CHAPTER 9
RESPONSE TO COMMENTS

The Response to Comments chapter of the EIR presents responses to comment letters that were received on the Draft EIR for the DANA LUO Amendment and CUP. These comment letters were received from multiple entities including federal, state, and local agencies, non-agency organizations, and the general public. In accordance with CEQA Guidelines Section 15132(d), this Final EIR presents the County's response to comments submitted during the Draft EIR review and consultation process.

The letters of comment are in chronological order with the responses following the individual letters. Letters of comment are reproduced in total, and numerical annotation has been added as appropriate to delineate and reference the responses to those comments.

9.1 AGENCY COMMENT LETTERS AND RESPONSES

The following agencies have submitted comments on the Draft EIR.

Respondent	Code	Contact Information	Page
State of California **Office of Planning and Research** **State Clearinghouse and Planning Unit** Notice posted: August 13, 2013	SCH	1400 10th Street Sacramento, CA 95812 www.ceqanet.ca.gov	9-2
County of San Luis Obispo **Department of Agriculture/Weights and Measures** Letter dated: September 25, 2013	AG	2156 Sierra Way, Suite A San Luis Obispo, CA 93401 *Contact: Lynda Auchinachie, Agricultural Resource Specialist*	9-4

CEQAnet - DANA Land Use Ordinance Amendment and Conditional Use Permit

California Home

Monday, September 30, 2013

OPR Home > CEQAnet Home > CEQAnet Query > Search Results > Document Description

DANA Land Use Ordinance Amendment and Conditional Use Permit

SCH-1

SCH Number: 2012041037

Document Type: EIR - Draft EIR

Alternate Title: Dana Adobe Nipomo Amigos LUO Amendment (LRP2011-00001) & Conditional Use Permit (DRC2011-00042)

Project Lead Agency: San Luis Obispo County

Project Description

The proposed amendments to the County's LUO would clarify the intent of the LUO by addressing emergency access conditions and updating design and approval standards. The amendment would remove the reference to the Southland Street Interchange, which is no longer proposed for construction by the County and the Caltrans, and add a requirement for privately-developed emergency access. The proposed LUO amendments also include minor updates to correctly identify land currently owned by DANA, design standards to maintain historical context and ensure continued preservation and restoration of the Dana Adobe, and a requirement for Master Plan and CUP approval. The proposed amendments would not remove any intended impediment to growth.

Contact Information

Primary Contact:
Brian Pedrotti
San Luis Obispo County
805 781 5600
976 Osos Street, Rm 300
San Luis Obispo, CA 93408-2040

Project Location

County: San Luis Obispo
City: Nipomo
Region:
Cross Streets: South Oakglen Ave., Southland St.
Latitude/Longitude: 35° 1' 40.56" / 120° 28' 8.48" Map
Parcel No: 090-171-011, -030, -031, -032, -036
Township:
Range:
Section:
Base:
Other Location Info:

Proximity To

Highways: Hwy 101
Airports:
Railways:
Waterways: Nipomo Creek
Schools: Lucia Mar USD
Land Use: Recreation (30 acres) and Agriculture (130 acres)

Development Type

Recreational (Trails), Educational (Visitor's center)

Local Action

Other Action (LUO Amendment), Use Permit

Project Issues

Aesthetic/Visual, Agricultural Land, Air Quality, Archaeologic-Historic, Biological Resources, Drainage/Absorption, Flood Plain/Flooding, Forest Land/Fire Hazard, Geologic/Seismic, Noise, Public Services, Recreation/Parks, Septic System, Sewer Capacity, Soil Erosion/Compaction/Grading, Toxic/Hazardous, Traffic/Circulation, Vegetation, Water Quality, Water Supply, Wetland/Riparian, Wildlife, Growth Inducing, Landuse, Cumulative Effects

Reviewing Agencies (Agencies in **Bold Type** submitted comment letters to the State Clearinghouse)

Resources Agency; Department of Conservation; Department of Fish and Wildlife, Region 4; Cal Fire; Office of Historic Preservation; Department of Parks and Recreation; Department of Water Resources; California Highway Patrol; Caltrans, District 5; State Water Resources Control Board, Division of Water Rights; Regional Water Quality Control Board, Region 3; Department of Toxic Substances Control; **Native American Heritage Commission**

Date Received: 8/13/2013 **Start of Review:** 8/13/2013 **End of Review:** 9/26/2013

CEQAnet HOME | NEW SEARCH

http://www.ceqanet.ca.gov/DocDescription.asp?DocPK=673564 9/30/2013

9.1.1 Response to State Clearinghouse Online Notice

Comment No.	Response
SCH-1	Standard notice of filing from CEQAnet database (www.ceqanet.ca.gov). No changes to the EIR are necessary.

COUNTY OF SAN LUIS OBISPO
Department of Agriculture/Weights and Measures
2156 SIERRA WAY, SUITE A • SAN LUIS OBISPO, CALIFORNIA 93401-4556
(805) 781-5910 • FAX (805) 781-1035
Martin Settevendemie
Agricultural Commissioner/Sealer
www.slocounty.ca.gov/agcomm
AgCommSLO@co.slo.ca.us

DATE: **September 25, 2013**

TO: **Brian Pedrotti, Project Manager**

FROM: **Lynda L. Auchinachie, Agriculture Department** LA

SUBJECT: **Dana Adobe Draft Environmental Impact Report for Land Use Ordinance Amendment and Conditional Use Permit (LRP2011-00001 and DRC2011-00042 (1618)**

Thank you for the opportunity to review the Draft Environmental Impact Report for the Dana Adobe proposals. The Agriculture Department recommends that BIO/mm-8 (a) be revised to eliminate the prohibition of herbicides to ensure consistency with California Food and Agriculture Code 11501.1 (a). The California Department of Pesticide Regulation occupies the whole field of regulation regarding the use of pesticides/herbicides and this authority cannot be preempted through a local action. Prohibiting the use of herbicides through the County's land use process would be considered preemptive and unenforceable. **AG-1**

Comments and recommendations are based on policies in the San Luis Obispo County Agriculture Element, Conservation and Open Space Element, the Land Use Ordinance, the California Environmental Quality Act (CEQA), and on current departmental policy to conserve agricultural resources and to provide for public health, safety and welfare while mitigating to the extent feasible the negative impacts of development to agriculture.

If you have questions, please call 781-5914.

9.1.2 Response to Letter from County of San Luis Obispo Department of Agriculture/ Weights and Measures

Comment No.	Response
AG-1	Thank you for your comment. The EIR has been revised by eliminating the following language from mitigation measure BIO/mm-8: “a. no herbicides shall be used” and the subsequent list have been re-lettered for consistency. Please refer to EIR Executive Summary Table ES-2 Summary of Impacts and Mitigation Measures, EIR Section 4.3 Biological Resources, and EIR Chapter 7 Mitigation Monitoring and Reporting Program Table 7-1 Mitigation and Monitoring Reporting Program. This change does not affect the analysis or impact determinations presented in the EIR.

9.2 APPLICANT COMMENT LETTERS AND RESPONSES

The following non-agency organizations have submitted comments on the Draft EIR.

Respondent	Code	Contact Information	Page
Dana Adobe Nipomo Amigos Letter dated: September 26, 2013	DANA	671 South Oakglen Avenue Nipomo, CA 93444 *Contact: Jan Di Leo, Project Manager*	9-7

Designated by the National Trust for Historic Preservation As an official Project of

SAVE AMERICA'S TREASURES

Dana Adobe Nipomo Amigos

Rancho Nipomo · 1837

CALIFORNIA REPUBLIC

California's Historical Landmark Number 1033

NATIONAL REGISTER OF HISTORIC PLACES

Rancho Nipomo Dana Adobe Heritage Park 671 South Oakglen Avenue, Nipomo, CA 93444

Contributing to a better understanding of the place we live in

DANA
671 S. Oakglen Ave.
Nipomo, CA 93444
(805) 929-5679
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www.danaadobe.org

Brian Craig Kreowski
Interim President
Rudy Stowell
President Elect
Alan Daurio
Past President
Bob Weiger
Treasurer
Susan Gray
Secretary
Regina Bernero
Dr. Donna Gillette
Russell Gray
Dr. Herb Kandel
Susan Duran
Jennifer Isbell

Advisors
Dick Blankenburg
Stephen Cool
David Dana
Joe Dana
Ed Eby
Judge Rogelio Flores
Bob Hoover
Mike Imwalle
John Johnson
Peg Miller
Charles Porter
Carrol Pruett
Rob Rossi
Patrick Sheehy
Dave Stamey
Karl Wittstrom

Adobe Staff
Marina B. Washburn
Executive Director
Jan DiLeo
Aaron Regez
Nicole Duran

Federal Tax ID
77-0513007
501 c3 Nonprofit
public benefit
charitable organization

September 26, 2013

Brian Pedrotti
County Planning & Building Dept.
976 Osos Street, Room 300
San Luis Obispo, CA 93408-2040

RE: Dana Adobe Nipomo Amigos Land Use Ordinance Amendments and Conditional Use Permit Draft Environmental Impact Report (SCH No. 2012041037) **DANA-1**

Dear Mr. Pedrotti;

The Dana Adobe Nipomo Amigos' Core Team has reviewed the Draft Environmental Impact Report (DEIR) noted above. It is the Core Team's evaluation that the document is very thorough. DANA's comments are provided as Attachment 1.

If you have questions or concerns please contact me at (805) 528-7868 or via email at jan@danaadobe.org. Thank you for your assistance.

Sincerely,

Jan DiLeo

Jan Di Leo,
Project Manager

ATTACHMENT 1
Comments / Corrections to the DANA Draft EIR

Comments are provided by page number. Many of the items noted below will also need to be changed in other portions of the EIR.

Page	Comment	
ES-4	Eighth Bullet. Typo – should say "ramadas" not "amadas". This will need to be corrected throughout the document.	DANA-2
ES-9	The Visitor Center. References "general store area". This should be "general storage area". This will need to be corrected throughout the document.	
ES-11	Table ES-1 - Utilities. This table references "Utilities (electrical and telephone)". It states they are "above ground". In some cases they could be below ground. This should be changed to "Above and/or below ground". This should be changed throughout document.	
ES-25	Item #2 – Word missing? Should be: "… paleontological resources such as construction monitoring…"	
4.4-2	Text Reference - Gibson. The text references a Gibson report. This report is not referenced in Chapter 8 of the EIR.	
4.4-6	Text Reference - Maki. The text references a Maki report. This report is not referenced in Chapter 8 of the EIR.	
4.4-3	CA-SHA. CA-SHA should be changed to CA-SLO. This should be changed throughout.	
4.4-3	CA-SLO-97/142/H. Most of the time the "H" is included; however, in some cases it is not included. The H should be included throughout.	
4.4-12	Section 4.4.4, Second Paragraph, Last Sentence. Donna Gillette's name is spelled incorrectly.	
4.8-6	Section 4.8.5.2, Under Fire Protection. Change "road" to "emergency access drive"	
4.8-7	Under Wastewater. Should it be plural septic systems? Single reference in text.	
4.8-7	Under "Recreation. This section refers to a "Chumash Village". Should change it to "Chumash Interpretive Area".	
5.8	Section 5.4.3, Design Alternative A. This section discusses the conceptual plan that was part of DANA's grant application. The Visitor Center under this plan was to be 6,210 square feet. Outbuildings were proposed between the adobe and the new visitor center. The Chumash Village contained a sweat lodge, playfield, aps, painted caves, arbors, story boulders, and gardens. The plan also included an accessible restroom and shower building. In addition, this concept plan included an Equestrian Area (Land Management Rancho Complex) on the 100 acres.	DANA-3

9.2.1 Response to Letter from Dana Adobe Nipomo Amigos

Comment No.	Response
DANA-1	Please refer to responses to specific comments below.
DANA-2	The EIR has been clarified as recommended in the comment letter, as noted in the referenced sections and throughout the document. Any exceptions are noted herein. The Gibson (1983) reference cited in EIR Section 4.4 (Cultural Resources) is incorporated from the Phase II evaluation report (Albion 2013b). The following text has been added to the EIR to clarify this fact regarding citations included in the text: “The additional sources included in the discussion below are incorporated by reference from the Albion (2013b) report” (please refer to EIR Section 4.4.1 Cultural Resources, Existing Conditions). The text will remain “emergency access road.” The EIR uses road and drive interchangeably, but because the access would connect two points, it is more clearly identified as a “road”. Regarding the on-site septic system, the Executive Summary and Project Description have been clarified to note that a vertical pit or horizontal system could be constructed; the analysis presented in the Draft EIR considers both options. These minor corrections do not change the analysis or impact determinations identified in the EIR.
DANA-3	Design Alternative A - Initial Conceptual Site Plan includes a concept plan provided as part of public comment during the County’s initial consideration of the Initial Study, and may not represent the final plan that was submitted as part of the grant application. This alternative considers a reduced footprint and other development limitations. For clarity, the following language has been added to the description of this alternative: “Please note that the final plan submitted in the grant application package included additional features not included in this reduced development alternative” (please refer to EIR Section 5.4.3 Alternatives Analysis, Design Alternative A – Initial Conceptual Site Plan). This clarification does not affect the analysis presented in the EIR.

9.3 NON-AGENCY ORGANIZATIONS COMMENT LETTERS AND RESPONSES

The following non-agency organizations have submitted comments on the Draft EIR.

Respondent	Code	Contact Information	Page
yak tit^{Y}u tit^{Y}u – Northern Chumash Tribe Letter dated: September 26, 2013	MT	660 Camino Del Rey Arroyo Grande, CA 93420 *Contact: Mona Olivas Tucker, Tribal Chairperson*	9-11
Northern Chumash Tribal Council Letter dated: September 27, 2013	NCTC	67 South Street San Luis Obispo, CA 93401	9-14
yak tit^{Y}u tit^{Y}u tiłhini (Northern Chumash of Avila Beach and San Luis Obispo) Emails dated: September 27, 2013	GA	[address not provided] *Contact: Gino Altamirano*	9-48

yak tit^{y}u tit^{y}u - Northern Chumash Tribe
660 Camino Del Rey Arroyo Grande, CA 93420
805-748-2121 olivas.mona@gmail.com

September 26, 2013

County of San Luis Obispo
Planning and Building Dept
976 Osos Strett
San Luis Obispo, CA 93408

RE: Dana Adobe Nipomo Amigos
LUO Amendment and CUP
Draft Environmental Impact Report

In the Draft EIR, a description of this site can be found on page 4.4-3 as follows: **MT-1**

....."Site CA-SLO-97/142/H is a complex prehistoric resource that contains two loci representing prehistoric occupation. The first, identified as Locus A, contains intact cultural deposits representing the Early Period, a time span of roughly 3,000 years, from 5450 B.P. to 2550 B.P. The second, Locus B represents the Middle Period, a time span of 1,600 years, from 2550 B.P. to 950 B.P. Additional data from Locus A suggest this locale may also have an earlier Millingstone (9950-5450 B.P.) component. The upper portions of the site have been disturbed to varying degrees by historical development and land use, such that prehistoric materials in these upper strata are mixed with historic materials, indicating that the prehistoric deposit has lost its stratigraphic integrity. Cultural deposits below the level of disturbance, however, particularly in the two identified loci, appear to be intact thus providing important information about prehistoric occupation of the landscape. Because of the presence of important intact cultural deposits, Albion has found that the site is eligible for inclusion on the California Register of Historic Places (CRHP) under criterion D: "sites that have yielded, or may be likely to yield, information important in prehistory or history." "

1. Based on the above assessment, protecting and avoiding cultural resources must be the priority of this project.

2. Before the County of San Luis Obispo makes a decision on the project, the applicant should present plans for the treatment of wastewater as part of the overall review. **MT-2**

09-27-13 Dana Adobe Draft EIR Comments Page 1 of 2

3. On February 25, 2012 the D.A.N.A. Board of Directors approved and agreed to provide an open space easement that includes protection of the indigenous culture. **MT-3**

An easement of this type would be evidenced by a recorded document and would run in perpetuity. It was envisioned that the County of San Luis Obispo would be the easement owner. An easement will not only provide protection for the Northern Chumash culture but will protect scenic beauty, provide open space for visitors to enjoy, be valuable to wildlife and aid in drainage. An easement will enhance and help protect the rural character of Nipomo and allows the natural outdoors to remain important and prominent. yak tit^{y}u tit^{y}u - Northern Chumash Tribe feels that an open space easement would demonstrate a commitment to the Northern Chumash Culture and additionally should be a condition of any approval.

