

ATTACHMENT "B"

Final Mitigated Negative Declaration #11-816,

Technical Appendices A-E

and

Additional Response Letters/Correspondence

AGENDA ITEM
2

To: Garth Kollar, City of San Marcos	
From: Sophia Habl Michell, HDR	Project: Rock Crusher CUP
CC:	
Date: November 3, 2011	Job No:

Document2

On October 21, the Rincon Band of Luiseño Indians submitted a general comment letter to the City of San Marcos. It was not clearly indicated that it was for the Rock Crusher Conditional Use Project (CUP) project; however, it did raise general comment regarding the protection of cultural resources and the request for monitoring.

By way of background, cultural resources were analyzed and cultural resources mitigation measures identified in Section 3.4 of the University District Specific Plan Final Environmental Impact Report (FEIR) (SCH No. 2008101083). Reference to that analysis and was included in Section V of the Mitigated Negative Declaration for the Rock Crusher CUP.

The letter from the Rincon Band notes there is a potential for inadvertent discovery of cultural resources during project grading activity and requests a Native American monitor be present. The FEIR made a similar conclusion and identified the following mitigation measures, which will be required as a condition of project approval.

CR-1 Prior to issuance of grading permit(s) for the project, the future developers shall retain an archaeological monitor to oversee all ground-disturbing activities in an effort to identify any unknown archaeological resources. Any newly discovered cultural resource deposits shall be subject to cultural resources evaluation.

CR-2 At least 30 days prior to seeking a grading permit, the future developers shall contact the appropriate Native American tribe for the purpose of notifying the Tribe of the grading, excavation and monitoring program, and to coordinate with the City of San Marcos and the Tribe to develop a Cultural Resources Treatment and Monitoring Agreement. The Agreement shall address the treatment of known cultural resources, the designation, responsibilities, and participation of Native American monitors during grading, excavation and ground disturbing activities; project grading and development scheduling; terms of compensation; and treatment and final disposition of any cultural resources, sacred sites, and human remains discovered on the site. The City of San Marcos shall be the final arbiter of any disputes concerning the conditions included in the Agreement.

CR-3 Prior to issuance of any grading permit, the project archaeologist shall file a pre-grading report with the City to document the proposed methodology for grading activity observation. Said methodology shall include the requirement for a qualified archaeological monitor to be present and to have the authority to stop and redirect grading activities. In accordance with the Agreement required in CR-2, the archaeological monitor's authority to stop and redirect grading will be exercised in consultation with the appropriate Native American tribe in order to evaluate the significance of any archaeological resources discovered on the property. Tribal monitors shall be allowed to monitor all grading, excavation and groundbreaking activities, and

shall also have the authority to stop and redirect grading activities in consultation with the project archaeologist.

CR-4 If subsurface archaeological resources are discovered during grading, the Developer, the project archaeologist, and the appropriate Tribe shall assess the significance of such resources and shall meet and confer regarding the mitigation for such resources. If the Developer and the Tribe cannot agree on the significance or the mitigation for such resources, these issues will be presented to the City Planning Director for decision. The Planning Director shall make the determination based on the provisions of *CEQA* with respect to archaeological resources and shall take into account the religious beliefs, customs, and practices of the Tribe. The decision of the Planning Director shall be appealable to the Planning Commission.

CR-5 If human remains are encountered during project grading, State Health and Safety Code Section 7050.5 states that no further disturbance shall occur until the County Coroner has made a determination of origin and disposition pursuant to Public Resources Code Section 5097.98. The County Coroner must be notified of the find immediately. If the remains are determined to be prehistoric, the Coroner will notify the Native American Heritage Commission (NAHC), which will determine and notify a Most Likely Descendant (MLD). With the permission of the landowner or his/her authorized representative, the MLD may inspect the site of the discovery. The MLD shall complete the inspection within 24 hours of notification by the NAHC. The MLD may recommend scientific removal and nondestructive analysis of human remains and items associated with Native American burials.

Implementation of these mitigation measures will meet the requests of the October 21, 2011 Rincon Band letter.

