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FINAL MITIGATED NEGATIVE DECLARATION

ND 11-815

RESPONSE TO COMMENTS

Comment Letters Received

During the Public Review Period (August 12, 2011 through September 8, 2011) for ND 11-815, three comment letters were received by the following agencies or individuals:

- 1. Thomas Borlund**
- 2. Native American Heritage Commission**
- 3. Vallecitos Water District**

Reponses to the letters are attached in the order listed above.

City of San Marcos
Connors Park ND 11-815
Responses to Comments
September 15, 2011

Mr. Thomas Borlund Letter – August 19, 2011

1. The City is in receipt the email letter from Mr. Thomas Borlund on the proposed Conditional Use Permit (CUP) 11-864 and Mitigated Negative Declaration ND 11-815 for the Connors Park Project. A copy of the park conceptual plan was provided to Mr. Borlund on September 14, 2011 in response to his request.

No changes to the Mitigated Negative Declaration were made as a result of this letter.

Vandrew Rodriguez, Susan

From: thomas.borlund@usbank.com
Sent: Friday, August 19, 2011 11:04 AM
To: Vandrew Rodriguez, Susan
Cc: borlund@aol.com
Subject: CUP # 11-864 [Proposed Connors Park]

1

Hi Ms. Rodriguez. I just wanted to respond to your recent mailer on this project and ask if you can E-mail me the proposed site plan that will depict the layout of the fields, parking, etc. as we have a condo in the adjoining west complex. We're looking forward to the park's addition. Thanks and have a good weekend.

Sincerely, Tom



U.S. BANCORP made the following annotations

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Native American Heritage Commission Letter – August 22, 2011

1. The City is in receipt of the Native American Heritage Commission (Commission) letter on the proposed Mitigated Negative Declaration for the Connors Park Project.
2. The City concurs with the Commission's finding that "Native American Resources were not found within the Area of Potential Effect," and that no resources were identified in the Sacred Lands File search.
3. The City does not concur that consultation with Native American Tribes is required for this project. The following text was included in the Initial Study to substantiate why further cultural resources monitoring is not required.

"The Cultural Evaluation previously prepared for the larger San Marcos Elementary School Project site included a record search completed at the South Coastal Information Center (SCIC), San Diego State University, to identify previously-recorded cultural resources within a one-mile radius of the property. The search did not identify any recorded prehistoric or historic resources within or adjacent to the site.

Additionally, the pedestrian survey conducted for the site in January 2009 as part of the Cultural Evaluation did not identify any prehistoric or historic cultural material on the site. Therefore, no prehistoric or historic archaeological sites have been previously recorded on the proposed Project site or within the immediate Project area, and it is unlikely that any such resources would be uncovered during Project construction. The site has been previously disturbed during demolition of the former San Marcos Elementary School and construction of the onsite parking areas, hardcourts, and associated facilities."

4. The City does not concur that the proposed project is subject to the National Environmental Policy Act (NEPA). There is no federal nexus to the project. No federal agencies will have approval authority over any component of the project and federal funds are not involved.
5. The Mitigated Negative Declaration includes mitigation measures which require construction activities in the locality of the find to be halted immediately. An archaeologist, shall be brought in to determine the significance of the archaeological resources and implement appropriate mitigations prior to

recommending earthwork. If archaeological materials are encountered, their importance must be evaluated to assess the significance of impacts. If significant cultural resources are encountered, mitigation would be accomplished through documentation and excavation of features, cataloging and analysis of cultural materials collected, and preparation of a report detailing the methods and results of the monitoring/ data recovery program.

6. Due to urban setting in which the property is located , the previous disturbance to the site from past uses from the elementary school, and the lack of any recorded cultural resource sites on the property or within the surrounding area, consultation with Native American Tribes or any other agency is considered necessary.

No changes to the Mitigated Negative Declaration were made as a result of this letter.

