

Th 17a

STATE OF CALIFORNIA

Arnold Schwarzenegger, GOVERNOR

**NATIVE AMERICAN HERITAGE COMMISSION**

915 CAPITOL MALL, ROOM 924  
 SACRAMENTO, CA 95814  
 (916) 658-6251  
 Fax (916) 657-5390  
 Web Site [www.nahc.ca.gov](http://www.nahc.ca.gov)  
 e-mail: [ds\\_nahc@pacbell.net](mailto:ds_nahc@pacbell.net)



Th 17a

November 6, 2008

Ms. Teresa Henry, District Manager

**CALIFORNIA COASTAL COMMISSION**

South Coast District Office  
 200 Oceangate, 10<sup>th</sup> Floor  
 Long Beach, CA 90802-4416

Re: Staff Investigation of the Native American Heritage Commission (NAHC) in process  
 for a Report for Consideration at the December 12, 2008 NAHC Meeting at the City  
 Council Chambers: City of San Juan Capistrano

Dear Ms. Henry:

This is to inform you that the staff investigation and report preparation on the Native American cultural resources concerns at the Brightwater Development Project site at 17201 Bolsa Chica Road, Orange County, will be presented to the Native American Heritage Commission at their next meeting, December 12, 2008, at the City Council Chambers, City of San Juan Capistrano, Orange County.

The NAHC continues to be concerned that the Native American cultural resources at this site have not been properly accounted for pursuant to state law. The NAHC Executive Secretary requested certain information from the site and project owner/developer, Hearthside Homes, Inc./Signal Landmark, on March 31, 2008 including a map of the site showing excavations, house pits, burials or human remains discovered, photos and archaeological features. Jeff Crouch of the project archaeological firm, Scientific Resource Surveys, Inc. (SRS) acknowledged the NAHC request in an e-mail of April 7, 2008 and a copy was furnished to you. The NAHC Executive Secretary in his letter to you of April 8, 2008 summarized the NAHC request. Yet, to date, this requested information has not been provided to the Native American Heritage Commission.

Furthermore, the NAHC concerns have heightened by the reports from the Orange County Coroner and the project archaeologist of 104 sets of Native American human remains and thousands of associated grave goods and other Native American artifacts made to the NAHC since 2006. Details of these reports have also been available to you. The NAHC understood in 2004 that the archaeological work on the project was complete; that the soil at the site was sterile and the likelihood of additional Native American cultural resources was nil. In the SRS Report, "Archaeological Site CA-ORA-83: The Cogged Stone Site," it states on page 30 that: All formal field excavations are completed on this site. Cataloguing and analysis of all recovered materials in process. The results of this work will be presented in a series of final reports, which fulfill the requirements of County and State agencies." From this report, the NAHC deduced that the 'data recovery' work on the project was finished and that there would be no further discoveries, particularly in great numbers, of Native American human remains and associated artifacts. Yet, this proved not to be the case. The most recent report to the NAHC was April 26, 2008 comprised, according to a report from the SRS archaeologist, of 87 separate sets of human remains.

37

In addition, there apparently are as many of 6,000 bags of material in trailers adjacent to the Brightwater Development Site, far more than had previously been reported to the NAHC. And a so-called 'power sort' of ten boxes or bags of the material yielded evidence of human remains, according to a report from SRS archaeologist Dr. Paul Lagenwalther. To date, the NAHC has not been informed that this finding was reported to the Orange County Coroner. This find also raises the question about the balance of the material in those bags that may comprise many more fragments of human remains and possible associated grave goods.

Therefore, the NAHC staff remains concerned that there may be a significant possibility of additional human remains and artifacts being unearthed by the construction process of building 'pads' for the proposed homes at the Brightwater Development Site. The insufficient and inadequate response of the landowner and its agents to respond to NAHC requests in a timely manner gives rise to the possibility that the Native American cultural resources at the site have been 'understated.' The NAHC does have jurisdiction in such matters as the state 'trustee' agency for the protection of Native American cultural resources and burial sites pursuant to Public Resources Code §21070.

Sincerely,

  
Dave Singleton  
Program Analyst

Attachments:

San Diego Region

OCT 23 2008

COASTAL COMMISSION

**FORM FOR DISCLOSURE  
OF EX PARTE  
COMMUNICATION**

**RECEIVED**

OCT 20 2008

CALIFORNIA  
COASTAL COMMISSION

**Date and time of communication:**  
(For messages sent to a Commissioner by mail or facsimile or received as a telephone or other message, date time of receipt should be indicated.)

October 20, 2008 - 12:53 a.m.

**Location of communication:**  
(For communications sent by mail or facsimile, or received as a telephone or other message, indicate the means of transmission.)

Eureka, CA - Via Email

**Person(s) initiating communication:**

Susana Salas

**Person(s) receiving communication:**

Bonnie Neely, Commissioner

**Name or description of project:**

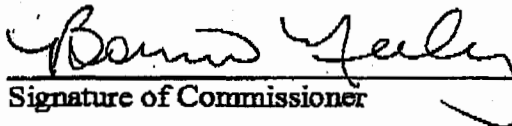
Permit # 5-05-020 -- Bolsa Chica

**Detailed substantive description of content of communication:**  
(If communication included written material, attach a copy of the complete text of the written material.)

(See Attached Email)

10/20/08

Date

  
Signature of Commissioner

If the communication was provided at the same time to staff as it was provided to a Commissioner, the communication is not ex parte and this form does not need to be filled out.

If communication occurred seven or more days in advance of the Commission hearing on the item that was the subject of the communication, complete this form and transmit it to the Executive Director within seven days of the communication. If it is reasonable to believe that the completed form will not arrive by U.S. mail at the Commission's main office prior to the commencement of the meeting, other means of delivery should be used, such as facsimile, overnight mail, or personal delivery by the Commissioner to the Executive Director at the meeting prior to the time that the hearing on the matter commences.

If communication occurred within seven days of the hearing, complete this form, provide the information orally on the record of the proceedings and provide the Executive Director with a copy of any written material that was part of the communication.

29

**Hayes, Kathy**

---

**From:** Neely, Bonnie  
**Sent:** Monday, October 20, 2008 12:53 AM  
**To:** Hayes, Kathy  
**Subject:** FW: Request meeting re: Permit 05-05-020 Brightwater

Do an exparte regarding this email. Thanks.

-----Original Message-----

**From:** SUSAN SALAS [mailto:monkeeyo@hotmail.com]  
**Sent:** Thu 10/16/2008 4:40 PM  
**To:** Neely, Bonnie  
**Cc:**  
**Subject:** Request meeting re: Permit 05-05-020 Brightwater

Bonnie Neely,

My name is Susana Salas. I am a member of the So. California Native American community and petitioner who is requesting that the California Coastal Commission investigate the Brightwater development and consider revoking Permit 5-05-020. Native American community members believe that our sacred site at Bolsa Chica is being destroyed. We have a tentative revocation hearing date(s) of November 12, 13 or 14. We would like to meet with you prior to the hearing. Please let me know when you are available to meet with Native American community members in the So. California area.

Respectfully,

Susana Salas

---

  
You live life beyond your PC. So now Windows goes beyond your PC. See how  
<<http://clk.atdmt.com/MRT/go/115298556/direct/01/>>

40

FORM FOR DISCLOSURE OF EX PARTE COMMUNICATIONS

RECEIVED

NOV 04 2008

CALIFORNIA COASTAL COMMISSION

Name or description of project, LCP, etc.: Revocation A-5-05-020 Heartside Homes
Date and time of receipt of communication: Oct. 31, 2008 12:00 pm
Location of communication: La Jolla, CA
Type of communication (letter, facsimile, etc.): Personal Meeting
Person(s) initiating communication: David B. Neish, Ed Mountford
Person(s) receiving communication: Pat Kruer

Detailed substantive description of content of communication: (Attach a copy of the complete text of any written material received.)

Applicant (Heartside Homes) and agent described the revocation process in the CCC guidelines. Additionally they explained why the applicant was opposed to the Revocation request. It was also indicated that CCC staff was recommending against the Revocation Request to the Commission.

11/1/08
Date

Pat Kruer
Signature of Commissioner

If the communication was provided at the same time to staff as it was provided to a Commissioner, the communication is not ex parte and this form does not need to be filled out.

If communication occurred seven or more days in advance of the Commission hearing on the item that was the subject of the communication, complete this form and transmit it to the Executive Director within seven days of the communication. If it is reasonable to believe that the completed form will not arrive by U.S. mail at the Commission's main office prior to the commencement of the meeting, other means of delivery should be used, such as facsimile, overnight mail, or personal delivery by the Commissioner to the Executive Director at the meeting prior to the time that the hearing on the matter commences.

If communication occurred within seven days of the hearing, complete this form, provide the information orally on the record of the proceeding and provide the Executive Director with a copy of any written material that was part of the communication.

41

**CALIFORNIA COASTAL COMMISSION**

South Coast Area Office  
200 Oceangate, Suite 1000  
Long Beach, CA 90802-4302  
(562) 590-5071



# Th17a

Filed:	6/2/08
49th Day:	NA
180th Day:	NA
Staff:	Teresa Henry-LB
Staff Report:	10/29/08
Hearing Date:	11/13/08
Commission Action:	

## STAFF REPORT: REVOCATION REQUEST

**APPLICATION:** R5-05-020

**APPLICANT:** Hearthside Homes/Signal Landmark

**AGENT:** Ed Mountford, Hearthside Homes  
Susan Hori, Manatt, Phelps & Phillips  
Dave Neish, D. B. Neish

**PROJECT LOCATION:** 17201 Bolsa Chica Road, Bolsa Chica, Orange County

**PROJECT DESCRIPTION:** Approval of Vesting Tract Map 15460 for the subdivision and development of the 105.3 acre (Brightwater development) project site into 349 single family residences on 68 acres and 37 acres of habitat restoration. Also included within the development are two local parks, a public trail along the blufftop edge and three public vertical accessways leading to the blufftop trail. Two known archaeological sites, ORA 85 and ORA 83, the Cogged Stone Site, are located within the project site.

**INDIVIDUALS REQUESTING REVOCATION:** 20 individuals from various Native American tribal groups (see Exhibit 1, page 6), California Cultural Resources Preservation Alliance and the Bolsa Chica Land Trust.

**SUMMARY OF STAFF RECOMMENDATION:** Staff recommends that the Commission, after public hearing, **deny** the request to revoke Coastal Development Permit 5-05-020 because the request fails to establish the grounds required pursuant to Section 13105 of the Commission's Regulations. The revocation request fails to demonstrate intentional inclusion of inaccurate, erroneous or incomplete information in connection with the subject coastal development permit application, where accurate and complete information would have caused the Commission to require additional or different conditions on the permit or deny the application.

**SUBSTANTIVE FILE DOCUMENTS:** Final Supplemental EIR (SEIR) 551 (State Clearinghouse No. 1993071064), Vol. I, Brightwater Development Project Orange County, California, prepared by LSA Associates, Inc., November 17, 2001; Coastal Development Permit files 5-84-983, 5-83-702 as amended, 5-89-772 as amended, Executive Director Report to the Commission Regarding ORA-83, R5-98-772, 5-04-192, 5-05-020.

**PROCEDURAL NOTE:**

The Commission's regulations, Title 14 of the California Code of Regulations, state the grounds for the revocation of a coastal development permit as follows:

Grounds for revocation of a permit shall be:

- (a) Intentional inclusion of inaccurate, erroneous or incomplete information in connection with a coastal development permit application, where the Commission finds that accurate and complete information would have caused the Commission to require additional or different conditions on a permit or deny an application;
- (b) Failure to comply with the notice provisions of Section 13054, where the views of the person(s) not notified were not otherwise made known to the Commission and could have caused the Commission to require additional or different conditions on a permit or deny an application. 14 Cal. Code of Regulations Section 13105.

**STAFF NOTE:**

Revocation of a permit removes a previously granted permit. Even if a permit is vested, i.e. the permittee has undertaken construction of the project, if the Commission revokes the permit, the applicant is required to stop work and, if wishing to continue, to reapply for the project. In fact, if the Executive Director determines that evidence clearly shows that there are grounds for revocation, Section 13107 provides that the operation of the permit shall be suspended. In this case, the Executive Director has not determined that grounds exist for revocation and the operation of the permit is not suspended.

Because of the impacts on a permittee, the grounds for revocation are necessarily narrow. The rules of revocation do not allow the Commission to have second thoughts on a previously issued permit based on information that comes into existence after the granting of the permit, no matter how compelling that information might be. Similarly, a violation of the Coastal Act or the terms and conditions of a permit or an allegation that a violation has occurred are not grounds for revocation under the California Code of Regulations. The grounds for revocation are, of necessity, confined to information in existence at the time of the Commission's action.

The revocation request is based on subsection (a) of Section 13105 of the Commission's regulations. The three elements of Section 13105(a) that must be proved before a permit can be revoked are:

- 1) That the applicant provided incomplete or false information; **AND**
- 2) That false or incomplete information was supplied intentionally; **AND**
- 3) That if the Commission had known of the information, it would have denied the permit or imposed different conditions.

## **I. STAFF RECOMMENDATION:**

Staff recommends that the Commission

### **A. Motion**

***“I move that the Commission grant revocation of Coastal Development Permit Number 5-05-020.”***

The staff recommends a **NO** vote on the motion. This will result in denial of the request for revocation and adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

### **Resolution to deny Revocation**

The Commission hereby denies the request for revocation of the Commission’s decision on coastal development permit no. 5-05-020 on the grounds that there is no intentional inclusion or inaccurate, erroneous or incomplete information in connection with a coastal development permit application, where the Commission finds that accurate and complete information would have caused the Commission to require additional or different conditions on a permit or deny an application.

## **II. FINDINGS AND DECLATIONS:**

The Commission hereby finds and declares:

### **A. Project Description, Location and Summary of Archaeological History of Site**

On April 14, 2005, the Commission approved Coastal Development Permit 5-05-020 for the approval of Vesting Tract Map 15460 for the subdivision and development of the 105.3 acre Brightwater development project on the Bolsa Chica Mesa. The development consists of the construction of 349 single family residences on 68 acres and 37 acres of habitat restoration. Also included are two local parks, a public trail along the blufftop edge of the property and three public vertical accessways leading to the blufftop trail. Two known archaeological sites, ORA 83, the Cogged Stone Site, and ORA 85, the Eberhart Site, are located within the project site.

The project site is located in Orange County on the Bolsa Chica Mesa, east of Pacific Coast Highway, south of Warner Avenue and Los Patos Avenue, west of Bolsa Chica Street and north of the recently restored Bolsa Chica Wetlands. At the time of the



Commission's action in April 2005, the Bolsa Chica Mesa was located in unincorporated Orange County. It has been recently annexed into the City of Huntington Beach.

The archaeological history of the Bolsa Chica Mesa and surrounding area is well documented and dates back before the Coastal Act. According to the 2001 EIR for the Brightwater project, archaeological investigations began in the area in the 1920s and became more intense in the 1960s, including excavations at ORA-83 and ORA-85 in 1961 and 1964, respectively<sup>1</sup>. There are 17 known archaeological sites within the greater Bolsa Chica area. Four of the 17 archaeological sites have been recorded on the Brightwater project site. However two of the four sites, ORA-84 and ORA-288, were destroyed in the early to middle 1970's. The two remaining archaeological sites on the project site, ORA-83 and ORA-85 have fairly extensive permit histories with the Coastal Commission. The staff report for Coastal Development Permit 5-05-020 contained a detailed history of the Coastal Commission's action regarding the two archaeological sites located on the Brightwater project site, which is found in Appendix A. Following is a summary of the Commission's action concerning the two archaeological sites located on the Brightwater project site.

At the time of the Commission's review of the subject Brightwater CDP application 5-05-020 in April 2005 (and the predecessor application 5-04-192, in October 2004, which was withdrawn at the hearing prior to the final vote) the applicant had received approval and had carried out archaeological testing, excavation and salvage activities within ORA-83 and ORA-85 for nearly 20 years pursuant to CDPs approved by the Coastal Commission. As summarized in detail in Appendix A, the applicant received several Coastal Development Permits (CDPs) from the Commission to implement an archaeological research design for ORA-83 in 1984 and in 1988 for ORA-85 [5-83-984, 5-83-702-A3, 5-89-772, 5-89-772-A1, 5-89-772-A2, a 1994 ED Report, and R5-89-772]. These CDPs conditionally allowed for, among other things, total salvage of the archaeological sites with reburial of the human and animal remains, associated grave goods and artifacts pursuant to a Reburial Agreement with the Most Likely Descendants (MLD) of the affected Native American tribal groups designated by the Native American Heritage Commission.

Testing and excavation within ORA-83 was approved under CDPs 5-83-984 and 5-89-772, as amended, and work within ORA-85, under CDP 5-83-702, as amended. CDP 5-89-772 was issued in December, 1989 and was the final phase of the archaeological testing, excavation and recovery program to carry out the first phase of the program approved under the earlier CDP, 5-83-984, in 1984.

Following the Commission's approval of CDP 5-89-772 in 1989 there was controversy and disagreement among some members of the archaeological community [Pacific Coast Archaeological Society (PCAS)] over the percentage and extent of ORA-83 that should be examined. The applicant proposed to excavate a smaller portion of the archaeological site

---

<sup>1</sup> Final Supplemental EIR (SEIR) 551 (State Clearinghouse No. 1993071064), Vol. I, Brightwater Development Project Orange County, California, prepared by LSA Associates, Inc., November 17, 2001, pp.4.11-5, Table 4.11.A History of Bolsa Chica Bay Archaeology

and PCAS wanted the entire area to be sampled, suggesting that it could be done using a fine-scale operation with heavy machinery, removing thin layers at a time, under archaeological supervision. The applicant agreed to a Memorandum of Agreement with the three peer reviewers at the request of the Commission in response to the concerns of PCAS.

In April 2005 the Commission approved the subject Brightwater development project but did not modify the previously approved coastal permits that allowed archaeological testing, excavation and salvage of the two known archaeological sites, although there was considerable testimony concerning the archaeological resources of the project site. The archaeological concerns included the fact that the site had been twice nominated for listing on the National Register of Historic Places and the recent discovery of the semi-subterranean house pit features at the base of the site. There was considerable testimony that the site was also important for archaeoastronomical reasons, including letters from Native American groups and individuals, the Smithsonian Institute, environmental groups and professors of archaeology as well as politicians regarding this issue.

The Commission approved the project, but it imposed two Special Conditions dealing with the protection of cultural resources in conjunction with its action on the Brightwater project. Special Condition 23 requires the protection of potential cultural resources by requiring continued monitoring by an archaeologist and Native American monitors, even after the previously approved archaeological testing, excavation and salvage work is completed and construction grading activities begin. Special Condition 23 further requires that if additional cultural deposits are encountered during construction grading that work stops to allow the Executive Director to determine if the discovery is significant, warranting a modification to the archaeological mitigation program. Special Condition 24 deals with the curation of the artifacts and the dissemination of the information gained from the site (Exhibit 4).

## **B. SUMMARY OF THE REVOCATIONS CONTENTIONS:**

On June 2, 2008 staff received a request from 20 individuals from various Native American tribal groups (see Exhibit 1, page 6), California Cultural Resources Preservation Alliance and the Bolsa Chica Land Trust that the Commission investigate specific allegations concerning the discovery of cultural resources of the Brightwater project site covered by coastal development permit 5-05-020, and if the allegations are found to be true, that the Commission revoke or suspend the permit pursuant to Section 13105(a) of the California Code of Regulations (Exhibit 1). It asserts that the applicant may have provided the Commission with less than complete information regarding cultural resources which has caused the sacred site to be systematically destroyed.

The revocation request also includes a petition with approximately 500 signatures.

On June 9<sup>th</sup> Commission staff informed the applicant of the filing of the revocation request and requested certain information in order to evaluate the claim, including a detailed annotated chronology, maps showing the location where all human remains and artifacts

were found on the project sites, and the dates on which purposeful or archaeological grading was completed and project grading commenced within the two archaeological sites (ORA 83 and ORA 85). The applicant responded on July 14 with a draft submittal of a chronology of publications, testing, excavations, archaeological and construction grading, salvage, and reburial activities during a meeting with staff. At that meeting the applicant also showed staff maps indicating the locations where burials were found but would not leave copies of the maps. Although Commission staff requested information on the dates as well as the location where burials and grave goods were found in order to analyze the revocation request, the applicant refused to provide this information on the maps. The applicant provided a July 12, 2008 memo from David Belardes, one of the two MLDs for the project which requests that detailed maps of ancestral remains and their belongings not be disclosed pursuant to California Public Records Act Exemption (6254(r)) relating to Native American graves, cemeteries and sacred places maintained by the NAHC and their policy and religious beliefs prohibiting the public from having access to this information. The draft submittal was followed up with a final version of the same material on September 5, 2008. The applicant submitted similar maps, without burial locations (Exhibit 5).

The parties submitting the original revocation request supplemented the request with two additional submittals, including a letter from Dr. Gerald Chapman, Bolsa Chica Land Trust on October 15, 2008 and a letter from Dr. Patricia Martz, California Cultural Resources Preservation Alliance on October 23, 2008.<sup>2</sup> The contentions are summarized below. The full text of the revocation request is included as Exhibits 1, 2 and 3.

1. Questions whether artifacts and/or human remains were discovered during archaeological grading or project grading. If artifacts and/or human remains were found during project grading, Special Condition 23 of the coastal development permit would have required the applicant to carry out significance testing, subject to the review and approval of the Executive Director, to determine whether the discovery was significant. This could have allowed the Commission to consider additional cultural resource mitigation options, similar to what happened in the Hellman Ranch project in Seal Beach.

2. The applicant stated that the project would not adversely impact either of the two archaeological sites since a series of measures to mitigate the impacts of future development have been implemented completely in the case of ORA 85 and at the time of the October 2004 hearing, 97% complete in the case of ORA 83 yet at least 87 additional burials were found as well as significant artifacts.

3. The applicant stated in a July 27, 1992 letter that other sites on the Bolsa Chica Mesa, including ORA-85 have already been fully excavated and mitigated and no human remains were found during the course of any of the excavations.

---

<sup>2</sup> A draft version of the same letter from Dr. Patricia Martz was received electronically on October 13, 2008, which was a State holiday. Dr. Martz finalized the letter, put it on letterhead and sent it via U.S. mail. The final version was received in the South Coast District office on October 23, 2008.

4. When the Commission approved the full recovery of ORA-83 in Coastal Development Permits prior to its action on 5-05-020, it was unaware of the “semi-subterranean house pits” beneath the shell midden. Twenty-two cogged stones were found at the house pit of an apparent Shaman or tribal leader, as confirmed by the project archaeologist. Therefore the cogged stones are clearly associated grave good. Staff verified that the house pits had been excavated and backfilled in November 2004. When was the house pit destroyed?

5. A September 14, 2006 photo was taken at the area of ORA-85. This is not archaeological grading but rather construction grading. Since it is unclear when human remains were found, and that if they were found during grading that Special Condition #23 must be followed.

6. In a November 2007 memo the project archaeologist disclosed to the applicant that the following had been recovered at the project site:

- 87 human remains that need to be reburied
- 83 prehistoric features that were uncovered with the burials
- 4,217 artifacts found during grading monitoring on ORA 83
- 1,622 artifacts found during grading monitoring on ORA 85
- approximately 2,000 boxes of material
- over 100,000 artifacts that have been collected.

7. There are several allegations that the applicant did not report the discovery of human remains to the County Coroner as required.

8. The revocation request cites the April 4, 2008 letter from the Native American Heritage Commission (NAHC) to Anthony Morales, one of the two Most Likely Descendants (MLD) for the project site, discussing the following:

- Reburial of the human remains occur only after documentation of all associated grave goods is complete pursuant to Special Condition #23 of CDP 5-05-020
- What are considered associated grave goods
- Is ORA-83 a sacred cemetery under AB 2641
- The Bolsa Chica area is a shared territorial area between the Juaneno and Gabrielino/Tongva people.

9. The revocation request quotes a portion of the April 8, 2008 letter from the Executive Secretary, Native American Heritage Commission (NAHC) to the Coastal Commission, which states:

“The NAHC has not received a report clearly showing the dates, locations and details of burial discoveries. At this point based on information available and the large number of burials recovered and associated items, it appears that the whole area may be a burial ground. Southern California Indians created and used discrete areas as cemeteries.

10. If the Commission had received all information known to exist by the developer and developer's consultants, Commission review of Permit 5-05-020 would still be in order in accordance with Special Condition #23, adopted by the Commission on October 13, 2005. We request the Commission to investigate whether or not complete information was provided with the Brightwater application, that the Commission determine if any testing plan or supplementary plans were prepared in accordance with Condition 23C and 23D as required by the Permit. Further, as required by Special Condition #23 subsection D and E, the NAHC is to be given the opportunity to review and comment on all plans required to be submitted pursuant to the special condition. We are not aware that such plans exist or were reviewed.