RINCON BAND OF LUISEÑO INDIANS

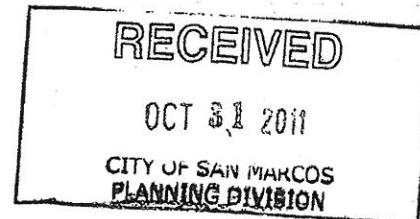
Culture Committee

P.O. Box 1000 • Valley Center, CA 92082 • (760) 734-7600 • (760) 734-7601



[Handwritten signature]

October 21, 2011



To whom it may concern,

Thank you for inviting us to submit comments on the above project. This letter is written on behalf of the Rincon Band of Luiseno Indians. The Band is submitting these comments concerning the Project's potential impacts on the cultural resources. The Rincon Band has knowledge of the Luiseno Territory and its boundaries through our stories and our elders who spoke about the Luiseno boundaries and were sung in our songs.

Given the sensitivity of the area, inadvertent discoveries are possible. Impacts are foreseeable and therefore should be included during mitigation, this should not only be for surface resources during cultural survey, but also for subsurface discoveries. The concern is for unexpected discoveries and should also be included in the mitigation. Given the sensitivity of the project. The Rincon Band of Luiseno Indians request that the project have Native American Monitors present at all subsurface, cultural surveys and on site visits.

The proposed project is in the Luiseno Territory, this includes (Rincon, La Jolla, Pauma and Pala Reservations.) The Rincon Band is not opposed to the project, but has concerns for the impact to Native American cultural resources, such as sites, villages, findings of significant cultural value that could be disturbed or destroyed and are irreplaceable resources to The Luiseno people.

If human remains are discovered during ground disturbance, The Public Health Code § 7050.5, states that ground disturbance shall stop until the San Diego County Medical Examiner determine the origins of the human remains. If it is determined that the human remains are Native American. The California Resource Code § 5097.98 requires that the Native American Heritage Commission (N.A.H.C) be contacted, they will designate the "Most Likely Descendent". The "Most likely Descendent" shall be consulted on how the human remains and funerary items shall be handled appropriately and with respect.

Bo Mazzetti
Tribal Chairman

Stephanie Spencer
Vice Chairwoman

Charlic Kolb
Council Member

Steve Stallings
Council Member

Laurie Gonzales
Council Member

RINCON BAND OF LUISEÑO INDIANS

Culture Committee

P. O. Box 63 - Valley Center, CA 92082 - (760) 739-2200 - (619) 476-0193 - (619) 476-0194 fax



Once again The Rincon Band of Mission Indians would like to thank you for notifying us on this project. Our concerns for the protection of our sites and villages, and most importantly the protection of any human remains. We look forward to working with you and the Project Archaeologist on any matters that may occur.

Sincerely,

A handwritten signature in black ink that reads "Rose Duro".

Rose Duro
Rincon Culture Committee Chair

Bo Mazzetti
Tribal Chairman

Stephanie Spencer
Vice Chairwoman

Charlie Kolb
Council Member

Steve Stallings
Council Member

Laurie Gonzales
Council Member

Letter from Phil Blaney
October 28, 2011

Mr. Blaney owns two residential rental properties within the project area: 318 Discovery Street and 383 Discovery Street. To date, Mr. Blaney has submitted five correspondence items related to the Rock Crusher Conditional Use Permit project. Responses were prepared to the five comment letters and included as part of the Response to Comment Section of the Final Initial Study/Mitigated Negative Declaration (IS/MND) for the project. Additionally, on October 18, 2011, City planning staff, the project applicant, and the City's noise consultant met with Mr. Blaney to review the project plans and proposed mitigation measures.

In this new letter, Mr. Blaney reiterates his protest to the project and outlines several areas of concern. This response has been prepared to address each of his concerns.

Appropriateness of Mitigated Negative Declaration

The decision to prepare a Mitigated Negative Declaration (MND) for the project was based upon the outcome of a detailed Initial Study (IS) process. The IS covered 17 environmental issues and analyzed the potential for the project to have an impact on the environment. After consideration of the results of the IS, the City determined that the although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. Thus, an MND was the appropriate California Environmental Quality Act (CEQA) document.