NATIVE AMERICAN HERITAGE COMMISSION

915 CAPITOL MALL, ROOM 384
SACRAMENTO, CA 95814
(916) 653-6251
Fax (916) 657-5390
Web Site www.nahc.ca.gov
ds_nahc@pacbell.net

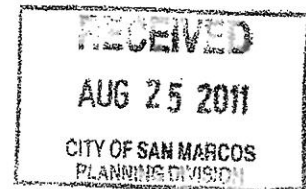


August 22, 2011

Ms. Susan Vandrew Rodriguez, Associate Planner

City of San Marcos

1 Civic Center Drive
San Marcos, CA 92069-2918



Re: SCH#2011081032 CEQA Notice of Completion; proposed Negative Declaration for the "Conners Park ND 11-815 Project" construction of a park facility for multiple recreation activities and 73 parking spaces; located in the City of San Marcos; San Diego County, California.

Dear Ms. Rodriguez::

1 The Native American Heritage Commission (NAHC), the State of California 'Trustee Agency' for the protection and preservation of Native American cultural resources pursuant to California Public Resources Code §21070 and affirmed by the Third Appellate Court in the case of EPIC v. Johnson (1985: 170 Cal App. 3rd 604). The NAHC wishes to comment on the proposed project.

This letter includes state and federal statutes relating to Native American historic properties of religious and cultural significance to American Indian tribes and interested Native American individuals as 'consulting parties' under both state and federal law. State law also addresses the freedom of Native American Religious Expression in Public Resources Code §5097.9.

2 The California Environmental Quality Act (CEQA – CA Public Resources Code 21000-21177, amendments effective 3/18/2010) 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 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. The NAHC Sacred Lands File (SLF) search resulted as follows: **Native American cultural resources were not identified** within the 'area of potential effect (APE).

The NAHC "Sacred Sites," as defined by the Native American Heritage Commission and the California Legislature in California Public Resources Code §§5097.94(a) and 5097.96. Items in the NAHC Sacred Lands Inventory are confidential and exempt from the Public Records Act pursuant to California Government Code §6254 (r).

3 Early consultation with Native American tribes in your area is the best way to avoid unanticipated discoveries of cultural resources or burial sites once a project is underway. Culturally affiliated tribes and individuals may have knowledge of the religious and cultural

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cont'd

significance of the historic properties in the project area (e.g. APE). We strongly urge that you make contact with the list of Native American Contacts on the attached list of Native American contacts, to see if your proposed project might impact Native American cultural resources and to obtain their recommendations concerning the proposed project. Pursuant to CA Public Resources Code § 5097.95, the NAHC requests that the Native American consulting parties be provided pertinent project information. Consultation with Native American communities is also a matter of environmental justice as defined by California Government Code §65040.12(e). Pursuant to CA Public Resources Code §5097.95, the NAHC requests that pertinent project information be provided consulting tribal parties. The NAHC recommends *avoidance* as defined by CEQA Guidelines §15370(a) to pursuing a project that would damage or destroy Native American cultural resources and Section 2183.2 that requires documentation, data recovery of cultural resources.

4

Furthermore, the NAHC is of the opinion that the current project remains under the jurisdiction of the statutes and regulations of the National Environmental Policy Act (e.g. NEPA; 42 U.S.C. 4321-43351). Consultation with tribes and interested Native American consulting parties, on the NAHC list, should be conducted in compliance with the requirements of federal NEPA and Section 106 and 4(f) of federal NHPA (16 U.S.C. 470 *et seq*), 36 CFR Part 800.3 (f) (2) & .5, 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. The 1992 *Secretary of the Interiors Standards for the Treatment of Historic Properties* were revised so that they could be applied to all historic resource types included in the National Register of Historic Places and including cultural landscapes. Also, federal Executive Orders Nos. 11593 (preservation of cultural environment), 13175 (coordination & consultation) and 13007 (Sacred Sites) are helpful, supportive guides for Section 106 consultation. The aforementioned Secretary of the Interior's *Standards* include recommendations for all 'lead agencies' to consider the historic context of proposed projects and to "research" the cultural landscape that might include the 'area of potential effect.'