11. The issue comes down to "what did they know and when did they know it"? Based on dates of 2003, 2001, etc. as to the date of find on materials cited above, it appears that at least some of the finds were known to the applicant. Unfortunately, not all of the forms are completely filled out with dates.

After reviewing the applicant's September 5<sup>th</sup> submittal, CCRPA made the following additional comments:

12. The map entitled "Excavation Units and Trenches Composite All Seasons" does not show the location of the "hand excavations" conducted sometime between 1990 and 1994 that resulted in the recovery of 32 "bone concentrations". There is no reason to omit this information since the burials have been removed and the site is fenced and patrolled, unless more burials are expected.

13. The map does not show the location of the archaeological grading and backhoe trenching conducted sometime between 1998-2003 that resulted in the recovery of 40 bone concentrations. There is no reason to omit this information since the burials have been removed and the site is fenced and patrolled.

14. The map shows excavation units excavated in 2006, but not the area of archaeological grading that resulted in the recovery of the 87 "bone concentrations", 76 features and 15 categories of sacred artifacts. Given the lack of information regarding the location of over 150 concentrations containing human remains, as well as how many actual individuals are represented, we can only assume that the cemetery is extensive and the potential for impacts to additional burials during further ground disturbing construction activities is high.

15. The following comments were made concerning the report, "Archaeological Site CA-ORA-83: The Cogged Stone Site Synopsis: A History of Archaeological Investigations: (2003)":

- The report states that the Brightwater development will not adversely impact the resources of ORA-83 due to the data recovery mitigation measures. The Native American community does not consider the remains of their ancestors to be "archaeological resources" but an ancient cemetery. Native American human remains represent values that cannot be mitigated through

the recovery of archaeological materials to be analyzed for scientific purposes.

- The report fails to mention that a portion of the site was determined to be eligible for listing in the National Register of Historic Places by the State Historic Resources Commission in 1983, although portions of the site were disturbed and the developer, archaeologist and Juaneno MLD objected to the listing.
- The statement, “between 1990 and 1994 an extensive data recovery program was conducted by SRS within and around the eucalyptus trees providing full mitigation for ORA-83”, is premature and misleading.
- The statement, “The decade of the ‘90’s saw the completion of the Final Data Recovery Program at CA-ORA-83 in 2002 as described in the following reports”, is premature and misleading.

16. The applicant’s chronology, the “History of Bolsa Chica Archaeological Research and Salvage Work” conducted by Scientific Resource Survey, Inc. [SRS] 1980-2008 lists approximately 46 documents when only nine were made available to the Coastal Commission. Further, the applicant states that all of the archaeological resource information that was known to Hearthsides Homes was provided to the Coastal Commission either prior to or as part of its CDP application package. Does the Commission have any records showing that they received all this information?

17. The final report on ORA-83 has not been completed.

18. There is an inherent conflict of interest when the developer selects and pays the monitors and members of the peer review committee. The developer refused to disclose the location of human remains and artifacts when the monitor-MLD requested that they not be disclosed. Previous members of the peer review committee were removed when their positions did not agree with the developer. True peer review is independent. If it is not, it is not peer review.

19. Although Special Condition 23 may not apply to the revocation request, the questions raised in the request for revocation letter of June 2, 2008 point out the lengths the developer is willing to go in order to get his project built. If there are violations of this condition, sanctions are appropriate.

### **C. DISCUSSION OF THE REVOCATION REQUEST CONTENTIONS WITH RESPECT TO SECTION 13105 OF THE CALIFORNIA CODE OF REGULATIONS**

As stated above, because of the impacts on a permittee, the grounds for revocation are necessarily narrow. The rules of revocation do not allow the Commission to have second thoughts on a previously issued permit based on information that came into existence after the Commission acted, no matter how compelling that information might be. Similarly a violation of the Coastal Act or the terms and conditions of a permit or an allegation that a

violation has occurred are not grounds for revocation under the California Code of Regulations. The grounds for revocation are, of necessity, confined to information in existence at the time of the Commission's action. The three elements that must be proved before a permit can be revoked under Section 12105(a) are:

- (1) That the applicant provided incomplete or false information
- (2) That false or incomplete information was supplied intentionally **AND**
- (3) That if the Commission had known of the information it would have imposed different conditions or would have denied the permit.

#### **D. CONTENTIONS THAT DO NOT ALLEGE VALID GROUNDS FOR REVOCATION**

None of the contentions raised by the revocation request allege grounds for revocation consistent with Section 13105 of the Commission's regulations. For purposes of analysis, staff has summarized and consolidated these contentions into general categories below.

**(a) Contentions 1, 2, 3 and 6 allege that ORA-83 and ORA-85 had already been fully excavated at the time of Commission action on CDP 5-05-020, as early as 1992 in the case of ORA-85 and questions whether artifacts and/or human remains were discovered during archaeological or project grading. Therefore, the 87 additional human burials and significant artifacts listed in a November 2007 memorandum prepared by the developer's archaeologist must have been known by the applicant prior to the Commission's action on the 2005 CDP.**

In response to the subject revocation request, the applicant's archaeologist submitted a detailed chronology of the archaeological and construction grading that has occurred on the project site since 1980 entitled "History of Bolsa Chica Archaeological Research and Salvage Work conducted by Scientific Resource Surveys, Inc. [SRS], 1980-2008". Also submitted were maps for both ORA-83 and ORA-85 showing the archaeological site boundaries as they were modified by information learned through implementation of the approved research design, locations of test pits, excavation units, backhoe trenches, and manmade features such as water tanks, agricultural and cement pipes, communication cables and roads (Exhibits 7 and 8). The chronology indicates that no human remains were found on either archaeological site from 1980 through 1983 (Exhibit 6, page 2 "Burials Located").

As indicated in the chronology, between 1990 and 1993, thirty-two human bone concentrations<sup>3</sup> and two animal bone concentrations were found within ORA-83 pursuant to CDP 5-89-772 issued in 1989 allowing this activity. All burials were found in the

---

<sup>3</sup> According to the project archaeologist, the bone material from ORA-83 was normally highly fragmented, and it was difficult, if not impossible to determine how many individuals were represented by bone fragments that were recovered. Therefore, the excavated bone fragments were organized into groups or concentrations. A bone concentration was defined as three or more bone fragments found together during excavation, or found during sorting within the same meter square quadrangle and same level. The average number of bone fragments in a concentration was six.

eucalyptus grove area on the southwestern portion of the mesa using hand excavations (Exhibit 7, CA-ORA-83 Map "Excavation/Unit/SRS/1990"). A reburial ceremony occurred in 1994 pursuant to the Reburial Agreement with the Gabrielino/Tongva and Juaneno MLDs. In addition to the human and animal remains, associated grave goods, defined as those materials found to be directly associated with each bone concentration including those materials and artifacts within a known or projected burial pit, were also buried.

According to the applicant's chronology, additional human remains were found within ORA-83 beginning in 1999 through 2002 with the use of grading (backhoe) equipment. The use of heavy equipment to carry out archaeological or shallow layered grading of the site over a greater area had been requested by the Pacific Coast Archaeological Society (PCAS). During this period, 40 additional human bone concentrations were found as well as 25 circular structures or house pits (Exhibit 6, page 6; Exhibit 7, Map CA-ORA-83 "Survey Grid/SRS/1999/Grid Extention", "Excavation/Backhoe Trench/SRS/1999", "Excavation/Unit/SRS/1999"). In 2003 a second reburial ceremony was conducted pursuant to the previous Reburial Agreement with the Gabrielino/Tongva and Juaneno MLDs.

Therefore, prior to Commission action on CDP 5-05-020 in April 2005, the applicant had carried out approved archaeological testing, excavation and salvage programs pursuant to CDPs for both ORA-83 and ORA-85. A total of 72 human and 2 animal bone concentrations had been found within ORA-83 between 1990 and 2002 and two reburial ceremonies of those remains had been held in 1994 and 2003 in accordance with the wishes of the Most Likely Descendants. Eligible Native American monitors designated by the NAHC were present during all work. None of the special conditions of the previous coastal permits required the applicant to submit reports to the Executive Director or the Commission when burials were found.

Following Commission action on the subject CDP 5-05-020, archaeological or purposeful grading continued pursuant to the previously approved CDPs for archaeological testing, excavation and salvage work. According to the applicant's chronology, the first time human remains were found within ORA-85 occurred in 2006 during continued archaeological grading activities. A total of 12 human bone concentrations and 5 animal bone concentrations were found within ORA-85 between May 2006 and July 2006 (Exhibit 6, page 8 and Exhibit 8, CA-ORA-85 Map "Excavation/Archaeological Grading/SRS/2006").

The fact that human (and animal) remains were found within ORA-85 in 2006, during archaeological grading, appears to be inconsistent with statements made in the 1992 letter cited in the revocation request and with information given to Commission staff in a 2003 status report by the applicant concerning the archaeological site. These documents stated that ORA-85 had already been fully excavated. The applicant's archaeologist, however, explains the cause of this apparent inconsistency in a September 5, 2008 memo titled "Definition of Site Boundaries: CA-ORA-85, The Eberhart Site" by stating, although



extensive trenching and excavations occurred in the 1990s, under the general oversight of the three member peer review committee, no human or animal bone concentrations or other features were found either (1) because the area where the human and animal remains or other features were ultimately found were inaccessible during the 1990s or (2) the human and animal remains or other features that were ultimately found were found well outside of the boundaries of ORA-85 (Exhibit 8). Dr. Wiley explains that the boundaries of ORA-85 were once thought to be much larger and have changed over the 40 year time period that the site has been studied as a result of new information gathered by each successive investigation. Further, by the time SRS became involved in exploring the site in the late 1980's, the site boundary had already been established. In 1990 Dr. Wiley's archaeological firm, SRS, carried out a multi-phased data recovery program with the use of backhoe trenching and hand excavated units to further refine and delineate the site boundary. Examination of Exhibit 8, Map CA-ORA-85 indicates that there are two agricultural pipelines, built in the early 1900's, running through the core area of ORA-85. The applicant did not have a coastal development permit to remove those pipelines in order to determine if there were human or animal remains or other features beneath them prior to the Commission's action on the Brightwater permit.

Subsequent to the Commission's action on CDP 5-05-020 the applicant continued archaeological grading within both ORA-85 and ORA-83. While the Commission did not modify the previous CDPs approving archaeological excavation and salvage, the applicant was required to complete the previously approved archaeological grading and reburial of remains and grave goods as mitigation, with Native American monitors present, prior to commencement of construction grading and implementation of the remainder of the project. Therefore, the applicant submitted a grading monitoring plan pursuant to Special Condition #23 along with condition compliance documents for the remaining Special Conditions.

The Executive Director issued Coastal Development Permit 5-05-020, after which the applicant was able to demolish existing structures on the project site, complete archaeological grading and begin construction grading and implementation of the development approved under the subject CDP. After complying with the Special Conditions of the subject CDP that were required to be completed prior to issuance of the permit and receiving the permit in December 2005, the applicant commenced comprehensive archaeological grading well beyond the boundaries of ORA-85. This archaeological grading took place in 2006, prior to commencement of construction grading. According to the applicant's archaeologist, the entire western portion of the mesa was slowly graded under archaeological supervision, despite the fact that only a small portion of the mesa was believed to contain subsurface materials. Twelve human bone concentrations and 20 animal bone or rock features were discovered through either archaeological grading or hand excavation. Only 1 of the 12 human bone concentration was found within the core delineated boundary of ORA-85 (within the red polyline) and was located under the northernmost pipeline. No human remains were found within the larger site boundaries (magenta polyline). No rock features were found within the core delineated boundary of ORA-85 (Exhibit 10 and Exhibit 8).

Based on the information contained in the chronology and the mapping information submitted by the applicant's archaeologist, the 12 human bone concentrations, 20 animal bone concentrations and other features found within the boundaries of ORA-85 and adjacent to ORA-85 were not known to the applicant at the time of the Commission's 2005 action on CDP 5-05-020.

Additionally, 74 human bone concentrations and 15 animal bone concentrations were found within ORA-83 between April 2006 and November 2006 according to the chronology submitted by the applicant. (Exhibit 6, page 8). Information submitted by the applicant in conjunction with the subject CDP submittal in 2003 indicated that ORA-83 had been 97% excavated. Dr. Wiley explains that, similar to the situation with ORA-85, not all of ORA-83 was accessible prior to issuance of the subject Coastal Development Permit. After issuance of said permit, the applicant was able to remove manmade features and perform subsurface exploration on 100% of the archaeological site. Pipelines, oil derricks, World War II structures, cables and roads were impediments to earlier excavation. Also, the boundaries of the archaeological site became more refined with time and exploration. In the case of ORA-83, the boundaries of the site were redefined three times by the applicant's archaeologist. (Exhibit 9).

Following issuance of the Brightwater coastal permit in December 2005, the entire eastern portion of the mesa was slowly graded under archaeological supervision and Native American monitoring, pursuant to the grading monitoring plan required by Special Condition #23. Archaeological grading took place for ORA-83 between April 2006 and May 2006 and July 2006 and November 2006, prior to construction grading. According to the applicant's archaeologist, 75 human bone concentrations and 76 animal bone concentrations or rock features were discovered in 2006. 70% of the total burials, 55% of the animal bones or rock features and 8% of the house pits or circular depressions were found outside of the original boundaries of ORA-83 (Exhibit 9). The majority of the human remains and other features were found under two roads that had been actively used prior to issuance of CDP 2-05-020. (Exhibit 7).

Based on the information contained in the chronology and the mapping information submitted by the applicant's archaeologist, the 75 human bone concentrations, 76 animal bone concentrations and other features found within the boundaries of ORA-83 and adjacent to ORA-83 were not known to the applicant at the time of the Commission's 2005 action on CDP 5-05-020.

Further, the November 2007 memo written by the project archaeologist cited in Contention #6 does not state that these items were discovered in 2007. The memo refers only to the status of the items listed in the memo, as of the date of the memo.

**(b) Contentions 8 and 9 cite portions of two letters from the Native American Heritage Commission (NAHC) and allege that the project site is a burial ground or a sacred cemetery under the law.**

NAHC Executive Secretary, Larry Meyers states in a April 8, 2008 letter to the Coastal Commission, "At this point based on information available and the large number of burials recovered and associated items, it appears that the whole area may be a burial ground" (Exhibit 11). Mr. Meyers also expressed his frustration over not having received the promised map from the project archaeologist showing burials, house pits, photos and features, and a report clearly showing the dates, locations and details of burial discoveries, despite his contact with the applicant.

The April 4, 2008 NAHC letter raises the question of whether the project site is a sacred cemetery under AB 2641. The program analyst concluded that the site was a sacred cemetery but made it clear that his determination was based on the lack of information about when remains were discovered. He stated that he was not given a chronology by the project archaeologist but was using a February 3, 2007 reburial date and assuming that human remains had been discovered after January 1, 2007, which, according to the NAHC, is the date the law extending the definition of a cemetery and a place with "multiple burials" to private land took effect. Formerly, the definition of a cemetery as comprising six or more burials was limited to public cemeteries (Exhibit 12).

It is unknown whether NAHC has now received the requested maps, photos and reports containing the information regarding dates, locations and details of burial discoveries, similar to what Coastal Commission staff received on September 5, 2008 from the applicant and the project archaeologist, and if the information was received, whether NAHC is still of the same opinion.

However, as detailed above in the Background Section, Appendix A, and the response to the first group of Contentions, the Commission approved CDPs beginning in 1984 allowing the applicant to test, excavate and salvage the known archaeological sites within the project site with reburial of the human remains, grave goods and artifacts to occur in accordance with Reburial Agreements with affected the Native American Most Likely Descendants (MLDs). According to the applicant's chronology, all of the human burials were discovered by no later than November 2006. Therefore, Contention #4 does not establish grounds for revocation under Section 13105 of the Commission's regulations.

**(c) Contentions 7 and 11 allege that the applicant failed to report the discovery of human remains to the County Coroner as required and that reporting forms were not filled out properly.**

The requirement to report the discovery of human remains to the County Coroner is pursuant to the Health and Safety Code and enforced by the County of Orange. The

primary purpose of the law is to ensure the timely discovery of recent deaths and to assist with the investigation of crime scenes. The Health and Safety Code is not carried out by the Coastal Act or its regulations. Therefore, this contention does not establish grounds for revocation of the permit under Section 13105 of the Commission's regulations.

**(d) Contention 4 alleges that the Commission was not aware of the "semi-subterranean house pits" beneath the shell midden when it acted on the subject CDP. Twenty-two cogged stones were found at the house pit of an apparent Shaman or tribal leader, as confirmed by the project archaeologist.**

The discovery of the "semi-subterranean house pits" since the Commission's approval of the earlier CDPs for archaeological testing, excavation and salvage beginning in the 1980s was discussed at the 2005 Commission hearing (See Appendix A, Findings of the Cultural Resources Section of CDP 5-05-020). The Commission found that this information did not justify changes to the earlier approvals. Therefore, this contention does not establish grounds for revocation of the permit under Section 13105 of the Commission's regulations.

**(e) Contentions 12-14 pertain to the map titled "CA-ORA-83 Excavation Units and Trenches Composite: All Season" and states that the location of hand excavations, backhoe trenching and archaeological grading that resulted in the recovery of burials and sacred artifacts is not shown. The revocation request further alleges that the site is a cemetery that is extensive and the potential for impacts to additional burials is high during construction activity.**

As explained in response to the first group of contentions, the applicant has refused to show the locations where actual burials were found at the request of one of the two MLDs. Mr. Belardes, as Most Likely Descendant, requested that this information not be disclosed. The map does, however, show the location of all archaeological and construction grading activities, all initial and final boundaries of both the archaeological sites, the locations of the test pits (augers), excavation units and backhoe trenches. The information on the map is to be used in conjunction with the chronology which indicates when all human remains, grave goods, features and artifacts were discovered. Therefore, the omission of the exact location of where the material was found within the mapped excavation units and trenches, even if it had been intentional, does not establish grounds for revocation of the permit under Section 13105 of the Commission's regulations.

Special Condition 23 was imposed by the Commission to address the potential for impacts to any additional burials, should they be discovered. The Special Condition requires that all archaeological resources be recovered prior to construction grading activities in the same area to avoid impacts to cultural resources. The archaeologist and Native American monitors are to be present during all grading operations until sterile soils are reached.

**(f) Contention 15 comments on statements made in a report of the ORA-83 Cogged Stone Site written in 2003 by the project archaeologist. The revocation request**

**takes exception to the terminology used to describe Native American human remains, states that the report fails to mention the site's status with regards to the National Register of Historic Places and other statements such as "full mitigation" and "Final Data Recovery Program" as being premature and misleading.**

Whether the applicant states in a Site Synopsis report that the site was determined to be eligible for listing in the National Register of Historic Places is a decision to be made by the applicant. The Commission was aware of this fact, as this was discussed during the 2005 hearing. The applicant believed that the data recovery program had provided for full recovery based on the information they had at the time. Based on later discovery of additional human remains and features, the statements were indeed premature. However, this contention does not establish grounds for revocation of the permit under Section 13105 of the Commission's regulations.

**(g) Contention 16 alleges that while the applicant's chronology includes approximately 46 documents, only 9 were submitted to the Coastal Commission.**

The number of documents submitted to the Coastal Commission is irrelevant to the issue of whether there are grounds established for revocation of the permit. The applicant was asked to provide information showing when and where burials, grave goods and artifacts were discovered and if they were discovered during archaeological or construction grading activities. Therefore, this contention does not establish grounds for revocation of the permit under Section 13105 of the Commission's regulations.

**(h) Contention 17 alleges that the final report on ORA-83 has not been completed.**

While this is correct, it does not establish grounds for revocation of the permit under Section 13105 of the Commission's regulations. The applicant had not stated at the time the Commission approved the subject CDP that the final report was completed.

**(i) Contention 18 alleges that there is an inherent conflict of interest in the archaeological monitoring, MLD and peer review process.**

Whether or not this is true does not establish grounds for revocation of the permit under Section 13105 of the Commission's regulations.

**(j) Contentions 1, 5, 10 and 19 question whether artifacts and/or human remains were found during project grading or archaeological grading. If artifacts and/or human remains were found during project grading, Special Condition 23 of the CDP would have required the applicant to carry out significance testing to determine whether the discovery was significant. The applicant further contends that this could have allowed the Commission to consider additional cultural resource**

**mitigation options, similar to what happened in the Hellman Ranch project in Seal Beach.**

If the project is not in compliance with Special Condition 23, there would be grounds for enforcement action, not revocation of the permit. However, in this case, non-compliance with Special Condition 23 could have significant ramifications for the project since it could have the potential to allow the Commission to consider other mitigation options. If archaeological resources, defined in the permit condition as “cultural deposits, including but not limited to skeletal remains and grave-related artifacts, traditional cultural sites, religious or spiritual sites, or other artifacts”, are encountered during construction grading operations, grading operations would have to stop until Significance Testing occurs to determine if changes to the project are necessary.

In this case, the applicant has submitted a chronology and maps of the two archaeological sites indicating that all human and animal bone concentrations, grave goods, features and artifacts within the previously established boundaries of ORA-83 and the extended boundaries of ORA-83 (beneath Bolsa Chica Street) were discovered through hand excavation and archaeological grading between 1994 and 2006.

However, in the case of ORA-85 the applicant’s information indicates that one human bone concentration was found in July 2006 during grading monitoring (Exhibit \_\_, page 8). It was the last bone concentration (#17) found in ORA-85. According to the chronology, archaeological grading and monitoring of ORA-85 ended in July, 2006 and construction grading and monitoring began that same month. The applicant did not notify the Executive Director of the discovery of the human bone concentration in July 2006 when it was discovered. The Executive Director was made aware of this discovery for the first time with the submittal of this information in response to the subject revocation request.

As stated, non-compliance with the terms and condition of a permit is not grounds for revocation of the permit. The Executive Director will investigate this issue as an enforcement matter. Therefore, this contention does not establish grounds for revocation of the permit under Section 13105 of the Commission’s regulations.

**Conclusion.** The Commission finds that the revocation request shall be denied because none of the contentions in the revocation request establish all the grounds identified in Section 13105(a).

**APPENDIX A**  
**CULTURAL RESOURCES FINDINGS OF CDP 5-05-020**

**I. CULTURAL RESOURCES**

Section 30244 of the Coastal Act protects cultural resources in the coastal zone and states:

*Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.*

Coastal Act Section 30244 states that reasonable mitigation measures shall be required where development would adversely impact identified archaeological resources. The applicant contends that the Brightwater development project will not adversely impact either of the two on-site identified archaeological sites due to the fact that a series of measures to mitigate the impacts of future development have been implemented completely in the case of ORA-85, and at the time of the October 2004 hearing, 97% complete in the case of ORA-83<sup>4</sup> as approved by the County of Orange, and the Coastal Commission. The coastal development permits and other actions that have been taken by the Coastal Commission for ORA-83 and ORA-85 are reviewed below. Despite the fact that approvals were obtained from the County and the Commission for complete recovery of cultural resources, as proposed by the applicant, and archaeological testing and recovery work has been on-going since the mid-1980's, under these permits, there still remains considerable opposition to removal of the cultural resources of ORA-83.

During the preparation of the staff report for the October 2004 hearing, Commission staff received several letters from archaeologists, including university professors, and several letters from environmental groups, Native Americans, and individuals calling for the preservation of ORA-83, even though they are aware that a full recovery program for the site has long since been approved. Staff received a copy of a 1999 letter from the head of the archaeology division of the Smithsonian National Museum of Natural History supporting the preservation of what remains at ORA-83 and a 2001 letter from Congresswoman Loretta Sanchez supporting the listing of ORA-83 in the Federal Register as a National Historic Site. Some request that the site be capped and left as open space after the data has been recovered, instead of allowing residential development at the site

---

<sup>4</sup> "Archaeological Site CA-ORA-83: The Cogged Stone Site, Synopsis: A History of Archaeological Investigations, Nancy Anastasia Desautels, PhD, Scientific Resources Surveys, Inc., Project No. 926, April 28, 2003. "Archaeological Site CA-ORA-85: The Eberhart Site, Synopsis: A History of Archaeological Investigations, Nancy Anastasia Desautels, PhD, Scientific Resources Surveys, Inc., Project No. 926, September 2003.

of an identified prehistoric and historic cultural resource. While others suggest that further destruction of ORA-83 be avoided, relocation of proposed development away from ORA-83. Yet others assert that recent mechanical excavations at ORA-83 have revealed the presence of numerous semi-subterranean house pit features at the base of the site, beneath the midden deposit and contend that this feature represents a new, significant area of needed research. Although the Commission approved the full recovery of ORA-83 as proposed by the applicant in the previous permits listed below, the Commission finds no evidence in the record of those permits at the time of their approvals that the "semi-subterranean house pits" were known or expected to exist, beneath the shell midden.