Thank you,

Mona Tucker

Mona Olivas Tucker
Tribal Chairperson

09-27-13 Dana Adobe Draft EIR Comments Page 2 of 2

9.3.1 Response to Letter from Mona Tucker, yak tit^{Y}u tit^{Y}u – Northern Chumash Tribe

Comment No.	Response
MT-1	As noted in EIR Section 4.4 Cultural Resources, major development structures (i.e. Visitor's Center) would be located outside of Loci A and B. EIR Section 4.4.5 (Cultural Resources, Project Specific Impacts and Mitigation Measures) notes the eligibility determination identified in the comment letter, and analyzes potential impacts to the archaeological site pursuant to CEQA. The EIR discloses the potential impact, and includes mitigation measures, which are recommended to address the potential effect, and minimize potential impacts to less than significant. No changes to the EIR are necessary.
MT-2	The project applicant would be required to prepare engineered plans for the wastewater system upon application for building permits, pursuant to existing regulations including the Plumbing Code and Basin Plan. For the purposes of the EIR, potential options including vertical and horizontal systems are addressed in each applicable resource section, such as EIR Section 4.4 Cultural Resources and EIR Section 4.12.4.1 Issues with Less than Significant Impacts, Wastewater. In addition, EIR Chapter 5 (Alternatives Analysis) includes an option to connect to the Nipomo Community Services District (NCSD) sewer system (please refer to EIR Section 5.4.4 Design Alternative B – Applicant's Alternative Project). The EIR includes an assessment of potential impacts to the environment resulting from construction and operation of an on-site (or community system as described in the Alternatives chapter). No significant, unavoidable, adverse impacts were identified. No changes to the EIR are necessary.
MT-3	Based on the analysis presented in EIR Section 4.4 (Cultural Resources), the requirement for an open space easement was not determined to be necessary to mitigate potential impacts to cultural resources. The information provided in the commenter's letter was provided to the applicant for consideration, and the applicant has noted that the option for an open space easement is still under consideration. This comment letter is included in the Final EIR, which will be considered by the County decision makers (i.e. Board of Supervisors, Planning Commission) when considering certification of the Final EIR and approval of the Land Use Ordinance Amendment and Conditional Use Permit. No changes to the EIR are necessary.

Northern Chumash Tribal Council
A Native American Corporation - NorthernChumash.org
67 South Street, San Luis Obispo, CA 93401 805-801-0347

Brian Pedrotti, AICP
San Luis Obispo County
Department of Planning & Building
(805) 788-2788
bpedrotti@co.slo.ca.us

September 27, 2013

Re: NCTC comments for Dana Adobe DEIR

Dear Brian,

The Northern Chumash Tribal Council (NCTC) is located at 67 South Street in San Luis Obispo California, and was formed under the guidelines of California Senate Bill 18 April 26, 2006 as a California State Recognized Tribal Government by the California Native American Heritage Commission, organized and dedicated to preservation of the California Native American Chumash Culture, Sacred Sites and the environmental/ecology. NCTC is dedicated to meaningful consulting with Federal, State, local governments and agencies, consulting with the development community, and supporting tribal community well-being. **NCTC-1**

Please find below NCTC comments concerning the proposed Dana Adobe project Draft EIR.

4.4 Cultural Resources

NCTC believes that Native American comments should be also included in this DEIR document, not just archaeological or scientific references. **NCTC-2**

Nowhere in this draft EIR document, is there the inclusion of comments from the California Native American Chumash, particularly comments from the Northern Chumash Tribal Council or any other Northern Chumash group or individuals. Not including any of our comments of details of our perspectives makes this draft EIR flawed, misleading and prejudicial. Because of the importance of this project to the NCTC and other Chumash this exclusion is harmful and is in violation of the UN Declaration of the Rights of Indigenous Peoples, NCTC does not give the County permission to adopt this project.

4.4.1 Existing Conditions

4.4.1.1 Pre-historic Resources

NCTC does not agree with the archaeologist's assessment that generally six major prehistoric periods exists, we as the Indigenous Peoples live by one continuum. **NCTC-3**

ENVIRONMENTAL & LAND-USE CONSULTING
EDUCATIONAL SERVICES TEACHING NATURE, NATIVE CULTURES & FARMING

NCTC does not agree with anthropologist /archeologist Kroeber's work; it is not recognized by the Indigenous Peoples. **NCTC-4**

NCTC does not agree with Kroeber's definition of Northern Chumash Territories, as has been told to us for over 10,000 years our land extended to Ragged Point and inland to San Miguel.

NCTC does not agree with the words "greater sway over native peoples" we were enslaved, and forced to adapt to European culture or be killed, drastic number of Chumash Peoples and children were tortured and kill because we did not follow the Mission way of life. Many Chumash were not indoctrinated into the Catholic faith, and many resisted, and hid out in the hills and mountains, we believe that just a small portion of Indigenous Peoples were converted to the Catholic faith. **NCTC-5**

NCTC does not agree that the Chumash who lived at the Dana site made forays during certain time of the year to the coast, my relatives could leave in the morning and walk to the coast and be back for dinner with clams and other sea foods on a daily basis. **NCTC-6**

NCTC does not agree with the assessment that this site functioned as primarily as a short-term camp, or "station", this was a part of a very large "Cultural Landscape, Complex or District" this site was connected to all the villages within a mile radius of this site, this particular sites was used in many different ways as would the outskirts of a town would be used, the main village of Nipumu in the Teft street area is a large village and this Dana site was a component of that and other large village centers nearby. This area was a trading area where many different Indigenous People from all over California and the western hemisphere gathered to trade, offer ceremony and celebrate. **NCTC-7**

When you only look at a very small portion of a living village or town you will not be able to assess the true nature of the area, CEQA requires that the whole is evaluated not just small portions; this is a very large Indigenous Complex and must be view as such. This is exemplified by, the presents of obsidian, which was brought from great distances and traded at this site. Indigenous Peoples in Arizona have abalone shells, traded from our area, and they will tell you how they respect and honor the Chumash, because their ancestors traveled here to trade and honor the Western Gate.

The diseno were drawn for the Dana properties, to exclude them in this evaluation because they are not in the areas around the Dana Adobe is inaccurate and misleading, for us the Indigenous Peoples the Sacred Circles are extremely important, and a component of the Dana site. **NCTC-8**

John Johnson is not recognized as an authority of Chumash History based on his accumulation of Missions records and scientific linear data, Mr. Johnson believes that he is in control of our story, but he is not, our Elders have been telling us our true story since the beginning of time.
In the second paragraph the author of this DEIR document pedestals "John Johnson, Curator of Anthropology at the Santa Barbara Museum of Unnatural History, as a specialist in Chumash prehistory and history, has reviewed the NCTC materials and unequivocally refutes the claim." In NCTC opinion and the in majority of the Chumash Communities opinion John Johnson is a cultural troublemaker, and not respected by the majority of the Chumash Community. John Johnson basis his

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life studies on Mission records and linear data theorized in a colonial anthropological mindset which is detrimental to all that is sacred to the Indigenous Peoples of California. John Johnson has caused much pain and division within the Chumash Community over many years of his tenure at the Museum of Unnatural History, he has tried to control the history of the Chumash Peoples for his own personal gains, and he has used colonial anthropology to play dictator of the Chumash Peoples for far too long. There are many Chumash scholars who have spoken out and are continuing speaking out against his abuse of the Chumash Peoples of California. Deanna-Dartt Newton a Chumash scholar has spoken out against his abusive control of the Chumash Peoples documents, artifacts and his abuse of his concocted fantasies of who the Chumash Peoples are and his abuse of this information for policies and monetary benefit of the development community, his abuse of the Most Likely Decedents (MLD) status, which is a divided and conquer tactic and his overall DNA determinations

NCTC-8 (continued)

It is our opinion that California's Native American anthropology is inexorably marked by the sustained drama between the California Native American man called Ishi from the Yahi tribe and Alfred Kroeber, the German-American founder of the anthropology department at the University of California, Berkeley. In many ways, California anthropology's changing relationship to Native peoples, engendered in colonial power relations is symbolically played out in the extended Ishi drama that spans parts of three centuries. To this day, almost one hundred years after his death, Ishi draws anthropology into question as his life sheds light on the dark sides of anthropology and California history. His story bears revisiting as a healing dynamic, pertinent to California Chumash anthropology and California Chumash communities becoming whole once again.

NCTC-9

Ishi was the survivor of one California tribe extinguished, like hundreds of other California Native tribes, by the genocidal onslaught of US military attacks, vigilante civilian assaults, scalp fees, legalized slavery, wholesale massacres of California Native Americans by White settlers, and the willful destruction of Indigenous social systems. Ishi was wandering alone in search of food when he was arrested in 1911 and then released to anthropologists Alfred Kroeber and T. T. Waterman, who held Ishi as a living museum artifact or spectacle viewed by thousands of visitors and myriad photographers until Ishi's death in 1916. At the time of Ishi's death, Kroeber notwithstanding his promise to the contrary became complicit in having Ishi's brain separated from his body and delivered to the Smithsonian, presumably in the "interests of anthropological science." Theodora Kroeber, Alfred Kroeber's partner, published a book in 1961 about Ishi, whose title, Ishi in Two Worlds: A Biography of the Last Wild Indian in North America encapsulates a prevalent anthropological ideology positing an imagined Indian extinction "last" and savagery "wild Indian", extending to the entirety of "North America".

In California a new movement to heal the past history and passed anthropology are on the forefront for the California Native American communities, born from the story of Ishi and the epic Indigenous effort to reunite Ishi's brain with other body parts, eighty years after his death. The Indigenous oral tradition of activist Art Angle's Native community had kept alive knowledge of the desecration of Ishi's human remains at the hands of anthropological scientist. In 1997 that historical remembrance motivated Indigenous demands for Ishi's repatriation from the Smithsonian Institution, where his brain was warehoused for decades.

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NCTC-9 (continued)

That complicated repatriation effort ultimately motivated a collective apology from UC Berkeley's Department of Anthropology in 1999, which stands as a landmark truth speaking healing document: "what happened to Ishi's body, in the name of science, was a perversion of our core anthropological values, we are sorry for our department's role, however unintentional, in the final betrayal of Ishi, a man who had already lost all that was dear to him at the hands of Western colonizers. We recognize that the exploitation and betrayal of California Native Americans is still commonplace in American society."

In a later statement UC Berkeley Department of Anthropology professors reneged on the apology, yet opted to "invite the people of Native California to instruct us in how we may better serve the needs of their communities through our research related activities." This conciliatory invitation, together with the conciliatory stance of the Maidu and Pit River Native Peoples, who initiated and carried out the movement to give Ishi proper burial, can well, be regarded as a milestone in an emergent California Truth and Reconciliation movement.

The cultivation of an anthropology that serves the needs defined by Indigenous communities is also of relevance with the Chumash homeland. The openly painful yet fruitful dialogue between California Indigenous communities and some anthropologists occasioned by the Ishi experience marks a qualitative new interaction.

We bring forward the concept of truth and reconciliation because its practices and commissions have served to repair the human suffering and devastation resulting from mass injustices, systematic violence, or genocide in many places around the world. Truth and reconciliation practices such as collective testimony and truth telling, community rebuilding, and establishment of new healing relationships have helped to address historic trauma in places such as Guatemala, South Africa, and some United States cities. Recent proposal for a United States Truth Commission that would address the long legacy of civil and humans rights violation by the United States against Indigenous Peoples include that by Waziyatawin Angela Wilson entitles " Relieving our Suffering: Indigenous Decolonization and United States Truth Commission."

Ishi's brain is but the tip of the iceberg, lest we forget, the relationship of "exploitation and betrayal" pertains not only Ishi's human remains but to anthropology as a whole, because there are thousands of Indigenous people held captive in the warehouses of today's museums, universities, and private collections around the world today, Chumash artifact are highly regarded around the world, the Chumash Nation has been the most studied Indigenous Nation in the Americas, they have collected our artifact in all major countries and museums around the world, and, as it stands, a prominent sector of California Chumash anthropology is fraught with colonial legacy that can well benefit from revisiting the Ishi story and subsequent truth and reconciliation dynamics.

Among the Chumash, the best known twentieth century anthropologist was John Peabody Harrington. Although Harrington and Kroeber are long gone, anthropology's often fractured relationship to California Chumash Peoples is set forth, for example, in some contemporary anthropological debates

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NCTC-9 (continued)

surrounding today's Chumash and in part by institutions that control much of the public discourse concerning "Chumash". Like the Bureau of Indian Affairs, some Santa Barbara anthropologist assumes the powerful role of identifies authenticator and gatekeepers over ethnic identities. Anthropologist John Johnson of the Santa Barbara of Natural History has established a hierarchical Chumash identity model based on what he terms "ancestry." His ancestry approach serves as a key tool for dividing, silencing, dismissing, and delegitimizing entire sectors of living Chumash Peoples, while favoring and fostering other sectors. Anthropologist Brain Haley and Larry Wilcoxon similar proclaim the "Chumash Traditionalists lack the kinds of biological and cultural linkages with the region's aboriginal past that they claim" as they highlight anthropologists' federal roles a "delineators of Chumash identity." They quote national guidelines that empower them and other anthropologists to act as "judges of the genuineness and authenticity of tradition" in evaluating traditional cultural properties such as, for example, Point Conception.

The anthropological imaginary constructs and reduces living Chumash peoples into supposed opposing and mutually exclusive monolithic binaries. For example, Brain Haley and Larry Wilcoxon categorize and divide the Chumash in terms of as "new-Chumash/ex-Californios" and "old Chumash'; or the "traditionalist" and non-traditionalist." Although appearing to be critical of federal traditional cultural property guidelines, anthropologist Haley and Wilcoxon stop short of revealing the economic development and economic ramifications are at the heart of their considerations and discussion of the Chumash Identity and of Point Conception as a sacred site. A portion of their study was funded by California Commercial Spaceport, Inc., the very same aerospace firm seeking to build a space port at Point Conception. Among the many published dissenting replies to Haley, anthropologist Jon M. Erlandson is particularly insightful as it contextualizes Haley and Wilcoxon's article with the political power struggles, "over control of the past". Erlandson indicates, "Native American groups have squared off against powerful developers, corporation, government agencies, museums, universities, and archaeological contractors over the control of archaeological sites, investigations, or collections. These battles have made the more radical Native American groups which including many traditionalist Chumash, a host of powerful enemies." Erlandson speaks to the broader decolonizing historical context and process. Although anthropologist Haley and Wilcoxon's deconstructive approach to identity seeks to lie bare "the processes through which people form ideas about their history, identity, heritage, and traditions," they do not frame Chumash Traditionalism or re-emergence as a part of the historic global, national, and local collectively organized decolonizing movements. Instead they cast the onset of Indigenous revitalization and Civil rights Movements in individualistic, belittling terms resembling the actions of a disgruntled drug addict getting up from a couch: "Individuals have shed former ethnic identities' to become Chumash following transformative life crises and experiences, including divorce, battles with substance dependency, participation in museum project to construct a Chumash canoe or tomol."