Confidentiality of "historic properties of religious and cultural significance" should also be considered as protected by California Government Code §6254(r) and 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 APEs and possibility threatened by proposed project activity.

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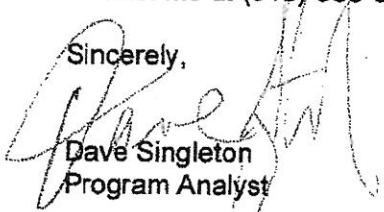
Furthermore, Public Resources Code Section 5097.98, California Government Code §27491 and Health & Safety Code Section 7050.5 provide for provisions for accidentally discovered archeological resources during construction and mandate the processes to be followed in the event of an accidental discovery of any human remains in a project location other than a 'dedicated cemetery'.

6

To be effective, consultation on specific projects must be the result of an ongoing relationship between Native American tribes and lead agencies, project proponents and their contractors, in the opinion of the NAHC. Regarding tribal consultation, a relationship built around regular meetings and informal involvement with local tribes will lead to more qualitative consultation tribal input on specific projects.

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

Cc: State Clearinghouse

Attachment: Native American Contact List

California Native American Contact List
San Diego County
August 22, 2011

Pala Band of Mission Indians
Tribal Historic Preservation Office/Shasta Gaugher
35008 PalaTemecula Rd, PMB
Pala, CA 92059
sgaughen@palatribe.com
(760) 891-3515
(760) 742-3189 Fax

Luiseno
Cupeno

Pauma Valley Band of Luiseño Indians
Bennae Calac, Tribal Council Member
P.O. Box 369
Pauma Valley CA 92061
bennaecalac@aol.com
(760) 617-2872
(760) 742-3422 - FAX

Luiseno

Pauma & Yuima Reservation
Randall Majel, Chairperson
P.O. Box 369
Pauma Valley CA 92061
paumareservation@aol.com
(760) 742-1289
(760) 742-3422 Fax

Luiseno

Rincon Band of Mission Indians
Bo Mazzetti, Chairperson
P.O. Box 68
Valley Center, CA 92082
bomazzetti@aol.com
(760) 749-1051
(760) 749-8901 Fax

Luiseno

Pechanga Band of Mission Indians
Paul Macarro, Cultural Resource Center
P.O. Box 1477
Temecula, CA 92593
(951) 770-8100
pmacarro@pechanga-nsn.gov
(951) 506-9491 Fax

Luiseno

San Luis Rey Band of Mission Indians
Cultural Department
1889 Sunset Drive
Vista, CA 92081
760-724-8505
760-724-2172 - fax

Luiseno
Cupeno

Rincon Band of Mission Indians
Tiffany Wolfe, Cultural & Environmental
P.O. Box 68
Valley Center, CA 92082
twolfe@rincontri.org
(760) 297-2632
(760) 297-2639 Fax

Luiseno

La Jolla Band of Mission Indians
ATTN: Rob Roy, Environmental Director
22000 Highway 76
Pauma Valley CA 92061
rob.roy@lajolla-nsn.gov
(760) 742-3796
(760) 742-1704 Fax

Luiseno

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#2011081032; CEQA Notice of Completion; proposed Negative Declaration for the Conners Park ND 11-815; park construction for multiple recreation activities and parking spaces for 73 vehicles; located in the City of San Marcos; San Diego County, California.

City of San Marcos
Connor Park ND 11-815
Responses to Comments
September 15, 2011

Vallecitos Water District Letter – August 18, 2011

The City is in receipt of the Vallecitos Water District (District) letter on the proposed Mitigated Negative Declaration for the Connors Park Project.