Environmental Justice

According to the U.S. Environmental Protection Agency (EPA)¹ environmental justice is the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. Fair treatment means that no group of people, including a racial, ethnic, or a socioeconomic group, should bear a disproportionate share of the negative environmental consequences resulting from industrial, municipal and commercial operations or the execution of federal, state, local, and tribal programs and policies. CEQA does not require a specific environmental justice analysis, however, the IS/MND for the project analyzed impact of the grading, crushing and export activities to properties within and adjacent to the proposed work area. All impacts were determined to be less than significant or mitigated to below a level of significance.

Quality of Life

Quality of Life is a general term and there are not specific thresholds under CEQA that address quality of life, however, specific environmental issue areas are related to quality of life. These would include air quality, health, land use compatibility, public safety, and recreation. Each of these environmental topics were addressed in the IS/MND and it was determined that impacts were less than significant or mitigated to below a level of significance. See the following sections of the IS/MND:

- Air Quality – Section III, pages 28-32
- Health – Section VII, pages 45-48
- Land Use – Section X, pages 54-55
- Public Safety – Section XIV, pages 65-66
- Recreation – Section XV, pages 66-67

¹ <http://www.epa.gov/compliance/environmentaljustice>

Health

The IS/MND included a hazards and hazardous materials analysis in Section 3.8. The analysis concluded that there are no new hazards impact associated with the proposed Conditional Use Permit (CUP) activities and that all impacts would be mitigated to below a level of significance with the implementation of mitigation already identified in the University District San Marcos Specific Plan (UDSMSP) Final Environmental Impact Report (FEIR).

Additionally, for air quality and health, the way the San Diego Air Pollution Control District (SDAPCD) developed the Air Quality Impact Assessment (AQIA) thresholds in Rules 20.2 and 20.3 does take into account their concept of healthful air. The SDAPCD determined at what levels, in lbs/day and tons/year, they would expect the impact to be below the ambient air quality standards (so below a level at which an adverse health effect would occur). For emissions above those levels, the SDAPCD requires further analysis to demonstrate whether the impact would be above or below the ambient air quality standards, which is why the rule requires an AQIA when emissions exceed the thresholds. Even if a stationary source has emissions above the levels in the rule, it could still demonstrate that it is not causing an exceedance of an air quality standard. Based upon the air quality study prepared for the project (Appendix C), the activities associated with the CUP would not exceed the AQIA thresholds. Further, the rock crusher will be subject to additional permitting from the SDAPCD. That means that the SDAPCD has made some sort of determination that the rock crusher's operations and impacts are acceptable. The SDAPCD does not allow permitting of sources that exceed the thresholds.

Noise

A noise study was prepared for the CUP and included as Appendix D of the IS/MND. This information was also summarized in Section XII of the IS/MND. The analysis concluded that there is a potential for significant construction-related noise; however, mitigation measures were identified to reduce the impact to below a level of significance. The mitigation measures identified in the UDSMSP FEIR will be applicable to the rock crushing and grading activity. Those measures include:

- N-1** Construction activities shall be buffered at least 278 feet from existing and future residential uses. In the event that a 278-foot buffer cannot be maintained, noise attenuating devices shall be construction to reduce noise level to 75 dBA L_{eq} -8h.
- N-2** Blasting operations shall be buffered 400 feet from sensitive receptors. Should site conditions require blasting within 400 feet of sensitive receptors, a site-specific vibration analysis shall be performed prior to the blasting activities to evaluate impacts and identified mitigation measures to reduce impacts to levels consistent with the International Standardization Organization (ISO) Human Vibration Standards.
- N-3** Rock crushing activities shall be located a minimum of 250 feet from any sensitive receptors, or noise attenuating devices shall be construction to reduce noise level to 75 dBA L_{eq} -8h.

