



PECHANGA CULTURAL RESOURCES
Temecula Band of Luiseño Mission Indians

Post Office, Box 2183 • Temecula, CA 92593
Telephone (951) 770-6300 • Fax (951) 506-9491

October 21, 2019

Chairperson:
Neal Ibanez

Vice Chairperson:
Bridgett Barcello

Committee Members:
Andrew Masiel, Sr.
Darlene Miranda
Evie Gerber
Richard B. Searce, III
Robert Villalobos

Director:
Gary DuBois

Coordinator:
Paul Macarro

Cultural Analyst:
Tuba Ebru Ozdil

Planning Specialist:
Molly E. Escobar

VIA E-MAIL and USPS

Ryan Fowler, Senior Planner
City of Menifee
29844 Haun Road
Menifee, CA 92586

Re: Pechanga Tribe Comments on the Draft Environmental Impact Report for the Rockport Ranch –TR 37131 Project

Dear Mr. Fowler,

This comment letter is written on behalf of the Pechanga Band of Luiseño Indians (hereinafter, “the Tribe”), a federally recognized Indian tribe and sovereign government. The Tribe requests to be directly notified of all public hearings and scheduled approvals concerning this Project. Please also incorporate these comments into the record of approval for this Project.

8a

The Tribe submits these comments concerning the Project’s impacts to cultural resources in conjunction with the environmental review of the Project and to assist the City of Menifee in developing appropriate avoidance and preservation standards. The project location is within the Luiseño traditional land use area, and there is a high potential to find subsurface cultural resources during earth moving activities for the proposed project.

8b

The Tribe agrees with the majority of the proposed mitigation measures, with minor edits but do not agree that paleontological mitigation measures to be incorporated within the cultural section of the DEIR and request relocating it to a more appropriate section of the document such as geology. , for cultural resources as presented in the DEIR for this project and request that they will be incorporated with the proposed editions and deletions into the final EIR and added as conditions of approval for the Project.

8c

PECHANGA CULTURAL AFFILIATION TO PROJECT AREA

The Pechanga Tribe asserts that the Project area is part of 'Atáaxum (Luiseño), and therefore the Tribe’s, aboriginal territory as evidenced by the existence of 'Atáaxum place names, *tóota yixélval* (rock art, pictographs, petroglyphs), and an extensive Luiseño artifact record in the vicinity of the Project. This culturally sensitive area is affiliated with the Pechanga Band of

8d

Luiseno Indians because of the Tribe's cultural ties to this area as well as extensive history with both this Project and other projects within the area. | 8d cont.

The Pechanga Tribe's knowledge of our ancestral boundaries is based on reliable information passed down to us from our elders; published academic works in the areas of anthropology, history and ethno-history; and through recorded ethnographic and linguistic accounts. Of the many anthropologists and historians who have presented boundaries of the Luiseno traditional territory, few have excluded the Menifee area from their descriptions (Drucker 1955; Sparkman 1908; Kroeber 1925; Smith and Freers 1994), and such territory descriptions correspond with that communicated to the Pechanga people by our elders. While historic accounts and anthropological and linguistic theories are important in determining traditional Luiseno territory, the most critical sources of information used to define our traditional territories are our songs, creation accounts, and oral traditions. The Tribe welcomes the opportunity to meet with the City to further explain and provide documentation concerning our specific cultural affiliation to lands within your jurisdiction. | 8e

**PROJECT IMPACTS TO CULTURAL RESOURCES
AND PROPOSED MITIGATION MEASURES**

The proposed Project is located in Menifee, a very sensitive region of Luiseno territory. The Pechanga Band is not opposed to this Project; however, we are opposed to any direct, indirect and cumulative impacts this Project may have to tribal cultural resources and any impacts that could be avoided by consultation with the Tribe. | 8f

The Tribe requests that the following mitigation measures be incorporated into the final Environmental Impact Report (FEIR) in the Traditional Cultural Resources section or any other applicable documents, such a development and grading plans (strikeouts are deletions, underlines are additions). We would be happy to discuss our request for implementation of mitigation measures for this project further with the City. | 8g