In a 2005 article entitled "How Spaniards Became Chumash" anthropologist Haley and Wilcoxon continue to examine the ancestry claims and "identity changes" of specific Santa Barbara families they continue to label "neo-Chumash." They also continue to refer back to their 1997 article that "showed founding Traditionalists lacked Chumash ancestry." In fact they hardly look beyond changes in ethnic labels. Anthropologist Haley and Wilcoxon seem highly duplicitous. Although they begin to

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indicating that they do not want to dismiss "these neo-Chumash as anomalous fakes," they then use scathing, dismissive language to indirectly liken them to "simulacra" who like Disneyland "symbolize the pervasive substitution of simulation for reality." They repeatedly refer to the "neo-Chumash" as "descended almost exclusively from the people who colonized California for Spain" and as "a clear case of whole cloth fabrication." Anthropologist Haley and Wilcoxon disregard the effects of their research models upon living Chumash communities. Writing within a small Chumash community, they use thinly veiled references to specific living families and individuals, pitting selected quotes against one another, deepening divide. Julianne Cordero observes that such binary models of Chumash identity "have for year's violently polarized local mixed heritage, indigenous families."

In their discussion anthropologist Haley and Wilcoxon reduce "ethnic identity" and their perceived changes in ethnic identity within Santa Barbara families to changes in ethnic labels applied reliably or not by officialdom: by the Spanish census of 1790, by mission records, and by the US Census Bureau. They conflate or equate the living dynamics of cultural identity change with ethnic label changes; they put forward dichotomies of "ancestry" that belie their professed motion of identity as a fluid category. They use the term "neo-Chumash" to mark boundaries and distinctions among the Chumash. Anthropologist Haley and Wilcoxon construct the "neo-Chumash" as distinct from the "Chumash" whom they imagine as "descended from contact era villages and who have maintained a continuous identity as local indigenes."

In spite of community outcry, especially among the Chumash, and academic critique from colleagues, Santa Barbara Museum of Natural History anthropologist John Johnson also continues to assume the privileged power wielding role of arbiter and clearinghouse of Chumash identity, using written records and later DNA. He divides the Central Coast Chumash into "three concentric circles" A, B, C and dismissively assigns the term "neo-Chumash" to the circle C label, which he defines in terms of what is "lacks." In his schema they "lack genealogical evidence of Chumash ancestry" while circle B has "some degree of Chumash ancestry." Johnson's "circle A are "people who descend from the indigenous Chumash populations who inhabited south central California and who have continuously maintained their identity as Indian communities." Even if we set aside the ahistorical notion that any group of Chumash has "continuously maintained their identity as Indian communities," Johnson's pseudoscientific Chumash taxonomy is hierarchical, essentialist, and unreliable. He refers to circle A as "easily traceable" through various records of officialdom. He concludes his three page article by congratulating himself for helping "all who seek to determine if they have traceable California Indian ancestry." Johnson and other anthropologist questionable practice of reducing Indian Identity to genealogies that he considers "traceable" through the records of violent colonizing institutions, mission systems, the reservation system, the US government systems, is highly problematic. This train of thought curiously reduces Chumash identity to a tenuous "ancestry" connection ostensible locatable in the unreliable and incomplete mission records. In reality many Chumash fled from the mission areas and also avoided the later reservation process controlled by colonizers. Anthropology and Johnson fully ignores the non-reservation and non-mission Chumash Family histories never captured through officialdom's "records." This anthropological notion of "traceable ancestry" also ignores, for example, ceremonial kinship relations beyond "blood" relations. What is worse as we envision a healing anthropology, Johnson's categories mentally divide a living, breathing Indigenous community.

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Chumash scholar, Deana Dartt-Newton, curator of the Portland Museum of Natural History, one of the largest western Native American museum on the west coast, points out that Johnson's anthropological categories divide Chumash communities that are in fact interrelated: "As anthropologist define authenticity, they artificially divide the extended family networks that constitute the native community. Today, the people who some anthropologist claim are from the old families and possess ancient knowledge are no more authentic than those anthropologist Johnson, Haley, Wilcoxon and others Identify as neo-Chumash, they simply lack documentation of mission Indian ancestry."

Johnson's notion of a tribe that "has continuously maintained their identity as Indian communities" is an oddly static notion of "identity" that does not include culture, history, or sensitivity to contemporary Chumash community dynamics. Implicit in Johnson's taxonomy is the notion of authenticity, or what Eric Wolf has called the "mythology of the pristine primitive, that denies the facts of ongoing relationships and involvements." Johnson and many other anthropologists do not account for the ways in which the unrecorded widespread rape of Chumash women by colonial power holders under missionization, for example, changed the taxonomies of blood and ancestry he imagines as "traceable" within written records. Anthropologist Johnson and his followers fully ignore the historical presence of colonial violence. In the words of Ned Blackhawk, "given the histories of displacement, captivity, and violence that characterize Indian - white relations, the idea of pinpointing biological, racial ancestry amidst such social turbulence seems counterproductive at best." Johnson's research like anthropologist Haley and Wilcoxon's is in fact productively tied to economic development and land claims. As Julianne Cordero points out: "Not only are a series of flawed tests inadequate to infallibly identity an entire peoples, but Johnson's data disputing the indigenous identity of local Chumash peoples are used by landowners, local governments and developers, and are challenged by those same local peoples." Also, California's Native American Heritage Commission relies on Johnson's problematic ancestry research to help designate "MLDs" who make decisions concerning the disposition of Chumash burials at construction sites.

Vine Deloria Jr. observes, "Indianness' has been defined by whites for many years. Always they have been outside observers looking into Indian society form a self-made pedestal of preconceived ideas coupled with an innate superior attitude toward those different from them." Current anthropological efforts to define, categorize, and then identify the "authentic" Chumash while dismissing the rest in fact maintain existing anthropological positions of social privilege over the people they are "researching." Anthropologists who contrast an imagined authentic and inauthentic Chumash assume a position of power to discredit certain Chumash sectors while they privilege those they imagine "have maintained a continuous identity." They alienate many and favor others within a fractured Chumash community, thus augmenting the historical trauma from which Chumash communities seek to heal. Decolonial theorist Linda Tuwawai Smith alludes to the fact that "at the heart of such a view of authenticity is a belief that indigenous cultures cannot change, cannot recreate themselves, and still claim to be indigenous. Nor can they be complicated, internally diverse or contradictory. Only the West has that privilege.

In direct response to anthropologist Haley and Wilcoxon, anthropologist Anders Linde-Laursen puts forward a view of the Chumash that is nonhierarchical and that accounts for the complexity of

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Chumash or any other culture: "Chumash or another invented and historically changing sociocultural formation must be regarded a possessing a complexity of compounded, contested, and contradictory identities." Chumash scholar Deana Dart-Newton argues for the crucial importance of recognizing Chumash ethnic mixture as central to survival and at the core of what is Chumash. In her analysis she is one of the core histories denied in the dominant discourse." What is at stake for those who espouse that dominant discourse? Jon M. Erlandson comments on changing power relations in the era where the native talks back and reclaims:

"For many museum professionals intent on protecting their collections, for archaeologists who long for the good old days when they could dig where they pleased without interference, for biological anthropologists who fear that analysis of skeletal remains will no longer be possible, and for cultural resource consultants who have made millions of dollars as the sole authorities on Native American culture, there is much to fear from newly assertive and empowered Native American groups."

More recently, emergent Chumash scholars have also taken issue with various elements of the Santa Barbara anthropological establishment, indicating that John Johnson is "part of a legacy of cultural negation and damage carried on through the use of anthropological method." Julianne Cordero indicates,

"Johnson, in his current capacity as curator of anthropology at the Santa Barbara Museum of Natural History, created an official-looking "Pedigree of Indian Blood" form. This form does very little besides document a very few Chumash individuals' connection to another set of forms, the mission registers and US census records, Johnson's textual reconstruction of Chumash History and genealogy and his position of scientific certainty are part of a legacy of cultural negation and damage carried on through the use of an anthropological method not designed to deal with fluid nature of intermarriage and multicultural identity."

For Julianne Cordero as contemporary Chumash woman scholar, Chumash health and healing through self-determination and through the establishment of sustainable reciprocal relationships are central concerns: "Chumash and Californio families are, by allying ourselves with the larger community, working within an ancient model of gathering power and performing health. We have for generations prayed for, and now receive, our *'atiswin* power to begin healing and supporting each other, power to recover from centuries old collective trauma, power to flourish, and power to protect and encourage the flourishing of our homelands."

Chumash identity is much more complicated than label changes, and all labels, such as Spaniard, are multifaceted and overlap. In fact, the distance from "Mexican" or Spaniard" to "Chicana/o" to "American" to "Chumash" is often in name only and certainly fluid. Ethnic labels that might appear to clearly demarcate difference tend to designate overlapping cultural realities, these realities tend to be permeable, slippery, or even interchangeable. Ethnic labels, just like their varied cultural realities, mark interrelationships more than separations. Like scores of other tribal groups, many Chumash found it historically necessary to at times self-designate as "Mexican" or "American" or "Spanish" or

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"Californio" over extended periods of time. Some of the Chumash elders in Santa Barbara confided that their self-identification as "Mexican" during much of their lives provided a modicum of social protection. Often sheer survival was at stake. Also, these changing labels reflect the very real intercultural relationships and mixing of cultures that happen everywhere.

During the brutal era of colonial nation-state formation, from the 1770 until recent times, the national designations such as "Mexican" or "American" or "Spanish" could provide tribal people with camouflage or safe haven from tribal persecution and genocide. National labels could occlude tribal provenance, and they served as an umbrella for multiple tribal peoples. Many of them de-tribalized or de-Indianized, some later re-tribalized or re-Indianized in safer times. De-tribalization sometimes involves only a semantic label change, as Guillermo Bonfil Batalla reasons: "De-Indianization has been achieved when, ideologically, the population stops considering itself Indian, even though the lifeway may continue much as before. Such communities are now Indian without knowing that they are Indian."

One of the most striking examples of semantic de-Indianization has to do with the so-called Spanish soldiers who came northward in the 1700s from what is now Mexico, colonizing for the Spanish Crown. Most of those "Spanish soldiers" were Indians from the Yaqui and Sonora/Sinaloa and Baja California tribes. The fact that these Indians are referred to in culture as "Spaniards" illustrates that semantic de-Indianization, both as a dynamic of social categorization, and, as a historiographical ideology that tends to erase Indians. The second largest group of Santa Barbara Mission and Presidio "Spanish soldiers" was comprised of recently free Afro-Mexican slaves. Chumash scholar Deana Dart-Newton intimates that John Johnson may be in the midst of reimagining what "Spanish soldiers" were. She quotes on Chumash community member:

I went to a lecture fairly recently that John Johnson gave at the Center for Genealogy Studies about his DNA research with Presidio soldiers that came up from Mexico. He determined that 80 percent of the soldiers were Indian regardless of what their caste had been documented as. And 40 percent of that 80 were indistinguishable from Chumash DNA. We laughed at the irony that research by the man dedicated to distinguishing the real Chumash from "Mexican" interlopers would prove that most of the people comprising these two supposedly "distinct" groups are, in fact all related.

With regard to the misguided anthropological efforts to separate the Chumash from "neo-Chumash" and other ethnic labels, ethnologist Anders Linde-Laursen significantly points to the "external circumstances" that create a blur between labels:

However, by choosing only one group-signifying criterion we lose sight of the fact that identities are fluid, established through processes in which now one, now another criterion (perhaps contradictory) compete for prominence. Thus it seems very probable that most of all persons who identify themselves as Chumash also sometimes identify themselves as Chicano or something else seemingly incompatible, depending on external circumstances. Consequently I find a more comprehensive understanding of the fluidity of identities useful. Not only are identities fluid historical products but the processes through

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which they are represented and demanded containing competing elements, for instance, Chumash or Chicano.

For our Chumash community, the umbrella "Mexican" or "Spanish" label, for example, often represented the possibility of social inclusion, staving off the social exclusion or death that came of self-designating as Native "india" or "indio." National labels could occlude dangerous personal cultural realities and specificities. In that sense the claim can be made that "Mexican" or Chicana/o in many cases implies a tribal, de-tribalized, or re-tribalized Indian. Historically there are no clear demarcation lines between the labels Chumash, California, Spanish, Mexican, or even Mexican American. After Mexican independence from Spain in the 1820s California gradually became part of the Mexican nation, and the Chumash technically became "Mexicans" until the United States waged war against Mexico and annexed the northern half of the Mexican nation by 1848. When California became part of the United States, the California legislature passed a law denying citizenship to California Native peoples, including, of course, the Chumash. In the US Southwest the term "Mexican" was in part utilized as a pantribal umbrella from which many tribal native people later emerged or "came out" as Indigenous during the Civil Rights Movement. That coming out is part of Chumash reemergence.

Re-emergence or tribal re-vitalization flies in the face of various anthropological declarations of Chumash "extinction," such as that by Thomas Blackburn, who in 1975 refers to "the extinct, fascinating, and possibly unique culture of the Chumash Indians of southern California." Vine Deloria Jr. comments on the re-Indianization or re-tribalization process, "According to the scholars, community Indians should have vanished long ago. The thought that Indians might detribalize, recolonize and recustomize will short many a fuse in the universities." Many Chicanos/as also re-tribalized, "came out" and claimed their Native heritage, in what Cherrie Maraga has called "Indigenismo: The Re-Tribalization of Our People." Moraga's "Our People" references both a re-Indigenized tribe she calls Chicano Nation and/or other forms of Chicana/o re-tribalized or came out as Chumash. Chumash reemergence of course in no way implies a cultural or political homogeneity of any kind, but rather a multiplicity and complexity of standpoints and experiences.

Santa Ynez Chumash elder Juanita Centeno described the social dynamic of self-protection that motivated Chumash community members to not claim Chumash identity in a racist society:

Sometimes I blame my parents, because they tried to take things away from us, the Indian ways. They thought they were doing us good by saying, "don't even mention you're an Indian. If you go and ask for a job, say you're Spanish, or Italian, or Portuguese, or something else. Don't say you're Indian. If you say you're an Indian you're not going to get the job." Sure enough, we'd forget. We'd say, "Well, we're Indian." "Well, we'll call you if we need you. We'll call you." They never called us.

The recent words of Sarah Moses, a Santa Ynez Chumash elder, similarly hold true for many Chumash: "I would never even tell people I was Chumash, I would say I was Mexican." Some of the Chumash in Santa Barbara also claimed "Mexicanness" to some degree, having grown up as Spanish

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speakers in the Santa Barbara Mexican/Chumash barrios, while others grew up as English speakers, and still others as bilinguals.

As a parallel, Yaqui Indians in Arizona were often virtually indistinguishable from other "Mexicans." When the Yaqui were accorded federal tribal recognition in 1978, many individuals officially changed labels. Tohono O'Odham tribal member Lucinda Hughes-Juan recalls: "At that time many Yaquis had to decide whether to continue on as Mexicans or whether to declare themselves officially Yaqui. The term "Mexican" had always been considered a step up from being Indian." Chumash Nation, Chicana/o Nation, Mexica Nation and other tribal/ethnic groups thus offer plenty of cultural fluidity where individuals and families over time move in and out of ethnic labels in chameleon like fashion. Still, some of the Santa Barbara anthropological establishment clings to labels they treat as bounded and mutually exclusive.

