

CALIFORNIA COASTAL COMMISSION

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F13b

ADDENDUM

September 9, 2021

To: Commissioners and Interested Persons

From: California Coastal Commission
San Diego Staff

Subject: Addendum to **Item F13b**, Coastal Commission Permit Application **#6-20-0685** for the Commission Meeting of September 10, 2021

The purpose of this addendum is to modify the staff recommendation for the above-referenced item in order to incorporate changes requested by the Rincon Band of Luiseño Indians. Staff recommends the following changes be made to the above-referenced staff report. Deletions shall be marked by ~~strike through~~ and additions shall be underlined:

1. The last paragraph on page 28 shall be modified as follows:

In adherence to the Commission's 2018 Tribal Consultation Policy, Commission staff sent emails and letters offering consultation to twenty Tribes identified by the Native American Heritage Commission as traditionally and culturally affiliated with the geographic area of the project. Staff received one letter from the Jamul Indian Village of California requesting project updates and recommending archaeological monitoring, and one letter from the Rincon Band of Luiseño Indians requesting consultation. During the consultation meeting, the tribal representative expressed concerns about the project's potential to impact traditional cultural properties. ~~The representative indicated that they would review the additional documents provided by staff and~~ After publication of the staff report, the representative provided a response letter that described the Tribe's concerns about the mitigation measures and requested a follow-up consultation. Commission staff worked with the representative during the follow-up meeting to revise Special Condition No. 11 to address the Tribe's concerns. Any concerns raised subsequent to the publication of this report will be addressed through an addendum to this staff report.

2. Special Condition No. 11 on page 13 shall be modified as follows:
 - iii. Archaeological monitor(s) qualified by the California Office of Historic Preservation (OHP) standards, Native American monitor(s) from traditionally and culturally affiliated Tribe(s) that are included on an updated Native American Heritage Commission (NAHC) list ~~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 and subsurface construction activity (such as trenching for utilities) that has the potential to impact cultural resources, as required in the approved cultural resources monitoring plan required above
3. Appendix B – Cultural Resources Significant Testing Procedures on page 33 shall be modified as follows:
 - A. An applicant seeking to recommence construction following discovery of 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), the consulting Tribe(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 ~~40 working~~ 30 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.

[...]
 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 archaeologist's recommendation as to whether the deposits are significant. The project archaeologist's recommendation shall be made in consultation with the Native American monitors, the consulting Tribe(s), and the MLD when State Law mandates identification of a MLD. The Executive Director shall make the determination as to whether the deposits are significant based on the information available to the Executive Director.
 - i. If the deposits are found to be significant, the permittee shall prepare and submit to the Executive Director a supplementary Archaeological Plan in accordance with subsection B of this condition and all other relevant subsections.

ii. 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. All unearthed archaeological resources or tribal cultural resources will be collected and temporarily stored in a secure location onsite (or as otherwise agreed upon by the archaeological monitor and the traditionally and culturally affiliated Tribe(s)) for later reburial onsite.

- B. 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 Archaeological Plan shall be prepared by the project archaeologist(s), in consultation with the Native American monitor(s), consulting Tribe(s), the Most Likely Descendent (MLD) when State Law mandates identification of a MLD, as well as others identified in subsection C below....

[...]

- C. Prior to submittal to the Executive Director, all plans required to be submitted pursuant to this special condition, except the Significance Testing Plan, shall have received review and written comment by a peer review committee made up of qualified archaeologists convened in accordance with current professional practice. Representatives of traditionally and culturally affiliated Tribes included on an updated NAHC list ~~Native American groups with documented ancestral ties to the area~~ shall also be given an opportunity to review and submit written comments on the required plans. 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 and Native American representatives or explain why the recommendations were rejected. Furthermore, upon completion of the review process, 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 that 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.