Additionally, the following mitigation measures will be applied to the CUP activity:

- N-A** To control the noise levels from the off-site haul trucks a speed limit of 15 MPH shall be posted along the on-site haul route and signage limiting the use of engine "jake" brakes.
- N-B** Noise measurements shall be conducted once the rock crusher facility is fully operational and material is being removed from the site to ensure compliance with the City's

thresholds. The measurement will be conducted for each phase of the grading program. If rock crushing noise levels are found to be above the established thresholds of 60 dBA at any existing single family residential use, 65 dBA for multifamily, or 70 at a commercial use, then mitigation in the form of berms or temporary walls will need to be incorporated into the haul route to bring the noise levels to the established threshold. It should be noted that ambient noise conditions within the project area may already be above established City thresholds due to traffic on SR-78 and Twin Oaks Valley Road. Limitations on the amount trucks per hour could also be applied if berms or temporary walls are found to be ineffective or infeasible.

Odors

The FEIR for the University District Specific Plan project (page 3.2-18) concluded that construction activities associated with development of the site could generate trace amounts of substances such as ammonia, carbon dioxide, hydrogen sulfide, methane, dust, organic dust, and endotoxins. The FEIR determined that the nearest off-site residences were at least 250 feet from the UDSMSP boundary, and that the distance to sensitive receptors combined with the intermittent nature of the construction of the UDSMSP would be a less than significant impact.

The equipment proposed to be used during the grading activities and materials export will be diesel fueled and may have the potential to emit objectionable odors. Two residences are located approximately 528 feet from the proposed rock crusher facility. Although no impacts were identified in the FEIR that proposed mitigation for objectionable odors, FEIR mitigation measure N-1, implements a construction activity buffer of at least 278 feet from existing residences and 400 feet buffer from sensitive receptor due to blasting operations. Given the location of the temporary rock crushing facility and proposed buffers for construction and blasting would be an adequate distance to diffuse any objectionable odors. Therefore, impacts due to objectionable odors are considered less than significant.

Traffic

A traffic analysis memorandum was prepared for the project and is included as Appendix E and summarized in Section 3.16 of the IS/MND. Three distribution scenarios were analyzed for the proposed project. The first distribution scenario assumed all truck trips travel to and from SR-78 west of Twin Oaks Valley Road, second the distribution scenario assumes all truck trips travel to and from SR-78 east of Twin Oaks Valley Road, and the third distribution scenario assume half the truck trips to and from the west and half travel to and from the east on SR-78. A two percent ambient growth rate was applied to account for baseline traffic increases from 2011 to 2013. As shown in Table 5 of the IS/MND the study intersections are projected to operate at a level of service (LOS) of C or better during the peak hours under existing plus ambient growth plus project conditions for all distribution scenarios. Therefore, the study intersections will operate at acceptable levels of service (LOS D or better) during the peak hours, and no project-related traffic impacts were identified with the proposed rock crushing operation.

In addition, a daily roadway segment operations analysis was also conducted on Twin Oaks Valley Road between SR-78 Eastbound Ramps and the truck access intersection under existing plus ambient growth (Year 2013) conditions within and without the project. As shown in Table 6 of the IS/MND, the roadway segment is projected to operate at LOS C under existing plus ambient growth conditions, both with and without the proposed project. The maximum of 24 truck trips per hour (48 truck passenger car equivalent trips) are estimated to occur throughout the day. Traffic impacts to the Twin Oaks Valley Road/SR-78 ramp intersections are expected to be less than significant during the traffic peak hours. Therefore, the proposed project a related export would have a less than significant impact in the 2013 and 2015 scenarios, which is similar to the conclusions of the FEIR. Additionally, to further monitor and control the

truck trips, the following mitigation measures were included in the IS/MND and will be required as a condition of project approval:

MM TR-A A Transportation Management Plan (TMP) shall be prepared and approved by the City of San Marcos and reviewed by Caltrans prior to the start of the grading operation. The TMP shall include periodic monitoring of traffic conditions during peak traffic periods throughout the project to restrict project traffic to non-peak hours or a portion of peak periods if the conditions warrant.

MM TR-B The new traffic signal at Twin Oaks Valley Road /Truck Access intersection shall meter the outbound trucks by allowing a limited number of trucks to exit the site per cycle length to minimize potential queuing impacts of the trucks on northbound Twin Oaks Valley Road approaching SR-78.

