

APPENDIX H

NATIVE AMERICAN TRIBAL CONSULTATION CORRESPONDENCE

Native American Tribal Consultation under AB 52 are between tribal representatives and the Lead Agency (County of San Bernardino). AB 52 requires that any information – not just documents– submitted by a California Native American tribe during the environmental review process shall not be included in the environmental document or otherwise disclosed by the lead agency or any other public agency to the public consistent with Gov. Code Sections 6254, subd.(r) and 6254.10. (Pub. Resources Code § 21082.3, subd. (c)(1)). Unless the tribe agrees, in writing, to public disclosure, the project applicant or the project applicant’s legal advisors, using a reasonable degree of care, shall maintain the confidentiality of the information exchanged for the purposes of preventing looting, vandalism or damage to a tribal cultural resource and shall not disclose the information to a third party. (Pub. Resources Code § 21082.3, subd. (c)(2)(A)).

For more information, please contact the Planning Division at the County of San Bernardino.

Braginton, Jon

From: Ryan Nordness <Ryan.Nordness@sanmanuel-nsn.gov>
Sent: Monday, December 5, 2022 1:02 PM
To: Braginton, Jon
Cc: Warrick, Chris - LUS
Subject: RE: PROJ-2019-00010: Yermo Gas Station Project

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Thank you for the attached reports. The below language in red will conclude consultation.

From: Braginton, Jon <Jon.Braginton@lus.sbcounty.gov>
Sent: Monday, December 5, 2022 12:35 PM
To: Ryan Nordness <Ryan.Nordness@sanmanuel-nsn.gov>
Cc: Warrick, Chris - LUS <Chris.Warrick@lus.sbcounty.gov>
Subject: RE: PROJ-2019-00010: Yermo Gas Station Project

Hi Ryan,

Yes, please send that response as updated, also review the attached Cultural Resources Study to craft your response and mitigation (if needed).

Thanks,

Jon

Jon Braginton

Planner
Land Use Services Department
Phone: 909-387-4110 / 760-776-6144
Fax: 909-387-3223
385 N. Arrowhead Ave.
San Bernardino, CA 92415-0187



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From: Ryan Nordness <Ryan.Nordness@sanmanuel-nsn.gov>
Sent: Monday, December 5, 2022 11:42 AM
To: Braginton, Jon <Jon.Braginton@lus.sbcounty.gov>
Cc: Warrick, Chris - LUS <Chris.Warrick@lus.sbcounty.gov>
Subject: RE: PROJ-2019-00010: Yermo Gas Station Project

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Hey Jon,

Unfortunately I've searched into our records and I could not find a response and our outboxes only retain data for 1 year until it clears the cache.

In its place I can send a response that would reflect what San Manuel sent in August 2020 including a termination of consultation. Please see below:

YSMN appreciates the opportunity to review the project documentation, 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 a qualified archaeologist meeting Secretary of Interior standards 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 CR-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.
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.

Respectfully,
Ryan Nordness

From: Braginton, Jon <Jon.Braginton@lus.sbcounty.gov>
Sent: Thursday, December 1, 2022 6:28 PM
To: Ryan Nordness <Ryan.Nordness@sanmanuel-nsn.gov>
Cc: Warrick, Chris - LUS <Chris.Warrick@lus.sbcounty.gov>
Subject: PROJ-2019-00010: Yermo Gas Station Project

Hi Ryan,

Back in August of 2020, Magda Gonzalez sent you an NOP to you and Jessica Mauck in regard to a proposed travel center gas station proposed in Yermo (Calico Road just south of I-15). Unfortunately, we do not have any record of your conclusory response to review of the Project's Cultural Report and of recommended mitigation. With that, is it possible that you can find and send the recommended mitigation that you sent to Magda back then so that we can incorporate into the IS/MND that we are currently drafting. Please let us know.

Thanks,

Jon

Jon Braginton
Planner
Land Use Services Department
Phone: 909-387-4110 / 760-776-6144
Fax: 909-387-3223
385 N. Arrowhead Ave.
San Bernardino, CA 92415-0187



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Land Use Services Department Planning

Terri Rahhal
Director

August 26, 2020

SENT VIA E-MAIL

Jessica Mauck
Cultural Resources Analyst
San Manuel Band of Mission Indians
26569 Community Center Drive
Highland, CA 92346
JMauck@sanmanuel-nsn.gov

RE: NOTICE OF OPPORTUNITY TO CONSULT ON A MINOR USE PERMIT TO ESTABLISH A 13,000 SQUARE-FOOT CONVENIENCE STORE WITH THIRTEEN (13) FUELING STATIONS ON 5.7-ACRES IN SAN BERNARDINO COUNTY (PARCEL NO.: 0537-162-05; PROJECT NUMBER: PROJ-2019-00010).

Dear Ms. Mauck:

On August 25, 2020, Land Use Services initiated environmental review under the California Environmental Quality Act (CEQA) for Minor Use Permit PROJ-2019-00010. The applicant is proposing a convenience store and gas station. The property is located on 37815 Telstar Court in Yermo. A project location map and a project description are enclosed for your information.

In accordance with Assembly Bill 52 (AB 52), which added various provisions to the California Public Resources Code (PRC) that concern Tribal Cultural Resources, including Section 21080.3.1(d), we are responding to your request to be notified of projects in the geographic area that is traditionally and culturally affiliated with your Tribe and that will be reviewed by this entity under CEQA. Your name was provided to us as the point of contact for your Tribe. We are hereby notifying you of an opportunity to consult with us regarding the potential for this project to impact Tribal Cultural Resources, as defined in Section 21074 of the PRC. The purposes of tribal consultation under AB 52 are to determine, as part of the CEQA review process, whether or not Tribal Cultural Resources are present within the project area, and if so, whether or not those resources will be significantly impacted by the project. If Tribal Cultural Resources may be significantly impacted, then consultation will also help to determine the most appropriate way to avoid or mitigate those impacts.

In accordance with Section 21080.3.1(d) of the PRC, you have 30 days from the receipt of this letter to request consultation in writing for this project. Please send your written request to Magda Gonzalez, Planner, 15900 Smoke Tree St. Suite 131, Hesperia, CA 92345 or by email to Magda.Gonzalez@lus.sbcounty.gov. In your request, please reference the project name and number as indicated above. If we do not receive a request for consultation within 30 days of your receipt of this letter, we will proceed forward in the CEQA review process without consultation. Thank you and we look forward to your response.

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Chief Executive Officer

August 26, 2020

PAGE 2 of 2

We have included, for your reference, a Project Notice, which includes the project description and location, a USGS 7.5' topographic map and several pictures showing the site covered in deteriorating asphalt.

Respectfully,



Magda Gonzalez, Senior Planner

MG/cgw/lb

Attachments:

1. Project Notice - Location and Description
2. USGS 7.5' topographic map
3. Cultural Resources Assessment (Phase 1)

cc: Project Record