

## **APPENDIX D**

### **TRIBAL CONSULTATION**

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**From:** [Jamie Nord](#)  
**To:** [DeLuca, Anthony](#)  
**Subject:** RE: AB 52 Tribal Consultation for California Steele Industries Inc. (PRAA-2023-00021), Fontana area, San Bernardino County, CA  
**Date:** Friday, September 8, 2023 1:57:48 PM

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Hello Tony,

Thank you for contacting the Yuhaaviatam of San Manuel Nation (formerly known as the San Manuel Band of Mission Indians) regarding the above referenced project. YSMN appreciates the opportunity to review the project documentation, which was received by our Cultural Resources Management Department on September 7<sup>th</sup>, 2023, pursuant to CEQA (as amended, 2015) and CA PRC 21080.3.1. The proposed project area exists within Serrano ancestral territory and, therefore, is of interest to the Tribe. However, due to the nature and location of the proposed project, and given the CRM Department's present state of knowledge, YSMN does not have any concerns with the project's implementation, as planned, at this time. As a result, YSMN requests that the following language be made a part of the project/permit/plan conditions:

#### **CUL MMs**

1. In the event that cultural resources are discovered during project activities, all work in the immediate vicinity of the find (within a 60-foot buffer) shall cease and an archaeologist meeting the Secretary of Interior's professional qualification standards in archaeology shall be hired to assess the find. Work on the other portions of the project outside of the buffered area may continue during this assessment period. Additionally, the Yuhaaviatam of San Manuel Nation Cultural Resources Department (YSMN) shall be contacted, as detailed within TCR-1, regarding any pre-contact and/or historic-era finds and be provided information after the archaeologist makes his/her initial assessment of the nature of the find, so as to provide Tribal input with regards to significance and treatment.
2. If significant pre-contact and/or historic-era cultural resources, as defined by CEQA (as amended, 2015), are discovered and avoidance cannot be ensured, the archaeologist shall develop a Monitoring and Treatment Plan, the drafts of which shall be provided to YSMN for review and comment, as detailed within TCR-1. The archaeologist shall monitor the remainder of the project and implement the Plan accordingly.
3. If human remains or funerary objects are encountered during any activities associated with the project, work in the immediate vicinity (within a 100-foot buffer of the find) shall cease and the County Coroner shall be contacted pursuant to State Health and Safety Code §7050.5 and that code enforced for the duration of the project.

#### **TCR MMs**

1. The Yuhaaviatam of San Manuel Nation Cultural Resources Department (YSMN) shall be contacted, as detailed in CUL-1, of any pre-contact and/or historic-era cultural resources discovered during project implementation, and be provided information regarding the nature of the find, so as to provide Tribal input with regards to significance and treatment. Should the find be deemed significant, as defined by CEQA (as amended, 2015), a cultural resources Monitoring and Treatment Plan shall be created by the archaeologist, in coordination with YSMN, and all subsequent finds shall be subject to this Plan. This Plan shall allow for a monitor to be present that represents YSMN for the remainder of the project, should YSMN elect to place a monitor on-site.

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2. Any and all archaeological/cultural documents created as a part of the project (isolate records, site records, survey reports, testing reports, etc.) shall be supplied to the applicant and Lead Agency for dissemination to YSMN. The Lead Agency and/or applicant shall, in good faith, consult with YSMN throughout the life of the project.

*Note: Yuhaaviatam of San Manuel Nation realizes that there may be additional tribes claiming cultural affiliation to the area; however, Yuhaaviatam of San Manuel Nation can only speak for itself. The Tribe has no objection if the agency, developer, and/or archaeologist wishes to consult with other tribes in addition to YSMN and if the Lead Agency wishes to revise the conditions to recognize additional tribes.*

Please provide the final copy of the project/permit/plan conditions so that YSMN may review the included language. This communication concludes YSMN's input on this project, at this time, and no additional consultation pursuant to CEQA is required unless there is an unanticipated discovery of cultural resources during project implementation. If you should have any further questions with regard to this matter, please do not hesitate to contact me at your convenience, as I will be your Point of Contact (POC) for YSMN with respect to this project.