SC-CUL-1 (Human Remains). If human remains are encountered, State Health and Safety Code Section 7050.5 states that no further disturbance shall occur until the Riverside County Coroner has made the necessary findings as to origin. Further, pursuant to Public Resource Code Section 5097.98(b) remains shall be left in place and free from disturbance until a final decision as to the treatment and disposition has been made. If the Riverside County Coroner determines the remains to be Native American, the Native American Heritage Commission shall be contacted within the period specified by law (24 hours). Subsequently, the Native American Heritage Commission shall identify the "most likely descendant." The most likely descendant shall then make recommendations and engage in consultation | 8h

*Pechanga Cultural Resources • Temecula Band of Luiseno Mission Indians
Post Office Box 2183 • Temecula, CA 92592*

Sacred Is The Duty Trusted Unto Our Care And With Honor We Rise To The Need

concerning the treatment of the remains as provided in Public Resources Code Section 5097.98.

| 8h cont.

SC-CUL-2 (Non-Disclosure of Location Reburials). It is understood by all parties that unless otherwise required by law, the site of any reburial of Native American human remains or associated grave goods shall not be disclosed and shall not be governed by public disclosure requirements of the California Public Records Act. The Coroner, pursuant to the specific exemption set forth in California Government Code 6254 @., parties, and Lead Agencies, will be asked to withhold public disclosure information related to such reburial, pursuant to the specific exemption set forth in California Government Code 6254 @.

| 8i

SC-CUL-3 (Inadvertent Archeological Find). If during ground disturbance activities, unique cultural resources are discovered that were not assessed by the archaeological report(s) and/or environmental assessment conducted prior to project approval, the following procedures shall be followed. Unique cultural resources are defined, for this condition only, as being multiple artifacts in close association with each other, but may include fewer artifacts if the area of the find is determined to be of significance due to its sacred or cultural importance as determined in consultation with the Native American Tribe(s).

- I. All ground disturbance activities within 100 feet of the discovered cultural resources shall be halted until a meeting is convened between the developer, the archaeologist, the tribal representative(s) and the Community Development Director to discuss the significance of the find.
- II. At the meeting, the significance of the discoveries shall be discussed and after consultation with the tribal representative(s) and the archaeologist, a decision shall be made, with the concurrence of the Community Development Director, as to the appropriate mitigation (documentation, recovery, avoidance, etc.) for the cultural resources.
- III. Grading of further ground disturbance shall not resume within the area of the discovery until an agreement has been reached by all parties as to the appropriate mitigation. Work shall be allowed to continue outside of the buffer area and will be monitored by additional Tribal monitors if needed.
- IV. Treatment and avoidance of the newly discovered resources shall be consistent with the Cultural Resources Management Plan and Monitoring Agreements entered into with the appropriate tribes. This may include avoidance of the cultural resources through project design,

| 8j

*Pechanga Cultural Resources • Temecula Band of Luiseño Mission Indians
Post Office Box 2183 • Temecula, CA 92592*

in-place preservation of cultural resources located in native soils and/or re-burial on the Project property so they are not subject to further disturbance in perpetuity as identified in Non-Disclosure of Reburial Condition.

V. **If the find is determined to be significant and avoidance of the site has not been achieved, a Phase III data recovery plan shall be prepared by the project archeologist, in consultation with the Tribe, and shall be submitted to the City for their review and approval prior to implementation of the said plan.**

VI. ~~V.~~ Pursuant to Calif. Pub. Res. Code § 21083.2(b) avoidance is the preferred method of preservation for archaeological resources and cultural resources. If the landowner and the Tribe(s) cannot agree on the significance or the mitigation for the archaeological or cultural resources, these issues will be presented to the City Community Development Director for decision. The City Community Development Director shall make the determination based on the provisions of the California Environmental Quality Act with respect to archaeological resources, recommendations of the project archeologist and shall take into account the cultural and religious principles and practices of the Tribe. Notwithstanding any other rights available under the law, the decision of the City Community Development Director shall be appealable to the City Planning and/or City Council.”

