

STATE OF CALIFORNIA

Arnold Schwarzenegger, Governor

NATIVE AMERICAN HERITAGE COMMISSION

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January 11, 2007

Mr. James Koizumi

SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT

21865 Copley Drive
 Diamond Bar, CA 91765-4182

Re: SCH#2006091112; CEQA Notice of Completion; Draft Environmental Impact Report (DEIR) for EXXONMOBIL TORRANCE REFINERY RULE 1105.1 COMPLIANCE PROJECT; south Coast Air Quality Management District; Los Angeles County, California

Dear Mr. Koizumi:

- 1-1 Thank you for the opportunity to comment on the above-referenced document. The Native American Heritage Commission is the state's Trustee Agency for Native American Cultural Resources. The California Environmental Quality Act (CEQA) requires that any project that causes a substantial adverse change in the significance of an historical resource, that includes archeological resources, is a 'significant effect' requiring the preparation of an Environmental Impact Report (EIR) per CEQA guidelines § 15064.5(b)(c). 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. To adequately assess the project-related impacts on historical resources, the Commission recommends the following action:
- 1-2 ✓ Contact the appropriate California Historic Resources Information Center (CHRIS). The record search will determine:
- 1-3
- If a part or the entire APE has been previously surveyed for cultural resources.
 - If any known cultural resources have already been recorded in or adjacent to the APE.
 - If the probability is low, moderate, or high that cultural resources are located in the APE.
 - If a survey is required to determine whether previously unrecorded cultural resources are present.
- 1-4 ✓ If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.
- The final report containing site forms, site significance, and mitigation measures should be submitted immediately to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum, and not be made available for public disclosure.
 - The final written report should be submitted within 3 months after work has been completed to the appropriate regional archaeological information center.
- 1-5 ✓ Contact the Native American Heritage Commission (NAHC) for:
- * A Sacred Lands File (SLF) search of the project area and information on tribal contacts in the project vicinity who may have additional cultural resource information. Please provide this office with the following citation format to assist with the Sacred Lands File search request: USGS 7.5-minute quadrangle citation with name, township, range and section.
 - The NAHC advises the use of Native American Monitors to ensure proper identification and care given cultural resources that may be discovered. The NAHC recommends that contact be made with Native American Contacts on the attached list to get their input on potential project impact, particularly the contacts of the on the list.
- 1-6 ✓ Lack of surface evidence of archeological resources does not preclude their subsurface existence.
- Lead agencies should include in their mitigation plan provisions for the identification and evaluation of accidentally discovered archeological resources, per California Environmental Quality Act (CEQA) §15064.5 (f). In areas of identified archaeological sensitivity, a certified archaeologist and a culturally affiliated Native American, with knowledge in cultural resources, should monitor all ground-disturbing activities.
 - Lead agencies should include in their mitigation plan provisions for the disposition of recovered artifacts, in consultation with culturally affiliated Native Americans.
- 1-7 ✓ Lead agencies should include provisions for discovery of Native American human remains or unmarked cemeteries in their mitigation plans.

1-8

* CEQA Guidelines, Section 15064.5(d) requires the lead agency to work with the Native Americans identified by this Commission if the initial Study identifies the presence or likely presence of Native American human remains within the APE. CEQA Guidelines provide for agreements with Native American, identified by the NAHC, to assure the appropriate and dignified treatment of Native American human remains and any associated grave liens.

1-9

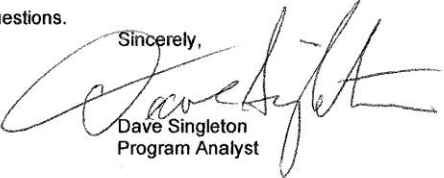
√ Health and Safety Code §7050.5, Public Resources Code §5097.98 and Sec. §15064.5 (d) of the CEQA Guidelines mandate procedures to be followed in the event of an accidental discovery of any human remains in a location other than a dedicated cemetery.

1-10

√ Lead agencies should consider avoidance, as defined in § 15370 of the CEQA Guidelines, when significant cultural resources are discovered during the course of project planning.

Please feel free to contact me at (916) 653-6251 if you have any questions.

Sincerely,



Dave Singleton
Program Analyst

Cc: State Clearinghouse

Attachment: List of Native American Contacts

**Native American Contacts
Los Angeles County
January 11, 2007**

LA City/County Native American Indian Comm Ron Andrade, Director 3175 West 6th Street, Rm. 403 Los Angeles, CA 90020 (213) 351-5324 (213) 386-3995 FAX	Ti'At Society Cindi Alvitre 6602 Zelzah Avenue Reseda, CA 91335 pimugirl@aol.com (714) 504-2468 Cell	Gabrielino
Tongva Ancestral Territorial Tribal Nation John Tommy Rosas, Tribal Administrator 4712 Admiralty Way, Suite 172 Marina Del Rey, CA 90292 310-570-6567	Gabrielino Tongva PO Box 693 San Gabriel, CA 91778 (626) 286-1632 (626) 286-1758 - Home (626) 286-1262 Fax	Gabrieleno/Tongva Tribal Council Anthony Morales, Chairperson Gabrielino Tongva
Gabrielino/Tongva Council / Gabrielino Tongva Nation Sam Dunlap, Tribal Secretary 761 Terminal Street; Bldg 1, 2nd Floor Los Angeles, CA 90021 (909) 262-9351-Cell (213) 489-5001-Office (213) 489-5002 Fax	Gabrielino Tongva PO Box 3021 Beaumont, CA 92223 (951) 845-3606 Phone/Fax	Gabrielino Band of Mission Indians of CA Ms. Susan Frank Gabrielino

This list is current only as of the date of this document.

