

STATE OF CALIFORNIA

Arnold Schwarzenegger, Governor

NATIVE AMERICAN HERITAGE COMMISSION

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 U.S. DEPARTMENT OF THE INTERIOR
 BUREAU OF LAND MANAGEMENT
 HOLLISTER FIELD OFFICE

December 21, 2009

Mr. Erik Zaborsky
United States Bureau of Land Management
Hollister Field Office
 20 Hamilton Court
 Hollister, CA 95023

Sent by FAX to: 831-630-5055
 Number of pages: 4

Re: Request for a Sacred Lands File Search and Native American Contacts List for a Proposed "BLM Clear Creek Management Area Draft RMP/EIS"; located in the southeaster area of San Benito County and western Fresno County, California

Dear Mr. Zaborsky:

The Native American Heritage Commission (NAHC), the State of California 'Trustee Agency' for the protection and preservation of Native American cultural resources (c.f. CA Public Resources Code §21070; also c.f. *Environmental Protection Information Center v. Johnson* (1985) 170 Cal App. 3rd 604), was able to perform a record search of its Sacred Lands File (SLF) for the affected project area (APE) requested. The California Environmental Quality Act (CEQA; CA Public Resources Code Section 21000 – 21177) 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." The NAHC SLF search did not indicate the presence of Native American cultural resources within one-half - mile radius of the proposed project (APE). There are, however, Native American cultural resources in close proximity to the APE. There are however, Native American cultural resources in close proximity to the APE.

This letter includes state and federal statutes relating to Native American historic properties of religious and cultural significance to American Indian tribes and individuals as 'consulting parties' under both state and federal law.

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. Furthermore we suggest that you contact the California Historic Resources Information System (CHRIS) at the Office of Historic Preservation Coordinator's office (at (916) 653-7278, for referral to the nearest Information Center of which there are 10.

Consultation with tribes and interested Native American 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 seq*), 36 CFR Part 800.3, the President's Council on Environmental Quality (CSQ; 42 U.S.C. 4371 *et seq*) and NAGPRA (25 U.S.C. 3001-3013), as appropriate. .

Lead agencies should consider avoidance, as defined in Section 15370 of the California Environmental Quality Act (CEQA) when significant cultural resources could be affected by a project. Also, Public Resources Code Section 5097.98 and Health & Safety Code Section 7050.5 provide for provisions for accidentally discovered archeological resources during construction and mandate the processes to be followed in the event of an accidental discovery of any human remains in a project location other than a 'dedicated cemetery'. Discussion of these should be included in your environmental documents, as appropriate.

The response to this search for Native American cultural resources is conducted in the NAHC Sacred Lands Inventory, established by the California Legislature (CA Public Resources Code §5097.94(a) and is exempt from the CA Public Records Act (c.f. California Government Code §6254.10) although Native Americans on the attached contact list may wish to reveal the nature of identified cultural resources/historic properties. Confidentiality of 'historic properties of religious and cultural significance' may also be protected under Section 304 of the NHPA or at the Secretary of the Interior' discretion if not eligible for listing on the National Register of Historic Places. The Secretary may also be advised by the federal Indian Religious Freedom Act (cf. 42 U.S.C. 1996) in issuing a decision on whether or not to disclose items of religious and/or cultural significance identified in or near the APE and possibly threatened by proposed project activity.

If you have any questions about this response to your request, please do not hesitate to contact me at (916) 653-6251.

Sincerely,



Dave Singleton
Program Analyst

Attachment: Native American Contacts List (NOTE: we further recommend that other forms of 'proof of mailing or proof of contact' be utilized instead of 'Return Receipt Requested' Certified or Registered Mail.) Further, we suggest a follow-up telephone call to the contacts if the replies are not received or need clarification.

**Native American Contact
Fresno and San Benito Counties
December 21, 2009**

Indian Canyon Mutsun Band of Costanoan
Ann Marie Sayers, Chairperson
P.O. Box 28 Ohlone/Costanoan
Hollister , CA 95024
ams@garlic.com
831-637-4238

Xolon Salinan Tribe
Donna Haro
110 Jefferson Street Salinan
Bay Point , CA 94565

Jakki Kehl
720 North 2nd Street Ohlone/Costanoan
Patterson , CA 95363
jakki@bigvalley.net
(209) 892-1060

Salinan Nation Cultural Preservation Association
Robert Duckworth, Environmental Coordinator
Drawer 2447 Salinan
Greenfield , CA 93927
dirobduck@thegrid.net
831-578-1852

Trina Marine Ruano Family
Ramona Garibay, Representative
16010 Halmar Lane Ohlone/Costanoan
Lathrop , CA 95330 Bay Miwok
soaproot@msn.com Plains Miwok
209-629-8619 Patwin

Amah/Mutsun Tribal Band
Melvin Ketchum III, Environmental Coordinator
7273 Rosanna Street Ohlone/Costanoan
Gilroy , CA 95020
408-842-3220

Amah Mutsun Tribal Band
Valentin Lopez, Chairperson
3015 Eastern Ave, #40 Ohlone/Costanoan
Sacramento , CA 95821
vlopez@amahmutsun.org
(916) 481-5785

Salinan Nation Cultural Preservation Association
Gregg Castro, Administrator
5225 Roeder Road Salinan
San Jose , CA 95111
gicastro@pacbell.net
(408) 864-4115

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 "BLM Clear Creek Management Area Draft RMP/EIS; located in southeastern San Benito County and western Fresno County, California for which a Sacred Lands File search and Native American Contacts list were requested.

**Native American Contact
Fresno and San Benito Counties
December 21, 2009**

**Santa Rosa Rancheria
Chairperson**

**P.O. Box 8
Lemoore , CA 93245
(559) 924-1278
(559) 924-3583 Fax**

**Tache
Tachi
Yokut**

**Esohm Valley Band of Indians/Wuksache Tribe
Kenneth Woodrow, Chairperson**

**1179 Rock Haven Ct.
Salinas , CA 93906
831-443-9702**

**Foothill Yokuts
Mono**

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