The July 10, 2003 brief update statement by the applicant's archaeological consultant, signed by the three current peer reviewers stated that, "The Peer Review Committee members, over the last several years, have overseen the nature of the ongoing phases of the Ora-83 site investigation and had made recommendations on strategies appropriate to address the unusual breadth of the emergent field discoveries." The update further states that the "special new topics" evolving at Ora-83 include, "describing and evaluating the patterns of the multitude of semi-subterranean 'house pit' features revealed." Professor Pat Martz, a past member of the California State Historical Resources Commission states in revisions to her 2001 nomination of ORA-83 for listing on the National Register of Historic Places to the State Historic Preservation Officer, that house pit structural features are rarely found in Southern California and are extremely rare since the site was occupied during the Early Holocene/Millingstone Horizon of California prehistory. Semi-subterranean house pits are large circular depressions that were excavated below the surface a few feet and framed with poles and then thatched. Under normal climatic conditions (not consistently dry, or consistently wet) organic materials would not preserve. It is likely that the house pit structures would have a hard packed floor, post-holes and a hearth. Professor Martz contends that these house pit features are probably still present at the base of the site and that these semi-subterranean house pits have the potential to address important questions regarding village structure, social organization, settlement patterns, gender activities, and demographics, as well as relationship of the structures to astronomical features.

In November 2004 Commission staff accompanied the applicant and their consulting team on the project site to revisit a number of issues that had been raised at the October 2004 Commission meeting. At that time staff verified that the house pits had all been excavated and backfilled.

Archaeologists have recognized the astronomical significance of numerous archaeological sites in Southern California for more than 25 years and celestial observations have been conducted at several archaeological sites. Recently, among both scientists and Native Americans, there has been a growing interest in studying ORA-83 to determine if the site was a key location in the complex spiritual/philosophical system of knowledge regarding the Cosmos held by prehistoric Native Americans. Beginning in 1994, a Cogged Stone Site study team, made up of scientists and Native Americans, has tested its astronomical research design for ORA-83 several times. The According to Dr. Martz, the team proposed that the view from the elevated mesa encompasses geographic features that ethnographic



data suggest may have functioned as cyclical astronomical alignments such as Catalina Island to the southwest and Point Fermin Heights to the west. The team discovered that the sun sets over West End Point of Santa Catalina Island for three days in late December, signaling the winter solstice, and that it rises directly over the Point Fermin Heights to indicate the spring and fall equinoxes. The Commission has found no evidence in the record of the previous permits that the approved mitigation measures were for impacts to archaeoastronomical resources.

A Native American from the Band of Luiseno Mission Indians, representing the Maritime Shoshone, Inc, a not-for-profit Native corporation, has sought to preserve a 7.4 acre portion of ORA-83 for its archaeoastronomical value. In Ms. Jeffredo-Warden's May 2004 nomination submittal to the State Historic Preservation Officer for listing of the site on the National Register of Historic Places she states that the archaeological and archaeoastronomical data obtained at the CA-ORA-83 site, dated from 8,660 to 1,098 RYBP, evidently constitutes, in addition to the earliest reliably dated observatory site in North America, one of the earliest fixed astronomical observation points in the world. At the time of the October 2004 hearing, Ms. Jeffredo-Warden was also requesting that the Coastal Commission preserve a 7.4-acre portion of ORA-83 in order to conduct additional astronomical tests and to do further research on the site as well as the preservation of the existing site contours to preserve the existing solstitial alignments and Ms. Jeffredo-Warden submitted a copy of the nomination to the Commission. A letter was received from Senator Diane Feinstein, dated August 4, 2004, urging the Commission to fully consider the concerns raised by Ms. Jeffredo-Warden regarding appropriate mitigation for cultural resources of ORA-83. Several letters of support of the archaeoastronomical resources preservation were received from, including but not limited to, professors of archaeology, the director of the Griffith Observatory and the International Indian Treaty Council (these letters were attached as exhibits as well as the public portion of Ms. Jeffredo-Warden's nomination of the site to the State Historic Resources Commission to the staff report for the October 2004 hearing).

Ms. Jeffredo-Warden is also a trained anthropologist and folklorist. She has been working for several years with Mr. C. Thomas Hoskinson, among others, a mathematician, aerospace engineer/scientist, and author of numerous professional papers on rock art and Native American astronomy regarding the archaeoastronomical significance of ORA-83 and the project site. Mr. Hoskinson is nationally recognized and regarded as a founder of California archaeoastronomy (Exhibits 30 and 31). The credentials of the members and consultants of the Maritime Shoshone, Inc. are detailed in the Attachments to Exhibit 31. Based upon the research and investigations of Jeffredo-Warden and Hoskinson, Paul Kleven, on behalf of Ms. Jeffredo-Warden and Maritime Shoshone, Inc. submitted a letter dated April 6, 2005 challenging the statements made by Ms. Martz and the applicant's archaeological consultants, SRS, contained in the staff report, among other things (Exhibit 30).

On April 12, 2005 staff also received a letter from Amy Minter on behalf of Maritime Shoshone Inc. objecting to the appropriateness of the Brightwater development project without what they believe to be adequate feasible mitigation to the archaeoastronomical

significance of ORA 83. The letter, Exhibit 32, included in this exhibit package, cites many of the same issues as Exhibits 30 and 31, including recommending additional mitigation measures and goes further to include a map asking for further protections. Staff also received a letter on April 12, 2005 from the State Office of Historic Resources, Exhibit 33. in which they clarified their conditional action on November 5, 2004.

On November 5, 2004 the State Historic Resources Commission conditionally moved to recommend that the State Historic Preservation Officer submit the nomination to the Keeper of the National Register for a determination of CA-Ora-83's eligibility for inclusion in that register (Exhibit 13). The November 5<sup>th</sup> action went on to say that, "The Commission agrees that the property is eligible at the national rather than the state level of significance" and then set out five conditions that need to be met, including the completion of the revisions and the submittal of the registration form to the Keeper no later than May 5, 2005. The third condition of the motion dealt specifically with the significance of the site as a prehistoric archaeoastronomical observation point, stating that the case should be made more of a consideration rather than a major aspect of the property's significance (Exhibit 13).

The applicant has submitted several letters in rebuttal to the statements of the archaeoastronomical significance of the site. The applicant contends that several studies, over a period of years, were done and no archaeoastronomical significance was found to exist on the site. The applicant's archaeologist has submitted a letter to this effect, signed by the three peer reviewers, agreeing that the project site was found to possess no archaeoastronomical significance. Ms. Jeffredo-Warden has countered that neither the applicant's archaeologist nor any of the three peer reviewers have expertise in this field.

Pursuant to Section 30244 of the Coastal Act the Commission must decide whether the proposed project would adversely impact identified archaeological resources. If such a finding is made, reasonable mitigation measures shall be required. As stated above, and as detailed below, the Commission has granted the applicant and previous land owners several coastal development permits to carry out extensive archaeological research, testing and full recovery of ORA-83 and ORA-85. Though some features were not specifically discussed in the research design application submittals, the peer review committee required by the Commission often requested that the applicant carry out additional investigations to ensure that no resources were overlooked in order to get a full understanding, as much as possible, of the past. The applicant is proposing to leave in open space that portion of ORA-83 that lies within their proposed Eucalyptus Tree and Burrowing Owl ESHA buffers. The area would become a part of the proposed coastal sage scrub and native grassland habitat creation and monitoring plan and include a public trail and fuel modification in the upper portions. Therefore if the Commission requires that this area be preserved as open space to protect the raptors that use the Bolsa Chica Mesa as detailed in Section D of this staff report, a portion of ORA-83 will be preserved. Further, Exhibits 18, 19, and 22 and 23 are letters from Native Americans, including the Acjachemem Nation, Ancestor Walk Coordinator, and from the president of the California Cultural Resources Preservation Alliance (CCRPA), an alliance of American Indian and scientific communities working for the preservation of archaeological sites and other

cultural resources. They request the Commission impose a 100 meter setback or “the greatest open space possible”. However, the Commission finds that the applicant’s proposed 150 to 382 foot wide open space area for habitat protection purposes under Section 30240 of the Coastal Act can also serve to further protect the area previously used as a prehistoric and historic archaeological site and is therefore consistent with Section 30244 of the Coastal Act.

As stated above, and submitted in Exhibits 30, 31 and 32, Maritime Shoshone Inc. has submitted significant research and investigative material concerning the archaeoastronomical significance of a portion of the project site based on extensive experience in the field. They are requesting additional mitigation beyond that recommended by staff and is detailed in Exhibits 31 and 32. They further request access to the portion of ORA-83 inside of the fenced mesa area in order to verify the observation area. Additional mitigation includes, but is not limited to, no grading or changing of existing elevations, and no benches, or public trails within the observation area. Exhibit 32 includes a map of additional area to be considered.

The Native American Heritage Commission sent a letter to the Commission during its October 2004 deliberations requesting that that the Brightwater project includes interpretive signage along the Mesa detailing the area’s prehistoric and historic history. Finally, the above letters also request signage concerning the Native American past of the site as well as dissemination of the wealth of knowledge that has been gained over the two decades of study at the site and curation of the appropriate portions of the artifacts recovered from the site. Only as conditioned to place appropriate interpretive signage along the public trail informing the public of the cultural resources of the area, to disseminate the series of required final reports to institutions and interested groups, to curate the artifacts recovered from the site in a facility in Orange County meeting established standards, and to have an archaeologist and Native American monitor present when grading operations commence to ensure that if any additional cultural resources are found there are procedures in place to go about determining the significance of the resources and to ensure that work can procedure without adversely impacting archaeological or paleontological resources.

### **Description and Status of ORA-83**

ORA-83 is 11.8 acres in size and is located at the southeastern bluff edge of the Brightwater. ORA-83 is commonly known as the Cogged Stone Site, and consists of a shell midden. Cogged Stones are unusual artifacts that are manufactured and used in ceremonial practices. More Cogged Stones, over 400 or roughly half of the total found, have been found on ORA-83 than any other site and are thought to have been distributed throughout coastal and near-coastal California. Similar stones have also been found on the coast of northern Chile. It is also believed that the Cogged Stone site served as a ceremonial center and a center for the manufacture of the Cogged Stones. ORA-83 has been twice found by the State Historical Resources Commission to be eligible for listing in the National Register of Historic Places. However, the listing has been declined by the property owner.

According to the applicant's archaeological consultant, the site was 97% recovered at the time of the application submittal for the October 2004 hearing. Based on staff observations in November 2004 the site appears to be virtually 100% recovered

### **Description and Status of ORA-85**

ORA-85, the Eberhart Site is described by Dr. Desautels of Scientific Resource Surveys, Inc. (SRS), as a shell midden located on the western edge of the Bolsa Chica Mesa. Knowledge of the Eberhart site has existed since the 1920's. Based on the numerous investigations of the site carried out by other researchers beginning in the mid-1960's and by SRS beginning in the 1980's, the Eberhart site was determined to be a residential base or village and was not a limited special-purpose shellfish gather and processing station. No evidence of ceremonial or other structures were found. Other than four quartz crystals, which may be evidence of ceremonial utensil manufacture, no obvious objects associated with religious ceremonies were recovered. Finally, no evidence of human remains in the form of burials or cremations was found. However, over 2,000 artifacts, more than 1,500 fire affected rock, and thousands of faunal remains have been recorded at the site. Although analysis of the recovered material had not been completed as of September 2003, the applicant states that the approved testing and data recovery program approved by the Coastal Commission concerning ORA-85 in 1989 was completed in 1991. .

### **Past Coastal Commission Action Concerning Archaeological Resources on or Adjacent to the Brightwater Project Site**

The Coastal Commission reviewed and approved several coastal development permits and permit amendments for archaeological activity on and adjacent to the project site beginning in the early 1980's. The Commission also acted on a revocation request of one of the coastal development permits for activities within ORA-83 in 1999. Additionally, in 1994, at the request of the City of Huntington Beach, the Executive Director undertook an investigation and made a report to the Commission concerning ORA-83. The Coastal Development Permit actions and Executive Director report are reviewed below:

#### **5-83-984**

The first coastal development permit for archaeological activity on the project site was permit 5-83-984, granted to Signal Landmark on April 11, 1984 for Phase I of "Final Research and Data Recovery Program" on ORA-83, known as the Cogged Stone Site. The archaeological testing program was a five-step program which involved (1) an extensive survey and evaluation of all recorded prehistoric sites (done in 1970); (2) a series of archaeological test excavations (done between 1971 and 1975); (3) an evaluative report based on a synthesized data from all test excavations (prepared in 1975); (4) an archival research focused on understanding the nature and extent of man's historic disturbances of the site with particular emphasis on delineating portions of the site likely to be least disturbed and worthy of further archaeological work (undertaken in 1981 and

1982); and (5) a final research and salvage program to define the remaining remnants of archaeological midden which still existed on the subject site. This permit was to allow the applicant to do further testing in order to determine the nature of the relationship between the surface concentration of coggled stones (that had been long since collected) and the underlying midden deposit (that had been heavily disturbed). The permit dealt with two main areas within ORA-83: the plowed field and the area around the eucalyptus grove. It was determined that the greatest amount of cultural material (which consists mostly of shell) was located within the eucalyptus grove since the presence of trees discouraged grading and plowing over the years. The narrow strip of land directly adjacent and north of the trees and a small area east of the grove were determined to contain shallow deposits of basal midden.

The Commission imposed one special condition on permit 5-83-984. The Commission required that the Archaeological Research Design be modified to provide (1) clarification that preservation of all or part of the site may be appropriate depending on the results of the exploratory phase of the investigation; (2) clarification that the augering program was principally for delineating site boundaries; (3) definition of the term “disturbed” as used in the research design, and (4) provision for Executive Director review and approval of the work planned in subsequent tasks after Task 5 (Auger Program) and Task 7 (Hand Excavation Units – Initial series).

Prior to the issuance of this permit in 1984 the Research Design for the first phase of the project came under much scrutiny and opposition by the general public, several archaeologists and Native American groups as well.

### **5-83-702-A3<sup>5</sup>**

The first coastal development permit for archaeological activity at ORA-85, the Eberhart Site, also included work at ORA-289. The Signal Landmark permit amendment for a testing and evaluation program for the two archaeological sites became effective on August 23, 1988, after no objection was received of the Executive Director's determination that the permit amendment was consistent with the Coastal Act.

---

5

Coastal development permit application 5-83-702 and permit amendments 702-A and 702-A2 did not involve activity within any archaeological site. They were approved between September, 1983 and September, 1987 authorizing geotechnical trenching and soil borings to determine the location of faults and to gather other geotechnical information on the Bolsa Chica Mesa and the Lowlands. The original 1983 permit was granted to Signal Landmark and the Huntington Beach Company. The first permit amendment was granted to Signal Landmark and the permittee of the second amendment was Signal Landmark Inc. on behalf of Signal Bolsa Corporation.

## **5-89-772**

This coastal development permit application, granted to Signal Landmark Inc. on December 14, 1989 approved Phase II of the Final Research and Salvage Program for ORA-83, the Cogged Stone Site. This work represented the second half of the last stage of the five step archaeological program for ORA-83 that began with the work approved under permit 5-83-984 in 1984. One key element of the program was to ensure that it contributed to the understanding of history or prehistory through a carefully thought out research design. By the time of this application, ORA-83 had been nominated for inclusion in the National Register of Historic Places and was recommended for this designation by the State Historic Resources Commission on November 4, 1982, based on the significance of the archaeological artifacts the site had produced.

The coastal development permit approved the excavation of 17 two-meter by two-meter hand units in six areas within the eucalyptus grove of the upper bench of the Bolsa Chica Mesa. However, if features or in-place cogged stones were found during the approved excavations, the excavation of additional intervening units would be allowed, if needed, in order to fully expose, document and remove those resources. The excavation of up to 12 additional units was authorized by the permit. The Commission imposed one special condition on the permit requiring the submittal of written evidence that the applicant had retained a County certified archaeologist to monitor the work approved by the permit and the submittal of evidence that a copy of the report on literature and records search and field survey for the site had been reviewed and approved by the Orange County manager of Harbors, Beaches and Parks. Further, the applicant was required to demonstrate that the proposed project had received review from the above designated County official, from members of the Pacific Coast Archaeological Society (PCAS), and from the Native American Groups (more particularly those who belong to the Juaneno and Gabrielino tribes).

In an attempt to avoid the controversy that surrounded permit 5-83-984, Commission staff met with representatives of the Juaneno and Gabrielino Indian tribal groups and the applicant's consulting archaeologist to determine who would represent both tribal groups in monitoring the proposed excavations. The applicant also published a notice in a local newspaper of general circulation of its application for a coastal permit for the proposed project.

## **5-89-772-A1**

The first amendment to permit 5-89-772 was issued on March 8, 1991. The applicant requested an amendment to the special condition of the original permit requiring the review of the proposed archaeological testing and recovery plan by members of the Pacific Coast Archaeological Society (PCAS) because they had reached an impasse with the members

of the group. The dispute was over the percentage and extent of ORA-83 that should be examined. The applicant proposed to excavate only 7 acres of the 11.9-acre site because it was the least disturbed. PCAS wanted 100% of ORA-83 to be sampled, including the plowed field area and suggested that it could be done using a fine-scale operation with heavy machinery, removing thin layers at a time, under archaeological supervision.

The Commission ultimately modified the special condition, not by removing PCAS, but by providing that any comments by PCAS be reviewed by a three member peer review team. Further, any conflicts between PCAS comments and the applicant's archaeologist's scope of work were to be resolved by the peer review team and by the State Office of Historic Preservation.

### **5-89-772-A2**

This amendment request was to delete the requirement of review by the State Office of Historic Preservation (SOHP) from the special condition. The requirement for SOHP review had been added in 5-89-772-A1 to help mediate disputes between the applicant's archaeologist and the PCAS reviewers. The applicant requested this change because there was a delay in getting SOHP to review and comment on the project. Initially the Commission decided that review by SOHP should not be eliminated because the agency had continued to express a desire to do so. However, ultimately the State Office of Historic Preservation sent a letter stating that they would not be able to review and comment on the project due to staffing shortages. The Commission then approved the requested amendment.

### **Executive Director Report to the Commission**

On February 28, 1994 the City of Huntington Beach requested that the Executive Director investigate and determine whether any of the Commission permits issued for testing and excavation within ORA-83 or the demolition of the adjacent World War II bunkers should remain in force or be rescinded. The Executive Director focused the investigation on whether there was any evidence that the permits were not in compliance with the terms and conditions of their approvals, and secondly, whether there was any merit to suspending any of the permits and processing a revocation request. The specific permits that were investigated were 5-89-772, as amended and 5-90-1143, a permit issued on September 27, 1991 for the demolition of the two World War II gun emplacements that were located adjacent to ORA-83.

The specific questions asked by the City to be investigated were: (1) was significant information concerning the presence of human remains on ORA-83 intentionally not disclosed; (2) why were the discovery of human remains not reported to the County Coroner over a year after the discovery, in violation of the applicable law that they be reported within 24 hours of discovery, (3) was there an attempt to circumvent the system and its definition of proper handling of human remains, (4) had proper procedures (daily logs, preservation techniques, disposition of artifacts and timely reports) been followed in the work conducted at ORA-83, (5) should ORA-83 be designated a cemetery and remain

intact, (6) the scientific integrity and cultural sensitivity of personnel performing work at ORA-83 and whether their work had been monitored by appropriate State agencies on a regular basis, (7) should the Archaeological Information Center at UCLA receive the extensive information that had been obtained from the site, (8) should the site be placed on the National Register of Historic Places as was previously recommended, and (9) should there be better legislation to protect archaeological sites like ORA-83.

The Executive Director's response to many of the above questions was that they were beyond the purview of the Coastal Commission and that some of the issues raised should be addressed by the Native American monitors and/or peer review team that were required by the permits to be consulted in decisions regarding certain aspects of the development. The Executive Director concluded that the applicant was in compliance with the terms and conditions of both permits and that there was no merit to the grounds for processing a revocation request.

#### **R5-89-772**

Although Commission staff held meetings between the applicant and the affected Native American groups and required the review of the proposed work by PCAS, the controversy surrounding ORA-83 did not end. On November 3, 1999 the Bolsa Chica Land Trust filed a request with the Commission to revoke the Phase II approval of the final research and data recovery program permit. The contentions raised in the revocation request were: that further archaeological work, not in the immediate vicinity of the eucalyptus grove, and therefore beyond the approved scope of work was occurring; that the permitted work has been completed in its entirety for over five years, that the permit is also ten years old and therefore should be revoked or suspended; that the work under the permit was not pursued with due diligence as required by the standard conditions of the permit; additional scraping and clearing within the recognized boundaries of ORA-83. The Commission denied the revocation request finding that it did not establish the grounds required to do so pursuant to Section 13105 of the Commissions' Regulations.



June 2, 2008

California Coastal Commission  
Teresa Henry, District Manager  
200 OceanGate, 10<sup>th</sup> floor  
Long Beach, CA 90802-4416

**RECEIVED**  
South Coast Region  
JUN 2 2008  
CALIFORNIA  
COASTAL COMMISSION

RE: Brightwater / Bolsa Chica Permit 5-05-020

Dear Ms. Henry:

We, the undersigned (petitioners) along with over 500 interested citizens who have submitted signatures, request an immediate investigation by the California Coastal Commission with respect to Permit 5-05-020 Brightwater, approved April 14, 2005 (Condition of Approval 23 attached as Exhibit A).

If any of the following allegations are discovered to be true we request that the Commission immediately revoke or suspend this permit.

The petitioners want to preface the above request by noting that over decades the petitioners have come to believe that the Bolsa Chica sacred site is being systematically destroyed or, at a minimum, placed in grave peril. The petitioners do not fault the Coastal Commission or any other public agency for this state of affairs. However, we believe the following presents such a clear case of improper action relative to the Bolsa Chica sacred site that specific action must be taken immediately.

#### Revocation of Permits

Section 13105 of Title 14 of the California Code of Regulations provides as follows:  
Grounds for revocation of a permit shall be:

- a. Intentional inclusion of inaccurate, erroneous or incomplete information in connection with a coastal development permit application, where the commission finds that accurate and complete information would have caused the commission to require additional or different conditions on a permit or deny an application;

In accordance with Title 14 CCR Section 13053.5 c, an application is to include a dated signature by or on behalf of each of the applicants, attesting to the truth, completeness and accuracy of the contents of the application. We are concerned that the Commission may have been provided with less than complete information regarding the cultural resources on the Brightwater site, resources of which the applicant may have been aware.

R5-05-020  
EX. 1 p. 1

Page 2

The following are staff report sections and correspondence from applicant:

**July 27, 1992** letter from attorney for Hearthside, Susan Hori to Cindi Alvitre (Exhibit B)  
***“As you know, other sites on Bolsa Chica Mesa have already been fully excavated and mitigated ( ORA 289, ORA 78 and ORA 85). No human remains were found during the course of any of the excavations. All of the material which was recovered, i.e. shells, beads, etc are in the possession of the landowner or the archeological consultant.”***  
(Emphasis supplied)

**April 14, 2005**

Coastal Commission staff report: Revised Findings 10/13/2005 (ExhibitC )

Page 97 of revised findings

“The applicant contends that the Brightwater development project will not adversely impact either of the two on-site identified archeological sites due to the fact that a series of measures to mitigate the impacts of future development have been implemented ***completely in the case of ORA 85***, and at the time of the October 2004 hearing, ***97% complete in the case of ORA 83*** as approved by the County of Orange, and the Coastal Commission.” (Emphasis supplied)

Page 101 of revised findings ORA 85 ***“No evidence of ceremonial or other structures were found. Other than four quartz crystals, which may be evidence of ceremonial utensil manufacture, no obvious objects associated with religious ceremonies were recovered. Finally, no evidence of human remains in the form of burials or cremations was found.”*** (Emphasis supplied)

Page 101 of revised findings “According to the applicant’s archeological consultant, ***the site was 97% recovered at the time of the application submittal for the October 2004 hearing.*** Based on staff observations in November of 2004 the site (ORA 83) appears to be virtually 100% recovered.” (Emphasis supplied)

Page 98 from revised findings for 5-05-020 ( Brightwater)

“Although the Commission approved the full recovery of ORA 83 as proposed by the applicant in the previous permits listed below, the Commission finds no evidence in the record of those permits at the time of their approvals that the “semi subterranean house pits” were know or expected to exist, beneath the shell midden.”

“In November 2004, Commission staff accompanied the applicant and their consulting team on the project site to revisit a number of issues that had been raised at the October 2004 Commission meeting. **At that time staff verified that the house pits had all been excavated and backfilled.**”

From the NAHC memo dated April 4, 2008

The NAHC staff noted that the archeologist stated that “Cogged stones as associated grave goods Dr Wiley confirmed that the 22 cogged stones found at the house pit of an apparent Shaman or tribal leader are clearly associate grave goods”

The question here is when was this house pit destroyed?