Vibrations

The FEIR for the University District Specific Plan project (page 3.9-10) concluded that the UDSMSP would have blasting-related noise and ground motion impacts due to the extraction of the non-rippable material for the rock crushing facility processing on-site. Blasting would be accomplished using traditional “drill and shoot” methods. Assuming that there is a maximum of 500 holes per blast (with a minimum 8 ms (millisecond) delay per hole); this would yield an hourly noise level of 95.6 dBA. Since the closest residence would be at least 250 feet distant from any blasting activities, the subsequent hourly level would be 81.6 dBA $L_{eq\cdot h}$ for the shot. This represents an exceedance of 6.6 dBA of the maximum daily-average standard of 75 dBA at any existing sensitive receptor and represents a potentially significant impact.

The blasting proposed under the project is consistent with what was analyzed in the FEIR. Mitigation identified in the FEIR would still be applicable to the project and would reduce impacts to below a level of significance.

N-2 Blasting operations shall be buffered 400 feet from sensitive receptors. Should site conditions require blasting within 400 feet of sensitive receptors, a site-specific vibration analysis shall be performed prior to the blasting activities to evaluate impacts and identified mitigation measures to reduce impacts to levels consistent with the ISO Human Vibration Standards.

The implementation of the FEIR mitigation measure N-2 would reduce exposure of excessive groundborne vibration or groundborne noise levels; therefore; a less than significant impact is identified.

Property Values

Property values and economic factors are not typically addressed under CEQA. Rather, CEQA focuses on direct and indirect changes to the physical environment. Based upon the analysis presented in the IS/MND, all environmental impacts would be less than significant or mitigated to below a level of significance with implementation of mitigation measures that would be required as a condition of project approval. Mr. Blaney is not required to sell his properties now, or in the future, and may continue the current uses at his property.

Preexisting Health/High Stress Medical Problems

As previously stated, the IS/MND concluded that all environmental impacts would be less than significant or reduced to below a level of significance.

Kiss, Lisa

From: Kiss, Lisa
Sent: Monday, November 07, 2011 3:08 PM
To: 'Phil Blaney'
Cc: Koller, Garth; Backoff, Jerry
Subject: Rock Crusher CUP - Response to Blaney Letter
Attachments: Blaney10-28-11LetterRESPONSE.docx

Mr. Blaney:

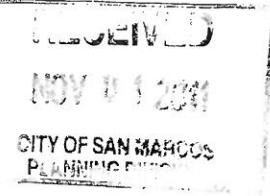
I'm forwarding a "Response" to your 10/28/11 letter from Sophia Mitchell/HDR:

Lisa Kiss

Planning Division Secretary
City of San Marcos
1 Civic Center Drive
San Marcos, CA 92069
lkiss@san-marcos.net
760-744-1050 ext. 3233

ORIGINAL

October 28, 2011



Phillip Blaney
PO Box 921
San Marcos, CA 92079-0921

City of San Marcos Att: Jerry Backoff, Garth Koller
1 Civic Center Drive
San Marcos, CA 92069
Re: Case # CUP 10-833

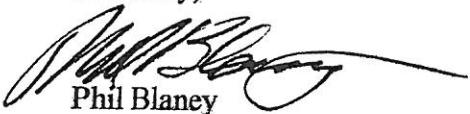
Dear Jerry Backoff and Garth Koller;

As a follow up regarding our short meeting on October 18, and regarding my two voice mail requests for a copy of the map that you had shown me on the morning of October 18. I did receive the copy of the negative declaration study that was sent, however this does not indicate the close proximity of the rock crusher to my particular property which according to your map and consultants is 300 feet.

As you are aware I am protesting this and am not convinced that this application that you are about to approve should be approved as a negative declaration when it comes to affecting peoples lives so unfairly. Your process may have met certain legal ecological criteria however it has certainly not met the environmental justice issues, quality of life, health, noise, odors, traffic, vibrations, property values, preexisting health and high stress medical problems, just to name a few, that this approval will invariably put on the nearby residents and property owners.

Please contact me as to when I can come by to review your map again and any others that you may have that are affecting my property. I would like to meet with you again to have a better clarification of this entire process. Not trying to be a difficult person these are genuine issues of concern that I feel are being pushed aside for various reasons.

Sincerely,



Phil Blaney