The fields of anthropology and archaeology, which in some measure emerged as the intellectual projects accompanying the economic disenfranchisement and physical decimation of Indigenous peoples worldwide at the hands of new nation-state empires established on Indigenous lands. The physical decimation of Native populations frequently references the pillaging of village sites and burials by so many archaeologist and grave robbers. The pillaging movements on Chumash land began in the eighteenth century and continues to this day. Bruce Miller is among the very few to report on the systematic plundering of Chumash cultural resources at village sites: "In the 1870s an intense interest in the Chumash developed. This intensity was not directed at the living people but towards the relics and buried artifacts of their fading culture." Miller references the highly lucrative and destructive transnational business of looting Chumash village sites. The chief clients were museum collections in Washington, Paris, Moscow, Madrid, and London.

What the Indigenous Peoples denounce as "grave robbing" has been standard colonial practice since anthropology's early history. Franz Boas, considered by many as the founder of anthropology in the United States, as well as Ales Hrdlicka, founder of physical anthropology, had no qualms about desecrating Indigenous burial grounds and unearthing thousands of Indigenous human remains and cultural properties. What David Hurst Thomas refers to as "Skull Wars," have also been waged upon Chumash land. Anthropologist John P. Harrington collected valuable stories, extensive oral testimony, and linguistic material from Chumash elders along with pillaging graves and village sites; he collected artifacts for shipping to his employer, the US government's Smithsonian Institution, Bureau of American Ethnology, in spite of the Chumash elders' exhortations concerning the sacredness of burials. Harrington, together with David Banks Rogers, excavated and removed all of one village mound, now called Burton Mound, in 1924. Prior to Harrington, three different groups of archaeologists had looted the "Burton Mound" and offered the materials for sale to museums all over the world.

Harrington's legacy casts both light and shadows. Kent G. Lighfoot who has extensively documented the involvement of anthropologist in the process of federal land allocation to some California Native groups and in the denial of land to others, on the one hand notes how Harrington was a "tireless and meticulous fieldworker," yet on the other faults Harrington" "But his secretive behavior and refusal to publish or share his field data did little to help the cause of local Indians in the early decades of the

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twentieth century. He kept his volumes of field notes which could be provided critical information about the deep histories of Central Coast peoples locked away, while decisions were being made about federal land grant allocation."

In whole the largely troubled relationship with so many anthropologist and archaeologists exists through today, but on the other hand there are relationship of mutual respect and reciprocity that have been established in some cases, Jon Erlandson and some other have built a respectful way of listening to Chumash concerns. In spite of the critique of anthropology that has issued forth from within and outside Indigenous communities, the legacy of classical anthropology and anthropology and so many of its Western categories of cognition, classification, and control in some measure continue to buttress hierarchical and disenfranchising race/gender/economic relations with Native peoples to this day. With regard to anthropological knowledge concerning the Chumash, we witness how the institutionalized anthropological knowledge produced by dominant normative institutions, be they museums, schools, or universities, enjoys visibility, circulation, power, and legitimacy. In this regard, and examination of the Santa Barbara Museum of Natural History's official booklet *California's Chumash Indians*, published in 1996 and reissued in 2002, merits our attention. That booklet is a segment of the longer *Chumash People: Materials for Teachers and Students,* printed in 1982; revised 1991. Both publications prominently inform public opinion concerning the Chumash, while they also manifest, in condensed form, standard strategies of a colonial historical whiting about the Chumash. Those strategies include the generous use of euphemisms that blur that smooth over Chumash genocide; the use of the passive voice to avoid naming the subject/agents of colonization; the deployment of an assimilationist nationalist master narrative; the tone of colonial inevitability; a steady colonial gaze and implicit glorification of a linear and seemingly irreversible colonial process; a distortive selective use of facts leading the readership to almost sigh with relief that White American has supplanted Chumash society and lifeway's; and the omission of Chumash voice and agency. Absolutely no living Chumash people were involved in the project. In fact, only three short paragraphs are dedicated to the living Chumash. Both publications tell us the "the Chumash are not extinct" and that "they are proud of their history, their spiritual values, and their cultural history." However, not a single living Chumash person is quoted.

The museum' aforementioned publications situate the silent Chumash almost entirely in the frozen long-ago time. The museum's pamphlet euphemizes Indian bondage and slavery within the Santa Barbara Mission as "Indian labor." The fact that colonizers often relied on physical force to recruit and maintain Indians in the missions is converted to a matter of friendly persuasion: "The Chumash were urged to leave their native villages." The violent colonization process is further neutralized as the museum pamphlet authors imply that the Chumash themselves eagerly recruited for the mission system: "the first Chumash to learn the new way of life went back to the villages and brought more Indians to the missions." Gone are the "Spanish soldiers," the Catholic mission whipping posts, torture dungeons, sexual violence by soldiers and priests, the loss of personal autonomy and ensuing decline in births among the Native populations, as well as the colonial destruction of Native social systems and of ecological systems, and the Catholic missionaries' persecution of Native spiritual practices. The Chumash Holocaust is trivialized into "the populations of the villages declined to the point where their religious and social systems broke down." The publications' exclusion of Chumash voices, as

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legitimate speaking/writing subjects, as "knowers," is consistent with its overall strategy to disguise or embellish colonialism and its violence's. The almost entirely passive-voiced writing makes it appear as if the population decline happened by itself or was due only to diseases. "Their religious and social systems broke down." Who did the breaking? How did they break? It was the Indians' fault; we did it to ourselves……

The Santa Barbara Museum of Natural History's publication leaves the reader with a fairly idealized and benevolent image of Catholic missionization and colonization. The pamphlet, for example, fails to engage historical evidence concerning how the mission imposed a starvation diet upon mission Indians, weakening our resistance to disease and our ability to survive even without disease. For example, two-thirds of Chumash children brought into the missions died before age five. Although the successful Mexican wars of independence from Spain ultimately terminated the Spanish Catholic mission system by the mid-1830s, the Mexican nation greatly expanded the expropriation and privatization of Indian lands. Spanish rule from 1769 to 1821 had issued twenty private land grants, whereas Mexican rule, from 1821 to 1846 authorized five humored land grants, very few of them to Indigenous communities and individuals. Dispossession of communally held ancestral Native lands, along with expanded forms of enslavement and genocide, greatly increased with the arrival of US Americans and their Gold Rush in the 1840s.

The Santa Barbara Museum of Natural History booklet mentions the arrival of American after 1848 "to farm or run businesses." American westward imperial expansionism into the Chumash homeland would appear a matter of stalwart individuals wanting to do business in the context of an occasional racism perpetrated by random small groups. The booklet notes: "Many whites believed that Indians were either 'wild savages' to be destroyed or inferior 'diggers' to be laughed at or pitied." Such writing erases the fact that the genocide of Indian tribes was planned and executed not only by "many whites" but systematically by officialdom of the state of California and the United States government, by the judicial system, and by law enforcement. That period from 1848 to the 1890s was perhaps the bloodiest, may elders refer to it as "all out, total all out violence….It was an extremely terrible time for our people" After California became part of the United States, the California legislature institutionalized and enforced even more systematic and widespread forms of violence against Native peoples. The Santa Barbara Museum of Natural History's pamphlet systematically downplays the very violence that provided the museum with prime Chumash land adjacent to mission lands worked by captive Chumash laborers.

The museum's website is also problematic. It telescopes thousands of years of Chumash civilization into an abbreviated timeline entitled "Time of Cultural Change in South Central California." What is implied by the museums' decision to terminate the Chumash timeline with "Missionization'? What about cultural changes after Catholic missionization? The museum effectively obscures contemporary living Chumash communities as it assumes authority over defining and representing Chumash peoples. When it does focus on living communities, typically through curator John Johnson, the museum wields power in highly controversial ways.

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The museum's construction of history illustrates the unequal power relations, an elder describes: "Studying any people is an act of power over them. Researchers control the product and they disseminate it." In the "Chumash Indian Hall" with a Chumash diorama, manifests a wax-museum approach to human identity and history. The museum's taxidermy-like Chumash Indian Hall exhibit once again positions the Chumash in that frozen long-ago time. Raymond Corbey ties such ethnographic showcases "to the imperialism of nineteenth-century nation states" as he assigns ethnographic exhibits to "the wider context of the collecting, measuring, classifying, picturing, filing, and narrating of colonial Others during the heyday of colonialism" The museums' curators have the power, authority, resources and official space to present this frozen Chumash diorama, and this power implies many things, all of them tied to the legacy of enduring unequal colonial power relations installed and maintained by Eurocoloization. For Chumash communities, historical trauma is a central component of that legacy.

Beyond the appropriation of the Chumash as cultural "others," the Santa Barbara Museum of Natural History's exhibit reinscribes "Chumash" and the Indigenous within the purview of Euro-America's "natural history" while the absence of a White diorama implicitly positions Euro-Americans in a separate category. Chumash/California scholar Deana Dartt-Newton has undertaken a sustained analysis of California museum representations of Native peoples in her groundbreaking dissertation "Negotiating the Master Narrative: Museums and the Indian/Californio Community of California's Central Coast." She includes the Santa Barbara Museum of Natural History in her conclusion that "the four museums discussed above represent Indian people in a past, primitive, and natural state, predominantly occurring in dark, unappealing spaces. For these venues to bring Indian life to the fore in their narratives would require tackling issues of colonization, land tenure, sovereignty, and racism which began with the arrival of Europeans." She also signals the connection between the representation of Chumash by museums and some scholars and the continuation of historical trauma: "Today the Native communities of the Central Coast resemble so little the representations made of them that Native people hardly recognize themselves there. This disconnection contributes to continued marginalization as well as to experiences of sustained historic trauma."

Chumash scholar Deanna Dartt-Newton's research and writing contribute centrally to healing Chumash history, as she incorporates a host of Central Coast Chumash community voices, as well as community demands and critiques of the museum. Not least of those Chumash demands is that for the return of the seafaring plank canoe, the tomol, named Kelek. The Santa Barbara Museum of Natural History laid claim to the Kelek in 1976, bolted the Kelek to the museum ceiling, and has dismissed Chumash demands for its return to the community.

Given the museum's occlusion of traumatic colonial and continuing violence, it is worth remembering/restating highlights of that recent violent history that Chumash communities have resisted and survived against all odds. In 1849 California's first Constitutional Convention denied "Indians and their descendants" voting rights. After California became part of the United States of America in 1850, the politicians of the new Golden State enacted laws legalizing Indian slavery and installing White supremacy as a matter of law. In an Orwellian distortion of language, the California

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legislature named its first 1850 legalizing Indian slavery an "Act for the Government and Protection of Indians." Under the guise of "protecting" Indians, Section 3 of the act stipulated that:

Any person having or hereafter obtaining a minor indian, male or female, from the parents or relations of such indian minor, and wishing to keep it, such person shall go before a justice of the peace in his township, with the parents or friends of the child, and if the justice of the peace becomes satisfied that no compulsory means have been used to obtain the child from its parents or friends…shall give to such person a certificate, authorizing him or her to have the care, custody, control, and earnings of such minor, until he or she attains the age of majority, male 18, female 15.

Throughout the nineteenth century, Euro-American slave traders routinely hunted Native American and sold them at auction for prices ranging between fifty and two hundred dollars. Historian James Rawls indicates, "So what we have here in California during the Gold Rush, quite clearly, was a case of genocide, mass murder that was legalized and publicly subsidized." Clifford E Trafzer and Joel R. Hyer, for example, published documents from the 1848-68 genocide in the collection Written Accounts of the Murder, Rape, and Slavery of Native Americans during the California Gold Rush, 1848-1868. California Natives were routinely hunted, captured, and either killed or sold at auction: "The slave traders frequently murdered the troublesome parents as they were gathering up the children, a tactic that allowed the slavers to sell their little charges as orphans.

It is incumbent upon us to remember that the violence was systemic and enacted merely by a few vigilantes or errant slave traders but a collaborative effort launched by US government policy, its military and law enforcement, and by the California judicial system. Governmental institutions protected the bounty hunters, slave traders, and Euro-American land grabbers, settlers, and ranchers. It is necessary to bring the extent of violence to mind to understand the degree of contemporary "whitewashing." Native peoples responded to the onslaught by organizing armies of self-defense throughout the country. Some of the best-known leaders of the resistance are Joaquin Murrieta, Tomas Tajochi, Mangas Coloradas, and Cochise.

The Santa Barbara Museum of Natural History's booklet would be insignificant, were it not paradigmatic of historiography emanating from such of institutionalized officialdom, which, knowingly or unknowingly serve as the localized extensions of state and national efforts to neutralize, define, and control native peoples. Ned Blackhawk describes historiography's trend to minimize violence directed at Native population as complicit with the celebration of US nationhood: "Despite an outpouring of work over the past decades, those investigating American Indian history and US history more generally have failed to reckon with the violence upon which the continent was built. Violence and American nationhood, in short, progressed hand in hand." The occlusion of violence, particularly nation-state violence visited upon the Chumash by colonialism, today tacitly legitimizes colonial politics, making the unspoken justification of history's violent outcomes far easier. If the bloodshed that created and sustains the American nation-state is whitewashed, the current national and state apparatus appears benevolent, inevitable, and even "naturalized." Once the dispossession and enslavement of Native peoples is occluded, the glory of California's economy can be celebrated as the work of enterprising White Americans. Among the Santa Barbara Museum of Natural History's most

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NCTC-9 (continued)

glaring erasures are the many Chumash resistance struggles across history. They omit every single Chumash uprising, indictments of the Catholic missions and newly imposed nation-state systems, as well as the more subtle resistance efforts by contemporary Chumash peoples. More contemporary struggles, such as the 1978 Point Conception Occupation also go unmentioned. Yet the broader epic story of that struggle over Point Conception remains to be written and will require its own book.

The physical Point Conception Occupation was the most publicized and dramatic aspect of a longer protracted struggle whose legal component began in 1977 and did not end until 1982. The 1977 federal lawsuit against Western LNG, who hoped to place an industrial development at Point Conception, was filed on behalf of the newly formed Santa Barbara Indian Center represented by attorney Marc McGinnes, general counsel and executive director of the newly formed Environmental Defense Center, a public interest law firm. The legal team argued for the rights of First Peoples and asserted rights of cultural continuity pertaining to the land and desecration of the land. With regard to the court battles, Marc McGinnes recalls, "We lost at every level, but we held them up for years and we fought for every inch." Western Liquid Natural Gas filed a countersuit against the Point Conception occupiers, charging them with "trespassing" on private property. In addition to the lawsuits fought out in court system, the US Federal Energy Regulatory Commission held hearings in Washington, D.C., and Santa Barbara. This huge culture class around Point brought national and international public attention to Native spiritual issues, while also generating alliances and coalitions with diverse groups, including the American Indian Movement, the Native American rights Fund and California Indian Legal Services. Ultimately, Western Liquid Natural Gas abandoned its designs on Point Conception in the 1980s. More importantly, as a landmark struggle for spiritual reemergence, the Point Conceptions Occupation signals Chumash revitalization; it brought healing upon the land and people.

A healing dynamic emerges not only from Point Conception but also from continued reclamation struggles since then. In the mid-1990, Chumash communities and their allies organized to build the Elye'wun tomol and paddle from the Chumash mainland to the island site of Limuw, for the second time in recent history. The subsequent establishment of the Chumash Maritime Association marks another significant step toward Chumash community self-governance and spiritual revitalization.

