



NATIVE AMERICAN HERITAGE COMMISSION

October 28, 2022

Savat Khamphou, Public Works Director
City of Corona
400 S. Vicentia Ave.,
Corona, California 92882

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NAHC HEADQUARTERS
1550 Harbor Boulevard
Suite 100
West Sacramento,
California 95691
(916) 373-3710
nahc@nahc.ca.gov
NAHC.ca.gov

Submitted via USPS Mail and Email to Savat.khamphou@CoronaCA.gov

Re: MLD Process for WRF-3 Lift Station, 8-inch Waterline Construction Project

Dear Mr. Khamphou:

The Native American Heritage Commission met on October 21, 2022 in Norco, California to address the MLD Process for WRF-3 Lift Station ("the project"). The NAHC appreciated the opportunity to discuss the project with you and ask clarifying questions related to the protection of the tribal ancestor(s).

During that meeting, the Commissioners and designated Most Likely Descendant (MLD) tribal representatives expressed concern for the protection of the area under construction, protection of the tribal ancestor(s), and provided testimony to the record on multiple other issues that need to be resolved immediately and in consultation with the MLD Tribes. The Commission also advised the city to fully analyze the possibility for protection in place and avoidance measures that will protect the tribal ancestor(s) in perpetuity. (See Public Resource Code section 21084.3(b)) As commissioners stated during the public meeting, avoiding and preserving the ancestors in the same location they were unearthed should be actively considered and pursued by the City. The ancestors did not ask to be unearthed and desecrated and we ask that you respect tribe's desires to preserve their ancestors in the most culturally appropriate way possible.

Based on your testimony, it is the commissions understanding that all work at the project site has ceased. However, there still seems to be some concerns that need to be addressed. These include protection of the areas identified as culturally sensitive with protection material in the event of rain or potential theft of the Tribal Cultural Resources (TCR's) that may be at the surface or in spoils. The NAHC recommends that the City immediately implement recommendations for securing the site that are outlined in a September 23, 2022, letter to the City from the Soboba Band of Luiseno Indians and Pechanga Band of Indians, along with the Gabrielino Band of Mission Indians – Kizh Nation's recently submitted October 2022 recommendations. A copy of the September 23, 2022, letter from Soboba and Pechanga is attached as ATTACHMENT A and the October 2022 recommendations from Kizh Nation are attached to this letter as ATTACHMENT B. The NAHC supports the entirety of these recommendations, and would like to focus the City on the importance of some of the more urgent recommendations including but not limited to the following:

1. No further work on the site.
2. The City immediately schedules with all three MLDs (Gabrielino Band of Mission Indians – Kizh Nation, Pechanga Band of Indians, and Soboba Band of Luiseno

- Indians) a time for tribal monitors to come out and direct clean-up of debris on the site.
3. Additional geotextile fabric must be placed over the spoil piles so that no further soil is exposed.
 4. The geotextile fabric shall be secured with double-bagged sandbags, and all the piles be surrounded by clean wattle.
 5. The site fencing must be improved for security.
 6. A shade structure must be placed over the Conex box to assure better temperature control.
 7. Routine weekly tribal monitoring of the site by all three MLDs (Gabrielino Band of Mission Indians – Kizh Nation, Pechanga Band of Indians, and Soboba Band of Luiseno Indians) to begin immediately.

The NAHC believes these are reasonable recommendations that concern only the proper techniques for securing the site pending actual recommendations for treatment and disposition of the ancestor(s). Given the City's responsibility to preserve and secure the site, these initial recommendations should be implemented immediately.

On June 30, 2022, NAHC Attorney Justin Freeborn wrote to Mohammed Ibrahim (City of Corona Project Manager) to explain the confidentiality and meet and confer aspects of the MLD law (Public Resource Code section 5097.98). A copy of this June 30, 2022, letter is attached as ATTACHMENT C. The NAHC is concerned that we are again writing to the City to explain its obligations under the MLD law. During your public testimony, you mentioned this was the first time City staff have handled a situation involving inadvertently discovered human remains. While the NAHC understands the practical implications of that lack of experience, the City itself is obligated to follow the law regardless of staff experience. It is a positive step forward that the City will retain additional consultants to advise on corrective actions for this important matter. We encourage you to engage in meaningful and timely tribal consultation with the designated tribal MLD's.

As you have been previously advised, the NAHC is here to assist, to the extent allowed under existing statutes to ensure the proper and respectful treatment of tribal ancestors. Please keep us updated on the progress of this matter before the Commission.

Sincerely,



Raymond C. Hitchcock
NAHC Executive Secretary

Attachments:

- A. September 23, 2022, recommendations from MLDs Pechanga Band of Indians and Soboba Band of Luiseno Indians
- B. October 2022 recommendations from Gabrielino Band of Mission Indians – Kizh Nation
- C. June 30, 2022, letter from NAHC Attorney Justin Freeborn to City of Corona

cc:

Soboba Band of Luiseno Indians
Gabrielino Band of Mission Indians – Kizh Nation
Pechanga Band of Indians



NATIVE AMERICAN HERITAGE COMMISSION

June 30, 2022

Mohammed Ibrahim
City of Corona Project Manager
400 S. Vicentia Ave.,
Corona, California 92882

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Submitted via USPS Mail and Email to Mohammed.Ibrahim@CoronaCA.gov

Re: MLD Process for WRF-3 Lift Station, 8-inch Waterline Construction Project

Dear Mr. Ibrahim:

I enjoyed speaking with you and your coworkers Savat Khamphou, Serena Hinojosa and Donna Finch regarding the WRF-3 lift station 8-inch waterline project, and the City's obligations regarding the Most Likely Descendants (MLDs), Soboba Band of Luiseno Indians, Kizh Kation, and Pechanga Band of Luiseno Indians.

As we discussed, while the Native American Heritage Commission (Commission) designated three MLDs for this site, each MLD/tribe should be consulted individually by the City of Corona unless the parties agree to joint meetings. This means that each tribe's information and recommendations regarding the treatment and disposition of their ancestor(s) is carefully considered and also kept confidential and not disclosed in public documents or to the other MLDs/tribes unless expressly permitted by the MLD/tribe.

Additionally, I want to reiterate that the MLD law (Public Resource Code section 5097.98(c)) defines the meet and confer process that needs to take place between landowners (such as the City of Corona) and the MLDs as the "meaningful and timely discussion and careful consideration of the views of each party, in a manner that is cognizant of all parties' cultural values, and where feasible, seeking agreement. Each party shall recognize the other's needs and concerns for confidentiality of information provided to the other." Please ensure the City conducts any future meetings with the MLDs in a respectful manner that is consistent with this definition of meet and confer.

I enclosed several pamphlets the Commission published that discuss the MLD process pursuant to Public Resource Code section 5097.98. I hope they are helpful to you and your coworkers. The Commission is here to assist either party during this MLD process. If I can be of further assistance to you or you have any questions, feel free to email me at justin.freeborn@nahc.ca.gov.

Sincerely,

Justin Freeborn
Attorney, Native American Heritage Commission