

From: JonV3@aol.com
Sent: Monday, June 08, 2009 2:10 AM
To: Campbell, James
Subject: NOP Megonigal Residence, Begonia Park

June 8, 2009

James Campbell, Principal Planner
City of Newport Beach
Planning Department
3300 Newport Blvd
P.O. Box 1768
Newport Beach, CA 92658-8915

Re: NOP Megonigal Residence (PA2007-133)

Dear Mr. Campbell,

Thank you for the opportunity to comment on the NOP and Initial Study for the Megonigal Residence.

The EIR should include sections on cultural resources and recreation.

This project is on a bluff overlooking the harbor, so it may very well have been used by native Americans similar to other coastal blufftops in Newport Beach. Therefore there should be a cultural resource analysis. Part of this analysis would be a literature search documenting the bluffs in Newport Beach and cultural resources found on other similar bluffs.

As this project will impact the recreational use of Begonia Park, with significant adverse impacts on the views of the harbor from Begonia Park, recreation should be analyzed in the EIR.

It is my understanding that the categorical exemption disappeared with the 2005 Coastal Commission approval of the certified LUP and that a new categorical exemption has yet to be approved. A coastal development permit should be required for this project, with an appeal possible to the Coastal Commission due to the coastal bluff development.

The scenic resource of the bluff face from Bayside Drive should be considered as well as the scenic resource from Begonia Park to the water.

Sincerely,

Jan D. Vandersloot, MD
2221 E 16th Street
Newport Beach, CA 92663
9949) 548-6326

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