Ex. 1 p. 2

The following are what we believe to be the facts which support this revocation request:

1. Photos taken September 14, 2006 at the area of ORA 85. This is not archeological grading but rather construction grading. Since it is unclear when human remains were found, and that if they are found during grading that the Special Condition #23 must be followed we have included these photos. ( exhibit D)

2. In a November 2007 memo (exhibit E ) from the developer's archeologist to Ed Mountford et al in which it was disclosed that the following had been recovered at the Brightwater site. The following is stated:

- There are 87 human remains that need to be reburied
- There are 83 prehistoric features that were uncovered with the burials
- There are 4,217 artifacts that were found during grading monitoring on ORA 83
- There are 1,622 artifacts that were found during the grading monitoring ORA 85
- There are approximately 2,000 boxes of materials
- There are over 100,000 artifacts that have been collected.

2. April 2008, the Bolsa Chica Land Trust filed a public records request from the Coroner of Orange County to determine how many reports to the Coroner of human remains had been made as a result of the archeological work at Brightwater. The request was for any findings from 1990 until present. The Land Trust was provided with records for only 6 cases since 1990 to present relative to ORA 83 and 85: (Exhibit F )

- 9/30/93 Case # 93-5868-LL reported 11/3/93
- 8/3/99 case # 99-05178me additional human remains found 11/29/99
- 11/4/99 Case # 99-07108-LL reported 11/5/99
- 3/30/00 Case # 00-02277-RO reported 4/4/00
- 4/27/00 Case # 00-02791-LY reported 4/27/00
- 6/12/02 Case # 02-03972-GA reported 6/14/02

3. May 22, 2008 letter to Rebecca Robles, Acjachemen Nation, from NAHC staff refers to the following Coroner reports (Exhibit G):

- April 19, 2008 "concerning sets" of Native American human remains that were originally reported to NAHC December 17, 2007 as 87 sets of burials of Native American human remains. When were these remains found??
- August 19, 2006
- June 22, 2003 date Most likely descendant contacted June 22, 2006
- September 6, 2001
- January 16, 2001
- May 2000
- May 2000

These Coroner reports were not included in response to the request of the Land Trust.

4. In an April 4, 2008 letter to Anthony Morales from staff at NAHC (Exhibit H), the following concerns are raised;

- The issue of reburial of the remains and all associated grave good is to occur after documentation is complete.
- ORA 83 is a sacred cemetery- "In the project archaeologist's memorandum to the company, dated January 17, 2007, it refers to a February 3, 2007 ceremony and assumed reburial ( see Exhibit E) this action would be after AB2641 extending the definition of a cemetery and a place with "multiple burials" to private land." "Therefore, considering the 87 burials from ORA -83, whose chronology is unknown or certainly unclear, and given the number of burials at this project site, how can one say that it is not a cemetery?"
- The developer has stated since 1992 that there were no human remains found on ORA 85. Yet in a memo from Nancy Wiley to Ed Mountford, Ms. Wiley states "Ted and I will wrap each burial with its grave goods.... Each individual will be wrapped again in colored burlap coded to male (blue), female (red) and unknown (beige). Children will additionally have a color separation or other designator."
- In an email message of 12/6/07 the developer's archeologist (Nancy Wiley), when asked by the NAHC staff when the human remains were found, told the staffer that "Ed Mountford has said that I cannot prepare a chronology for you until he talks to his lawyer- Susan Hori."( Exhibit H )
- " While the NAHC and her archeologist peers may disagree with the manner in which Dr. Wiley and SRS have managed this project, the NAHC and others would not have the hard facts of the **174 burials discovered; 87 still to be re-buried; the number of coggled stones (over 400), the 100,000 artifacts and thousands of archeological features of significance**, had not Dr. Wiley provided the information to the NAHC." (Emphasis supplied)

5. In an April 8, 2008 letter to the Commission, Larry Myers from the NAHC (Exhibit I) states the following:

- ***"The NAHC has not received a report clearly showing the dates, locations and details of burial discoveries. At this point based on information available and the large number of burials recovered and associated items, it appears that the whole area may be a burial ground.*** Southern California Indians created and used discrete areas as cemeteries. The NAHC understands that the Coastal Commission will be reviewing its permit for the Brightwater Project. The NAHC suggests that the Coastal Commission consider requiring some sort of guarantee or performance bond in order to assure that all required

reports are provided on a timely basis and that documentation is completed and reburials of remains and artifacts occur as agreed.” (Emphasis supplied)

In addition, even if the Commission had received all information known to exist by the developer and developer’s consultants, Commission review of Permit 5-05-020 would still be in order in accordance with Special Condition #23, adopted by the Commission on October 13, 2005 as outlined below:

1. In accordance with 23.A.3, artifacts were to be tested. The time frames are unclear. The Executive Director is to determine if the resources are significant. This implies that the Executive Director would be informed immediately. We do not believe that the Executive Director was informed as the project progressed.
2. In accordance with 23.A.4, construction is to cease if artifacts or human remains are found during construction, until allowed to proceed by the Executive Director per Condition 23.C. We do not believe that the Executive Director was informed of the excavation of human remains during grading.
3. Per condition 23C, work may recommence after reporting the find to the Executive Director, and approval of a significance testing plan by the Executive Director. We are not aware of such a plan being approved.
4. Per Condition 23C, if the Executive Director determines that the measures recommended in the testing plan require more than minimal changes from previously approved plans, the Commission must approve the changes.
5. Per Condition 23.A.6, Hearthside is to comply with all applicable state and federal laws. Based on a review of the coroner reports and the NAHC letter of May 22, it appears that there was a three year time lag (2003-2006) in reporting in at least one case (p.13 of pdf file). Other sheets do not provide complete data as to date of find and date of report.
6. In accordance with 23.B, construction is to cease if artifacts or human remains are found during “the course of the project”, and a fifty foot wide buffer is to be provided. Construction may only recommence if approved by the Executive Director. (Condition 23.D).
7. Per condition 23D, work may recommence after reporting the find to the Executive Director, and approval of a Supplementary Archaeological Plan by the Executive Director. We are not aware of any such Supplementary Plan.

The issue comes down to “what did they know and when did they know it”? Based on dates of 2003, 2001, etc as to the date of find on materials cited above, it appears that at least some of the finds were known to the applicant. Unfortunately, not all of the forms are completely filled out with dates.

Page 6

We request the Commission to investigate whether or not complete information was provided with the Brightwater application. We request that the Commission review and determine if any testing plan or supplementary plans were prepared in accordance with Condition 23C and 23D as discussed above. Further, according to Special Condition #23 subsection D and E, the NAHC is to be given the opportunity to review and comment on all plans required to be submitted pursuant to this special condition. We are not aware that such plans exist or were reviewed.

The information referred to above became known to the undersigned in February of 2008. We have been researching the facts about the above project since that date and believe that we have exercised due diligence.

Thank you for your consideration in this matter.

Sincerely,

Alfred G. Cruz, Jr. Juaneno Band Mission Indians  
Rommel Cruz, Juaneno Band Mission Indians  
Richard Silva, Juaneno  
Miles Harry, Paiute/ Lakota  
Rhonda Robles, Juaneno Band of Mission Indians, Acjachemen Nation  
Louis Robles, Jr. Juaneno Band of Mission Indians Acjachemen Nation  
Alfred G. Cruz, Sr. Juaneno Band of Mission Indians  
Lloyd Valenzuela Acjachemen  
Susan Diaz, Chumash/O'odham  
Christopher Diaz, Chumash/ O'odham  
Raymond Diaz, O'odham/ Mayo  
Lenore Vega, Chumash/ O'odham  
Angel Diaz, Chumash/O'odham/Taiwanese  
John Moreno, Chumash/Tohono/Akimel O'odham  
Ted Vega, Chumash/ Taino  
Georgiana Sanchez, Chumash/ O'odham  
Roger Leon, Chumash  
Cindi Alvitre/ Tongva  
Susana Salas, Yaqui  
Paul Moreno, MicMac Nation  
28872 Escalona Drive, Mission Viejo, CA 92692  
Professor Patricia Martz, California Cultural Resources Preservation Alliance  
Box 54132 Irvine, CA. 92619-4132  
Gerald Chapman, Bolsa Chica Land Trust  
5200 Warner Ave, #108, Huntington Beach, CA 92648  
Over 500 signatures on petitions attached exhibit J

EX. 1 p. 6

Alfred D. Coy Jr. Juaneno Band Mission Indians

Rommel Cruz Juaneno

RICHARD SILVA JUANENO

MILES HARRY PAIUTE/LAKOTA

Rhonda Robles Juaneno Band of Mission Indians  
Acjachemen Nation

Louis Robles Jr Juaneno Band of Mission Indians  
Acjachemen Nation

Alfred G Cruz Sr Juaneno Band of Mission Indians

Sherid Valenzuela Acjachemen

Susan Diaz Chumash / O'odham

Christopher Diaz Chumash / O'odham

Raymond Diaz Cochran MAYO

Reynold Diaz Chumash / O'odham

Angel Diaz Chumash / O'odham / Taiwanese

John Moore Chumash / Tohono / Akimel O'odham

Joe Day Chumash / Tohono

Joseph Lang Chumash / O'odham

Robert Jean Chumash

Cindi Alvin ~~Lang~~ Lang

Dusan ~~Lang~~ Yaji



Professor Patricia Montz

California Cultural Resources  
Preservation Alliance

Box 54132 Irvine, CA 92619

Patricia Montz

Paul R Moeno

28872 Escalona Dr  
Mission Viejo, CA 92692

MicMac Nation

Bolsa Chica Land Trust

*L Chapman*

5200 Warner Ave #108  
Huntington Beach, CA  
92649

Attached exhibits

- A. Condition #23
- B. July 27, 1992 Paone Callahan Mchholm and Winton letter
- C. Revised Findings 10/13/05
- D. Photos of grading 9/14/06
- E. November 5, memo
- F. Coroner reports
- G. May 22, 2008 NAHC memo
- H. April 4, 2008 NAHC letter
- I. April 8, 2008 NAHC letter
- J. Petitions signatures

2007

November 5<sup>th</sup>: Memo

To: Ed Mountford, Hearthside Homes  
 David Belardes, Juaneno Band  
 Anthony Morales, Gabrielino Band  
 Prof. Paul Langenwalter

CC: Jeff Couch  
 Tracy Stropes

This memo is to inform you that Ed Mountford has requested that only himself and the two most likely descendants attend the meeting on Tuesday the 6th. I will, therefore, not be attending. In accordance with a request from all three of you, I am submitting a tentative listing of concerns that should be resolved at this meeting.

1. Status of SRS Archaeological Work:

- a. There are 87 human bone concentrations that need to be reburied
  - 83 are completely removed from stretcher pedestals and pod
  - 4 remain to be removed from pods- completion expected mid-December
  - Prof. Langenwalter cannot complete his studies until the last 4 are done
  - Prof. Langenwalter will need 4-6 weeks to complete his work when the last four are done- completion expected mid-February
  - Coroner must see all 87 burials; last 4 must be completed for Coroner and examined by Langenwalter prior to Coroner's visit
  - All 87 will be laid out at once for Coroner, in all three bone trailers
- b. There are 83 prehistoric features that were uncovered with the burials
  - All 83 features have not been processed yet—
  - some have artifacts, some do not.
  - These include 4 cogged stones features
- c. There are 4217+/- artifacts that were found during the grading monitoring on Ora-83
  - Only the artifacts directly associated with the burials are in the processing of being processed and prepared for reburial.
  - These include cogged stones, discoidals, charmstones and beads
- d. There are 1622+/- artifacts that were found during the grading monitoring on Ora-85
  - Only the artifacts directly associated with the have been processed and reburied.
  - Artifacts to be processed include discoidals, charmstones and beads
- e. There are approximately 2,000 boxes of materials [including soils samples, rock features, shell features, shell samples and animal bone] from all 30 years of excavations on Bolsa Chica Mesa in a trailer on-site.
  - These have not been culled for distribution to the County of Orange or for reburial since there has not been any electricity in this trailer.
- f. There are over 100,000 artifacts [including debitage and other smaller items] that have been collected for the last 30 years on Bolsa Chica Mesa.
  - These have not been fully catalogued or fully analyzed.
  - Some were collected before computers were in common use and the information is not in the site database.
  - Some still have field numbers from surface collections, etc.
  - Includes cogged stones, discoidals, charmstones and beads.

Ex. 1 p. 12

2. Hearthside Homes is requesting a December 1<sup>st</sup> Reburial of Human Bone only with whatever burials are completed. If some are not completed, they are requesting that the remaining pods be reburied at that time.
3. Hearthside Homes is requesting a Second Reburial of all other materials at a later date- to be determined- when funding is available.
4. The Gabrielino are requesting that DNA be conducted on some artifacts and individual, isolated teeth gathered from the site.
  - The Juaneno are opposed to DNA studies.
  - The Native American Heritage Commission has approved the project.
  - Hearthside has approved the project in concept only.
  - SRS is donating funds to aid in the artifact DNA studies.
5. The Juaneno are requesting that the artifacts be donated to the Blas Aguilar Adobe for safekeeping.
  - The Gabrielino prefer reburial of artifacts.
  - The County of Orange has a legal agreement for the artifacts from all excavations [Ora-83 only].
6. The Juaneno are requesting a donation of funds to help establish displays in the Blas Aguilar Adobe.
  - The County of Orange will display materials from the site for a full-year period with rotating displays.
  - SRS will donate the displays from the County Courthouse exhibits to the Blas Aguilar when they are rotated out.
  - SRS will donate slide shows and posters prepared for academic presentations about the site to the Blas Aguilar when completed.
7. SRS has legal obligations to the Native American Heritage Commission, California Coastal Commission and the County of Orange, the Native American Heritage Commission:
  - to complete the human bone analyses, feature analyses, artifact analyses, and other material analyses;
  - to cooperate with the Orange County Coroner's representative by fully disclosing all human bone from the Mesa and offering these materials for inspection;
  - to rebury the human remains and associated materials according to the wishes of of the Native Americans;
  - and to produce a series of catalogues and final interpretative reports
  - [cf. CEQA, CCC Special Condition of Approval #23, County of Orange Development Requirements].



OCT 15 2008

CALIFORNIA  
COASTAL COMMISSION

**OFFICERS**

President  
Paul Arms  
Vice President  
Julie Bixby  
Treasurer  
Jim Anderson  
Secretary  
Marinka Horack

October 13, 2008

Teresa Henry  
California Coastal Commission  
200 Oceangate, 10<sup>th</sup> floor  
Long Beach, CA 90802

**BOARD OF DIRECTORS**

Connie Boardman  
Dr. Gerald Chapman  
Vi Cowden  
Sandy Genis  
Dave Hamilton  
Mike McMahan  
Marc Sturdivant  
Laurel Teffer  
Carrie Thomas  
Rudy Vietmeier  
Dr. Jan Vandersloot  
Karen Merickel-Wood

**Re: Revocation Request of Coastal Development Permit  
No. 5-05-020 (Brightwater)**

Dear Ms. Henry:

This letter is in response to your request for additional information pertaining to the revocation requested by the Native Americans, the California Cultural Resources Preservation Alliance, and the Bolsa Chica Land Trust.

**ADVISORY BOARD**

State Senator Tom Harman  
Mayor Debbie Cook  
Diana Casey  
Nancy Donaven  
Norma Gibbs  
Bob Goodrich  
Paul Horgan  
Janice Kellogg  
Eileen Murphy  
Linda Moulton Patterson  
Rochelle Pazanti  
Louis Robles  
Jayson Ruth  
Dr. Richard Sax  
Dr. David Sullivan  
Grace Winchell

We believe that there is ample evidence that Section 13105(a) of Title 14 of the California Code of Regulations was violated by the intentional submission of inaccurate, incomplete or erroneous information.

**ENDORSEMENTS**

Amigos de Bolsa Chica  
Algalita Marine Research  
Foundation  
Anza Borrego Foundation  
Ballona Wetlands Land  
Trust  
City of Huntington Beach  
Friends of Harbors,  
Beaches and Parks  
Huntington Beach  
Wetlands Conservancy  
Huntington Beach Tomorrow  
Orange Coast League of  
Women Voters  
Orange County  
Coastkeeper  
Peninsula Open Space Trust  
Sea and Sage Audubon  
Sierra Club  
Angeles Chapter  
Surfider Foundation

1. In the History of Bolsa Chica Archaeological Research and Salvage Work Conducted by Scientific Resource Surveys, INC. [SRS] 1980-2008, the developer would like you to believe that all the archaeological investigations, property survey reports, property survey reports, test excavation reports, data recovery programs and reports, and monitoring reports were given to the Coastal Commission when only nine out of approximately 46 were made available. On page 4 of the developer's attorney letter to Teresa Henry, it states "all of the archaeological resource information that was known to Hearthside Homes was provided to the Coastal Commission either prior to or as part of its CDP application package." Does the Commission have records showing that they received all this information?
2. The final report on ORA 83 has not been completed.
3. There is an inherent conflict of interest when the developer selects and pays the monitors and the members of the peer review committee. The developer refused to disclose the location of human remains and artifacts when the monitor-mld requested that they not be disclosed. How convenient! Previous members of the peer review committee were removed when their positions did not agree with the developer. True peer review is independent. If it is not, it is not peer review.

4. What credibility does the archaeologist have when they state that the recovery is 100% on ORA 85 and 97% on ORA 83 prior to the CDP and the find the large number of human remains during the grading process?
5. Attached is a time line which shows the relationship between the Commission's actions, permit and site work, discovery of human remains, and other actions.

Although Special Condition 23 may not apply to the revocation request, the questions raised in the request for revocation letter of June 2, 2008 certainly point out the lengths the developer is willing to go to in order to get his project built. Please refer to the revocation letter for our issues regarding Special Condition 23. If there are violations of this condition, sanctions are appropriate.

We believe that if the Commission received all the information in a complete, true, and timely fashion, its decision would have been different and the Hearthsides portion of ORA 83 would not have been destroyed.

Thank you for your consideration of this matter and please contact us if there are any questions.

Sincerely,



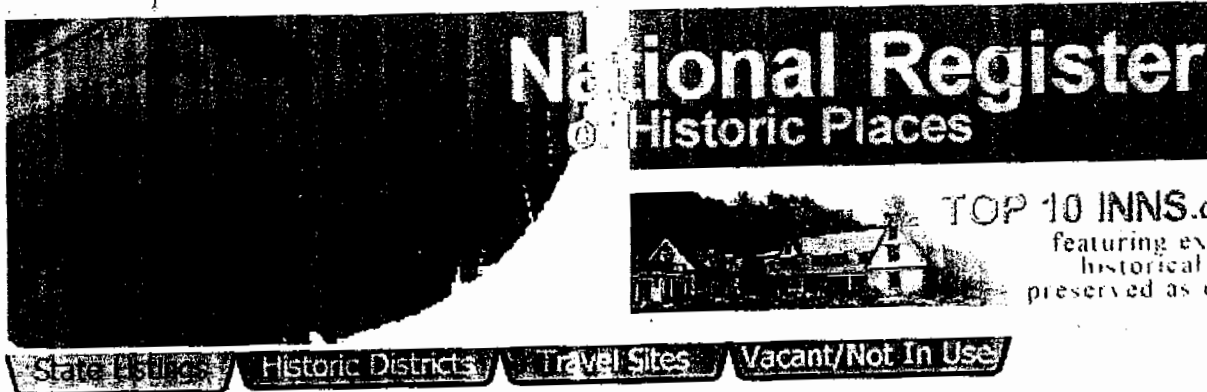
Gerald Chapman  
Bolsa Chica Land Trust

DATE	COMMISSION	PERMITS/SITE WORK	ANCESTORS	OTHER
7/27/1992	Hori letter: "No human remains ..."			
9/30/1993			Coroner notified of bones found on ORA-83	
2/25/1994				Belardes letter to Suchey re: media
8/3/1999			Coroner notified of bones found Bolsa Chica St/Los Patos - 1 ancestor	
11/3/1999			Coroner notified of bones found on ORA-83 - 1 or 2 ancestors	
3/30/2000			Coroner notified of bones found on ORA-83 - 1 or 2 ancestors	
4/27/2000			Coroner notified of bones found on ORA-83 - 1 ancestor	
May-00			Two reports of finds on ORA-83 dated only "May 2000" - 1 or 2 ancestors	
6/26/2000	Martz letter to Rynas re: LCP			
1/16/2001			Bones found on ORA-83 - up to 18 ancestors; unclear when coroner notified	
9/6/2001			Coroner notified of burial found on ORA-83 - 1 ancestor; report refers to ongoing grading on site	
6/12/2002			Coroner notified of bones found at 17201 Bolsa Chica Rd. - 9 ancestors	
6/22/2003			8 ancestors found on ORA-83, per report to coroner on 6/22/06 (?)	
3/20/2005	Martz letter to Henry re: destruction of pit houses at ORA-83 and app. 5 05-020			



Apr-05 5/10/2006	Staff report: ORA-85 completely mitigated; ORA-83 97% completed; ORA-83 "virtually 100% recovered"; no evidence of structures, ceremonies or ancestors	Perimeter fencing delivered "Pics of the day" text reference to active grading Mass Grading permit issued for entire project		
6/3/2006				
6/20/2006				
6/22/2006			Coroner notified of burials found on ORA-83 on 6/22/2003(?) - 8 ancestors	
8/19/2006			Coroner notified of burial found on ORA-83 on 8/19/06 - 1 ancestor	
Sep-06		Grading photographed		
12/6/2006	Staff reports all excavations completed (email from Teresa)fh			
12/21/2006		Precise Grading permit issued for Tract 17032		
1/19/2007			Wiley memo to Mountford et al re: reburial scheduled for 2/3/07	
6/11/2007		Precise Grading permit issued (tract?)		
Summer 07			Last 17 from ORA-85 reburied (per private conversation)	
8/29/2007		Production Precise Grading permit issued for Tract 17034		
11/5/2007			Wiley memo to Mountford et al re: reburial -- 87 ancestors; 83 "prehistoric features"; 4217 artifacts from ORA-83; 1622 artifacts from ORA-85; more than 100,000 artifacts from BC over the years	

11/29/2007		Precise Grading permit issued (tract?)			
12/14/2007		Precise Grading permit for Lots 1-21 issued			
12/16/2007		Precise Grading permit for Model Homes issued			
12/17/2007			Excavation of 87 burials from ORA-83 reported to NAHC by archeologist		Wiley email to Singleton saying she can't do chronology without Hori's OK
12/17/2007					
1/28/2008		Precise Grading permit issued for Tract 17076			Email from Dave Singleton: Mountford says no discoveries in past two years.
3/27/2008					
4/3/2008			Singleton email re: talks with Wiley; 174 burials discovered, including 87 not yet reburied		
4/4/2008					Singleton/NAHC letter to Morales re: app 5-05-020
4/8/2008	Myers/NAHC letter to Henry re Brightwater: "the whole area may be a burial ground"				
4/19/2008			Coroner notified of burials found on ORA-83; these are the ones that were reported to NAHC on 12/17/07		
5/18/2008					Singleton email to Wiley enquiring about circumstances of finding of 8 ancestors in 2006 (see 6/22/06)



**CALIFORNIA - Orange County**

**RECEIVED**  
South Coast Region

OCT 15 2008

CALIFORNIA  
COASTAL COMMISSION

**R Cogged Stone Site--CA-ORA-83 \*\* (added 2001 - Site  
- #01001455)**

Address Restricted, Huntington Beach

Historic Significance: Event, Information Potential

Area of Significance: Prehistoric, Native American

Cultural Affiliation: Millingstone Horizon,  
Intermediate Horizon, California  
Channel Islands

Period of Significance: 4500-4999 BC, 4000-4499 BC,  
3500-3999 BC, 3000-3499 BC

Owner: **Private**

Historic Function: Agriculture/Subsistence,  
Commerce/Trade, Domestic,  
Funerary,  
Industry/Processing/Extraction,  
Religion

Historic Sub-function: Ceremonial Site, Graves/Burials,  
Manufacturing Facility,  
Processing, Trade (Archeology),  
Village Site

Current Function: Landscape

Current Sub-function: Unoccupied Land

EX-2p. 6

# CCRPA

**California Cultural Resource Preservation Alliance, Inc.**

**P.O. Box 54132  
Irvine, CA 92619-4132**

**An alliance of American Indian and scientific communities working for  
the preservation of archaeological sites and other cultural resources.**

---

October 20, 2008

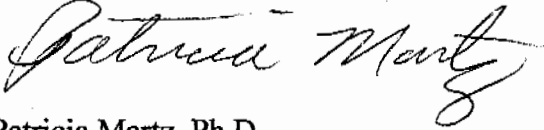
Teresa Henry  
District Manager  
South Coast District  
California Coastal Commission  
200 OceanGate, 10<sup>th</sup> floor  
Long Beach, CA 90802

RECEIVED  
South Coast Region  
OCT 23 2008  
CALIFORNIA  
COASTAL COMMISSION

Dear Ms. Henry:

The attached information is supplemental to the revocation requested by the Native Americans, the California Cultural Resources Preservation Alliance, and the Bolsa Chica Land Trust.