Distribution of this list does not relieve any person of statutory responsibility as defined in Sec. 7050.5 of the Health & Safety Code, Sec. 5097.94 of the Public Resources Code and Sec. 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#2006091112; CEQA Notice of Completion; draft Environmental Impact Report (DEIR) for EXXONMOBIL TORRANCE REFINERY RULE 1105.1 COMPLIANCE PROJECT; South Coast Air Quality Management District; Los Angeles County, California.

Native American Contacts
Los Angeles County
January 11, 2007

Gabrielino Tongva Indians of California Tribal Council	Gabrielino Tongva Indians of California Tribal Council
Robert Dorame, Tribal Chair/Cultural Resources	Mercedes Dorame, Tribal Administrator
5450 Slauson, Ave. Suite 151 PMB Culver City, CA 90230	Gabrielino Tongva 20990 Las Flores Mesa Drive Malibu, CA 90265
gtongva@earthlink. 562-761-6417 - voice	
562-920-9449 - fax	

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**RESPONSE TO COMMENT FROM NATIVE AMERICAN HERITAGE COMMISSION
DATED JANUARY 12, 2007**

Response 1-1

The SCAQMD notes that the Native American Heritage Commission is the state's Trustee Agency for Native American Cultural Resources.

Response 1-2

The SCAQMD is aware of the requirements of CEQA Guidelines §15064.5 and has complied with this section as well as all other relevant CEQA requirements. As stated on pages 2-12 and 2-13 of the Initial Study for the ExxonMobil Rule 1105.1 Compliance Project, potential significant adverse impacts on cultural resources were not anticipated, and therefore were not analyzed further in the Draft EIR. This conclusion is based on the fact that, as part of the Final EIR evaluation for the Mobil CARB Phase 3 Reformulated Gasoline Project (SCH No. 2000081105) dated October 2001, a Phase I archaeological investigation of the Torrance Refinery was conducted by Conejo Archaeological Consultants and presented in a report dated December 13, 2000. The report concluded that no archaeological sites, no sacred [Native American] lands and no cultural resources are within or adjacent to the refinery (within a one-quarter mile radius). As a result, no impacts to historical, archaeological or paleontological resources (as defined in §15064.5 of the CEQA Guidelines) will occur as a result of the implementation of the proposed project.

Response 1-3

The ExxonMobil Rule 1105.1 Compliance Project is proposed to occur within the boundaries of an existing petroleum refinery built in 1929, and encompassing 750 acres. The primary objective of this compliance project is to install air pollution control equipment adjacent to the existing fluid catalytic cracking unit (FCCU) at the ExxonMobil Torrance Refinery. The site adjacent to the FCCU has been previously disturbed to accommodate refinery projects associated with the placement and relocation of infrastructure (i.e., underground utilities and piping) and no cultural resources or native American remains were found during these subsurface activities in or surrounding the property (i.e., area of potential effect).

As a result, based on historical activities at the site and a review of previous literature and reports, the proposed project was determined to not cause a potential "substantial adverse change in the significance of any historical resource" which would require a further evaluation of cultural resources in the draft EIR. See also response 1-2.

Response 1-4

An archaeological inventory survey was not required to be performed for the proposed project. See responses 1-2 and 1-3 for reasons why a survey was not required.

Response 1-5

As noted in response 1-2, a Phase I archaeological investigation of the Torrance Refinery was previously conducted, which did not identify any cultural or archaeological resources. As a result, a Sacred Lands File Search is not required.

Response 1-6

As noted in response 1-2, a Phase I archaeological investigation of the Torrance Refinery was previously conducted, which did not identify any cultural or archaeological resources. Therefore, no additional Native American monitoring is required. Further, as concluded on pages 2-12 and 2-13 of the Initial Study for the ExxonMobil Rule 1105.1 Compliance Project, no impacts to cultural resources were determined to result from the proposed project. As a result, no further analysis of cultural resources in the draft EIR was required.

Based on the historical use of the site and the numerous construction activities which included subsurface activities, the likelihood of encountering cultural resources is low. It should be noted, however, that Rule 1105.1 construction activities at the ExxonMobil Torrance Refinery include standard procedures for accidentally encountering any archaeological, Native American or cultural resources on-site. Compliance with all local, state and federal regulations (and notifications) will occur in the event of an accidental discovery of any cultural or historic resources.

Response 1-7

With regard to the potential for discovery of Native American remains, refer to responses 1-2, 1-3 and 1-6.

Response 1-8

As stated on pages 2-12 and 2-13, the Initial Study did not identify the presence or likely presence of Native American human remains. Therefore, agreements with Native Americans to assure appropriate treatment of Native American human remains are not required unless Native American human remains are discovered during site excavation. See also responses 1-2, 1-3 and 1-6.

Response 1-9

As noted in responses 1-2 and 1-3, discovery of human remains relative to the proposed project is not anticipated. However, the ExxonMobil Rule 1105.1 Compliance Project construction activities will cease to prevent further disturbance if human remains are unearthed, until the County Coroner has made the necessary findings with respect to origin and disposition, as required by Public Resources Code 5097.98-99 and Health and Safety Code 7050.5.

Response 1-10

CEQA Guidelines §15370(a) defines avoidance as: “Avoiding the impact altogether by not taking a certain action or parts of an action.” As stated on pages 2-12 and 2-13 of the Initial Study, the presence or likely presence of Native American human remains was not identified as a potential significant impact. See also responses 1-2 and 1-3. However, in the event significant cultural resources in the form of Native American human remains are discovered, construction activities will cease and ExxonMobil Oil Corporation will comply with proper federal, state and local regulations as described in response 1-6. Therefore, it is not necessary to avoid potential impacts to cultural resources by not taking a certain action or parts of an action.