A new generation of critically engaged anthropologists and historians of the Chumash is on the rise. In 1989 Peter Nabokow noted that "There is a major book on the Chumash that cries out to be written." In 1991 James A Sandos calls for a new Chumash-centered history that respects Chumash humanity and seeks to view Indians acting on their own terms, for their own reasons, "in light of their own cultural norms and values." Lynn Gamblee's 2008 Chumash World at European Contact: Power, Trade, and Feasting among Hunter Gatherers, does meet the call for a "major book on the Chumash." Gambles's focus is largely pre-colonial and includes daily life, ceremonial activity, and a discussion of broader social structures and dynamics. While exceptionally detailed and well researched, the volume mainly compiles many previously written materials without in-depth critical commentary or original analysis. In its marked reliance on excavations from a host of Chumash burial sites that have been disturbed and desecrated, Gambles' book shows itself at odds with traditional Chumash "cultural

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NCTC-9 (continued)

norms and values." Although the title refers to the time period "at European Contact," the colonial encounter and its aftermath are circumvented.

With regard to breaking new healing ground, some California anthropologist and historians do offer sustained innovative and critical engagements with California Indigenous history, knowledge, and lifeways. Notably, a number of historians manifest the will and determination to center Indigenous experience and voice; to highlight Indigenous agency; to bring into focus Indigenous faces, names, historical self-affirmations and resistances. Historians such as Edward Castillo, Robert H. Jackson, Antonia Castaneda, Robert F. Heizer, Lisbet Haas, and Steven W. Hackel, for example, systematically shed light on California Indian agency and perspectives usually obscured within much of mainstream and even Indian-sympathetic historiography and anthropology. Castaneda's meticulous work on gender issues, Hass's volume, Conquests and Historical Identities in California, 1769-1936, and Hackel's children of Coyote, Missionaries of Saint Francis: Indian-Spanish Relations in Colonial California 1769-1850 reconstruct the complexities of early California histories and Indigenous agency. Jackson and Castillo highlight the complexity of Indigenous resistances within the mission system in Indians, Franciscans, and Spanish Colonization. However, these works are not specifically Chumash-focused.

Significantly, there is an emergent New Chumash research, a Decolonial research agenda, in the works, challenging many aspects of established Chumash research and changing the terms and categories of analysis. A new Chumash-centered research will necessarily be rooted in an Indigenous knowledge system whose traditions of practice, categories of cognition, classification, knowledge production, storage, and transmission arise from a Chumash knowledge system. Chumash scholar Deana Dartt-Newton and Jon M. Erlandson, for example, signal the advent of a New Chumash Research that puts forward new Chumash research paradigms. For Example, they critique Santa Barbara anthropologist Daniel O. Larson, John R Johnson, and Joel C. Michelson, who claim that Chumash Indians moved to the Spanish missions owing to "climactic conditions" rather than as a matter of colonial oppression. Chumash scholar Deana Dart-Newton and Erlandson indicate, "We recognize that deeply submerged or ingrained in the intellectual history of Western science, resistance to a full accounting of this apocalyptic history is still widespread." They also challenge existing Chumash research by calling for a decolonized anthropology.

A decolonized anthropology might well connect with what Michael Taussig proposes as a "refunctionalized Anthropology": "Such a refunctioning of anthropology would have to turn its resolute gaze away from the poor and the powerless to the rich and the powerful, to current military strategies of "low intensity warfare" as much as to the role of memory in the cultural constitution of the authority of the modern State." Chumash scholar Deana Dartt-Newton has shown how "the role of memory" functions within museums across California to disempower Indigenous peoples, as she puts forward multiple cogent recommendations to these multipliers of public opinion who sustain the modern nation-state and its dominant narratives.

It is unclear what it will take to generate new understandings between Chumash communities and the research establishment symbolized by the Santa Barbara Museum of Natural History, its Chumash

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NCTC-9 (continued)

pamphlets, its exhibits, its politics, and the larger community. One particularly damaging aspect of the museum's Indian gatekeeping divide-and-conquer politics is its screening of scholars and denial of research access to certain scholars on the basis of the museum's misguided race topology and identity litmus tests. In 2006 the Santa Barbara Museum of natural History denied Chumash/Californio scholar Deana Dartt-Newton permission to conduct interviews at the Santa Barbara Museum of Natural History. They justify their gatekeeping by alleging that she was ostensibly denying her "Spanish" identity by claiming to be Chumash. It seems that she failed the museum's Chumash identity admission criteria crafted by John Johnson. In the stern words of the museum's executive director Karl Hutterer; "our Committee was concerned that you have not been forthcoming regarding your own identity. Members of our California Indian Advisory Committee perceive your characterization of yourself as "Chumash," rather that admitting your California Spanish ancestry, as a further attempt to erode public understanding regarding who are the actual descendants of the historical Chumash communities in Santa Barbara and Ventura counties today." The University of Oregon President and anthropological staff back Chumash scholar Deana Dartt-Newton PhD. and she is now the curator of the Portland Museum of Native American History. Obstructionist practices such as these, directed at selected researchers, constitute a form of academic censorship, as they also deepen the social fractures in Chumash land.

As we move to establish social spaces grounded in mutual respect, reciprocal acknowledgment, and restorative social justice, more anthropologists, archaeologist, and historians will need to grapple with Indigenous-centered knowledge and with Indigenous peoples' historical trauma in uncharted ways.

As we respectfully critique the research conclusions drawn by anthropologist or archaeologist, the critique does not imply that their research, documentation, and publications are summarily dismissed as irrelevant or insignificant. There is great value in anthropological publications such as "The Eye of the Flute, The Material Culture of the Chumash Interaction Sphere, Crystals in the Sky, December's Child, or more recently the Samala-English Dictionary – A Guide to the Samala Language of the Ineseno Chumash People or Chumash Ethnobotany, not to mention anthropologist John P. Harrington's thousands upon thousands of pages of field notes collected from Chumash elders. However, every research every research endeavor arises from a sociohistorical context, and these broader contexts have been violent for Chumash peoples. That violence needs to be fundamentally addressed. Critique is long overdue, and such critique should well be embraced as an invitation to come together and not as a divisive measure. Challenges to existing research and unequal social relationships, like a bitter healing medicine, will help us all to take steps in new directions. Those challenges will help foster the emergence from historical trauma relationships.

NCTC disputes all of Santa Barbara Museum of Natural History colonial dominate, linear date theories of the Chumash Sacred Circles depicted on the diseno and other living Chumash history of the Dana Adobe area. The true understanding must come from the Chumash Community, we are the only ones who know the true story, and not from a point in time when museum looting, pot hunters, and anthropological grave robbers have pillaged the area clean of the Chumash Communities living relics and antiquities, have paved over, dug up, built highways, roads, cattle ranches, sewer plants, housing developments, large shopping malls, over the top of the Chumash Communities living village complex,

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Past anthropological attempts to determine and analyze what is left at the Dana site, in a meaningless diatribe of piece meal colonial anthropology, this is wrong. This Dana Adobe site is much more, and must be looked at from the time when this living Chumash Community Complex, living Cultural Landscape was thriving. The current colonial anthropological evaluations are inaccurate and misleading because they look only at what is left of our great Civilization. Under the UN Declaration of the Rights of Indigenous Peoples we the Chumash Nation have the right to tell our story, our story of what truly occurred at this Sacred Site, where the Dana Adobe sets today. Our pre-history and history of this area is an untold amazing story, and, it has been complete forgotten and left out in the Draft EIR. When the Dana Adobe Amigos came to NCTC and asked us to help them try for this grant, the most important demand that NCTC made was that we the Chumash Indigenous Peoples tell our own story, and that we would not have interference from or with the Santa Barbara Museum of Natural History, the Dana Adobe board of directors executives agree to honor this demand, along with listening to us concerning cultural resources, when the grant was awarded the Dana Adobe, almost immediately, went to John Johnson and the Museum for his story, and, this was in direct violation of our agreement/treaty for our participation, verified by Don Hertel that they broke their treaty with us, Mr. Hertel was at all of these meeting, in his letter opposing the MND process, he talks about their betrayal, Mr. Hertel is a Harvard graduate and a well-respected local architect, who designed the first project that NCTC and the Chumash community approved. NCTC has more standing than anyone at the Dana site beside the Dana's, Fred Collins great grandfather Jesus Antonio Lopez, a Chumash vaquero, rode for Captain Dana, he rode for the Branch family also, and then started his own cattle ranch in Canada Trego which was later name after him, Lopez Canyon. NCTC has more history with the Dana family then anyone there today, and the current Dana Adobe Amigos people have abused this old kinship with Captain Dana and our ancestors, and, used NCTC in a most despicable way, writing harsh and degrading articles, when they did not get their colonial dominate way, Captain Dana would be extremely disappointed in their actions. Because of the current Dana Adobe Amigos abuse and colonial dominant attitude, the current Dana Adobe Amigos do not deserve the grant money, or this proposed project, and, the only alternative is NO PROJECT. **NCTC-10**

4.4.1.2 Historic Resources

NCTC-11

The descriptions of the historic resources only mention briefly the Chumash Peoples, when in fact the Chumash play a very large part of this history, we were the ones who built the Dana Adobe, we were the ones who worked the land, worked the cattle, did the agriculture, work as employees at the Dana Adobe itself, landscaped, and assisted in every part of the Dana families life ways. This part of our story is completely left out, which dilutes the real story and is misleading and inaccurate.

4.4.1.3 Paleontological Resources

NCTC-12

There have been many paleontological resources found in the Nipomo valleys and surrounding areas, no mention of any of these mega animal resources and fossils have been mention in the Draft EIR, which is important to understand the unique characteristics of the Nipomo area. The Dana Adobe area also includes the property across the Nipomo creek to the east, where paleontological resources are highly likely to occur, this Draft EIR does not even consider this portion of the project with is include

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in the proposed Dana Master Plan and a part of this DEIR. A complete study needs to be done on the entire Dana properties, and evaluated with the surrounding area of the Nipomo Valley area to understand the importance of paleontology in this area, not just where the Dana Adobe sets today. **NCTC-12 (continued)**

4.4.2 Regulatory Setting

4.4.2.1 Federal Policies and Regulations

Nowhere in the regulatory setting is there mention of the international policies and regulation found in the UN Declaration of the Rights of Indigenous Peoples, this is a powerful document which gave the rights of a race of peoples to Indigenous Peoples worldwide, and to determine the cultural significance of an area, which in the past was a part of an Indigenous cultural landscape. Recent Supreme Court rulings in India, Australia, and South American have and will continue to play a major role in determining cultural significance under the UN Declaration of the Rights of Indigenous Peoples. The UN Declaration of the Rights of Indigenous Peoples was endorsed by the United States of American December 15th 2010, endorsed in San Luis Obispo County on August 9th 2011. **NCTC-13**

The Advisory Council on Historic Preservation (ACHP) formally endorsed a plan to support the United Nations Declaration on the Rights of Indigenous Peoples at its winter business meeting on March 1, 2013. Milford Wayne Donaldson, former SHPO, of California, states the following: **NCTC-14**
I believe this is an opportunity to promote better stewardship and protection of Native American historic properties and sacred sites and in doing so helps to ensure the survival of indigenous cultures. The Declaration reinforces the ACHP's policies and goals as contained in our Native American initiatives including the Traditional Cultural Landscapes Action Plan and our participation in the interagency memorandum of understanding on the protection of sacred sites as well as in our oversight of the Section 106 review process.
The plan calls for the ACHP to raise awareness about the Declaration within the preservation community; post information about the Declaration on its Web site; develop guidance on the intersection of the Declaration with the Section 106 process; reach out to the archaeological community about the Declaration and the conduct of archaeology in the United States; and generally integrate the Declaration into its initiatives.
The ACHP oversees the Section 106 review process which requires federal agencies to take into account the impacts of their actions on historic properties. In carrying out the Section 106 process, federal agencies are required to consult with Indian tribes, Alaska Natives, and Native Hawaiian organizations when historic properties of religious and cultural significance to them may be affected. The ACHP has an Office of Native American Affairs that provides assistance to federal agencies, Indian tribes, Alaska Natives, and Native Hawaiian organizations and others. The ACHP, among many other efforts, has also published extensive guidance regarding tribal and Native Hawaiian consultation.

NCTC has asked the Dana Adobe several times to endorse the UN DRIP, but they have refused. **NCTC-15**

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Because a bridge is proposed over the Nipomo Creek the Army Corp of Engineers will be required to conduct consultations with NCTC and other Chumash community tribal groups, therefore 106 will be involved in the is process.

NCTC-15 (continued)

Native American Traditional Cultural Landscapes Action Plan - Better Decisions for Historic Properties by Milford Wayne Donaldson on June 28, 2012 at 09:27 AM EDT

NCTC-16

An emerging issue for the national historic preservation community has particular relevance to Indian tribes. That issue is: how do we balance the need for alternative energy and other development with the preservation of traditional cultural landscapes and other large-scale historic places?

This challenge is not new to preservation but the scale of alternative energy development, and associated transmission corridors, poses new and considerable challenges to the preservation of traditional cultural landscapes of importance to Indian tribes. In order for federal agencies to make informed decisions, it is critical to involve tribes as early as possible in planning and before project sites are selected.

In 2009, the Advisory Council on Historic Preservation (ACHP) initiated discussions with Indian tribes and Native Hawaiian organizations about how to address these issues. Under Section 106 of the National Historic Preservation Act (the Section 106 process is overseen by the ACHP) any federal undertaking that may adversely affect a historic property on or eligible for listing on, the National Register of Historic Places must consider how to avoid, minimize, or mitigate adverse effects to historic properties, including cultural landscapes. Unfortunately, these kinds of historic properties have not always been recognized or understood by federal agencies and the preservation community.

Recognizing the importance of balancing the growing needs of development, while respecting the rights and traditions of Native peoples, the ACHP launched the Native American Traditional Cultural Landscapes Action Plan in November 2011. The plan calls for the ACHP and the Department of the Interior (DOI) to do the following:

- Promote the recognition and protection of Native American traditional cultural landscapes both within the federal government and the historic preservation community as well as at the state and local levels; and
- Address the challenges of the consideration of Native American traditional cultural landscapes in the Section 106 review process as well as in National Environmental Policy Act reviews.

The ACHP has advanced the idea that large scale properties of religious and cultural significance to Indian tribes or Native Hawaiian organizations might best be addressed as landscapes. With adoption of the Native American Traditional Cultural Landscapes Action Plan, the ACHP outlined specific actions to address the challenges of recognizing and protecting these historic properties through partnerships with other federal agencies, Indian tribes, Native Hawaiian organizations, State Historic Preservation Officers, and intertribal organizations. It is the goal of the ACHP to broaden this discussion and raise the visibility of this important issue in the larger historic preservation community.

Partnerships are critical to good decision making and finding the best outcomes for preservation. In one such partnership, ACHP and DOI are addressing the implications of renewable development on historic properties through a joint workgroup on Energy and Historic Preservation

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It is important that Indian tribes and Native Hawaiian organizations are aware of and help shape the outcome of this initiative. The ACHP staff and its largely presidentially appointed membership will continue to seek tribal and Native Hawaiian counsel as the initiative advances.

NCTC-16 (continued)

4.4.3 Thresholds of Significance

The way the current project is designed many of its components will directly affect significance cultural resources, for example, the proposed riding arena is proposed to be place on top of the most sensitive, still intact, portion of the Cultural Landscape and registered California Chumash Sacred Site, there has been no meaningful adjustment to the project to avoid or to minimize impacts, the only thing that is being offered is more data recovery and monitoring as mitigation for the destruction of the Cultural Landscape.