Sincerely,



Patricia Martz, Ph.D.  
President

EX. 3, p1

INCOMPLETE INFORMATION BASED ON A COMPARISON OF THE MAP ENTITLED "EXCAVATION UNITS AND TRENCHES COMPOSITE ALL SEASONS" RECEIVED BY THE COASTAL COMMISSION SEPT 5, 2008", "HISTORY OF BOLSA CHICA ARCHAEOLOGICAL RESEARCH AND SALVAGE WORK CONDUCTED BY SCIENTIFIC RESOURCES SURVEYS, INC (SRS) 1980-2008" AND THE 2003 REPORT "ARCHAEOLOGICAL SITE CA-ORA-83: THE COGGED STONE SITE SYNOPSIS: A HISTORY OF ARCHAEOLOGICAL INVESTIGATIONS"

- 1) The map does not show the location of the "hand excavations" conducted sometime between 1990 and 1994 that resulted in the recovery of 32 "bone concentrations". Since the burials were removed and reburied and the site is fenced and patrolled, there is no reason to omit this information, unless of course, more burials are expected. (CDP 5-83-984; CDP 5-83-702)
- 2) The 32 "bone concentrations" were reburied in 1994. ("History of Bolsa Chica Archaeological Research and Salvage Work Conducted by Scientific Resources Surveys, INC (SRS) 1980-2008"). This means that they were human bone concentrations and that the term "bone concentrations" throughout SRS reporting is an obvious attempt to obscure the fact that they are the fragile human remains of an ancient cemetery.
- 3) The map does not show the location of the archaeological grading and backhoe trenching conducted sometime between 1998-2003 that resulted in the recovery of 40 "bone concentrations". Since the burials were removed and reburied and the site is fenced and patrolled, there is no reason to omit this information. (CDP 5-83-984? CDP 5-83-702).
- 4) The map shows excavation units excavated in 2006, but not the area of archaeological grading that resulted in the recovery of the 87 "bone concentrations", 76 features and 15 categories of sacred artifacts. The 2006 excavations cover a large area and if this is where the 87 "bone concentrations" were found, this is a very large cemetery area, the extent of which is unknown. Given the lack of information regarding the location of over 150 concentrations containing human remains, as well as how many actual individuals are represented, we can only assume that the cemetery is extensive and the potential for impacts to additional burials during further ground disturbing construction activities is high. (CDP 5-05-020)
- 5) The report "Archaeological site CA-ORA-83: The Cogged Stone Site Synopsis: A History of Archaeological Investigations" (2003:pg. 1) states "that Brightwater development **will not adversely impact** the archaeological site at Ora-83 because a series of mitigation measures approved by the Coastal Commission and the County of Orange to mitigate the impact of future development on this resource have already been implemented. **These measures provided for mitigation through data recovery of the site specifically designed to recover archaeological resources from the site.**" The Native American community does not consider the remains of their ancestors to be

“archaeological resources”. They are the remains of the first people to occupy California and are the revered ancestors of the present day descendants. The destruction of an ancient cemetery and the disturbance of Native American remains cannot be “mitigated” through data recovery excavations to recover scientific information, or reburial, and is an adverse impact.

7) Would the Coastal Commission and the County of Orange approved the mitigation measures and the determination that the Brightwater development would not adversely impact the archaeological site at Ora-83, had they realized that an ancient cemetery was being impacted, not merely “bone concentrations”? We would hope that these decision makers consider Native Americans and their ancestors to be equal in dignity and rights to all other peoples with respect to their dead.

#### ADDITIONAL OMISSIONS IN “ARCHAEOLOGICAL SITE CA-0RA-83: THE COGGED STONE SITE SYNOPSIS: A HISTORY OF ARCHAEOLOGICAL INVESTIGATIONS” 2003

1) Pg. 9 fails to mention that in spite of the fact that portions of the site were disturbed and over the objections of the developer, Nancy Desautels, of SRS, and Ray Belardes of the Juaneno Band of Mission Indians, ORA-83 was determined to be eligible for listing in the National Register of Historic Places by the State Historical Resources Commission in 1983. This pattern of playing down the significance of the site in order to facilitate development is evident throughout the 25-years of archaeological investigations at the site.

2) Pp 12-13 the locations of these archaeological investigations should be clearly identified on the Sept. 5, 2008 map. “in field” and “in trees” is not sufficient information.

3) Pg. 15: “Between 1990 and 1994 an extensive data recovery program was conducted by SRS within and around the eucalyptus trees providing **full mitigation** for Ora-83.” This is a premature and misleading statement.

4) Pg. 28 “The decade of the ‘90’s saw the **completion of the Final Data Recovery Program at CA-ORA-83 in 2002** as described in the following reports:...” Again a premature and misleading statement.

5) Pg. 29 Conclusions reiterate that the Brightwater development will not adversely impact the archaeological site ORA-83 because of the data recovery mitigation measures conducted pursuant to Coastal Development permit 5-89-772. It further says that the site has been mitigated in accordance with Coastal Commission and County of Orange Conditions and there is no evidence that the Brightwater development will adversely impact the site or that any further mitigation measures are necessary, other than grading monitoring. This raises the question of what kind of grading they are referring to

construction or archaeological. **What does CDP 5 05-020 call for archaeological or construction grading? Evidently 87 more “bone concentrations were found in 2006. Does the permit indicate that the Coastal Commission was aware that the development would impact an ancient cemetery, not a few “bone concentrations”?** **Why should we believe that “full mitigation” has been completed when proof to the contrary has repeatedly been discovered.**

**Summary:** (1) There is a pattern of saying that the “mitigation” measures are complete and then they go on to find more human remains and features. Examples: Pg. 15: “Between 1990 and 1994 an extensive data recovery program was conducted by SRS within and around the eucalyptus trees providing **full mitigation** for Ora-83.” And Pg. 28 “The decade of the ‘90’s saw the **completion of the Final Data Recovery Program at CA-ORA-83 in 2002** as described in the following reports:...”

(2) There is a pattern of referring to the human remains as “bone concentrations” rather than evidence for an ancient cemetery. Example: See “History of Bolsa Chica Archaeological Research and Salvage work conducted by Scientific Resource Surveys, Inc. (SRS), 1980-2008

(3) The map and reporting of the archaeological investigations does not allow an outside, independent observer to determine the extent of the cemetery or features or to determine how much of the site has not been graded and thus has the potential for the discovery of additional human remains during construction grading. (4) The statements that the Brightwater development will not have an adverse effect on ORA-83 because mitigation measures specifically designed to recover archaeological resources from the site have been completed is wrong. Native American human remains represent values that cannot be mitigated through the recovery of archaeological materials to be analyzed for scientific purposes.

23. **PROTECTION OF POTENTIAL ARCHAEOLOGICAL RESOURCES  
DURING GRADING**

A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for the review and approval of the Executive Director an archeological monitoring and mitigation plan, prepared by a qualified professional, that shall incorporate the following measures and procedures:

1. Archaeological monitor(s) qualified by the California Office of Historic Preservation (OHP) standards, Native American monitor(s) with documented ancestral ties to the area appointed consistent with the standards of the Native American Heritage Commission (NAHC), and the Native American most likely descendent (MLD) when State Law mandates identification of a MLD, shall monitor all project grading;
1. The permittee shall provide sufficient archeological and Native American monitors to assure that all project grading that has any potential to uncover or otherwise disturb cultural deposits is monitored at all times;
2. If any cultural deposits are discovered during project construction, including but not limited to skeletal remains and grave-related artifacts, traditional cultural sites, religious or spiritual sites, or other artifacts, the permittee shall carry out significance testing of said deposits and, if cultural deposits are found by the Executive Director to be significant pursuant to subsection C of this condition and any other relevant provisions, additional investigation and mitigation in accordance with all subsections of this special condition;
4. If any cultural deposits are discovered, including but not limited to skeletal remains and grave-related artifacts, traditional cultural sites, religious or spiritual sites, or other artifacts, all construction shall cease in accordance with subsection B. of this special condition;
5. In addition to recovery and reburial, in-situ preservation and avoidance of cultural deposits shall be considered as mitigation options, to be determined in accordance with the process outlined in this condition;
6. If human remains are encountered, the permittee shall comply with applicable State and Federal laws. Procedures outlined in the monitoring and mitigation plan shall not prejudice the ability to comply with applicable State and Federal laws, including but not limited to, negotiations between the landowner and the MLD regarding the manner of treatment of human remains including, but not limited to, scientific or cultural study of the remains (preferably non-destructive); selection of in-situ preservation of remains, or

*EX. 4, p. 1*



recovery, repatriation and reburial of remains; the time frame within which reburial or ceremonies must be conducted; or selection of attendees to reburial events or ceremonies. The range of investigation and mitigation measures considered shall not be constrained by the approved development plan. Where appropriate and consistent with State and Federal laws, the treatment of remains shall be decided as a component of the process outlined in the other subsections of this condition.

7. Prior to the commencement and/or re-commencement of any monitoring, the permittee shall notify each archeological and Native American monitor of the requirements and procedures established by this special condition. Furthermore, prior to the commencement and/or re-commencement of any monitoring, the permittee shall provide a copy of this special condition, the archeological monitoring and mitigation plan approved by the Executive Director, and any other plans required pursuant to this condition and which have been approved by the Executive Director, to each monitor.
- B. If an area of cultural deposits, including but not limited to skeletal remains and grave-related artifacts, traditional cultural sites, religious or spiritual sites, or other artifacts, is discovered during the course of the project, all construction activities in the area of the discovery that have any potential to uncover or otherwise disturb cultural deposits in the area of the discovery and all construction that may foreclose mitigation options or the ability to implement the requirements of this condition shall cease and shall not recommence except as provided in subsection D and other subsections of this special condition. In general, the area where construction activities must cease shall be 1) no less than a 50-foot wide buffer around the cultural deposit; and 2) no more than the residential enclave area within which the discovery is made.
- C. An applicant seeking to recommence construction following discovery of the cultural deposits shall submit a Significance Testing Plan for the review and approval of the Executive Director. The Significance Testing Plan shall identify the testing measures that will be undertaken to determine whether the cultural deposits are significant. The Significance Testing Plan shall be prepared by the project archaeologist(s), in consultation with the Native American monitor(s), and the Most Likely Descendent (MLD) when State Law mandates identification of a MLD. The Executive Director shall make a determination regarding the adequacy of the Significance Testing Plan within 10 working days of receipt. If the Executive Director does not make such a determination within the prescribed time, the plan shall be deemed approved and implementation may proceed. Once a plan is

deemed adequate, the Executive Director will make a determination regarding the significance of the cultural deposits discovered.

- (1) If the Executive Director approves the Significance Testing Plan and determines that the Significance Testing Plan's recommended testing measures are de minimis in nature and scope, the significance testing may commence after the Executive Director informs the permittee of that determination.
- (2) If the Executive Director approves the Significance Testing Plan but determines that the changes therein are not de minimis, significance testing may not commence until after the Commission approves an amendment to this permit.
- (3) Once the measures identified in the significance testing plan are undertaken, the permittee shall submit the results of the testing to the Executive Director for review and approval. The results shall be accompanied by the project archeologist's recommendation as to whether the findings should be considered significant. The project archeologist's recommendation shall be made in consultation with the Native American monitors and the MLD when State Law mandates identification of a MLD. If there is disagreement between the project archeologist and the Native American monitors and/or the MLD, both perspectives shall be presented to the Executive Director. The Executive Director shall make the determination as to whether the deposits are significant based on the information available to the Executive Director. If the deposits are found to be significant, the permittee shall prepare and submit to the Executive Director a supplementary Archeological Plan in accordance with subsection E of this condition and all other relevant subsections. If the deposits are found to be not significant, then the permittee may recommence grading in accordance with any measures outlined in the significance testing program.

- D. An applicant seeking to recommence construction following a determination by the Executive Director that the cultural deposits discovered are significant shall submit a supplementary Archaeological Plan for the review and approval of the Executive Director. The supplementary Archeological Plan shall be prepared by the project archaeologist(s), in consultation with the Native American monitor(s), the Most Likely Descendent (MLD) when State Law mandates identification of a MLD, as well as others identified in subsection E of this condition. The supplementary Archeological Plan shall identify proposed investigation and mitigation measures. If there is disagreement between the project archeologist and the Native American monitors and/or the MLD, both perspectives shall be presented to the Executive Director. The range of investigation and mitigation measures considered shall not be constrained by the

5-05-020(Brightwater)  
Special Conditions 23 and 24

- 4 -

approved development plan. Mitigation measures considered shall range from in-situ preservation to recovery and/or relocation. A good faith effort shall be made to avoid impacts to cultural resources through methods such as, but not limited to, project redesign, capping, and creating an open space area around the cultural resource areas. In order to protect cultural resources, any further development may only be undertaken consistent with the provisions of the final, approved, Supplementary Archaeological Plan.

- (1) If the Executive Director approves the Supplementary Archaeological Plan and determines that the Supplementary Archaeological Plan's recommended changes to the proposed development or mitigation measures are de minimis in nature and scope, construction may recommence after the Executive Director informs the permittee of that determination.
- (2) If the Executive Director approves the Supplementary Archaeological Plan but determines that the changes therein are not de minimis, construction may not recommence until after the Commission approves an amendment to this permit.

- E. Prior to submittal to the Executive Director, all plans required to be submitted pursuant to this special condition, shall have received review and written comment by a peer review committee convened in accordance with current professional practice that shall include qualified archeologists and representatives of Native American groups with documented ancestral ties to the area. Names and qualifications of selected peer reviewers shall be submitted for review and approval by the Executive Director. The plans submitted to the Executive Director shall incorporate the recommendations of the peer review committee. Furthermore, upon completion of the peer review process, and prior to submittal to the Executive Director, all plans shall be submitted to the California Office of Historic Preservation (OHP) and the NAHC for their review and an opportunity to comment. The plans submitted to the Executive Director shall incorporate the recommendations of the OHP and NAHC. If the OHP and/or NAHC do not respond within 30 days of their receipt of the plan, the requirement under this permit for those entities' review and comment shall expire, unless the Executive Director extends said deadline for good cause. All plans shall be submitted for the review and approval of the Executive Director.
- F. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to

EX. 4, p. 4

this coastal development permit unless the Executive Director determines that no amendment is required.

24. **CURATION OF ARTIFACTS AND DISSEMINATION OF CULTURAL INFORMATION**

PROIR TO ISSUANCE OF THIS PERMIT the applicant shall submit for the review and approval of the Executive Director, evidence of a written agreement with a curation facility that has agreed to accept any artifacts recovered from the project site. Any such artifacts shall be curated within Orange County, at a facility meeting the established standards for the curation of archaeological resources. Further, the applicant shall request in the agreement that the facility receiving the collection prepare an appropriate display of significant materials so that the public can view the investigation results and benefit from the knowledge gained by the investigations.

If permanent curation facilities are not available, artifacts may be temporarily stored at a facility such as the Anthropology Department of the California State University at Fullerton until space becomes available at a facility meeting the above standards. The applicant shall submit written proof of acceptance from the above curation or temporary facility of 100 percent of the recovered artifacts prior to issuance of the permit.

PRIOR TO ISSUANCE OF THIS PERMIT the applicant shall submit, for the review and approval of the Executive Director, a written agreement to distribute the series of ORA-83 Research and Salvage Program Final Reports to interested area institutions, vocational groups and Native American tribal units within Southern California, as well as to appropriate City, County and State agencies, as proposed in the "Archaeological Research Design ORA-83: "The Cogged Stone Site" Final Research and Salvage Program", by Scientific Resource Surveys, Inc., dated November 11, 1983 and conditioned in coastal development permit 5 89-772, as amended.

September 5, 2008

Client-Matter: 24970-030

**RECEIVED**  
South Coast Region

SEP 5 - 2008

CALIFORNIA  
COASTAL COMMISSION

**BY HAND DELIVERY**

Teresa Henry  
California Coastal Commission  
200 OceanGate, 10th floor  
Long Beach, CA 90802

**Re: Revocation Request of Coastal Development Permit No. 5-05-020  
(Brightwater)**

Dear Teresa:

This letter responds to the revocation request filed by various Native American individuals, Professor Patricia Martz on behalf of the California Cultural Resources Preservation Alliance and Gerald Chapman on behalf of the Bolsa Chica Land Trust on Jun 2, 2008, and your letter of June 9, 2008, informing Hearthside Homes of the Coastal Commission's receipt of the revocation request.

**The Section 13105(a) Grounds for Revocation Are Not Satisfied; There is No Evidence of Intentional Submission of Inaccurate, Incomplete or Erroneous Information**

The grounds for revocation are set forth in Section 13105 of Title 14 of the California Code of Regulations. Section 13105(a) states the grounds for revocation cited in the requesting parties documents:

(a) Intentional inclusion of inaccurate, erroneous or incomplete information in connection with a coastal development permit application, where the commission finds that accurate and complete information would have caused the commission to require additional or different conditions on a permit or deny an application.

The Section 13105 grounds for revocation requires a finding that the applicant (Hearthside Homes) intentionally included inaccurate, erroneous or incomplete information in its application. The enclosed document titled, "History of Bolsa Chica Archaeological Research and Salvage Work Conducted by Scientific Resource Surveys, Inc. (SRS), 1980-2008" (hereafter "History Document") identifies the reports on each phase of archaeological excavations that were submitted to the Coastal Commission and which were before the Commission when it took action to approve the CDP in 2005. The documents submitted with the CDP application included

Teresa Henry  
September 5, 2008  
Page 2

the research designs that were prepared to guide the mitigation program for these two sites, the subsurface test plans for the sites, and completed reports for each of the sites demonstrating completion of the data recovery program.

The History Document provides a detailed chronology of the (1) site boundary determination work conducted in the early 1980's; (2) the archaeological test excavations to determine those areas of intact cultural deposits and site significance conducted between 1983 and 1988; and (3) archaeological data recovery programs to mitigate the two sites conducted between 1990 and 2003 – all of which were completed and reported to the Commission prior to consideration of the CDP in 2005. The History Document also describes the Archaeological Grading Monitoring Program conducted pursuant to Special Condition 23 in 2006. The document also identifies when human bone concentrations were discovered, when reports to the Coroner's office were made, when consultations with the Native American most likely descendants occurred, and when the human bone concentrations and associated artifacts were reburied. As demonstrated by this extensive listing of reports and materials, the Coastal Commission was provided with an extensive collection of reports concerning the archaeological work at these two sites, including reports of the discovery of human bone concentrations, prior to taking action on the CDP. At no point in the process was incomplete, inaccurate or erroneous material intentionally included in the application.

The second component of Section 13105(a) requires a finding that if accurate or complete information were provided to the Coastal Commission that it would have either required additional or different conditions, or denied the application. The significance of ORA-83 and the desire to preserve this site has been at issue before the Coastal Commission and other local, state and federal agencies since the early 1980's beginning with the proposal to list ORA-83 on the National Register of Historic Places in 1981. Since that time, archaeological mitigation work at ORA-83 and ORA-85 have been permitted by the California Coastal Commission, and carefully monitored and scrutinized by the public. In 1999, the Bolsa Chica Land Trust filed a revocation request to revoke the permit issued to conduct the archaeological mitigation work at ORA-83. The Commission denied the request for revocation. In 2005, at the hearing on CDP 5-05-020, members of the Bolsa Chica Land Trust testified at the hearing expressing their concerns regarding the permit, and the significance of ORA-83 and the mitigation measures recommended by the Coastal Commission were commented on by several members of the public including Louise Jeffredo-Warden from the Pechanga Luiseno Mission Indians and the Maritime Shoshone California; Jan Chatten-Brown on behalf of the Maritime Shoshone California, Protect California, and the Coastal Protection Network; Tom Hoskinson; and Jack Hunter of the California Cultural Resource Preservation Alliance. Given the considerable amount of testimony regarding ORA-83 that was placed before the Coastal Commission, there is no evidence to indicate that the Commission was unaware of the existence of archaeological resources, or that it would have required additional or different conditions beyond those already included as a

Teresa Henry  
September 5, 2008  
Page 3

condition of the CDP, or denied the application. In fact, the Commission staff and Commission noted in rendering its decision that the footprint of development that was approved under the CDP provided not only greater setback from sensitive habitat, but in so doing, also protected a larger portion of ORA-83.

In short, there is no evidence to support that inaccurate, erroneous or incomplete information was intentionally submitted or that additional information would have rendered a different decision.

The fact that ORA-83 and ORA-85 are significant cultural resources was a fact known to Hearthside Homes, the Coastal Commission and the public since the early 1980's. The significance of these sites was recognized in the environmental impact reports prepared by the County of Orange, as well as in the coastal development permits issued by the Coastal Commission for archaeological mitigation work and CDP 5-05-020. Because the Coastal Commission required Hearthside to prepare and implement an Archaeological Monitoring and Mitigation Plan, Hearthside conducted an unprecedented purposeful archaeological grading monitoring program, and as a result of this unprecedented level of archaeological mitigation, additional artifacts and human bone concentrations were recovered and were treated in accordance with the procedures set forth in the Commission-approved archaeological monitoring and mitigation plan. The presence of these artifacts and human bone concentrations were not known until the Coastal Commission issued CDP 5-05-020 and required the purposeful grading. The fact that Hearthside Homes fully complied with the requirements of Special Condition 23 has allowed these cultural resources and human bone concentrations to be safely recovered and – in accordance with the recommendations of the most likely descendants – to be reburied in the future with respect and dignity.

The archaeological work in question, which resulted in the discovery of additional human bone concentrations and artifacts that are the subject of the revocation request, was completed in 2006 after issuance of the CDP and prior to commencement of construction grading activities. Hearthside's archaeological consultant, SRS, is in the process of documenting the recovered cultural materials in preparation for reburial of these artifacts with the human bone concentrations that were discovered during the 2006 work done pursuant to the Archaeological Grading Monitoring Plan. The procedures that were employed upon discovery of the human bone concentrations are described in the enclosed documents; however, as required by law, the Orange County Coroner's office was notified and reviewed the human bone concentrations. The "most likely descendants" identified by the Native American Heritage Commission were also notified and consulted regarding their recommendations. Finally, as required by the CDP, all archaeological work was monitored by representatives from Native American tribal groups from the Orange County/Los Angeles County area (Juanenos and Gabrielino) and these monitors notified the Native American Heritage Commission as these discoveries occurred. In accordance

Teresa Henry  
September 5, 2008  
Page 4

with the wishes and recommendations of the Native American most likely descendants, the human bone concentrations and cultural artifacts will be reburied in an area in accordance with State law.

*Of significance as it pertains to the pending revocation request is that all of the archaeological work and recovered materials (including human bone concentrations) that are the subject of the revocation request were conducted after issuance of the CDP in December 2005. Equally important, all of the archaeological resource information that was known to Hearthside Homes was provided to the Coastal Commission either prior to or as part of its CDP application package. There was no intentional inclusion of inaccurate, erroneous or incomplete information, or an intentional exclusion of information regarding the archaeological resources.* As the enclosed History Document demonstrates, at the conclusion of every phase of archaeological work, information regarding the discoveries was submitted to the California Coastal Commission. Although not relevant to the Commission's consideration of the revocation request, we wish to also underscore that Hearthside Homes and SRS complied with the requirements of the Public Resources Code and the Health and Safety Code by notifying the Orange County Coroner of the discovery of human bone concentrations, and consulting with the Native American most likely descendants appointed by the Native American Heritage Commission to obtain their recommendations.

In your letter, you requested that Hearthside Homes provide a detailed annotated chronology and maps of all human remains and artifacts found within the two archaeological sites (ORA-85 and ORA-83) located within the area covered by Coastal Development Permit No. 5-05-020 (the "CDP"). In response to your request, representatives of Hearthside Homes met with you on July 14, 2008 to review the history of the archaeological work on these two archaeological sites and the status of the project's compliance with the Archaeological Monitoring and Mitigation Plan (or "Archaeological Grading Monitoring Plan") prepared pursuant to Special Condition 23 of the CDP and approved by the Coastal Commission staff.

Transmitted with this letter are two maps showing the location of all archaeological work that has occurred at both of these sites since the 1980's, including delineation of those areas in which purposeful or archaeological grading occurred. You also requested that the maps depict the location of all human remains and artifacts found. David Belardes, one of the Native American most likely descendants has requested that the location of human remains and artifacts not be disclosed, and we have honored his request. (See enclosed memorandum from David Belardes dated July 12, 2008.)

In conclusion, the parties requesting revocation have failed to demonstrate that grounds for revocation exist. There is no evidence to support that inaccurate, erroneous or incomplete



Teresa Henry  
September 5, 2008  
Page 5

information was intentionally submitted or that additional information would have rendered a different decision.

We respectfully request the Coastal Commission to deny the revocation request.

Very truly yours,



Susan K. Hori  
Manatt, Phelps & Phillips, LLP

Enclosures

cc: Ed Mountford

70064554.1

*EX. 5 p. 5*

# **Juaneno Band of Mission Indian, Acjachemen Nation**

31742 Via Belardes, San Juan Capistrano, Ca 92675 949-493-0959 [kaamalam@gmail.com](mailto:kaamalam@gmail.com)

---

## **Memorandum**

Date: July 12, 2008

To: Ed Mountford, Vice President, Hearthside Homes  
Cc: Nancy Desautels Wiley, President, S.R.S

From: David Belardes, Chief, Chairman and MLD

RE: Maps of human remains and their belongings.