1. Given the project location within the Vallecitos Water District boundaries, the City concurs with the District's requirements for avoiding conflicts with district facilities and easements. The City has coordinated with District staff during the planning and design of the project thus far and will continue to do so up and into construction.
2. The City will obtain encroachment permits to work within District easements when required and for the location of any non-District facilities within the District easements.
3. The City acknowledges the District's location of existing easements and facilities. The project has been designed to provide for appropriate access along District easements.
4. The City concurs with the District's conclusion that the project will not result in increased water demand or sewer generation beyond what was planned in the District's current Master Plan.

No changes to the Mitigated Negative Declaration were made as a result of this response letter.



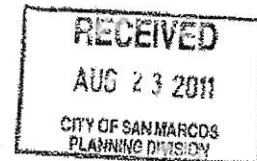
VALLECITOS WATER DISTRICT

A PUBLIC AGENCY

201 Vallecitos de Oro • San Marcos, California • 92069-1453 Telephone (760) 744-0460

August 18, 2011

Susan Vandrew Rodriguez
Associate Planner
City of San Marcos
1 Civic Center Drive
San Marcos, CA 92069



RE: CASE # CUP 11-864, APN: 220-160-34, NOTICE OF INTENT TO ADOPT A MITIGATED NEGATIVE DECLARATION; REQUEST FOR CONDITIONAL USE PERMIT TO CONSTRUCT NEIGHBORHOOD PARK ("CONNORS PARK") (CITY OF SAN MARCOS)

General

- 1 The property is located within the boundaries of the Vallecitos Water District for water and sewer service.

Any existing District facilities located within the boundaries of the project that appear to be in conflict with the proposed development may require relocation. The exact location of the relocations will be determined during the design phase of the project.

Water and sewer facilities not within the public right-of-way will require a minimum 20-foot easement granted to the District. The District may require additional easements for proposed facilities. The owner of the project is responsible for obtaining any easements including expenses incurred.
- 2 Encroachment Permits will be required for non-District facilities to be located within District easements, including, but not limited to, fencing, swales, storm drain pipes, irrigation lines, plantings and light poles.
- 3 VWD must be provided access to and through its easements and the site for the purpose of maintenance and repair of District facilities.
- 4 This site was previously occupied by the San Marcos Elementary School. The School District relocated all their existing water and sewer capacity to the new school site adjacent to the proposed park. The City of San Marcos will be required to purchase water and sewer capacity or transfer other City-credited capacity for the park site based on the proposed usage.

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FAX numbers by Department: Administration (760) 744-2738; Engineering (760) 744-3507; Finance (760) 744-5999;
Meadowbrook Water Reclamation Facility (760) 744-2435; Operations/Maintenance (760) 744-5246
e-mail: vw@vwd.org <http://www.vwd.org>

CUP # 11-864
Connors Park
APN: 220-150-34
August 18, 2011
Page 2

Water

There is an existing 6-inch water main in an existing easement along the west side of the property and an existing 10-inch water main in San Marcos Blvd. adjacent to the property which are available for service. There is also a 14-inch transmission water main in San Marcos Blvd. which is not available for water service connections.

Sewer

There is an 8-inch sewer main in an existing easement along the west side of the property and an 8-inch sewer main in San Marcos Blvd. adjacent to the property that are available for service.

Conclusion

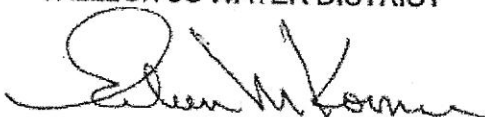
The proposed use of this property for a neighborhood park will not increase water demand or sewer generation beyond that planned for in the District's current Master Plan.

This letter is issued for planning purposes only, and is not a representation, expressed or implied that the District will provide service at a future date. Commitments to provide service are made by the District Board of Directors and are subject to compliance with District fees, charges, rules and regulations.

If there are additional questions, please give me a call.

Sincerely,

VALLECITOS WATER DISTRICT



Eileen M Koonce
Engineering Technician

Cc: Ken Gerdes, District Engineer