NCTC-17

In addition to the listed project possible impacts under this heading in the DEIR, we have included others below which we feel are equally important and have not been clearly address:

*Is associated with an event or person of recognized importance in California or American prehistory or of recognized scientific importance in prehistory;

*Can provide information which is both of demonstrable public interest and useful in addressing scientifically consequential and reasonable archaeological research questions;
*Has a special or particular quality, such as the oldest, best, largest, or last surviving example of its kind;

*Is at least 100-years-old and possesses substantial stratigraphic integrity; or

*Involves important research questions that historical research has shown can be answered only with archaeological methods.

*Cumulative Impacts, Review the list of related projects and identify those in areas with known or the potential presence of archaeological resources. In the same manner as for project impacts, estimate the extent and importance of archaeological resources likely to be contained on the sites and the consequences that would likely result from these related projects. Determine the cumulative impact from the related projects combined with the proposed project. In particular, consider cumulative impacts to the population of resources which would remain and impacts to groupings (e.g., same camp, village, or settlement). Evaluate the destruction of resources exposed on the surface by considering the cumulative increase in human activity and soil erosion.

NCTC-18

4.4.4 Impacts Assessment and Methodology

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NCTC agrees with Albion's methodology, and NCTC does agree that the site is eligible for inclusion on the CRHP under criterion D, "Sites that have yielded, or may be likely to yield, information important to prehistory or history." The significance of this Cultural Landscape is connected to the surrounding area, there are many significant Cultural Landscape Chumash Sacred site within a mile radius and they and the Dana site must be consider as a whole, this is supposed to be San Luis Obispo County Historic project, where the lives of many people were involved, Chumash, Spanish, Mexican, and European, this project is about the story of the entire area, and the preservation must rise to the level of saving what is left of each of the past histories of the above mentioned races/cultures, not their further destruction. **NCTC-19**

4.4.5 Project Specific Impacts and Mitigation Measures

NCTC-20

This Chumash Sacred site is eligible for inclusion on the CRHP under criterion D, "Sites that have yielded, or may be likely to yield, information important to prehistory or history." The significance of this Cultural Landscape is connected to the surrounding area, there are many significant Cultural Landscape Chumash, and should be preserved as such.

4.4.5.1 Land Use Ordinance Amendment

NCTC-21

Implementation of the proposed LOU amendment would have an adverse effect on cultural resources, because the proposed project is being proposed to be built on top of a California Chumash Sacred Site. NCTC has seen no adjustments to the proposed project to avoid, or minimize impact the this Sacred Site, data recovery is more digging up and removing California Chumash Sacred Site cultural materials, monitoring is not a mitigation, we have not seen or review an operational management program, or and educational interpretive program plan. Under the referred to Chapter 4, Environmental Impact Analysis, Exhibit A, there is no information that specifically addresses these issues. Therefore the LUO as it stands cannot be approved.

4.4.5.2 Conditional Use Permit

NCTC-22

NCTC disagrees with the statement that trails and emergency road development was designed to avoid direct or indirect impacts to the Cultural Landscape, in our analysis we find that the trails and road will have impacts. Because there has been to effort to move or adjust the proposed project to avoid significant impact to the California Chumash Cultural Landscape, and the additional archaeological excavations which will remove more of our Sacred Cultural Resources, are in fact not appropriate mitigations, this is supposed to be a multi-cultural, educational project, and, therefore the removal and destruction of this Sacred Chumash Cultural Landscape is not acceptable.

4.4.6 Cumulative Impacts

NCTC-23

The Nipomo Mesa and Los Berros areas contain more square meters of light density cultural deposits than any other areas in southern San Luis Obispo County, NCTC does agree that this is a significant Cultural Landscape, we know that this area was a trading center for many Chumash communities and

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other neighboring Indigenous communities, with significant permanent Chumash Village Complexes. Developments, highways, sewer plants, roads, agriculture, removal of artifact by looter, grave robbers, and archaeological excavations have had a major direct effect on this Chumash Cultural Landscape, and this proposed project will continue to degrade the Chumash Heritage and Living Culture of today. The proposed protection described for the LUO is minimal and in most cases will contribute to the continued overall destruction of this significant and important Chumash Cultural Landscape. The proposed project mitigation measures would result in the further destruction of this Chumash Cultural Landscape, and as proposed would result in a significant, and adverse impact to prehistoric cultural resources, and as such this project must be denied, or the alternative of "NO PROJECT". **NCTC-23 (continued)**

4.10 Water Resources **NCTC-24**

The proposed project is located in a Level III Severity zone for water; this means that water is being used at or beyond its estimated dependable supply. The data supplied by Hodge Land Planning and Civil engineering of 2011, is flawed, misleading and is inaccurate. This proposed project is an event center, and an educational center, the Dana Adobe is planning to have numerous events monthly, where up to 1,500 people will attend, and when you couple this with the educational center and all the kids and people that will be visiting on a daily basis this above reverence report by Hodge Land Planning and Civil Engineering is inaccurate, therefore the projects anticipated demand is misleading and is not based on all the projected use for the project, and the water determined supplier of water will not be able to adequate water for this project, nor will pumping from the Dana Adobe well be adequate. Therefore the only alternative is NO PROJECT.

4.1 Aesthetics/Visual Resources **NCTC-25**

This project will change the visual character of the area, impact unique geological and physical features, will create glare and night lighting which will affect the surrounding ecological environment, and local neighborhoods, and create an aesthetically incompatible site, which the country setting that now exists, will be changed forever, only to accommodate a very large Event Center on a California Chumash Cultural Landscape Sacred Site, this is not acceptable, the viewshed will be changed forever, whereby destroying the surrounding sacred nature of the Cultural Landscape, and chance the ceremonial nature of this Sacred Site. Therefore this project would result in a significant cumulative impact to visual resources, and the only alternative is NO PROJECT.

4.3 Biological Resources **NCTC-26**

This proposed project will have an affect on Sacred Chumash Landscape animals, and plants, the grasslands, coast live oaks, willows, eucalyptus, and vegetation of Nipomo Creek and riparian woodlands which provide important habitat for a wide variety of wildlife species and plants.

American Badger,

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NCTC-26 (continued)

Pallid Bat,

California Red-legged Frog,

Coast Range Newt,

Southern Pacific Pond Turtle,

Silvery Legless Lizard,

Coast Horned Lizard,

Two-Striped Garter Snake,

Sharp-Shinned Hawk,

Burrowing Owl,

White-tailed Kite,

Southwestern Willow Flycatcher,

Prairie Falcon,

Least Bell's Vireo,

Red-tailed Hawk,

Golden Eagles,

Barn Owls,
American Kestrels,

Western Meadowlark,

Red-winged Blackbirds,

Western Fence Lizard,

Gopher Snake,

Western Rattlesnake,

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NCTC-26

Botta's Pocket Gopher,

California Mouse,

Western Harvest Mouse,

Bobcat,

Mountain Lion,

Coyote,

Deer,

California Towhee,

Spotted Towhee,

White-Crowned Sparrow,

Wrentit,

California Thrasher,

Western Scrub Jay,

This project will have an affect on the above listed animals, although they may have not been seen during the biological surveys does not mean that they are not there on the project site or in the surrounding area, most of these animals travel where the want because the setting is open country, this proposed project will affect they ability to travel and or live on the project site, and therefore the proposed project will result in a loss of unique or special status species or their habitat, will reduce the extent, diversity, and quality of native and important vegetation, will impact wetlands and riparian habitat, and will introduce barriers to movement and hinder the normal activities of resident wildlife species. The mitigation proposed will not mitigated to a less than significant level. There will be a cumulatively significant impact to the wildlife and therefore the only alternative is NO PROJECT.

NCTC-27

4.6 Hazards and Hazardous Materials

The proposed project site has significant oil deposits under the ground and under the Nipomo Creek, the cleanup project at the Nipomo Creek was not to clean up the oil spill plumb but to put a protective barrier over the top if it, the oil is still there, directly under the creek, the oil pipe lines is still there,

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other smaller oil plumbs are still there, the potential for another oil leak is still there, the County of San Luis Obispo purchased this property where the oil spill occurred with Public Funds in violation of county policies, not to purchase properties with hazardous materials that are present on a property. The potential for future oil spills are still present, a hundred year storm of greater magnitude then we have seen before has the potential to cause a release of hazardous material into the environment. The proposed project is located and is adjacent to a hazardous material waste site, and has the potential to result in an adverse public health condition, impair implementation or physically interfere with an adopted emergency response or evacuation plan, result in a safety hazard for people residing or working in the project area, therefore the only alternative is NO PROJECT.

NCTC-27 (continued)

4.9 Transportation and Circulation

NCTC-28

The Traffic Impact Analysis by Rick Engineering 2012 is flawed, inaccurate and misleading. The generation of trips, average daily trip, weekdays, weekends, and special events is not accurate. This proposed project will increase vehicle trips to local the area wide circulation system, will create unsafe conditions on a country setting public roadway during all special events. The proposed project has fail to provide for adequate emergency access, and will conflict with local residents which will increases local pedestrian safety hazards, and will result in substantial safety risk during special events. The proposed 10 foot wide flatcar bridge over Nipomo Creek is absurd, this is major water way, this creek has risen to great heights during food events, and will rise even high with global warming flood events, this proposal is not safe nor is it practical, and will never be approved by the Army Corp of Engineers. If there is an earthquake during a special event or even just a normal educational weekday where there are several buses fill with children, and trees are falling, roads are being made impassable, this would be a significant safety hazard, and, therefore the cumulative safety hazards for this proposed project are many and the only alternative is NO PROJECT.

4.11 Land Use

NCTC-29

This proposed project will alter the very core of what make this State Historic place unique, when you stand at the Dana Adobe you can see the way it was back in the 1800, there is open space, beautiful rolling hills, open space all around the Dana Adobe, the way it was, this proposed project will change the very core meaning of this property, and will not preserve and enhance California's irreplaceable historic heritage as a matter of public interest to that it vital legacy of cultural, educational, recreational, aesthetic, economic, social, and environmental benefits will be changed forever and will not enrich the present setting, or for future generations. The Dana Adobe is a unique place, they have remolded it to its original state, they have plenty of room for special events, this proposed project will hide the Adobe and dwarf the very pristine nature of what is the Dana Adobe, and does not demonstrate leadership and stewardship for historic preservation in California, nor is it in compliant with federal and state regulatory obligations for the preservation of prehistory, or historic multicultural sites. This proposed project is inconsistent with land use policies for preservation, inconsistent with habitat preservation, inconsistent with environmental policies, and is incompatible with surrounding land uses. There are no mitigation measures that can be implemented that will save the flavor of the open country Dana Adobe Rancho, this proposed project will change the setting forever, into a over

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developed event center, not consistent with the historical context of the open country site, and therefore the only alternative is NO PROJECT.

NCTC-29 (continued)

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9.3.2 Response to Letter from Northern Chumash Tribal Council

Comment No.	Response
NCTC-1	Please refer to responses to specific comments below.
NCTC-2	Please refer to EIR Appendix A, which includes the Notice of Preparation (NOP) and all comments received in response to the NOP, including letters from the Northern Chumash Tribal Council (NCTC) and yak tit^{y}u tit^{y}u Northern Chumash Tribe. EIR Section 4.4 (Cultural Resources) references Native American Consultation, which occurred throughout the EIR analysis process and contributed to the technical work that was conducted by Albion; however, the Draft EIR does not disclose the information that was shared during the consultation process. Based on further consultation with the responding Native American groups, the County recognizes that additional information should be included in the EIR regarding comments from the Native Americans. Therefore, the EIR has been clarified to include a summary of the consultation process, and issues that were raised during noted conversations (please refer to EIR Section 4.4.4 Cultural Resources, Impact Assessment and Methodology, Native American Consultation). Also, please note that the letter submitted in response to the Draft EIR is included in the Final EIR and available in the public record. This clarification does not change the analysis or impact determinations identified in the EIR.
NCTC-3	The commenter's disagreement with the six prehistoric periods defined in EIR Section 4.4.1.1 (Cultural Resources, Pre-historic Resources) and confidential Phase II Evaluation report (Albion 2013) has been reviewed; however, the definition of the periods has been accepted and applied by the archaeological scientific community, based on substantial evidence and documentation to date. No changes to the EIR are necessary.
NCTC-4	The commenter's disagreement is noted. The noted definition of the Territories has been accepted and applied by the archaeological scientific community, based on substantial evidence and documentation to date. No changes to the EIR are necessary.
NCTC-5	The commenter's expansion on the effects of the European influence on the Chumash is noted and incorporated into the public record. This information supplements the Chumash story, as defined by the commenter. This information does not affect the analysis and impact determination presented in the EIR, and no changes to the EIR are necessary.
NCTC-6	The commenter's additional explanation of day trips from the project site to the coastline is noted, and incorporated into the public record. This information supplements the Chumash story, as defined by the commenter. This information does not affect the analysis and impact determination presented in the EIR, and no changes to the EIR are necessary.
NCTC-7	As noted in EIR Section 4.4 (Cultural Resources), all available background information was reviewed to develop a description of the project site. This information was supplemented by subsurface evaluation, documented in the Phase II Evaluation report (Albion 2013), and summarized in the EIR. Pursuant to CEQA and scientific standards, the characterization of the site is based on physical evidence, including "a limited and non-diverse tool assemblage geared mainly toward hunting, only moderate quantities of organic remains, poorly developed midden soils, and lack of cultural features and other items, such as milling equipment." The characterization does not discount that trading occurred at the project site, and the EIR notes that "prehistoric populations engaged in extensive mobility and social interaction" during earlier time periods. The discussion also notes that evidence suggests the site was used as in intermediate stop during travels between the coast and interior areas (please refer to EIR Section 4.4.4.1 Prehistoric Resources). In reference to CEQA, there is a requirement that the analysis considers "the whole of the action", meaning the project itself. The information provided in this comment supplements the Chumash story, as defined by the commenter. This information does not affect the analysis and impact determination presented in the EIR, and no changes to the EIR are necessary.