The intent of this memorandum is to express our concerns regarding the California Coastal Commissions request for detailed maps of our ancestral remains and their belongings that were unearthed on your project known as Brightwater. As you are aware California Public Records Act Exemption from Disclosure (6254 (r) requires records of Native American graves, cemeteries and sacred places maintained by the Native American Heritage Commission to be kept confidential. While the law forbids disclosure to public agencies, more importantly our policy and religious beliefs prohibit the public from having access to this information. The Coastal Commission is a public agency and if detailed maps of our burial sites are made public we would view this as a blatant disrespect to an already painful situation. Additionally, we would like to prevent our ancestors from being used as a political tool.

We strongly urge you to maintain the agreements that Hearthside and the JBMI have established and not provide ANY copies of this confidential information to any public agency.

We thank you for your consideration.

*EX. 5 p. 5*

**HISTORY OF BOLSA CHICA ARCHAEOLOGICAL RESEARCH AND SALVAGE WORK  
CONDUCTED BY SCIENTIFIC RESOURCE SURVEYS, INC. [SRS], 1980-2008**

The Bolsa Chica Mesa has been subject to a 28-year integrated extensive research program conducted by Scientific Resource Surveys, Inc. [SRS]. This research spanned the years 1980-2008 and included a comprehensive and systematic series of archival research, surface surveys, test excavations and data recovery programs conducted pursuant to Coastal Development Permits 5-83-702, 5-83-984, 5-89-772 and 5-05-020 and the cultural resources guidelines of the County of Orange. The Research and Salvage Program was first established in the 1983 Research Design for the project and over the years included the following phases:

**SUMMARY CHRONOLOGY OF ARCHAEOLOGICAL INVESTIGATIONS  
WITHIN THE BRIGHTWATER PROJECT**

1980-1983	Field & Library Work: Property Surveys; Background Research
1983-1988	Field Work: Test Excavations: CA-ORA-78,-83,-84,-85,-289 [CDP 5-83-984; CDP 5-83-702]
1990-1994	Field Work: Data Recovery Programs: CA-ORA-83,-85 [CDP 5-89-772; CDP 5-83-702]
1994	Reburial: 32 bone concentrations found by hand excavation from CA-ORA-83
1999	Field Work: Survey, Background Research, Test Program, Grading Monitoring: CA-ORA-86 [City of Huntington Beach Permit]
1999	Reburial: 1 bone concentration found by Construction Grading Monitoring for Sandover Project, City of Huntington Beach from CA-ORA-86.
1998-2003	Field Work: Data Recovery Programs: CA-ORA-83 [Peer Review MOA work]
2003	Reburial: 40 bone concentrations found by Archaeological Grading and Backhoe Trenching from CA-ORA-83 25 circular depressions also located.
2006	Field Work: Grading Monitoring; Feature Recovery: CA-ORA-83,-85 [CDP-5-05-020]
2007-2008+	Laboratory Documentation: Human Remains, Associated Artifacts
2007	Reburial: 17 bone concentrations found by Archaeological Grading and Construction Grading Monitoring from CA-ORA-85
2008	Reburial to come: 87 bone concentrations, 76 features and 15 categories of sacred artifacts found by Archaeological Grading from CA-ORA-83

**RECEIVED**  
South Coast Region

SEP 5 - 2008

CALIFORNIA  
COASTAL COMMISSION

**1980-83 FIELD WORK: PROPERTY SURVEYS; BACKGROUND RESEARCH**

Reported Plan: An initial archival search included aerial photo documentation and studies of previous academic and amateur searches of the property followed by a thorough field survey in 1980. Two successive evaluations were prepared from this work [1981, 1982] and the first of a series of research designs [1983]. Coastal Commission submittals are starred [\*].

Analytical Reports:

- 1981 *Ora-83: An Archaeological Evaluation for National Register Status.* Principal Authors, R. J. Desautels and N. A. Whitney-Desautels.
- 1982 *Ora 83: An Archaeological Re-evaluation for National Register Status.* Principal Author, R. J. Desautels.
- 1983\* *Archaeological Research Design. Ora-83: "The Cogged Stone Site", Final Research and Salvage Program.* Principal Author, N. A. Whitney-Desautels.

**1983-1988 FIELD WORK: TEST EXCAVATIONS ON CA-ORA-78,-83,-84,-85**  
**[CDP PERMIT 5-83-702; 5-83-984]**

Reported Plan: Subsurface exploration programs occurred during the years 1983-1988. Test excavations on CA-ORA-78,-83,-84,-85 determined the boundaries of the various archaeological resources for project avoidance/mitigation at this time resulting in the preparation of four test reports [1986, 1987b, 1987c, 1987d]. First phase data recovery work at CA-ORA-83 was conducted pursuant to CDP-5-83-984. A second research design, regional in scope, was also prepared for the second phase of data recovery excavations at CA-ORA-83 [1987a]. *Coastal Commission submittals are starred [\*].*

Burials Located: None on any site. Alika Herring allegedly found human bone fragments in the late 1960's on the surface of CA-ORA-85 during his field work as previously reported by SRS in analytical report 1987d.

Analytical Reports:

- 1986\* *Archaeological Evaluation of CA-ORA-83: The Cogged Stone Site on Bolsa Chica Mesa, Orange County, California.* Principal Authors, N. A. Whitney-Desautels and Roger D. Mason.
- 1987a\* *Research Design for Evaluation of Coastal Archaeological Sites in Northern Orange County, California.* Principal Author, R. D. Mason.
- 1987b *Archaeological Investigations at CA-ORA-78, Bolsa Chica Mesa, Orange County, CA. Revised Version.* Principal Author, N. A. Whitney-Desautels.
- 1987c *Archaeological Investigations at CA-ORA-84, Bolsa Chica Mesa, Orange County, CA. Revised Version.* Principal Author, N. A. Whitney-Desautels.
- 1987d\* *Archaeological Assessment of a Portion of CA-ORA-85, Bolsa Chica Mesa, Orange County, CA. Revised version.* Principal Author, N. A. Whitney-Desautels.

**1990-1994: FIELD WORK: DATA RECOVERY PROGRAMS**  
**[CDP PERMIT 5-89-772]**

Reported Plan: The second phase of the CA-ORA-83 data recovery program ensued in 1990 and continued through 1994. CDP Permit 5-89-772 was for conducting the second phase data recovery program on CA-ORA-83 as mitigation to impacts from proposed development. The excavations were to occur within areas containing site materials as determined by the 1980's test programs on CA-ORA-83 (primarily in the eucalyptus grove).

Burials Located: 32 bone concentrations, on CA-ORA-83 including:  
1 dolphin [partial] and 1 deer [articulated neck vertebrae]  
and a maximum of 32 individuals [two double burials].  
All burials were *found by hand excavation* and were confined to the eucalyptus grove on the southwest portion of the property. All data below is from this site.

Dates: 1990: June: cut human bone located; treated as an artifact:  
1992: June-November: 12 concentrations  
1993: April-December: 19 concentrations

Coroner's Reporting: 17-June-92; 29-June-92;  
22-July-92 Letter of qualifications: Dr. Nancy A. Wiley to Bruce Lyle, O.C. Coroner's office. Dr. Wiley authorized to monitor remaining finds to insure Native American origin.

May- Aug. 1993: 3 calls [one per month, average]  
15-Aug-93; 30- Sept-93: Case# 05868-LL assigned;  
12-Oct-93: Dr. J. Suchey, Forensic Anthropologist, Coroner's office authorizes SRS physical anthropologist, David Kice to monitor remaining finds to insure Native American origin.  
3-Nov-93; 26-Nov-93; 14-Dec-93.

NAHC Notifications: June 1992: Sacramento visit to Larry Meyers, NAHC by David Belardes, Juaneno and Dr. Nancy Wiley, SRS, Inc. Presented and discussed only human bone found to date [in June 1990]: cut and modified [whittled] human bone.  
17-Jun-92; 29-Jun-92 [call and letter by SRS liason P. Ibanez];  
Continual calls on a monthly basis by Ibanez.  
15-Aug-93; 3-Nov-93; 10-Nov-93 by coroner's office.

MLD's/ Native Monitors: March 1990-June 1990: Raymond Belardes [Juaneno], Michael Barthelemy [Gabrielino], MLD's. R. Belardes & sons monitored.  
June 1990-November 1993: David Belardes [Juaneno], MLD. Do. Belardes, D. Fritze, M. Bracamontes, S. Dunlap monitored. P. Ibanez was monitoring supervisor; represented C. Alvitre [Gabrielino].  
January 1994: NAHC appt'd 5 MLD's for this project: D. Belardes [Juaneno], C. Alvitre, M. Alcalá, V. Rocha, J. Velasquez [Gabrielino].  
February 1994: NAHC appt'd 1 additional MLD: L. Robles [Juaneno].

Reburial: 1994: Reburial at designated reburial area

*Associated grave goods*: defined as those materials found to be directly associated with each bone concentration including those materials and artifacts within a known or projected burial pit.

Reporting: Several drafts of a burial data report were prepared by David Kice, physical anthropologist for SRS, Inc. and forensic anthropologist for the LA Coroner's office. A final burial data report was prepared in 1995. Synopsis and boundary definition reports were also prepared as a result of this effort [1995a, 1995b, 1995c] and the third research design, a research design for analysis of the excavated materials, was prepared [1995d] with two subsequent revisions [1997, 1998]. *Coastal Commission submittals are starred [\*]*.

Burial Data Reports:

1995 Third Draft: *Report on Human Skeletal Remains from CA-ORA- 83: The Cogged Site, Bolsa Chica Mesa, Orange County, California.*  
Principal Author: David Kice.

Analytical Reports:

1995a \* *Synopsis Reports: CA-Ora-85: The Eberhart Site, CA-Ora-83: The Cogged Stone Site, History of the Development of Conclusions.*  
Author, N.A. Whitney-Desautels.

1995b *Bolsa Chica Lowlands: Natural Shell Deposits Investigation.*  
Author, N. A. Whitney-Desautels.

1995c *Site Boundaries: CA-ORA-83: The Cogged Stone Site.*  
Author, N. A. Whitney-Desautels.

1995d- *Compendium of Themes and Models, Vol. 1; Research Design for*  
1998 *Analysis. Principal Author, N. A. Whitney-Desautels. Revised 1997, 1998.*  
Draft Manuscript submitted to The Koll Company.

**1999 SURVEY, BACKGROUND RESEARCH, TEST PROGRAM, GRADING  
MONITORING: CA- ORA-86  
[SANDOVER CONSTRUCTION PROJECT, CITY OF HUNTINGTON BEACH]**

Reported Plan: In 1999, a survey, background research and test program was conducted on CA-ORA-86. This is the only site on Bolsa Chica Mesa that is situated within the jurisdiction of the City of Huntington Beach. After the completion and acceptance of three reports [1999a, 1999b and 1999c] construction grading monitoring occurred.

Burials Located: One burial consisting of small skull fragments was found under an 'upside-down' metate while monitoring construction grading for the Sandover Project, City of Huntington Beach.

Dates: August 3, 1999.

Coroner's Reporting: August 3, 1999; call and site visit by J. Suchey, forensic anthropologist, for the coroner's office. Case# 99-05178-ME assigned.

NAHC Notifications: August 4, 1999 by coroner's office. Also by J.Perry, Juaneno monitor.

MLD's/ Native Monitors David Belardes, Juaneno, MLD. Joyce Perry, Juaneno, monitor.

Reburial: 1999 in designated reburial area.

Reporting: A total of four reports were prepared for this site in 1999 which include a survey and background summary [1999a], a research design for test excavations [1999b], findings of test excavations [1999c] and a grading monitoring report [1999d].

Analytical Reports

- 1999a *Archaeological Site ORA-86: Herring's Site E and the Sandover Project.*  
Author, N.A. Whitney-Desautels.
- 1999b *Research Design for Test Excavations: ORA-86: Herring's Site E.*  
Author, N.A. Whitney-Desautels.
- 1999c *Summary of Findings: Test Excavations on ORA: 86: Herring's Site E.*  
Author, N.A. Whitney-Desautels.
- 1999d *Grading Monitoring for the Sandover Project: Herring's Site E.*  
Author, N.A. Whitney-Desautels.

**1998-2003 FIELD WORK: DATA RECOVERY PROGRAM:**  
**[CDP PERMIT 5-89-772; PEER REVIEW MOA]**

Reported Plan: Final Data Recovery was completed on CA-ORA-83 in 2003 under the final research design for recovered material evaluation [2003a] and described in two analytical documents [2003b, 2003c]. This excavation phase was conducted pursuant to the Memorandum of Agreement [MOA] by the CCC peer reviewers for this project in response to concerns by the Pacific Coast Archaeological Society. The excavations included: backhoe trenches in the 'plowed field' surrounding the eucalyptus trees, a rock picking program to collect as many clogged stones from the plowed soils as possible, and hand-excavation of any features exposed by the trenching. Archaeo. grading to find and recover unknown features comprised the final portion of the work.

Burials Located: 40 bone concentrations located; initial backhoe trenching discovered several bone concentrations; hand-excavations followed for these and other features [i.e. 25 circular structural remains] located by this method. Archaeological grading was conducted as a final part of this phase in order to locate and remove any additional bone concentrations or other features.

Dates:  
1999: The first bone concentration was found by backhoe on November 3, 1999  
2000: 7 bone concentrations found by Backhoe Excavations  
2001: 16 bone concentrations found by Archaeological Grading  
2002: 17 bone concentrations found by Archaeological Grading

Coroner's Reporting:  
1999: 4-Nov-99; Case# 99-07108-LL [human bone in backdirt pile]  
22-Nov-99; Case# 99-05178-ME [remainder of first burial]  
2000: 4-Apr-00; Case# 00-02277-RO  
27-Apr-00; Case# 00-02791-LY  
May-00 [twice in May under same case]  
17-May-00; Case#00-02791-LY  
13-Jun-00; Case# 00-03972-GA  
P. Langenwalter approved to monitor human bone for coroner  
2001: 2-Sept-01  
2002: Jan-02: 18 bone concentrations reported for remainder of 2001 and January 2002  
12-Jun-02: 02-03972-GA reported Archaeo. Grading started again

NAHC Notifications:  
1999: 5-Nov-99  
2000: 13-Apr-00; 28-Apr-00; 18-May-00; 14-Jun-00  
2001: Sept-01 by J. Perry, Juaneno and continually as found  
2002: 14-Jun-02

MLD's/ Native Monitors:  
Project started with original 6 MLD's designated by NAHC in 1994:  
D. Belardes, L. Robles, C. Alvitre, M. Alcalá, V. Rocha, J. Velasquez.  
M. Alcalá was removed as an MLD by NAHC and both L. Robles and V. Rocha died during this project. Monitors included: J. Perry, T. Perry [Juaneno]; R. Dorame, M. Dorame [Gabrielino]

Reburial: 2003. Reburial at designated reburial area



*Associated grave goods:* as in 1994, defined as those materials found to be directly associated with each bone concentration including those materials and artifacts within a known or projected burial pit.

Reporting: This phase was completed in 2003 under the final research design for recovered material evaluation [2003a] and described in two analytical documents [2003b,2003c]. *Coastal Commission submittals are starred [\*].*

Burial Data Report:

2004 CA-Ora-83 Burial Report Form. Principal Author: Paul Langenwalter.

Analytical Reports:

- 2002a\* *Status Report on ORA-83 Archaeological Investigations.* Principal Author, Nancy Anastasia Desautels.
- 2003a\* *The Bolsa Chica Archaeological Project, Vol. 1: Research Design and Implementation.* Principal Author, Nancy Anastasia Desautels.
- 2003b\* *Archaeological Site, CA-ORA-85: the Eberhart Site [Synopsis: A History of Archaeological Investigations].* Principal Author, Nancy Anastasia Desautels.
- 2003c\* *Archaeological Site, CA-ORA-83: the Cogged Stone Site [Synopsis: A History of Archaeological Investigations].* Principal Author, Nancy Anastasia Desautels.
- 2003d *The Bolsa Bay Archaeological Project, Abstract: Special Site Functions and the Extraordinary.* Authors, Nancy Anastasia Desautels, Henry C. Koerper, Jeffrey S. Couch, Joanne S. Couch and Robert M. Beer. Draft manuscript submitted to Hearthside Homes.

Publications:

- 1999d "A Cowry Shell Artifact from Bolsa Chica: An Example of Prehistoric Exchange." *Pacific Coast Archaeological Society Quarterly* 35 (2 and 3):81-95. Authors, Henry C. Koerper, and Nancy Whitney-Desautels.
- 1999e "Astragalus Bones: Artifacts or Ecofacts?." *Pacific Coast Archaeological Society Quarterly* 35 (2 and 3):69-80. Authors, Henry C. Koerper and Nancy A. Whitney-Desautels.
- 2002b Quartz Crystals and Other Sparkling Minerals from the Bolsa Chica Archaeological Project." *Pacific Coast Archaeological Society Quarterly* 38[4]; 61-83 [Winter 2002]. Authors, Henry C. Koerper, Nancy Anastasia Desautels and Jeffrey S. Couch. Printed 2006.
- 2003d "Prehistoric Dolomite and Obsidian Disc Beads: New California Artifact Types from Orange County." *Pacific Coast Archaeological Society Quarterly* 39 (1):53-64 [Winter 2003]. Authors, Henry C. Koerper, Joanne H. Couch, Jefferey S. Couch and Nancy Anastasia Desautels. Printed 2007.

**2006 CULTURAL RESOURCES GRADING MONITORING; FEATURE RECOVERY:**  
**[CDP PERMIT 5-05-020]**

Reported Plan: A Cultural Resources Grading Monitoring Plan was prepared in 2005 and submitted to the Coastal Commission as required by Special Condition 23 of CDP 5-05-020. This program consisted of large area archaeological grading encompassing the full parameters of archaeological site areas CA-ORA-85 and CA-ORA-83 that would be impacted by construction grading. Archaeological grading on both sites produced numerous rock features, shell features, artifact concentrations and human burials or reburials as anticipated under the Grading Monitoring Plan. As discovered, each feature or burial was hand-excavated, fully documented and recovered. SRS, Inc. then conducted monitoring of construction grading in these areas.

Archaeological Grading Monitoring 83:	April 2006- May 2006
Archaeological Grading Monitoring 85:	May 2006- July 2006
Construction Grading Monitoring 85:	began July 2006
Archaeological Grading Monitoring 83:	July 2006- November 2006
Construction Grading Monitoring 83:	began October 2006

Burials Located: CA-ORA-85: 17 bone concentrations: 12 human; 5 animal  
CA-ORA-83: 89 bone concentrations: 74 human; 15 animal

Dates: All bone concentrations from both sites were found in 2006:  
CA-ORA-85: 11 human bone concentrations and all animal bone concentrations found during Archaeological Grading. 1 human bone concentrations found during Construction Grading.

CA-ORA-83: All human bone concentrations found by Archaeological Grading; 2 animal bone concentrations found during Construction Grading

Coroner's Reporting: CA-ORA-85: 30-May-06: first bone concentration found: call to OC Coroner's office Case#: 06-03433-WI assigned to this site.  
22-Jun-06: site visit by T. Williams, forensic anthropologist, OC Coroner's office. 8 [#1-8] bone concentrations exposed for her review. P. Langenwaller assigned to monitor remains; Coroner will view all at end of the project.  
28-Jul-06: last bone concentration [#17] found.  
28-Jan-07: Cullen Ellingburgh, Supervising Deputy, OC Coroner's office: sees no forensic issues and clears burials for reburial [ e-mail].

CA-ORA-83: 25-Jul-06: first bone concentration found: call to OC Coroner's office. Case#: 08-02374-WI assigned to this site at project end.  
19-Aug-06: site visit by T. Williams, forensic anthropologist, OC Coroner's office. A partial burial was available for her review. P. Langenwaller assigned to monitor remains; Coroner will view all at end of the project.  
26-Apr-08: Final review of bone concentrations [both human and animal]. Report states: "no modern forensic evidence found".

NAHC CA-ORA-85: 30-May-06: J. Perry, Native American monitor calls when  
Notifications: first burial is found and continually as concentrations are found.  
22-Jun-06: by OC Coroner's office, T. Williams, forensic anthropologist.

CA-ORA-83: J. Perry Native American monitor calls when  
first burial is found and continually as concentrations are found.  
4-Oct-06: Letter from NAHC appointing Anthony Morales as Gabrielino  
MLD as proxy for C. Alvitre.  
17-Dec-07; 26-Apr-08 by Coroner's office with forensic report.

MLD's/ Both sites: MLD's: D. Belardes [Juaneno] and C. Alvitre [Gabrielino].  
Native J. Velasquez died before project began.  
Monitors: Monitors: J. Perry, T. Perry, A. Silva, M. Mendez, T. Rostivo, R. Sellars  
[Juaneno]; R. Dorame, G. Dorame, Go. Dorame, M. Dorame, K. Dorame,  
Jordan [Gabrielino]  
4-Oct-06: Letter from NAHC appointing Anthony Morales as Gabrielino  
MLD as proxy for C. Alvitre.

Reburial: CA-ORA-85: 2007: 17 bone concentrations: 12 human; 5 animal;  
*Associated grave goods:* defined as those materials found to be directly  
associated with each bone concentration including those materials and  
artifacts within a known or projected burial pit.

- CA-ORA-83: [to come]: 89 bone concentrations: 74 human; 15 animal;  
*Associated grave goods:* defined as all features and artifacts that can  
reasonably be shown to have been buried with the deceased including:
1. artifacts uncovered at the same soil level of the human remains located  
either within the burial pit or a projection of the pit when a pit is absent;
  2. artifacts located in the level above the human remains but still within the  
actual or projected grave pit;
  3. artifacts located in the level below the human remains which may have  
been buried contemporaneously but was uncovered at a deeper level  
because of rodent action or other disturbances;
  4. features [a cluster of 3 or more items] located within a few meters of the  
burial [such as hearths, artifact caches or 'killed' artifacts] that are buried  
to the side of the human remains in a separate pit but which appear to be  
contemporaneous with the human remains; and
  5. artifacts and features that appear to be associated with the human  
remains, such as those located in a house pit that also contain the human  
remains.
  6. In addition, all artifacts that are thought to be sacred or ceremonial  
including: cogged stones, discoids, charmstones, crystals, bowls,  
beads, blades, eccentrics, gaming pieces, pendants, rattles, sweat  
scrapers, whistles, other talisman and all collected ochre [15 categories].

Reporting: Final Laboratory Work and the preparation of Data Recovery Reports are in process. A total of four artifact-specific articles [1999d, 1999e, 2002, 2003d] have been published from this project, as reported earlier and several more are in process. In addition two academic presentations were made to state-wide colleagues in both 2007 and 2008. *Coastal Commission submittals are starred [\*].*

Analytical Reports:

- 2005\* *Cultural Resources Grading Monitoring Plan, Special Condition #23, Permit Application No. 5-05-020. Author, Nancy Anastasia Desautels Original Submitted to Signal Landmark Sept. 2003.*
- 2006-2010 Multiple Feature Documentation and Excavation. Final Laboratory Analysis and Data Recovery Reports in Process. Completion expected 2010.

Academic Presentations:

- 2007 "The Keystone Cache: Saved by the Well", *Proceedings of the Society of California Archaeology*, 2007 Annual Meeting, San Jose, California. Authors, Jeffrey S. and Joanne S. Couch and Nancy Anastasia Wiley.
- 2008 "State of the Art-ifact: 360° Curational Photo Modeling of the Keystone Cogged Stone Cache". *Proceedings of the Society of California Archaeology*, 2008 Annual Meeting, Burbank, California. Authors, Jeffrey S. Couch, Charles Stratton and Nancy Anastasia Wiley.