Sincerely  
Jamie Nord  
Tribal Archaeologist

## Morongo Band of Mission Indians

1. Prior to the issuance of grading permits, the applicant shall enter into a Tribal Monitoring Agreement with the Morongo Band of Mission Indians for the project. The Tribal Monitor(s) shall be on-site during all ground-disturbing activities (including, but not limited to, clearing, grubbing, tree and bush removal, grading, trenching, fence post placement and removal, construction excavation, excavation for all utility and irrigation lines, and landscaping phases of any kind). The Tribal Monitor(s) shall have the authority to temporarily divert, redirect, or halt the ground-disturbing activities to allow identification, evaluation, and potential recovery of cultural resources and/or tribal cultural resources.
2. Prior to any ground-disturbing activities (including, but not limited to, clearing, grubbing, tree and bush removal, grading, trenching, fence post replacement and removal, construction excavation, excavation for all utility and irrigation lines, and landscaping phases of any kind), and prior to the issuance of grading permits, the Applicant shall retain a qualified archaeologist who meets the U.S. Secretary of the Interior Standards (SOI). The archaeologist shall be present during all ground-disturbing activities to identify any known or suspected archaeological and/or cultural resources. The archaeologist will conduct a Cultural Resource Sensitivity Training, in conjunction with the Tribe[s] Tribal Historic Preservation Officer (THPO), and/or designated Tribal Representative. The training session will focus on the archaeological and tribal cultural resources that may be encountered during ground-disturbing activities as well as the procedures to be followed in such an event.
3. Prior to any ground-disturbing activities the project archaeologist shall develop a Cultural Resource Management Plan (CRMP) and/or Archaeological Monitoring and Treatment Plan (AMTP) to address the details, timing, and responsibilities of all archaeological and cultural resource activities that occur on the project site. This Plan shall be written in consultation with the consulting Tribe[s] and shall include the following: approved Mitigation Measures (MM)/Conditions of Approval (COA), contact information for all pertinent parties, parties' responsibilities, procedures for each MM or COA, and an overview of the project schedule.
4. The retained qualified archeologist and Consulting Tribe[s] representative shall attend the pre-grade meeting with the grading contractors to explain and coordinate the requirements of the monitoring plan.
5. During all ground-disturbing activities the qualified archaeologist and the Tribal Monitor(s) shall be on-site full-time. The frequency of inspections shall depend on the rate of excavation, the materials excavated, and any discoveries of Tribal Cultural Resources as defined in California Public Resources Code Section 21074. Archaeological and Native American monitoring will be discontinued when the depth of grading and the soil conditions no longer retain the potential to contain cultural deposits. The qualified archaeologist, in consultation with the Tribal Monitor(s), shall be responsible for determining the duration and frequency of monitoring.
6. In the event that previously unidentified cultural resources are unearthed during construction, the qualified archaeologist and the Tribal Monitor(s) shall have the authority to temporarily divert and/or temporarily halt ground-

disturbance operations in the area of discovery to allow for the evaluation of potentially significant cultural resources. Isolates any clearly non-significant deposits shall be minimally documented in the field and collected so the monitored grading can proceed.

If a potentially significant cultural resource(s) is discovered work shall stop within a 60-foot perimeter of the discovery and an Environmentally Sensitive Area (ESA) physical demarcation/barrier constructed. All work shall be diverted away from the vicinity of the find, so that the find can be evaluated by the qualified archaeologist and Tribal Monitor(s). The archaeologist shall notify the Lead Agency and consulting Tribe(s) of said discovery. The qualified archaeologist, in consultation with the Lead Agency, the consulting Tribe(s) and the Native American monitor, shall determine the significance of the discovered resource by recommendation for the treatment and disposition of the Tribal Cultural Resource shall be made by the qualified archaeologist in consultation with the Tribe(s) and the Native American monitor(s) and be submitted to the Lead Agency for review and approval. Below are the possible treatments and dispositions of significant cultural resources in order of CEQA preference:

- A. Full avoidance
  - B. If avoidance is not feasible, preservation in place.
  - C. If preservation in place is not feasible all items shall be reburied in an area away from any future impacts and reside in a permanent conservation easement or deed restriction.
  - D. If all other options are proven to be infeasible, data recovery through excavation and then curation in a Curation Facility that meets Federal Curation standards (36 CFR 79)
7. The Morongo Band of Mission Indians requests the following specific conditions to be imposed in order to protect Native American human remains and/or cremations. **No photographs are to be taken except by the coroner, with written approval by the consulting Tribe(s).**
- A. Should human remains and/or cremations be encountered on the surface or during any and all ground- disturbing activities (i.e., clearing, grubbing, tree and bush removal, grading, trenching, fence post placement and removal, construction excavation, excavation for all water supply, electrical, and irrigation lines, and landscaping phases of any kind), work in the immediate vicinity of the discovery shall immediately stop within a 100-foot perimeter of the discovery. The area shall be protected by the establishment of an ESA with a marked boundary. Project personnel/observers will be restricted from entry into the ESA. The County Coroner is to be contacted within 24 hours of discovery. The County Coroner has 48 hours to make his/her determination pursuant to State and Safety Code §7050.5. and Public Resources Code (PRC) § 5097.98.
  - B. In the event that the human remains and/or cremations are identified as Native American, the Coroner shall notify the Native American Heritage Commission within 24 hours of determination pursuant to subdivision (c) of HSC §7050.5.
  - C. The Native American Heritage Commission shall immediately notify the person or persons it believes to be the Most Likely Descendant (MLD). The MLD has 48 hours, upon being granted access to the Project site, to inspect the site of discovery and make his/her recommendation for final treatment and disposition, with appropriate dignity, of the remains and all associated grave goods pursuant to PRC §5097.98
  - D. If the Morongo Band of Mission Indians has been named the Most Likely