Comment No.	Response
NCTC-8	As noted in the Section 4.4.1.1 (Cultural Resources, Pre-historic Resources), information regarding the diseno circles was reviewed during preparation of the EIR analysis, and based on the information provided, these circles would be located outside of the project site and would not be affected by the project (Diseño del Rancho Nipomo: Calif., Land Case Map B-961, United States District Court, California, Southern District, UC Berkeley, Bancroft Library, 184-?). The EIR includes the commenter's statement that the circles "were and remain sacred places to the Chumash peoples" and the commenter's disagreement with the research and findings of John Johnson are well documented in the record. Based on the location of the mapped circles, and substantial evidence summarized in the EIR supporting the conclusion that the circles represent topographic features and were not large gathering areas, no further evaluation is necessary. As noted in response to comment NCTC-2, the EIR has been clarified to include a summary of the consultation process, and issues that were raised during noted conversations including concern regarding the validity of documentation used to determine the presence or absence of ceremonial circles (please refer to EIR Section 4.4.4 Cultural Resources, Impact Assessment and Methodology, Native American Consultation). This clarification does not affect the analysis or findings presented in the EIR.
NCTC-9	The information provided by the commenter is included in the public record for consideration by the County decision makers (i.e., Board of Supervisors, Planning Commission). The information provided contributes to the record, but does not include substantial new evidence that would alter the analysis or impact determinations presented in the EIR and technical support documents that are incorporated by reference. As noted in the EIR, the Phase II subsurface evaluation provided additional information about the archaeological site that is located within the project site. Recommended mitigation, including further subsurface evaluation, would provide additional scientific evidence and information that would supplement the archaeological site record and contribute to research questions regarding the Native American pre-history and history of both the project site and surrounding area (please refer to CR/mm-1 through CR/mm-6). This information is also supplemented by comments provided verbally and in writing during Native American consultation and in response to the Draft EIR. Aside from inclusion of this letter in the Final EIR, no additional changes to the EIR are necessary.
NCTC-10	The County concurs with the commenter that the Native Americans have a right to tell their story, and as noted above in response to comment NCTC-9, the full content of the commenter's letter is included in the Final EIR. The EIR analysis included preparation of a Phase II Evaluation report (Albion 2013), which includes a summary of history and pre-history based on substantial evidence. The information provided under comment NCTC-9 includes additional interpretations and stories of Chumash and Native American history and pre-history; this information supplements the public record but does not present substantial new evidence that would alter the analysis or impact determinations presented in the EIR. In response to noted concerns that the commenter was excluded from the planning process, Native American consultation was included as a key component of the EIR process, and the commenter was included in consultation conversations and Native American monitoring during fieldwork conducted as part of the Phase II evaluation. Aside from inclusion of this letter in the Final EIR, no additional changes to the EIR are necessary.
NCTC-11	Please refer to EIR Section 4.4.1.2 (Cultural Resources, Historic Resources), which includes a summary of the Chumash Peoples' role at the Dana Adobe, including: "The processing of cattle for hides and tallow was heavily dependent upon the Chumash workers on the rancho. Other activities that the Chumash performed included the formation of adobe bricks, construction of the adobe buildings, gathering firewood, collecting refined salt from the head waters of the Salinas River, serving as vaqueros, weaving, leather and metal work, and providing escorts for the younger members of the Dana family." No changes to the EIR are necessary.

Comment No.	Response
NCTC-12	EIR Section 4.4.1.3 (Cultural Resources, Paleontological Resources) has been clarified to summarize additional information from the confidential Phase I Archaeological and Paleontological Survey (CRMS 2011) conducted for the project site. This information further describes information pertaining to the 30-acre and 100-acre portions of the project site, including the geologic setting, paleontological sensitivity of the underlying geologic formations (low), results of the records search (one finding), and likelihood for significant paleontological discover (small). Therefore, this additional clarification does not affect the analysis or conclusions presented in the EIR.
NCTC-13	The regulatory setting discussion includes policies and regulations that are mandated by law or required for consideration as part of the County's General Plan or adopted regional plan. While the UN Declaration of the Rights of Indigenous Peoples was endorsed by the County, it does not include mandated policies or ordinances. Information regarding the UN Declaration of Rights of Indigenous Peoples is included in the public record for this project, and is included in the information that will be considered by the County decision makers (i.e. Board of Supervisors, Planning Commission). No changes to the EIR are necessary.
NCTC-14	As noted above in response to comment NCTC-13, the referenced endorsed plan supporting the UN Declaration of the Rights of Indigenous Peoples does not include policies or regulations that are mandated by law or required for consideration. However, this information has been considered throughout the EIR analysis, and Native American consultation process. The CEQA process for the proposed project was not required to include consultation as required by Section 106 (which is triggered by a National Environmental Policy Act action) or Senate Bill 18; however, in the spirit of the Resolution, consultation was conducted an incorporated into the environmental review process. No changes to the EIR are necessary.
NCTC-15	As noted by the commenter and documented in the EIR (refer to Section 4.3 Biological Resources), implementation of the project may affect jurisdictional waters, and may require National Environmental Policy Act (NEPA) review by the U.S. Army Corps of Engineers (USACE). USACE will implement NEPA and Section 106 pursuant to their adopted Implementation Procedures. No changes to the EIR are necessary.
NCTC-16	Please refer to response to comments NCTC-13, NCTC-14, and NCTC-15. The information presented by the commenter is informative, but does not include laws or regulations. This information is presented in the public record for the decision makers' consideration. No changes to the EIR are necessary.
NCTC-17	As documented in EIR Section 4.4 (Cultural Resources), the project was evaluated pursuant to Public Resources Code §21000 et seq. and the CEQA Guidelines (§15064.5). The EIR discloses and summarizes the significant impact the project would have on the archaeological site, and identifies mitigation that would address and mitigate the identified impact to less than significant. The impact determination considers the amount of ground disturbance that would be required for project components. Based on project designs, the ground surface within the arena would be covered with a layer of decomposed granite. The project was evaluated consistent with the existing statues, and no changes to the EIR are necessary.
NCTC-18	CEQA thresholds identified in the EIR include a list consistent with the County's Initial Study Checklist and Appendix G of the CEQA Guidelines. The thresholds of significance identified by the commenter are currently incorporated into the EIR analysis as documented in EIR Section 4.4.5 Project Specific Impacts and Mitigation Measures: "According to PRC §5024.1(c)(1–4), a resource may be considered historically significant if it retains integrity and meets at least one of the following criteria. A property may be listed in the CRHR if the resource: A. Is associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage; B. Is associated with the lives of persons important in our past; C. Embodies the distinctive characteristics of a type, period, region or method of installation,

Comment No.	Response
	or represents the work of an important creative individual, or possesses high artistic values; or, D. Has yielded, or may be likely to yield, information important in prehistory or history. Under CEQA, if an archeological site is not a historical resource but meets the definition of a "unique archeological resource" as defined in PRC §21083.2, then it should be treated in accordance with the provisions of that section. A *unique archaeological resource* is defined as follows: *An archaeological artifact, object, or site about which it can be clearly demonstrated that, without merely adding to the current body of knowledge, there is a high probability that it meets any of the following criteria:* *1. Contains information needed to answer important scientific research questions and that there is a demonstrable public interest in that information.* *2. Has a special and particular quality such as being the oldest of its type or the best available example of its type.* *3. Is directly associated with a scientifically recognized important prehistoric or historic event or person."* As noted in EIR Section 4.4.5 (Cultural Resources, Project Specific Impacts and Mitigation Measures): "Applying criteria identified above, the archaeological site is eligible for inclusion on the CRHP under criterion D, Sites that have yielded, or may be likely to yield, information important in prehistory or history. This is in addition to the Dana Adobe, which is currently listed on the National and State Registers." Impacts to the archaeological site, and Dana Adobe, were evaluated according to CEQA, as documented in the EIR. Regarding cumulative impacts, the project was evaluated pursuant to CEQA Statute and Guidelines, which define a "cumulative impact" as "two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts" (please refer to CEQA Guidelines Section 15355 Cumulative Effects, and Public Resources Code Section 21083). CEQA does not include the specific language regarding populations of resources and impacts to groupings included in the letter; however, the cumulative impact analysis addresses the potential impacts to cultural resources by projects defined in the cumulative development scenario (please refer to EIR Section 3.5 Environmental Setting, Cumulative Development Scenario, and Section 4.4.6 Cultural Resources Cumulative Impacts). The analysis considers if the project would result in a "cumulatively considerable" impact to cultural resources, and based on substantial evidence in the record and implementation of identified mitigation measures, determines that the resulting effect would be less than significant. No changes to the EIR are necessary.
NCTC-19	Please refer to EIR Section 4.4 (Cultural Resources), and the Phase II Evaluation report (Albion 2013), which consider the significance of the project site in the context of existing documentation of other historic properties and archaeological sites of historical significance in the area. Review of existing reports and maps, and information obtained during Native American consultation were considered when defining the cultural landscape of the project site. The project was evaluated pursuant to Public Resources Code §21000 et seq. and the CEQA Guidelines (§15064.5). The EIR discloses and summarizes the significant impact the project would have on the archaeological site, and identifies mitigation that would address and mitigate the identified impact to less than significant. No changes to the EIR are necessary.
NCTC-20	Please refer to response to comment NCTC-19 above. Based on review of the Sacred Lands File, the Sacred Lands are not documented on the project site (NAHC 2011). The closest mapped Sacred Site is the village of Lachito/Nipomo, located in the area. The EIR analysis recognizes the significance of the archaeological site by identifying it as eligible for the California Register. The EIR discloses and summarizes the significant impact the project would have on the archaeological site, and identifies mitigation that would address and mitigate the identified impact to less than significant. No changes to the EIR are necessary.

Comment No.	Response
NCTC-21	The EIR recognizes that future development of the project site may have a significant impact on cultural resources; therefore, a planning area standard is recommended that requires site-specific consideration of the resource and incorporation of mitigation measures. Mitigation measures consistent with this standard are included in the Mitigation Monitoring and Reporting Program (EIR Chapter 7) and will be incorporated as project conditions upon approval of the Conditional Use Permit by the County decision makers. Excavation as mitigation is recognized in the Public Resources Code, and as noted in Public Resources Code Section 21083.2 (b): "Excavation as mitigation shall be restricted to those parts of the unique archaeological resource that would be damaged or destroyed by the project." The language in the recommended LUO is recommended to: "1) address potential impacts that may occur as a result of land development occurring subsequent to approval of the LUO Amendment and provide a connection to the project-specific mitigation measures identified for the project identified in the CUP request (proposed Master Plan). The mitigation measures recommended for incorporation into the LUO Amendment are commensurate to the level of review, address potential impacts that may occur during implementation of a future project allowable subsequent to approval of the LUO Amendment, and allow for flexibility when considering future project-specific impacts" (please refer to Chapter 4 Environmental Impacts Analysis, LUO Amendment and Planning Area Standards). No changes to the EIR are necessary.
NCTC-22	Preparation of the EIR included review of a substantial records search conducted as part of the cultural resources analysis. Based on review of site records documenting the boundaries of archaeological sites located on the 100-acre portion of the project site, project elements including trails and the emergency road would avoid the archaeological sites. As noted above in response to comment NCTC-21, and based on substantial evidence documented in the EIR and Phase II evaluation report (Albion 2013), which includes consideration of the regional cultural context, excavation is considered an acceptable form of mitigation. As noted in response to comment NCTC-19, the project was analyzed pursuant to CEQA. No changes to the EIR are necessary.
NCTC-23	Please refer to response to comment NCTC-21. Based on substantial evidence documented in the EIR and supportive technical report (Albion 2013), the project would result in a cumulative impact; however, the effect would not be cumulatively considerable upon implementation of mitigation measures. No changes to the EIR are necessary.
NCTC-24	The Water Demand Analysis prepared by Hodge (2011) was reviewed by the Nipomo Community Services District (NCSD) in order to verify that the project would not exceed water demand estimates equal to that of a residential development. Based on the NCSD's review, the water demand estimate is accurate, and the NCSD verified that water supply is available to serve the project. Use of the existing well located on the 100-acre portion of the project site would be limited to restoration actions. No changes to the EIR are necessary.
NCTC-25	Based on the EIR analysis presented in Section 4.1.5.2 (Aesthetic/Visual Resources, Conditional Use Permit), implementation of the project would not significantly change the visual character of the area or impact unique geological or physical features. Noted significant impacts include potential aesthetic incompatibility and the creation of light and glare. Mitigation is recommended to address these impacts, and reduce the level of severity to less than significant (please refer to AES/mm-1 and AES/mm-2). Based on the project's location and existing intervening vegetation, the project would not adversely affect the scenic view or result in a significant cumulative impact in visual resources. Views of the 100-acre site, and backdrop of the ridge to the east, would remain intact as seen from the eastern side of the proposed Visitor's Center and the Dana Adobe. There is no substantial evidence that the project site was used for sacred ceremonies. No changes to the EIR are necessary.

Comment No.	Response
NCTC-26	As noted in EIR Section 4.3 (Biological Resources), the EIR analysis does not discount the presence of special-status species and common wildlife based on observations during field surveys. Assumptions regarding presence or absence are based on the habitat characteristics of the project site, and known habitat preferences and behaviors of noted species. As designed, the project maintains migration corridors within Nipomo Creek and its tributaries, and the 100-parcel would remain largely undeveloped (aside from trails and the emergency access road). The EIR and Biological Resources Assessment (Terra Verde 2011) include a comprehensive analysis of short and long-term impacts to biological resources, based on identified thresholds of significance, disclose potential significant impacts, and identify mitigation measures that would address each potential impact and reduce the severity to less than significant. Based on the design of the project and implementation of identified mitigation measures, the proposed project would not result in significant project-specific or cumulative impacts to biological resources. No changes to the EIR are necessary.
NCTC-27	As assessment of potential hazards and hazardous materials is comprehensively addressed in EIR Section 4.6 (Hazards and Hazardous Materials). The EIR analysis included review and incorporation by reference of all reports and documentation related to Line 300, RM&R Site No. 3788, SL0607907605. The EIR includes a summary of all investigation and remediation actions conducted and documented by the Regional Water Quality Control Board, County Environmental Health, and the California Department of Toxic Substances Control. As documented in the EIR and the supporting record, the site is identified as a Category 1, which is characterized by soil or groundwater contamination that does not pose an immediate human health threat and does not extend off-site onto neighboring properties (SWRCB 2013). The record documenting the discovery, remediation, and continued monitoring of the crude oil contamination, and analysis of the project relative to Line 300, RM&R Site No. 3788, SL0607907605, provides substantial evidence that the development of the project would not result in a significant impact related to exposure of hazardous materials. Based on substantial evidence presented in the EIR, the only potentially significant impact that may occur (related to hazards and hazardous materials) would be an accidental spill or leak during construction (please refer to HM Impact 1). This impact would be mitigated to less than significant by implementation of mitigation measures BIO/mm-2, BIO/mm-9, BIO/mm-10, WR/mm-1, and WR/mm-2. No changes to the EIR are necessary.
NCTC-28	The Traffic Impact Analysis (Rick Engineering 2012) prepared for the project was reviewed and approved by County Public Works. There is no substantial evidence that the project will result in significant transportation, circulation, or traffic safety impacts that cannot be mitigated to less than significant (please refer to TC Impact 1 and TC Impact 2, and mitigation measures TC/mm-1 and TC/mm-2). The proposed project includes an emergency access road, which has been reviewed and approved by Cal Fire (2011, 2012). Please refer to EIR Section 4.10.5.1 (Water Resources, 100-year Flood Zone), which includes an assessment of potential flood risk, and incorporates by reference an analysis of the proposed flat car bridge crossing over Nipomo Creek and potential impacts during a flood event. Based on the analysis, no significant adverse impacts related to the bridge and flooding would occur. All structural elements would be constructed pursuant to the California Building Code, which includes standards for seismic events. The emergency access road is required to ensure alternative access in the event South Oakglen Avenue cannot be used, and the proposed emergency access plan has been approved by Cal Fire. There is no evidence that under reasonably considerable conditions development of the project site would create a significant adverse risk to public safety. No changes to the EIR are necessary.

Comment No.	Response
NCTC-29	The proposed project has been designed to maintain the historical context immediately surrounding the Dana Adobe, and preserve views looking from the Adobe towards the rolling grassland and ridge to the east. The project includes interpretive features and exhibits that encourage public interest and education regarding pre-historic and historic resources. As documented in EIR Section 4.11 (Land Use), and Table 3-1 (Consistency with Plans and Policies), the project appears to be consistent with relevant policies and regulations (unless the LUO Amendment is not approved, as indicated in the table) including County standards related to the Dana Adobe Historic Combining Designation. While implementation of the project would change the appearance of the project site, there is no substantial evidence that the change would result in a significant, unavoidable, adverse land use impact. The County decision makers (i.e. Board of Supervisors, Planning Commission) will consider the consistency analysis, and evidence included in the public record, and make a determination regarding consistency. No changes to the EIR are necessary.