# CA-ORA-83:

**RECEIVED**

South Coast Region

OCT - 9 2008

CALIFORNIA  
COASTAL COMMISSION

CDP 5-89-772

CDP 5-89-772

Peer Review MOA

CDP 5-05-020

Excavation Units and Trenches  
Composite: All Season

Survey Grid / ARI / 1974-1975

Survey Grid / Prehistoric Area Previously Defined (1975 Butzbach, Carter & Howard)

Survey Grid / SRS / 1984 / Grid Extention

Survey Grid / SRS / 1999 / Grid Extention

Survey Grid / SRS / 2006 / Grid Extention

Excavation / Auger / ARI / 1975

Excavation / Auger / ARI / 1975 Soils

Excavation / Auger / SRS / 1984

Excavation / Backhoe Trench / ARI / 1971

Excavation / Backhoe Trench / SRS / 1984

Excavation / Backhoe Trench / SRS / 1999

Excavation / Backhoe Trenches / SRS / Wet Screen Trench Areas

Excavation / Unit / Eberhart / 1968

Excavation / Unit / ARI / 1971

Excavation / Unit / SRS / 1984

Excavation / Unit / SRS / 1990

Excavation / Unit / SRS / 1999

Excavation / Unit / SRS / 2006

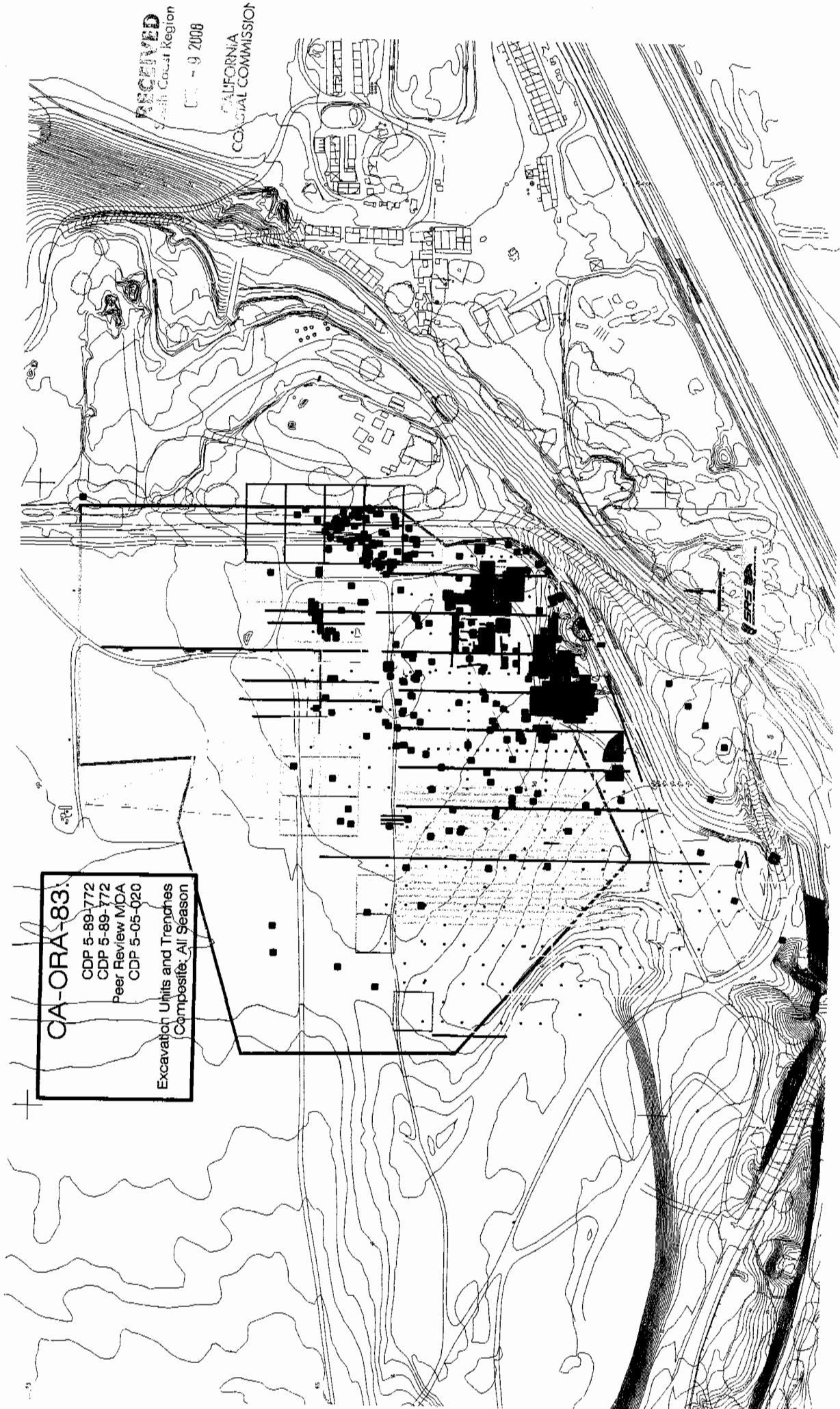
Excavation / Archaeological Grading / SRS

Feature / Historic / Cement Pipes

Feature / Historic / Communication Cable

Feature / Historic / Metal Pipes

EX. 7 p.1



RECEIVED  
South Coast Region  
SEP 9 2008  
CALIFORNIA  
COASTAL COMMISSION

CA-ORA 83  
CDP 5-89-772  
CDP 5-89-772  
Peer Review MDA  
CDP 5-05-020  
Excavation Units and Trenches  
Composite: All Season

EX. 7, P. 2

RECEIVED  
South Coast Region

OCT - 9 2008

CALIFORNIA  
COASTAL COMMISSION

# CA-ORA-85:

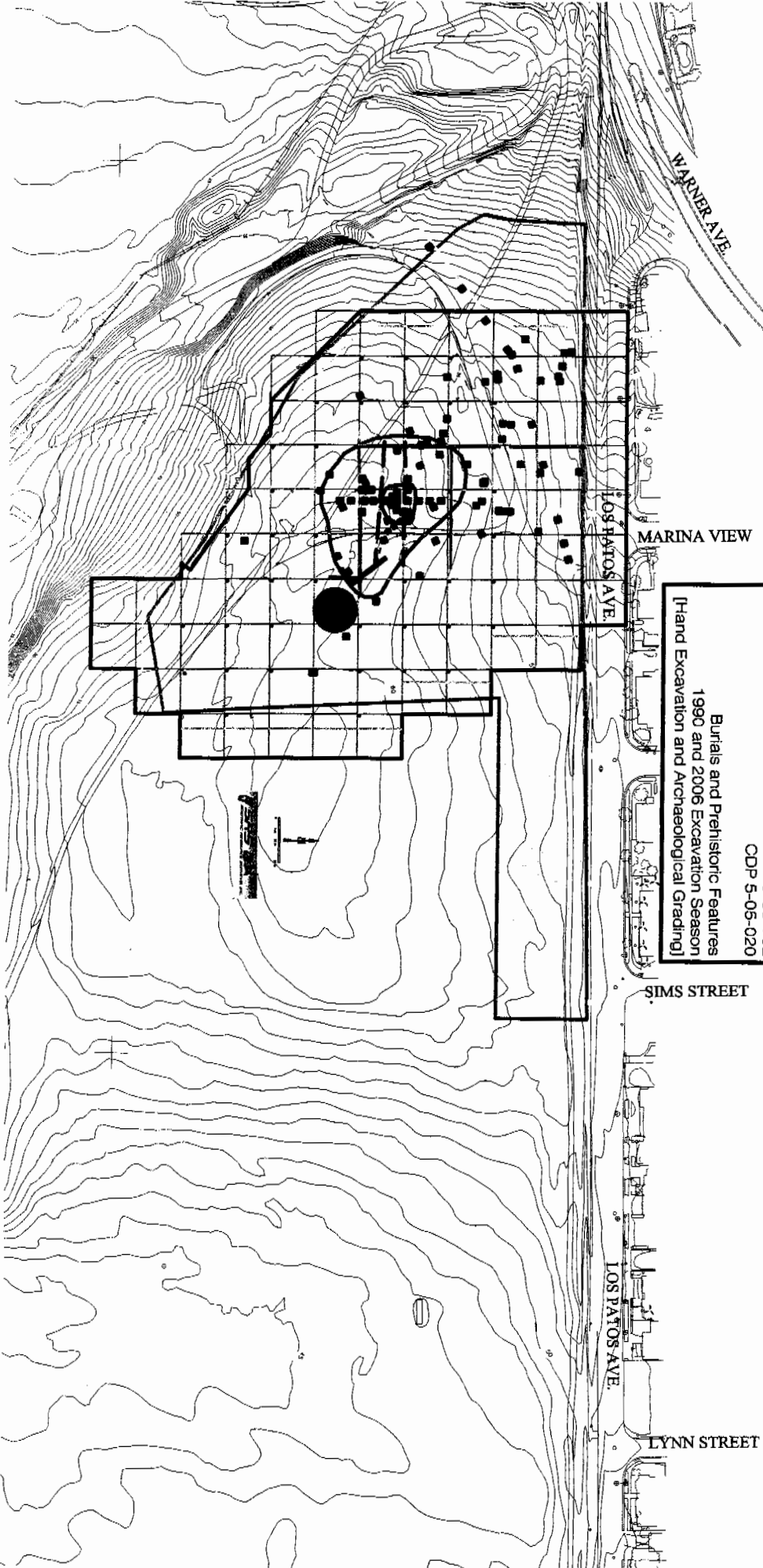
CDP 5-83-702

CDP 5-05-020

Burials and Prehistoric Features  
1990 and 2006 Excavation Season  
[Hand Excavation  
and Archaeological Grading]

- Survey Grid / ERC / 1988 / Shell Surface Collection
- Survey Grid / ERC / 1988 / Shell Surface Collection Limit
- Site Boundary / ERC / 1988 / Dispersed Shell Area
- Site Boundary / SRS / 1990 / Sub Surface Site Boundary
- Excavation / Units / ERC / 1988 / STPs
- Excavation / Backhoe Trench / HHH / 1986
- Excavation / Backhoe Trench / ERC / 1988
- Excavation / Backhoe Trench / SRS / 1990
- Excavation / Units / Eberhart / 1964
- Excavation / Unit / SRS / 1986
- Excavation / Units / ERC / 1988
- Excavation / Units / SRS / 1990
- Excavation / Units / SRS / 2006
- Excavation / Archaeological Grading / SRS / 2006
- Feature / Historic / Agricultural Pipe

EX. 8 p1



**CA-ORA-85:**  
 CDP 5-83-702  
 CDP 5-05-020  
 Burials and Prehistoric Features  
 1990 and 2006 Excavation Season  
 [Hand Excavation and Archaeological Grading]

**RECORD**  
 South Coast Region  
 OCT - 9 2008  
 CALIFORNIA  
 COASTAL COMMISSION

EX. 8 P. 2



SEP 5 - 2008

**DEFINITION OF SITE BOUNDARIES:**  
**CA-ORA-83, THE COGGED STONE SITE**

CALIFORNIA  
COASTAL COMMISSION

**Site Definition: Before 2005**

Over the past 40 years, scientific investigations have been completed on the *Cogged Stone Site*, CA-ORA-83, by: California State University at Los Angeles and the Pacific Coast Archaeological Society [CSULA and PCAS: 1960's]; Archaeological Research Inc. [ARI: 1970's]; and SRS [1980s-2006]. The boundaries of the archaeological site changed over time as a result of information gathered by each successive investigation. The collection and excavation areas of each investigator are color-coded on the attached map. The original site boundary was determined by surface evidence only [grid area]. Limited test programs began to refine the subsurface aspect of the site and particularly that portion which might be still intact and not subject to years of disturbance by plowing, deep ripping, agricultural activities and the construction of World War II facilities on-site. By the time SRS, Inc. became involved in the site in the early-1980's the site boundary had already been established by CSULA, PCAS and ARI. This boundary is shown on the attached map by teal-colored blocks.

Site testing by SRS in the 1980's revealed that a portion of the mesa, south of the defined site area, in fact contained a much richer, deeper and relatively intact midden than had been identified in the previously defined teal site area, resulting in a redefinition of the site boundaries [see excavations unit grid]. A multi-phased data recovery program by SRS began in 1990. The excavations occurred within areas containing site materials as determined by the 1980's test programs on CA-ORA-83 (primarily in the new southern extension) verifying that, in fact the southern area, outside the teal site boundaries, was the best area for site sampling and characterization. From 1998-2003 excavations were carried out pursuant to a Memorandum of Agreement [MOA] by the CCC peer reviewers for this project in response to concerns by the Pacific Coast Archaeological Society that additional work in the originally defined teal site area was needed. The excavations included: backhoe trenching, a rock picking program to collect as many cogged stones from the plowed soils as possible, and hand-excavation of any features exposed by the trenching. To be thorough, the archaeological work extended beyond the original teal site area. These investigations again redefined the site boundaries by locating significant features north of the previously defined teal site area. Several areas within the defined site boundaries were inaccessible due to numerous historic features including roads, pipelines, oil derrick remains, and World War II communication cables running between three bunkers. The SRS Data Recovery Program was then expanded in order to expose and collect an 'approximately 97%' sample of the accessible areas within the refined site boundaries.

**Site Definition: After 2005 Excavations**

At the request of the CCC peer review group, a unique final data recovery measure was instituted which ensured that a 100% sample of the site was taken. Pursuant to Special Condition 23, CDP Permit 5-05-020, an archaeological grading program commenced in 2006 prior to construction grading. The entire eastern portion of the mesa was slowly graded under archaeological supervision, despite the fact that only a portion of this area was known to contain subsurface site materials. A total of 151 features were uncovered by archaeological grading and hand-excavation. These included 75 human bone concentrations and 76 animal bone or rock features. The majority of these features were located northeast of the previously defined teal site area in an area inaccessible during previous investigations; under two roads that had been actively in use.

Ex. 9, p 1

The site boundaries had now been redefined three times by SRS during the 1980's, 1990's and first decade of 2000. The redefinitions included dense midden to the south of the previously defined teal site area and feature locations in non-midden, sterile areas to the north, both located before 2005; with additional features in sterile areas northeast of the defined site uncovered in 2006. A complete listing of recovered features from all investigations and their locations vis-à-vis established site boundary definitions are itemized below. A total of 70% of the human remains and 55% of the animal bone and rock features were located outside the defined teal site boundaries. Conversely, 92% of the circular depressions [or structural remains] were found in the defined teal site area. It appears, then, that the teal site area as defined by previous investigators was essentially reflecting activities associated with dance floors and structures, while the areas outside the original teal site boundaries that were discovered by SRS included the human bone complexes and their associated rock features. With the exception of the southern complex, the remainder of the human bone concentrations and features were located in non-midden, sterile soils. Nothing existed either on the surface or in the subsurface soils to indicate that the site may extend into these areas. Consequently, these portions of the site were not examined by previous investigators and only fully recorded after the 2006 archaeological grading effort.

**Total Burials: [147]**

32 south of original midden definition: teal-colored blocks  
15 north of grid area and original teal site area  
45 northeast of grid area and original teal site area  
8 within grid but outside defined teal site area  
**100 [70%] outside original teal site boundaries**

**Total Features: [127]**

25 south of original midden definition: teal-colored blocks  
5 north of grid area and original teal site area  
25 northeast of grid area and original teal site area  
15 within grid but outside defined teal site area  
**70 [55%] outside original teal site boundaries**

**Total Circular Depressions: [26]**

**2 [8%] outside original teal site boundaries**

SEP 5 - 2008

**DEFINITION OF SITE BOUNDARIES:**  
**CA-ORA-85, THE EBERHART SITE**

CALIFORNIA  
COASTAL COMMISSION

**Site Definition: Before 2005**

Over the past 40 years, scientific investigations have been completed on the *Eberhart Site*, CA-ORA-85, by: California State University at Los Angeles and the Pacific Coast Archaeological Society [CSULA and PCAS: 1960's]; Archaeological Research Inc. [ARI: 1970's]; Environmental and Engineering Services Co., ERC [1980's]; and SRS [1980s-2006]. The boundaries of the archaeological site changed over time as a result of new information gathered by each successive investigation. The collection and excavation areas of each investigator are color-coded on the attached map. The original site boundary was determined by surface evidence only [magenta polyline]. Limited test programs began to refine the subsurface aspect of the site; particularly that portion which might be still intact and not subject to years of disturbance by plowing, deep ripping, and the construction of World War II facilities on-site. By the time SRS, Inc. became involved in the site in the late 1980's, the site boundary had already been established by CSULA, PCAS, ARI and ERC [red polyline].

A multi-phased data recovery program by SRS was conducted in 1990. Backhoe investigations verified that a large shell scatter could be seen which closely approximated the previously established site boundaries [magenta line]. A series of hand excavated units were then used to further refine and delineate the subsurface aspect of the site so that the 'core area' could be determined; an area that contained subsurface evidence of an intact sequence of soils deposits. This area is delineated on the attached map by the red polyline. Two metal pipelines associated with 1900's agricultural irrigation on this site rendered portions of the core area inaccessible. The SRS Data Recovery Program was then expanded in order to expose and collect a 'nearly 100%' sample of the accessible areas within the refined site boundaries.

**Site Definition: After 2005 Excavations**

At the request of the CCC peer review group, a unique final data recovery measure was instituted which ensured that a 100% sample of the site was taken. Pursuant to Special Condition 23, CDP Permit 5-05-020, an archaeological grading program commenced in 2006 prior to construction grading. The entire western portion of the mesa was slowly graded under archaeological supervision, despite the fact that only a small portion of the mesa was believed to contain subsurface site materials. This extensive grading effort resulted in uncovering significant features outside the site boundaries. A total of 32 features were uncovered by archaeological grading and hand-excavation. These included 12 human bone concentrations and 20 animal bone or rock features. The feature locations vis-à-vis established site boundary definitions are itemized below. Only 1 bone concentration, situated under the northernmost pipeline, was located within the core site area as established by SRS [red polyline]; no human remains were found within the larger site boundaries [magenta polyline]. No rock features were located within the core site area as shown by red polyline; only 3 rock features were located within the magenta polyline. The remainder [17 features] were not found within the delineated site boundaries but were in isolated locations on the mesa in completely sterile soils.

**Total Human Bone Concentrations: [12]**

1 in core area [red polyline]  
0 in shell scatter [magenta polyline]  
**11 [92%] outside site boundaries**

**Total Other Features: [20]**

0 outside core area [red polyline]  
3 in shell scatter [magenta polyline]  
**17 [85%] outside site boundaries**

EX. 10

## NATIVE AMERICAN HERITAGE COMMISSION

915 Capitol Mall, Room 364  
Sacramento, CA 95814  
(916) 653-4082  
(916) 657-5390 - Fax  
Web Site [www.nahc.ca.gov](http://www.nahc.ca.gov)



April 8, 2008

**RECEIVED**  
South Coast Region

APR 14 2008

CALIFORNIA  
COASTAL COMMISSION

Theresa Henry  
California Coastal Commission  
South Coast Area Office  
200 OceanGate, Suites 1000  
Long Beach CA 90802-4302

Sent Via Fax: (562) 590 5084  
# Pages include cover: 3 pages

Re: Brightwater-Bolsa Chica Project

Dear Ms. Henry:

The Native American Heritage Commission (NAHC) is informed by the NAHC appointed Most Likely Descendent, Anthony Morales, that Hearthside Homes has proposed reburial of 87 human remains from ORA-83 on April 21, 2008. The NAHC is also informed that documentation on the associated grave goods has been substantially done but is not complete. These associated grave goods include cogged stones, charm stones, beads and discoidals and other items.

The NAHC supports the Most Likely Descendants' request that documentation on all associated grave goods be completed before reburial and that all grave goods be reburied with remains. In this regard, the NAHC notes that the Cultural Resources Grading Monitoring Plan at page 6 dated 12-12-05 adopted pursuant to Special Condition No. 23, of the Coastal Permit indicates that human remains and any "artifacts associated with human remains" will be reburied after documentation is complete. It is also noted that the above 12-12-05 Monitoring Plan at page 7 also specifies that the location of the artifacts (associated with human remains) in the ground in relationship to the human remains will be documented so that when the human remains are reburied, the artifacts can be placed in the same relationship to the remains as they were when discovered. The Monitoring Plan also specifies that the artifacts (associated grave goods) will be kept with the human remains and examined and documented, and will be reburied together with the human remains.

The NAHC notes that based on information received from the project archaeologist, 22-cogged stones were discovered in a large burial pit. These are clearly associated with the human remains. The NAHC also notes that there are approximately 4217 artifacts that were found on ORA-83 including numerous cogged stones (over 400 on the project) and the NAHC is informed that only artifacts associated with remains are being processed at this time. Based on information received from the project archaeologist, the NAHC believes that there are numerous other artifacts that must be analyzed and documented and that many of these maybe determined to be artifacts associated with human remains and should be reburied with remains. NAHC is aware of information that indicates there were numerous bone clusters where cogged stones were present, which suggests these features are burial areas.

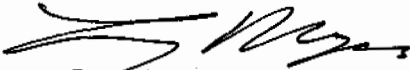
EX 11, p1

As you are aware Public Resources Code 5097.98 requires that the recommendation of the Most Likely Descendant with regard to treatment of remains and associated items be given great deference by the land owner and that if an agreement as to disposition cannot be reached, the law mandates that the remains and associated items be reburied on the property in a dignified manner not subject to subsurface disturbance. The NAHC strongly supports the recommendations of the Most Likely Descendants in determining which artifacts are artifacts associated with human remains and that otherwise pertain to the burial. The Most Likely Descendant has specialized knowledge of the local tribal community burial practices and beliefs.

The NAHC is informed that both Most Likely Descendants support waiting 6 months for the first reburial until major features that are clearly associated with individual burials can be studied and documentation on these completed. The NAHC supports this disposition.

The NAHC remains concerned about the Brightwater -Bolsa Chica Project. Although the NAHC has been in contact with the project archaeologist and has received a January 2007 and a November 5, 2008 status report, as of this date the NAHC has not received a promised map from the project archaeologist showing burials, house pits, photos and features. The NAHC has not received a report clearly showing the dates, locations and details of burial discoveries. At this point based on information available and the large number of burials recovered and associated items, it appears that the whole area may be a burial ground. Southern California Indians created and used discrete areas as cemeteries. The NAHC understands that the Coastal Commission will be reviewing its permit for the Brightwater Project. The NAHC suggests that the Coastal Commission consider requiring some sort of guarantee or performance bond in order to assure that all required reports are provided on a timely basis and that documentation is completed and reburials of remains and artifacts occur as agreed.

Sincerely,



Larry Myers  
Executive Secretary

Cc: Bill Mungary, Chairman NAHC  
Anthony Madrigal, General Counsel NAHC  
Dave Singleton, NAHC  
Susan Hori, Counsel Brightwater Homes  
Nancy Anastasia Wiley, Project Archaeologist  
David Belardes  
Anthony Morales

EX. 11, p. 2

STATE OF CALIFORNIA

Arnold Schwarzenegger, Governor

**NATIVE AMERICAN HERITAGE COMMISSION**

915 CAPITOL MALL, ROOM 364  
 SACRAMENTO, CA 95814  
 (916) 658-6251  
 Fax (916) 657-5390  
 Web Site [www.nahc.ca.gov](http://www.nahc.ca.gov)  
 e-mail: [de\\_naho@pacbell.net](mailto:de_naho@pacbell.net)



April 4, 2008

The Hon. Anthony Morales, Chairman  
**Gabrieleno/Tongva San Gabriel Band of Mission Indians**  
 P.O. Box 693  
 San Gabriel, CA 91778

Sent by FAX to: 858-694-3373  
 Number of pages: 3

**Re: My draft Staff Report and Professional Assessment Regarding the Hearthside Homes Project at Bolsa Chica Mesa Known as Brightwater Homes, a 349 Single Homes Development: Focusing on the CA-ORA-83 issues only. Site is Adjacent to the City of Huntington Beach: Orange County, California**

Dear Chairman:

I am writing you as the Most Likely Descendant (MLD), one of two assigned to the above reference project, in response to your questions about Special Condition #23 of the California Coastal Commission Permit Application No. 5-05-020. The NAHC is preparing another and an official response to concerns raised by Teresa Henry, Coastal Commission District Manager; however, it may not be submitted in a timely manner. That is why I am addressing answers to concerns raised by you. My comments and response are as follows:

1. **Issue of Reburial of the Remains and all Associated Grave Good to Occur after Documentation is Complete:** This issue is stated as a requirement on page 6 of the CCC Special Condition #23. The Native American Heritage Commission (NAHC) supports this requirement. We understand from the landowner's contract archaeologist, Nancy Anastasia Wiley, Ph.D., President of Scientific Resource Surveys, Inc. (SRS) that much of the documentation has been done but is NOT COMPLETE. We support its completion in this manner: a) priority documentation be given to those items that are generally accepted 'associated grave goods,' therefore, the *cogged stones charmstones, discoidals and beads* be documented prior to reburial. b) that sufficient time be allowed for proper preparation of the burials (e.g. wrapped in white sheets or if children, sheets of other colors) as the archaeologist (e.g. SRS) outlined in the January 19, 2007 memorandum to Hearthside Homes Senior Vice President (please see Exhibit A). The reburial with associated grave goods is customary for both the Gabrieleno Tongva and Juanefo people (note, from the Handbook of North American Indians, vol. 8: California; Robert F. Heizer, volume editor; Smithsonian Institution; Washington, D.C., 1978): "Here the dead were buried with artifacts used during life." (page 545) Also, apparently, both MLDs and the archaeologist are in agreement that the balance of more than 100,000 artifacts, excavated at the ORA-83 and the project site, can be sorted and documented after the reburials take place on a power-sort way; that is only a percentage of

EX. 12  
 P. 1

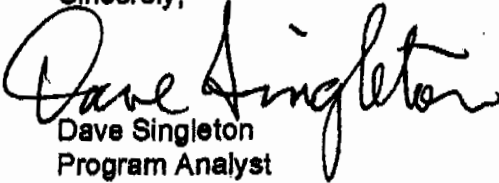
the material in the 2,000 boxes and bags of remains would be sorted and documented.