Descendant (MLD), the Tribe may wish to reburial the human remains and/or cremation and sacred items in their place of discovery with no further disturbance where they will reside in perpetuity. The place(s) of reburial will not be disclosed by any party and is exempt from the California Public Records Act (California Government Code § 6254[r]). Reburial location of human remains and/or cremations will be determined by the Tribe's Most Likely Descendant (MLD), the landowner, and the City Planning Department.

8. The final report(s) created as a part of the Project (AMTP, isolate records, site records, survey reports, testing reports, etc.) shall be submitted to the Lead Agency and Consulting Tribe(s) for review and comment. After approval of all parties, the final reports are to be submitted to the appropriate Information Center (IC), and the Consulting Tribe(s).

## Gabrieleno Band of Mission Indians, Kizh Nation

1. The Project applicant/ lead agency shall retain a Native American monitor from or approved by the Gabrieleno Band of Mission Indians- Kizh Nation. The monitor shall be retained prior to the commencement of any “ground-disturbing activity” for the subject project at all project locations (i.e. both on-site and any off-site locations that are included in the project description/definition and/or required in connection with the project, such as public improvement work). “Ground- Disturbing Activity” shall include, but is not limited to, demolition pavement removal, potholing, auguring, grubbing, tree removal, boring, grading, excavation, drilling and trenching.
  - A. A copy of the executed monitoring agreement shall be submitted to the lead agency prior to the earlier of the commence of any ground-disturbing activity, or the issuance of any permit necessary to commence a ground-disturbing activity.
  - B. The monitor will complete daily monitoring logs that will provide descriptions of the relevant ground-disturbing activities, the type of construction activities performed, locations of ground-disturbing activities, soil types, cultural-related materials, and any other facts, conditions, materials or discoveries of significance to the Tribe. Monitor logs will identify and describe any discovered TCRs, including but not limited to, Native American cultural and historical artifacts, remains, places of significance, etc. (collectively, tribal cultural resources, or “TCR”), as well as any discovered Native American (ancestral) human remains and burial goods. Copies of monitor logs will be provided to the project applicant/ lead agency upon written request to the Tribe.
  - C. On-site tribal monitoring shall conclude upon the latter of the following (1) written confirmation to the Kizh from a designated point of contact for the project applicant/lead agency that all ground-disturbing activities and phases that may involve ground-disturbing activities on the project site or in connection with the project are complete; or (2) a determination and written notification by the Kizh to the project applicant/lead agency that no future planned construction activity and/or development construction phase at the project site possesses the potential to impact Kizh TCRs.
2. Upon discovery of any TCRs, all construction activities in the immediate vicinity of the discovery shall cease (i.e. not less than the surrounding 50 feet) and shall not resume until the discovered TCR has been fully assess by the Kizh monitor and/or Kizh archaeologist. The Kizh will recover and retain all discovered TCRs in the form and/or manner the Tribe deems appropriate, in the Tribe’s sole discretion, and for any purpose the Tribe deems appropriate, including for educational, cultural and/or historic purposes.
3. Native American human remains are defined in PRC 5097.98(d)(1) as an inhumation or cremation, and in any state of decomposition or skeletal completeness. Funerary objects, called associated grave goods in Public Resources Code Section 5097.98, are also to be treated according to this statute.
4. If Native American human remains and/or grave goods are discovered or recognized on the project site, then Public Resource Code 5097.9 as well as Health and Safety Code Section 7050.5 shall be followed.
5. Human remains and grave/burial goods shall be treated alike per California Public Resources Code Section 5097.98(d)(1) and (2).
6. Preservation in place (i.e., avoidance) is the preferred manner of treatment for discovered human remains and/or burial goods. Any discovery of human remains/ burial goods shall be kept confidential to prevent further disturbance.