8j cont.

SC-CUL-4 (Cultural Resources Disposition). In the event that Native American cultural resources are discovered during the course of grading (inadvertent discoveries), the following procedures shall be carried out for final disposition of the discoveries:

- I. One or more of the following treatments, in order of preference, shall be employed with the tribes. Evidence of such shall be provided to the City of Menifee Community Development Department:
 - i. Preservation-In-Place of the cultural resources, if feasible. Preservation in place means avoiding the resources, leaving them in the place where they were found with no development affecting the integrity of the resources.
 - ii. Reburial of the resources on the Project property. The measures for reburial shall include, at least, the following: Measures and provisions to protect the future reburial area from any future impacts in perpetuity. Reburial shall not occur until all legally required cataloging and basic recordation have been completed,

8k

*Pechanga Cultural Resources • Temecula Band of Luiseño Mission Indians
Post Office Box 2183 • Temecula, CA 92592*

with an exception that sacred items, burial goods and Native American human remains are excluded. Any reburial process shall be culturally appropriate. Listing of contents and location of the reburial shall be included in the confidential Phase IV report. The Phase IV Report shall be filed with the City under a confidential cover and not subject to Public Records Request.

- iii. If preservation in place or reburial is not feasible then the resources shall be curated in a culturally appropriate manner at a Riverside County curation facility that meets State Resources Department Office of Historic Preservation Guidelines for the Curation of Archaeological Resources ensuring access and use pursuant to the Guidelines. The collection and associated records shall be transferred, including title, and are to be accompanied by payment of the fees necessary for permanent curation. Evidence of curation in the form of a letter from the curation facility stating that subject archaeological materials have been received and that all fees have been paid, shall be provided by the landowner to the City. There shall be no destructive or invasive testing on sacred items, burial goods and Native American human remains. Results concerning finds of any inadvertent discoveries shall be included in the Phase IV monitoring report.

8k cont.

SC-CUL-5 (Archeologist Retained). Prior to issuance of a grading permit the project applicant shall retain a Riverside County qualified archaeologist to monitor all ground disturbing activities in an effort to identify any unknown archaeological resources.

The Project Archaeologist and the Tribal monitor(s) shall manage and oversee monitoring for all initial ground disturbing activities and excavation of each portion of the project site including clearing, grubbing, tree removals, mass or rough grading, trenching, stockpiling of materials, rock crushing, structure demolition and etc. The Project Archaeologist and the Tribal monitor(s), shall have the authority to temporarily divert, redirect or halt the ground disturbance activities to allow identification, evaluation, and potential recovery of cultural resources in coordination with any required special interest or tribal monitors.

8l

The developer/permit holder shall submit a fully executed copy of the contract to the Community Development Department to ensure compliance with this condition of approval. Upon verification, the Community Development Department shall clear this condition.

*Pechanga Cultural Resources • Temecula Band of Luiseño Mission Indians
Post Office Box 2183 • Temecula, CA 92592*

In addition, the Project Archaeologist, in consultation with the Consulting Tribe(s), the contractor, and the City, shall develop a Cultural Resources Management Plan (CRMP) in consultation pursuant to the definition in AB52 to address the details, timing and responsibility of all archaeological and cultural activities that will occur on the project site. A consulting tribe is defined as a tribe that initiated the AB 52 tribal consultation process for the Project, has not opted out of the AB52 consultation process, and has completed AB 52 consultation with the City as provided for in Cal Pub Res Section 21080.3.2(b)(1) of AB52. Details in the Plan shall include:

- a. Project grading and development scheduling;
- b. The Project archeologist and the Consulting Tribes(s) shall attend the pre-grading meeting with the City, the construction manager and any contractors and will conduct a mandatory Cultural Resources Worker Sensitivity Training to those in attendance. The Training will include a brief review of the cultural sensitivity of the Project and the surrounding area; what resources could potentially be identified during earthmoving activities; the requirements of the monitoring program; the protocols that apply in the event inadvertent discoveries of cultural resources are identified, including who to contact and appropriate avoidance measures until the find(s) can be properly evaluated; and any other appropriate protocols. All new construction personnel that will conduct earthwork or grading activities that begin work on the Project following the initial Training must take the Cultural Sensitivity Training prior to beginning work and the Project archaeologist and Consulting Tribe(s) shall make themselves available to provide the training on an as-needed basis;
- c. The protocols and stipulations that the contractor, City, Consulting Tribe(s) and Project archaeologist will follow in the event of inadvertent cultural resources discoveries, including any newly discovered cultural resource deposits that shall be subject to a cultural resources evaluation.

8l cont.

SC-CUL-6 (Native American Monitoring [Pechanga]). Tribal monitor(s) shall be required on-site during all ground-disturbing activities, including grading, stockpiling of materials, engineered fill, rock crushing, etc. The land divider/permit holder shall retain a qualified tribal monitor(s) from the Pechanga Band of Luiseño Mission Indians. Prior to issuance of a grading permit, the developer shall submit a copy of a signed contract between the above-mentioned Tribe and the land divider/permit holder for the monitoring of the project to the Community Development Department and to the Engineering Department. The Tribal

8m

*Pechanga Cultural Resources • Temecula Band of Luiseño Mission Indians
Post Office Box 2183 • Temecula, CA 92592*

Monitor(s) shall have the authority to temporarily divert, redirect or halt the ground-disturbance activities to allow recovery of cultural resources, in coordination with the Project Archaeologist.

8m cont.

SC-CUL-7 (Native American Monitoring [Soboba]). Tribal monitor(s) shall be required on-site during all ground-disturbing activities, including grading, stockpiling of materials, engineered fill, rock crushing, etc. The land divider/permit holder shall retain a qualified tribal monitor(s) from the Soboba Band of Luiseno Indians. Prior to issuance of a grading permit, the developer shall submit a copy of a signed contract between the above- mentioned Tribe and the land divider/permit holder for the monitoring of the project to the Community Development Department and to the Engineering Department. The Native American Monitor(s) shall have the authority to temporarily divert, redirect or halt the ground-disturbance activities to allow recovery of cultural resources, in coordination with the Project Archaeologist.

8n

SC-CUL-8 (Archeology Report – Phase III and IV). Prior to final inspection, the developer/permit holder shall prompt the Project Archeologist to submit two (2) copies of the Phase III Data Recovery report (if required for the Project) and the Phase IV Cultural Resources Monitoring Report that complies with the Community Development Department’s requirements for such reports. The Phase IV report shall include evidence of the required cultural/historical sensitivity training for the construction staff held during the pre-grade meeting. The Community Development Department shall review the reports to determine adequate mitigation compliance. Provided the reports are adequate, the Community Development Department shall clear this condition. Once the report(s) are determined to be adequate, two (2) copies shall be submitted to the Eastern Information Center (EIC) at the University of California Riverside (UCR) and one (1) copy shall be submitted to the Consulting Tribe(s) Cultural Resources Department(s).

8o

~~SC-CUL-9 (Paleontologist Required). This site is mapped as having a high potential for paleontological resources (fossils) at shallow depth. Therefore, prior to issuance of grading permits:~~

~~The permittee shall retain a qualified paleontologist approved by the City of Menifee to create and implement a project-specific plan for monitoring site grading/earthmoving activities (project paleontologist).~~

8p

The project paleontologist retained shall review the approved development plan and shall conduct any pre-construction work necessary to render appropriate monitoring and mitigation requirements as appropriate. These requirements shall be documented by the project paleontologist in a Paleontological Resource Impact Mitigation Program (PRIMP). This PRIMP shall be submitted to the Community Development Department for review and approval prior to issuance of a Grading Permit.