2. Issue of What are Associated Grave Goods: It is customary for the NAHC to accept the determination and definition of 'associated grave goods' as presented by California Native American tribes. With regard to the more than 400 cogged stones found at ORA-83, archaeologists are not certain what they represent. Yet they are a spectacular discovery and, in the opinion shared with the NAHC on April 2, 2008, of Dr. Wiley, "there is no other such deposit of cogged stones anywhere in the world." What is acknowledged is that 22 were found in one house pit, meaning both the burial therein was a person of perhaps spiritual or political significance and the use of cogged stones at the site must have meant something very special. The NAHC does have access to photos of that house pit site as well as other house pit sites that contained cogged stones and locations where concentrated bone fragments were discovered at scattered sites that also included cogged stones. Now, the NAHC feels there is general agreement from the project archaeologist and between both Most Likely Descendants (MLDs) that the priority 'associated grave goods' includes *cogged stones, charmstones, discoidals and beads*. There is little disagreement, in our view about these. There may be some disagreement that some of cogged stones and other items, discovered at a location other than a burial, are not 'associated grave goods; this would be a matter for mediation, a role requested by one of the MLDs and accepted by the NAHC and the other MLD. Also, the California 3<sup>rd</sup> Appellate Court Decision in the case of People versus Van Horn (218 Cal.App.3<sup>rd</sup> 1378; 267 CalRptr. 804 [Mar. 1990] may strengthen the right of culturally-affiliated Native American tribes as to who has the authority over both remains and associated grave goods.
3. Issue: Is the ORA-83 a sacred cemetery? As a junior staff person at the NAHC, I believe it is. This is based on the lack of information provided to the NAHC, the Orange County Sheriff-Coroner, and apparently the MLDs about when remains were discovered. When the NAHC requested that information, the project archaeologist responded by saying that she "...cannot prepare a chronology...." (Please see Exhibit "D") Furthermore in the project archaeologist's memorandum to the company, dated January 17, 2007, it refers to a February 3, 2007 ceremony and assumed reburial (please see Exhibit "A") this action would be after the law extending the definition of a cemetery and a place with "multiple burials" to private land. Formerly, the definition of a cemetery as comprising six or more burials was limited to public cemeteries; now, AB 2641 extends the definition among other provisions. It amends Public Resources Code §5097.98 that says (a) Descendants shall complete their inspection and make recommendations or preferences for treatment (to the landowner) within 48 hours; and (b) preferences for treatment shall include all reasonable options including associated items (e.g. grave goods)." Therefore, considering the 87 burials from ORA-83, whose chronology is unknown or certainly unclear, and given the number of burials at this project site, how can one say that it is not a sacred cemetery? The Native American Heritage Commission determined a University of California, San Diego site, with 30 discovered burials and perhaps fewer artifacts and grave goods a "sanctified cemetery" at their meeting of March 12, 2008 in San Diego County.
4. Territorial Issues: It is generally accepted that the cogged stones are found in the coastal areas extending from Ventura County in California to parts of Baja California Norte, of the Republic of Mexico. Then, they are found in coastal areas of Central Chile in South America. Also, it is clear from the literature on

the cogged stones that they were very special items to the Juanenō as well as the Gabrieleno Tongva people. The Handbook of North American Indians, vol. 8, referenced above, includes the Bolsa Chica project site within the Gabrieleno Tongva territory. Lowell Bean, one of California's most respected scholars, edited the article on the Gabrieleno Tongva. The 1925 map of the Juaneno territory, prepared by Alfred Louis Kroeber, eminent ethnologist, shows the Juaneno territory below Aliso Creek in present-day Orange County. I attach copies of those maps as Exhibit "C." However, the NAHC accepts that the Bolsa Chica project area is a 'shared area' between the two tribal groups; both groups participate in an Annual Pilgrimage that starts at the ancient village of Panhe in northern San Diego County, includes Bolsa Chica and ends at Puvungna on the campus of California State University, Long Beach in Los Angeles County. Therefore, the NAHC feels that both have standing for their recommendations regarding the ORA-83, Bolsa Chica site, its discovery and treatment of the Native American human remains and the associated grave goods.

If you have any questions, please contact me at (916) 653-6251.

Sincerely,

  
Dave Singleton  
Program Analyst

EX.12



EXHIBIT "A"  
Bolsa  
Chica

January 19, 2007

TO: Ed Mountford, Brian Bartlett- Hearthside Homes  
[cc: Joyce Perry, David Belardes, Robert Dorame, Anthony Morales]

FROM: Ted and Nancy Wiley- SRS, Inc.  
[cc: Jeff and Joanne Couch, Tracey Stopes, Paul E. Langenwalter]

RE: Reburial- Ora-85 Internments and Associated Materials

This memo provides a quick update regarding the status of our work towards the final reburial of human remains and associated grave goods on February 3, 2007.

All work is on schedule and will be finished by this Friday, January 26, 2007. Joanne is in the process of completing a comprehensive tracking sheet for the reburial of all associated materials including artifacts and sacred earth. Jeff has nearly completed the reburial map to include size of the reburial pit and a proportional layout of the Ora-85 individuals. A grid will then be laid out within the pit so that there can be an exact placement of each individual on the reburial date. By Friday, Paul Langenwalter will produce his customary burial chart listing all known characteristics of each burial and most importantly, sex and age, when possible.

Accordingly, we anticipate and request your cooperation for the following:

- 1] On Monday, January 29<sup>th</sup>, the final pit be excavated by Hearthside at the far western end of the newly designated reburial area according to the specifications of the reburial map and under the direction of Jeff Couch.
- 2] The access ramp be placed at the south end of the pit in order to leave as much area in the designated reburial area as undisturbed as possible.
- 3] On Tuesday and Wednesday, January 30<sup>th</sup> and 31<sup>st</sup>, Jeff will grid the pit and Eric and his Pacific Paving crew will haul all associated earth from behind the trailers down to the pit and place the appropriate dirt in the corresponding square in the grid.
- 4] Then on Thursday, February 1<sup>st</sup>, matrix from the sorting process will also be taken to the pit and placed in the appropriate grid squares. In this way, all materials besides the human bone and associated artifacts will already be placed in the ground at least two days prior to the Saturday reburial.
- 5] On Friday, February 2<sup>nd</sup>, Ted and I will wrap each burial with its grave goods in white cloth as requested by the Juaneno Band. Each individual will then be wrapped again in colored burlap coded to male [blue], female [red], and unknown [beige]. Children will additionally have a color separation or other designator. This coding will aid the participants in the various ceremonies in addressing the reburied individuals in a more personal manner.
- 6] On Saturday, February 3<sup>rd</sup>, Ted and I will place the Ora-85 people in the ground within their reserved space for the morning ceremony.
- 7] We have requested that the Juaneno have their ceremony first so that after their ceremony, mats and animal skins may be added to the individual wrappings as requested by the Gabrielino. There is a precedent by Signal Landmark for purchasing leather [or

j bartlett  
Joanne  
Stopes  
JS

Ex. 12, p. 4

skins] for reburial. The first reburial in the early 1990s did have these materials. This was a preference of Raymond Belardes, the first Most Likely Descendant on this project. The Gabrielino should be reimbursed for this purchase since you are paying for the white cloth requested by the Juaneno.

8] We have also had one of our people paid to pick up elders of a tribal group to attend the reburial if they cannot drive or do not have transportation. We suggest that you offer to provide compensation for one person from each tribal group to do the same.

9] Please have extra security on Saturday from sunrise to sunset.

10] Please remember that Hearthside has always been responsible for filling in the pit at day's end with both the removed earth and placing in the pit a chain link fencing barrier.

As an aside, I further understand from my staff that there has been some discussion about reburying all of the artifacts from the site at the same time as the reburial. SRS has an obligation to document any artifacts to be reburied as mandated by County and Coastal Commission Guidelines and State law. All artifacts associated with the burials will be documented beforehand and then reburied on Saturday with the appropriate individual. The remaining site artifacts cannot be reburied at that time because they have not been processed or documented yet, since all efforts have been focused on burial-related materials only. In addition, Cal. State Los Angeles has an extensive collection of materials removed from this site by Prof. Hal Eberhart prior to ARI, Westec or SRS's work, and ARI's artifacts were given to PCAS when Marie Cottrell dissolved that non-profit corporation in the early 1980's. The Native Americans would have to request that these artifacts be returned from Cal State LA and PCAS under the Repatriation Act before a reburial of artifacts could occur. There is, however, an adequate area designated by Hearthside for Ora-85 and Ora-83 reburials for future repatriation of additional materials. The Ora-85 non-burial artifacts, therefore, will not be reburied on February 3<sup>rd</sup> but legally this matter has no bearing on the repatriation of human remains and associated grave goods from that site.

This is a brief outline of the anticipated activities for next week. Ted and I will arrive in Orange County on Monday, January 29<sup>th</sup> at 10:00 pm and will be on-site starting late morning on Tuesday. If any party has questions or requests changes to this schedule please call me at 907-723-1896; e-mail me at [wileycoyote@aptalaska.net](mailto:wileycoyote@aptalaska.net); or talk with me in person on Tuesday. We look forward to a respectful and successful reburial on February 3<sup>rd</sup>.

EXHIBIT '15

From: Dave Singleton <ds\_nahc@pacbell.net>  
 Subject: Telephone Conversations with Nancy Anastasia Wiley, Ph.D., Pres. of SRS Inc.  
 Date: April 3, 2008 4:35:07 PM PDT  
 To: Larry Myers <lm\_nahc@pacbell.net>  
 Cc: Anthony Madrigal <am\_nahc@pacbell.net>

April 3, 2008

Hi Larry & Anthony:

This is an outline of my recent conversations with Nancy Anastasia Wiley, the Project Archaeologist for Hearthsides Homes, developer of Brightwater Homes, a residential project of proposed 349 homes built on the Bolsa Chica Mesa, adjacent to the northern city limits for Huntington Beach, Orange County. The property is owned by Signal Landmark of Irvine; Orange County.

The main points of my conversations with Dr. Wiley are:

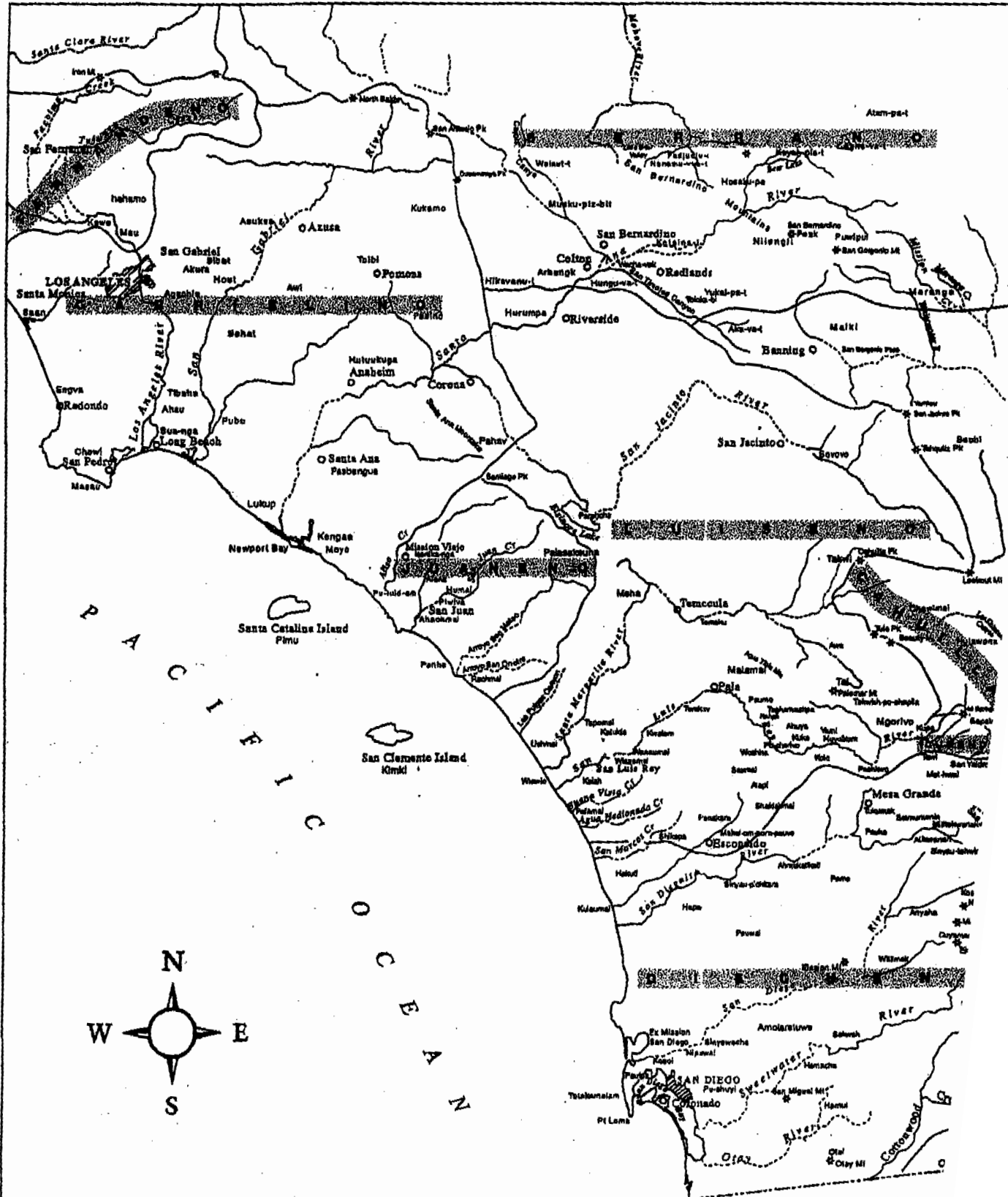
1. Cogged Stones as 'associated grave goods;' Dr. Wiley confirmed that the 22 cogged stones found at the 'house-pit' of an apparent Shaman or tribal leader are clearly associated grave goods;
2. Dr. Wiley also indicated that other personal items such as charmstones, beads, discoids and cogged stones, if found with burials are clearly 'associated grave goods;'
3. The documentation on the identified four types of grave goods has been substantially done but is NOT COMPLETE; Dr. Wiley seemed to welcome the NAHC support for the immediate and the longer-range (the 100,000 artifacts, et al) documentation to be done;
4. Dr. Wiley also seemed to welcome the NAHC as a 'mediator' in the project at MLD Morales' request.
5. Dr. Wiley wants to retain good relations with the NAHC and has offered to make a presentation in the NAHC offices on ORA-83 with films of the cogged stones and other items;

While the NAHC and her archaeologist peers may disagree with the manner in which Dr. Wiley and SRS has managed this project, the NAHC and others would not have the hard facts of the 174 burials discovered; 87 still to be re-buried; the number of cogged stones (more than 400), the 100,000 artifacts and thousands of archaeological features of significance, had not Dr. Wiley provided that information to the NAHC. She also cooperated with photographing of the 2,000 boxes of un-sorted material in three trailers in Temecula.


Dave

Exhibit "C"

Important Southern California Indian villages relative to modern cities. Major Indian territories are also shown.



EX. 1207

From: wileycoyote@srscorp.net  
 Subject: [Fwd: ORA-83, The Cogged Stone Site]  
 Date: December 17, 2007 6:03:42 PM PST  
 To: ds\_nahc@pacbell.net  
 1 Attachment, 32.0 KB 

Dave- Let's try this again!!!

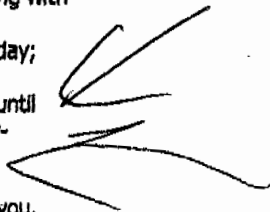
----- Original Message -----  
 Subject: [Fwd: ORA-83, The Cogged Stone Site]  
 From: wileycoyote@srscorp.net  
 Date: Thu, December 6, 2007 6:54 pm  
 To: ds\_nahc@pacbell.net

----- Original Message -----  
 Subject: ORA-83, The Cogged Stone Site  
 From: wileycoyote@srscorp.net  
 Date: Thu, December 6, 2007 6:52 pm  
 To: ds\_nahc@pacbell.net

Dave-

In regards to our phone conversation today:

- 1- attached is the 'Inventory List of Unfinished Work' that I submitted to the Gabrielino and Juaneno groups when Ed decided to have a meeting with them without me;
- 2- a proofsheets of photos will be e-mailed to you by my staff later today; printed copies will be given to Anthony on Monday;
- 3- Ed Mountford has said that I cannot prepare a chronology for you until her talks to his lawyer- Susan Hori. If this is not in writing by Monday- I will give one verbally to Anthony at the meeting.



It was good talking with you. The Native people speak very highly of you.

Nancy Anastasia Wiley



November 5th.doc (32.0 KB)



# GABRIELINO-TONGVA TRIBE

*A California Indian Tribe historically known as San Gabriel Band of Mission Indians*

501 Santa Monica Blvd., Ste. 500, Santa Monica, CA 90401-2490  
www.gabrielinotribe.org • tel: (310) 587-2203 • fax: (310) 587-2281

July 7, 2008

RECEIVED  
South Coast Region

AUG 8 2008

CALIFORNIA  
COASTAL COMMISSION


Teresa Henry, District Manager  
California Coastal Commission  
200 OceanGate, 10<sup>th</sup> Floor  
Long Beach, CA 90802-4416

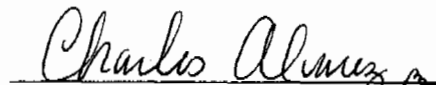
Dear Ms. Henry:

This letter is being written to request that the California Coastal Commission start an immediate investigation of the Bright Water Development. We are requesting this on the grounds that we believe that vital information regarding the discovery of human remains and artifacts was withheld from the California Coastal Commission, Native Americans and all Californians.

We believe with the numerous discoveries of human remains and artifacts that this site should be preserved for all Gabrielinos and Juaneno people. Building should be stopped immediately before anymore destruction takes place. This site is also a concern to all Californians, because this is part of our history.


Sincerely,

  
Tribal Councilwoman Linda Candelaria

  
Tribal Councilman Charles Alvarez

  
Tribal Councilman Bernie Acuna

  
Tribal Councilwoman Felicia Sheerman

  
Tribal Councilwoman Martha Gonzalez

Cc: Dave Singleton  
Native American Heritage Commission

**Tribal Council**

Hon. Bernie Acuna  
Hon. Charles Alvarez  
Hon. Linda Candelaria

Hon. Martha Gonzalez Lemos  
Hon. Felicia Sheerman

Tribal Administrator: Barbara Garcia  
Tribal Controller: Steven K. Johnson

Ex 13

**FORM FOR DISCLOSURE  
OF EX PARTE  
COMMUNICATION**

Date and time of communication:

Thursday, June 26, 2008 - 2:00 pm

(For messages sent to a Commissioner by mail or facsimile or received as a telephone or other message, date time of receipt should be indicated.)

Location of communication:

Eureka Office/Phone Meeting

(For communications sent by mail or facsimile, or received as a telephone or other message, indicate the means of transmission.)

Person(s) initiating communication:

Dave Neish

Person(s) receiving communication:

Commissioner Bonnie Neely

Name or description of project:

W8a. Hearthside Homes/Signal Landmark, Orange Co.

Detailed substantive description of content of communication:

(If communication included written material, attach a copy of the complete text of the written material.)

There has been a request for revocation of the original CDP map. There will be no hearing this meeting, just a staff report. The item will be discussed in August.

Date: June 26, 2008

  
Signature of Commissioner Neely

If the communication was provided at the same time to staff as it was provided to a Commissioner, the communication is not ex parte and this form does not need to be filled out.

If communication occurred seven or more days in advance of the Commission hearing on the item that was the subject of the communication, complete this form and transmit it to the Executive Director within seven days of the communication. If it is reasonable to believe that the completed form will not arrive by U.S. mail at the Commission's main office prior to the commencement of the meeting, other means of delivery should be used, such as facsimile, overnight mail, or personal delivery by the Commissioner to the Executive Director at the meeting prior to the time that the hearing on the matter commences.

If communication occurred within seven days of the hearing, complete this form, provide the information orally on the record of the proceedings and provide the Executive Director with a copy of any written material that was part of the communication.

Coastal Commission Fax: 415 904-5400

EX. 14

**RECEIVED**  
South Coast Region

JUN 30 2008

CALIFORNIA  
COASTAL COMMISSION**FORM FOR DISCLOSURE  
OF EX PARTE  
COMMUNICATION****Date and time of communication:**

Thursday, June 26, 2008 - 2:00 pm

(For messages sent to a Commissioner  
by mail or facsimile or received as a  
telephone or other message, date  
time of receipt should be indicated.)**Location of communication:**

Eureka Office/Phone Meeting

(For communications sent by mail or  
facsimile, or received as a telephone  
or other message, indicate the means  
of transmission.)**Person(s) initiating communication:**

Dave Neish


**Person(s) receiving communication:**

Commissioner Bonnie Neely

**Name or description of project:**W8a. Hearthside Homes/Signal Landmark, Orange  
Co.**Detailed substantive description of content of communication:**

(If communication included written material, attach a copy of the complete text of the written material.)

There has been a request for revocation of the original CDP map. There will be no hearing this meeting, just a staff report. The item will be discussed in August.

**Date:** June 26, 2008
  
 Signature of Commissioner Neely

If the communication was provided at the same time to staff as it was provided to a Commissioner, the communication is not ex parte and this form does not need to be filled out.

If communication occurred seven or more days in advance of the Commission hearing on the item that was the subject of the communication, complete this form and transmit it to the Executive Director within seven days of the communication. If it is reasonable to believe that the completed form will not arrive by U.S. mail at the Commission's main office prior to the commencement of the meeting, other means of delivery should be used, such as facsimile, overnight mail, or personal delivery by the Commissioner to the Executive Director at the meeting prior to the time that the hearing on the matter commences.

If communication occurred within seven days of the hearing, complete this form, provide the information orally on the record of the proceedings and provide the Executive Director with a copy of any written material that was part of the communication.

Coastal Commission Fax: 415 904-5400

EX. 15



**FORM FOR DISCLOSURE  
OF EX PARTE  
COMMUNICATION**

**RECEIVED**

OCT 20 2008

CALIFORNIA  
COASTAL COMMISSION

Date and time of communication:  
(For messages sent to a Commissioner  
by mail or facsimile or received as a  
telephone or other message, date  
time of receipt should be indicated.)

October 20, 2008 – 12:53 a.m.

Location of communication:  
(For communications sent by mail or  
facsimile, or received as a telephone  
or other message, indicate the means  
of transmission.)

Eureka, CA – Via Email

**RECEIVED**  
South Coast Region

OCT 21 2008

CALIFORNIA  
COASTAL COMMISSION

Person(s) initiating communication:

Susana Salas

Person(s) receiving communication:

Bonnie Neely, Commissioner

Name or description of project:

Permit # 5-05-020 – Bolsa Chica

Detailed substantive description of content of communication:  
(If communication included written material, attach a copy of the complete text of the written  
material.)

(See Attached Email)

10/20/08

Date

  
Signature of Commissioner

If the communication was provided at the same time to staff as it was provided to a Commissioner, the communication is not ex parte and this form does not need to be filled out.

If communication occurred seven or more days in advance of the Commission hearing on the item that was the subject of the communication, complete this form and transmit it to the Executive Director within seven days of the communication. If it is reasonable to believe that the completed form will not arrive by U.S. mail at the Commission's main office prior to the commencement of the meeting, other means of delivery should be used, such as facsimile, overnight mail, or personal delivery by the Commissioner to the Executive Director at the meeting prior to the time that the hearing on the matter commences.

If communication occurred within seven days of the hearing, complete this form, provide the information orally on the record of the proceedings and provide the Executive Director with a copy of any written material that was part of the communication.

**Hayes, Kathy**

---

**From:** Neely, Bonnie  
**Sent:** Monday, October 20, 2008 12:53 AM  
**To:** Hayes, Kathy  
**Subject:** FW: Request meeting re: Permit 05-05-020 Brightwater

Do an exparte regarding this email. Thanks.

-----Original Message-----

**From:** SUSAN SALAS [mailto:monkeeyo@hotmail.com]  
**Sent:** Thu 10/16/2008 4:40 PM  
**To:** Neely, Bonnie  
**Cc:**  
**Subject:** Request meeting re: Permit 05-05-020 Brightwater

Bonnie Neely,

My name is Susana Salas. I am a member of the So. California Native American community and petitioner who is requesting that the California Coastal Commission investigate the Brightwater development and consider revoking Permit 5-05-020. Native American community members believe that our sacred site at Bolsa Chica is being destroyed. We have a tentative revocation hearing date(s) of November 12, 13 or 14. We would like to meet with you prior to the hearing. Please let me know when you are available to meet with Native American community members in the So. California area.

Respectfully,

Susana Salas

---

You live life beyond your PC. So now Windows goes beyond your PC. See how  
<<http://clk.atdmt.com/MRT/go/115298556/direct/01/>>