Information to be contained in the PRIMP, at a minimum and in addition to other industry standard and Society of Vertebrate Paleontology standards, are as follows:

- A. The project paleontologist shall participate in a pre-construction project meeting with development staff and construction operations to ensure an understanding of any mitigation measures required during construction, as applicable.
- B. Paleontological monitoring of earthmoving activities will be conducted on an as-needed basis by the project paleontologist during all earthmoving activities that may expose sensitive strata. Earthmoving activities in areas of the project area where previously undisturbed strata will be buried but otherwise disturbed will not be monitored. The project paleontologist or his/her assign will have the authority to reduce monitoring once he/she determines the probability of encountering fossils has dropped below an acceptable level.
- C. If the project paleontologist finds fossil remains, earthmoving activities will be diverted temporarily around the fossil site until the remains have been evaluated and recovered. Earthmoving will be allowed to proceed through the site when the project paleontologist determines the fossils have been recovered and/or the site mitigated to the extent necessary.
- D. If fossil remains are encountered by earthmoving activities when the project paleontologist is not onsite, these activities will be diverted around the fossil site and the project paleontologist called to the site immediately to recover the remains.
- E. If fossil remains are encountered, fossiliferous rock will be recovered from the fossil site and processed to allow for the recovery of smaller fossil remains. Test samples may be recovered from other sampling sites in the rock unit if appropriate.
- F. Any recovered fossil remains will be prepared to the point of identification and identified to the lowest taxonomic level possible by knowledgeable paleontologists. The remains then will be curated

8p cont.

~~(assigned and labeled with museum* repository fossil specimen numbers and corresponding fossil site numbers, as appropriate; places in specimen trays and, if necessary, vials with completed specimen data cards) and catalogued, an associated specimen data and corresponding geologic and geographic site data will be archived (specimen and site numbers and corresponding data entered into appropriate museum repository catalogs and computerized data bases) at the museum repository by a laboratory technician. The remains will then be accessioned into the museum* repository fossil collection, where they will be permanently stored, maintained, and, along with associated specimen and site data, made available for future study by qualified scientific investigators.~~

~~* The City of Menifee must be consulted on the repository/museum to receive the fossil material prior to being curated.~~

~~G. A qualified paleontologist shall prepare a report of findings made during all site grading activity with an appended itemized list of fossil specimens recovered during grading (if any). This report shall be submitted to the Community Development Department for review and approval prior to building final inspection as described elsewhere in these conditions.~~

~~All reports shall be signed by the project paleontologist and all other professionals responsible for the report's content (e.g. Professional Geologist, Professional Engineer, etc.), as appropriate. Two wet signed original copies of the report shall be submitted directly to the Community Development Department along with a copy of this condition, deposit based fee and the grading plan for appropriate case processing and tracking.~~

Pechanga Tribe's Comments Regarding Sections 4.6 and 4.17

The Pechanga Tribe understands that the Project has been conducting the environmental studies for some time, however; the Tribe requests that the Final EIR acknowledge the Tribe's following comments and concerns.

Section **4.6.2.3.c Late Prehistoric Period** states that "An intrusion of Shoshonean- speakers into the region occurred around 1500 BP." The report goes on, in section **4.6.2.3.d Ethnohistoric Period**, that "The Shoshonean inhabitants of the region were called Luiseños by Franciscans friars who named the San Luis Rey River and established the San Luis Rey Mission in the heart of the Luiseño territory. The above statements are a misclassification of the Luiseño language. The Luiseño languages are within the Californian Uto-Aztecan branch while the Shoshonean languages are of the Northern Uto-Aztecan branch therefore making them two distinct language

*Pechanga Cultural Resources • Temecula Band of Luiseño Mission Indians
Post Office Box 2183 • Temecula, CA 92592*

8p cont.

8q

8r

sub-groups within in the Uto-Aztecan Language Family.¹ While historic accounts and anthropological and linguistic theories are important in determining traditional Luiseño territory, the Pechanga Tribe asserts that the most critical sources of information used to define our traditional territories are our songs, creation accounts, and oral traditions. The Luiseño have never migrated into the area. Linguistic theory and archaeological data now support the view that the Luiseño were in California before the “Shoshonean Intrusion” occurred. Therefore, the Tribe would like to assert that the “Shoshonean Wedge” theory is no longer supported by current research and all mention of the “Shoshonean Intrusion” be removed from the cultural report for this project.

8r cont.

Section **4.6.2.3.d Ethnohistoric Period** states that the “surviving ceremonies include initiation for cult candidates, installation of religious chiefs, funerals, and clothes burning.” This explanation of the surviving cultural practices is an extreme misunderstanding of the religious and cultural beliefs and practices. Additionally, that section of the report makes the statement that the Luiseño pre-European contact population ranged from 5,000 to 10,000. Non-Luiseño may see the Luiseño religious practices as strange, and though the Luiseño people are a small population in the world today the Tribe estimates that their numbers reached into the hundreds of thousands prior to European invasion. The Luiseño religious practices have occurred far longer than more commonly known religions. Therefore, though today, by non-native standards, the Luiseño religion may be small in practice and strange and meets one dictionary definition of the word cult, it is offensive. While the term is often used in anthropological literature to describe indigenous population’s religions, the Tribe views this as a derogatory term and demeans Tribal beliefs. The modern western inference of the term “cult” is associated with a primitive, lesser than, or marginalized connotation. This label devalues Luiseño religious beliefs and practices. While anthropological scholars and researchers understand this ethnographic terminology, the layperson, in particular the lead agency and landowners who review this document, is led to believe Luiseño cosmology and beliefs are less than western mainstream religions. The Tribe requests that the words “cult” be removed from the discussion of Luiseño religion.

8s

Further, the Tribe requests that the mention of the establishment of the La Jolla Reservation be switched to the establishment of the Pechanga Reservation as it is the closest reservation to the Menifee area and would have had a larger impact to the Project area.

8t

In section **4.17.1 Introduction** and **4.17. 4 Potential Impacts** in the response to the Impacts to cultural resources; it states that “Because the Project site has experienced severe ground disturbances in the past, any buried archaeological resources would have already been uncovered or destroyed.” The Tribe finds this statement untrue for a couple different reasons. Firstly, the Project area has not been severely disturbed. The Tribe fully understands that the area has been disturbed, however, archaeological resources are known to be in deep deposits within a mile of the Project area, depths of 8-10 feet. Additionally, the Tribe must make note that a Tribal

8u

¹ For further clarification, the Glottolog organization (<http://glottolog.org/resource/languoid/id/luis1253>) has language classification charts.

Pechanga Comment Letter to the City of Menifee
Re: Pechanga Tribe Comments on the DEIR for Rockport Ranch Project
October 21, 2019
Page 11

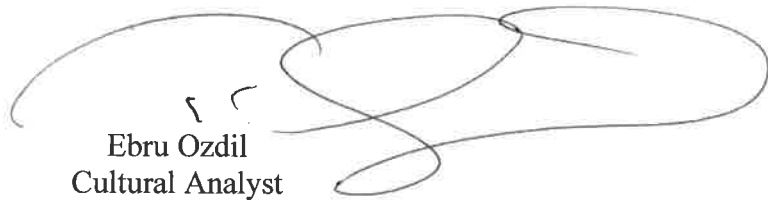
Cultural Resource does not always mean an archaeological resource. While archaeological resources are a part of Tribal Cultural Resources, often the resources are intangible. Therefore the “Impacts to cultural resources (which could include tribal cultural resources) were addressed in the Cultural Resources Section of the IS” is incorrect.

8u cont.

The Pechanga Tribe looks forward to working together with the City of Menifee in protecting the invaluable Pechanga cultural resources. Please contact Ebru Ozdil, Cultural Analyst, at 951-770-6313 or at eozdil@pechanga-nsn.gov if there are any questions or concerns. Thank you.

8v

Sincerely,



Ebru Ozdil
Cultural Analyst

Cc Pechanga Office of the General Counsel

*Pechanga Cultural Resources • Temecula Band of Luiseño Mission Indians
Post Office Box 2183 • Temecula, CA 92592*

Sacred Is The Duty Trusted Unto Our Care And With Honor We Rise To The Need