Shawna Scott

From: bpedrotti@co.slo.ca.us
Sent: Friday, September 27, 2013 4:05 PM
To: Shawna Scott
Subject: Fw: Comments to Dana Adobe DEIR (SCH No. 2012041037)

Shawna-

Here is the first of four e-mails from Gino Altamirano I just received re:
the Dana Adobe EIR.

-Brian

Brian Pedrotti, AICP
San Luis Obispo County
Department of Planning & Building
(805) 788-2788
bpedrotti@co.slo.ca.us

----- Forwarded by Brian Pedrotti/Planning/COSLO on 09/27/2013 04:04 PM

From: Gino Gabriel Altamirano <galta@att.net>
To: "bpedrotti@co.slo.ca.us" <bpedrotti@co.slo.ca.us>
Date: 09/27/2013 03:43 PM
Subject:Comments to Dana Adobe DEIR (SCH No. 2012041037)

GA-1

Mr. Pedrotti- We submit by these written communication comments to the Dana Adobe DEIR. We had previously raised objection to the improperly noticed Notice of Preparation (NOP) (see email below) regarding its inadequacy to factually notice hazardous waste/substance as required by state law. In a letter response dated April 29, 2013, you stated "it is unclear whether the clean-up site qualifies as one that must be identified on a list under Section 65962.5". We disagree and had confirmed with state agencies the project for which the DEIR is prepared is on the state's natural lists for hazardous waste/substance as required by state law.

We subsequently responded in an email dated April 30, 2013 with letter attachments and is incorporated herein by reference (and will be resent to you following these comments to the DEIR). After your office received our email we had telephone conversations in which you mentioned our concern regarding direct violation of CEQA as to the Notice of Preparation's inadequacy to factually notice hazardous waste/substance as required by state law was forwarded to your county counsel and other heads of Departmetn for response. We heard no response and inquired on July 26, 2013, again without response to date. We again formally lodge as comments to the the DEIR our concerns regarding the above stated violations. I will forward you all of the above letters and emails to be included as part of these comments to the DEIR.

From: Gino Gabriel Altamirano <galta@att.net>
To: "jgiffen@co.slo.ca.us" <jgiffen@co.slo.ca.us>
Cc: Dennis Balsamo <djbalsamo@balsamolaw.com>; "ds_nahc@pacbell.net"

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<ds_nahc@pacbell.net>; "dgeaslen@co.slo.ca.us" <dgeaslen@co.slo.ca.us>; "elcarroll@co.slo.ca.us"
<elcarroll@co.slo.ca.us>; "bpedrotti@co.slo.ca.us"
<bpedrotti@co.slo.ca.us>; "CBlount@albionenvironmental.com"
<CBlount@albionenvironmental.com>; "JFarquhar@albionenvironmental.com"
<JFarquhar@albionenvironmental.com>; Shawna Scott <sscott@swca.com>; "wmcdonald@co.slo.ca.us"
<wmcdonald@co.slo.ca.us>; Fred Collins <fcollins@northernchumash.org>
Sent: Wednesday, March 20, 2013 10:42 AM
Subject: Dana Adobe - Violation of Notice Hazardous Waste/Substance

Mr. Giffen- We are alarmed at the direct violation of CEQA as to the Notice of Preparation's inadequacy to factually notice hazardous waste/substance as required by state law. By this email and subsequent communication, we are submitting to the Dana Adobe project draft environmental impact report administrative record a formal request of the county to properly notice the required statement pursuant to CEQA and state law regarding the hazardous waste/substance located at the project site. We have confirmed with the California State Department of Toxic Substance Control hazardous waste/substance on the site is required by law to be noticed as such in order to allow proper input from interested community members, stakeholders and local and state agencies. I understand you will be with the county for only two more weeks, so we ask you confirm receipt of our formal request and provide the name of the appropriate person who will be functioning in your current position's official capacity after your departure. Thank you.

-Gino Altamirano

From: Gino Gabriel Altamirano <galta@att.net>
To: "jgiffen@co.slo.ca.us" <jgiffen@co.slo.ca.us>; Fred Collins <fcollins@northernchumash.org>
Cc: Dennis Balsamo <djbalsamo@balsamolaw.com>; "ds_nahc@pacbell.net"
<ds_nahc@pacbell.net>; "dgeaslen@co.slo.ca.us" <dgeaslen@co.slo.ca.us>; "elcarroll@co.slo.ca.us"
<elcarroll@co.slo.ca.us>; "bpedrotti@co.slo.ca.us"
<bpedrotti@co.slo.ca.us>; "CBlount@albionenvironmental.com"
<CBlount@albionenvironmental.com>; "JFarquhar@albionenvironmental.com"
<JFarquhar@albionenvironmental.com>; Shawna Scott <sscott@swca.com>; "wmcdonald@co.slo.ca.us"
<wmcdonald@co.slo.ca.us>
Sent: Friday, March 8, 2013 4:36 PM
Subject: Re: Dana Adobe - Northern Chumash Participation and Involvement

Clarification, a hazardous substance statement required by law to be noticed on the NOP did not occur in direct violation of CEQA.

From: Gino Gabriel Altamirano <galta@att.net>
To: "jgiffen@co.slo.ca.us" <jgiffen@co.slo.ca.us>; Fred Collins <fcollins@northernchumash.org>
Cc: Dennis Balsamo <djbalsamo@balsamolaw.com>; "ds_nahc@pacbell.net"
<ds_nahc@pacbell.net>; "dgeaslen@co.slo.ca.us" <dgeaslen@co.slo.ca.us>; "elcarroll@co.slo.ca.us"
<elcarroll@co.slo.ca.us>; "bpedrotti@co.slo.ca.us"
<bpedrotti@co.slo.ca.us>; "CBlount@albionenvironmental.com"
<CBlount@albionenvironmental.com>; "JFarquhar@albionenvironmental.com"
<JFarquhar@albionenvironmental.com>; Shawna Scott <sscott@swca.com>; "wmcdonald@co.slo.ca.us"
<wmcdonald@co.slo.ca.us>
Sent: Thursday, March 7, 2013 11:03 AM
Subject: Re: Dana Adobe - Northern Chumash Participation and Involvement

Thank you Mr. Giffen for your response. I will be responding to your email below regarding all of the issues and in particular the issue which we have recently become aware regarding the violation of CEQA as to the Notice of

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Preparation's inadequacy to factually notice hazardous waste as required by state law. We are in the process of confirming the information with the state.

tyu ksisime,
Gino Gabriel Altamirano
yaktitʸutitʸu tiłhini (Northern Chumash of Avila Beach and San Luis Obispo)

From: "jgiffen@co.slo.ca.us" <jgiffen@co.slo.ca.us>
To: Fred Collins <fcollins@northernchumash.org>; Gino Altamirano <galta@att.net>
Cc: Dennis Balsamo <djbalsamo@balsamolaw.com>; ds_nahc@pacbell.net; dgeaslen@co.slo.ca.us; elcarroll@co.slo.ca.us; bpedrotti@co.slo.ca.us; CBlount@albionenvironmental.com; JFarquhar@albionenvironmental.com; Shawna Scott <sscott@swca.com>; wmcdonald@co.slo.ca.us
Sent: Tuesday, March 5, 2013 6:31 PM
Subject: Dana Adobe - Northern Chumash Participation and Involvement

Dear Fred and Gino,

Thank you for your recent inquiries on the Dana Adobe project. We are in receipt of your email and phone messages that you sent to me and County staff over the last couple days. We know that both of you are very interested in the status of the Dana Adobe project, especially as it relates to cultural resources. Hopefully, this email will respond to your immediate concerns.

This project continues to be processed in accordance with the California Environmental Quality Act (CEQA), with the County acting as the lead agency on the land use permit and Environmental Impact Report (EIR) with support SWCA and Albion Environmental as County contract consultants. The CEQA process is an open process that promotes inclusiveness and participation from the public. Moreover, when it comes to cultural resources the Native American community plays an critically important role and this includes you and your organizations. As the lead agency for the Dana Adobe project, the County is committed to meeting all the public participation requirements of CEQA and not taking short cuts on meeting them. From my perspective, County staff and consultants are attempting to go the extra mile with this project given the differing opinions on the cultural resource benefits/impacts of the project.

Since we received your requests, County staff have examined the status of the recent cultural resource work conducted as a part of the EIR process and we have confirmed that Albion Environmental staff did conduct a surface reconnaissance to verify cultural resource boundaries on site. The surface reconnaissance effort was completed within the last couple weeks and no other field work has been completed since that time (with the exception of any work that may have been completed within the Adobe structure by Greenwood and Associates). It is my understanding that Albion Environmental contacted Native American representatives including the Northern Chumash Tribal Council (NCTC) and the Northern Chumash of Avila Beach and San Luis Obispo, prior to the surface reconnaissance on numerous occasions and no further input or participation was requested in relation the surface reconnaissance - although it was well understood that both groups would continue to be involved, once the results of the reconnaissance were compiled. Based on our review Albion Environmental last communicated with NCTC on February 16, 2013 and although a two to three week period that has lapsed since you were last contacted, don't take that to mean your involvement has ceased - in fact it is the contrary. Next, Albion Environmental will complete a composite map and summary of surface reconnaissance results. Upon completion of the composite map and summary results, additional input from the Native American community will be sought, until that time no additional field work is scheduled on site and as such there is no need to halt any field work.

We understand the importance of this project to you and your organizations and we appreciate your enthusiasm and participation. From my perspective, the County and its contract consultants reached out to the Native American community prior to the surface reconnaissance and are striving to have open and transparent communication with all. We know that there have been differing perspectives on this project and its potential impacts to cultural resources and

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as such public input from all stakeholders is imperative. If you would like more background on the project, County staff would be happy to discuss it detail an our next scheduled meeting with NCTC.

Additionally, NCTC requested a meeting with the Native American Heritage Commission, California State Parks and the State Historic Preservation Office "to lay down the protocols for the proceeding on this project."
County staff is always willing to meet with the NCTC and we would be happy to discuss this issue in more detail at an upcoming meeting with NCTC.

Finally, the Northern Chumash of Avila Beach and San Luis Obispo stated that "the Notice of Preparation (NOP) does not, as required by law, properly notice the fact that site is affected by hazardous waste requiring the re-issuance of the NOP." The NOP and Initial Study do acknowledge that hazardous materials and substances are an issue. Hazardous materials and substances were preliminarily addressed in the previous Draft Mitigated Negative Declaration and they will also be addressed in the context of the EIR. The County does not concur that this issue was omitted or not adequately disclosed as a part of the NOP process.

If you have any follow up questions, do not hesitate to contact Ellen Carroll, County Environmental Coordinator or Brian Pedrotti, County Project Manager for the Dana Adobe.

Sincerely,

JASON H. GIFFEN, Director
County of San Luis Obispo
Department of Planning and Building
Telephone: (805)781-5708
Email: jgiffen@co.slo.ca.us
Follow On-Line: http://www.sloplanning.org http://www.facebook.com/SLOPlanning
http://twitter.com/SLOCoPlanning
[Scanned @co.slo.ca.us]

[Scanned @co.slo.ca.us]

4

Shawna Scott

From: bpedrotti@co.slo.ca.us
Sent: Friday, September 27, 2013 4:06 PM
To: Shawna Scott
Subject: Fw: Comments to Dana Adobe DEIR (SCH No. 2012041037)
Attachments: CAP approval_07-30-10.pdf; FS approval_01-26-10.pdf; FS Ext Req_12-16-08.pdf; FS Req_10-24-08.pdf

----- Forwarded by Brian Pedrotti/Planning/COSLO on 09/27/2013 04:05 PM

From: Gino Gabriel Altamirano <galta@att.net>
To: "bpedrotti@co.slo.ca.us" <bpedrotti@co.slo.ca.us>
Date: 09/27/2013 03:47 PM
Subject:Comments to Dana Adobe DEIR (SCH No. 2012041037)

Mr. Pedrotti- Per our comments in the email sent to you moments ago, attached is the email sent you your office on April 30, 2013 with all attachments to be incorporated as part of the comments referenced above. **GA-1**

----- Forwarded Message -----
From: Gino Gabriel Altamirano <galta@att.net>
To: "bpedrotti@co.slo.ca.us" <bpedrotti@co.slo.ca.us>
Cc: Fred Collins <fcollins@northernchumash.org>; "wmcdonald@co.slo.ca.us" <wmcdonald@co.slo.ca.us>; "elcarroll@co.slo.ca.us" <elcarroll@co.slo.ca.us>; "kgriffin@co.slo.ca.us" <kgriffin@co.slo.ca.us>
Sent: Tuesday, April 30, 2013 3:35 PM
Subject: Re: Continuing work at DANA

Mr. Pedrotti- Thank you for the letter sent on April 29, 2013. In your letter you stated:

"[it] is unclear whether the clean-up site qualifies as one that must be identified on a list under Section 65962.5"

The California Regional Water Quality Control Board (CRWQCB) cleanup and abatement/enforcement orders (attached) pursuant to Sections 13301 and
13304 of the Water Code, requires that:

"[t]he Lead Agency shall specify the list and include the information in the statement required pursuant to subdivision (f) of Section 65962.5"

Section 65962.5(c)(3) of the Government Code states:

"All cease and desist orders issued after January 1, 1986, pursuant to Section 13301 of the Water Code, and all cleanup or abatement orders issued after January 1, 1986, pursuant to Section 13304 of the Water Code, that concern the discharge of wastes that are hazardous materials."

1

Also, Water Code Section 13307.5(a) requires:

"The regional board shall take all of the following actions when reviewing or approving a cleanup proposal from a primary or active responsible discharger with respect to a site issued a cleanup and abatement order pursuant to Section 13304:"
-and-

Section 13307.5(a) (3):

"Provide no less than 30 days for an interested person to review and comment on the cleanup proposal regarding the site. The regional board shall consider any comments received before taking final action on a cleanup proposal regarding the site."
Provided attached is an August 2, 2010 letter issued by the CRWQCB stating the Corrective Action Plan was approved after the required 30 day comment period.

We will confirm all of the above information next week with the CRWQCB in hope your uncertainty as to whether this clean-up site qualifies to be placed on "Cortese List" is clarified.

Again, we are alarmed at the direct violation of CEQA as to the Notice of Preparation's inadequacy to factually notice hazardous waste/substance as required by state law. We ask you re-notice the Notice of Preparation to allow full public participation by informing the public and decision makers of adverse impacts.

tyu ksisime,
Gino Gabriel Altamirano
yaktitʸutitʸu tiłhini (Northern Chumash of Avila Beach and San Luis Obispo)

From: "bpedrotti@co.slo.ca.us" <bpedrotti@co.slo.ca.us>
To: Gabriel Altamirano <galta@att.net>
Cc: Fred Collins <fcollins@northernchumash.org>; wmcdonald@co.slo.ca.us; elcarroll@co.slo.ca.us; kgriffin@co.slo.ca.us
Sent: Monday, April 29, 2013 11:46 AM
Subject: Re: Continuing work at DANA

Gino-

Please see attached letter with response to your question regarding your question below. A hard copy will follow in the mail. If you have any questions, feel free to contact me.

-Brian

(See attached file: DANA NOP letter_4-29-13.pdf)

Brian Pedrotti, AICP
San Luis Obispo County
Department of Planning & Building
(805) 788-2788

2

bpedrotti@co.slo.ca.us

From: Gabriel Altamirano <galta@att.net>
To: Fred Collins <fcollins@northernchumash.org>
Cc: bpedrotti@co.slo.ca.us
Date: 04/29/2013 11:20 AM
Subject: Re: Continuing work at DANA

We have asked the city to clarify their position as to the improper noticing regarding the hazardous substance/waste on the NOP. The EIR cannot move forward until it is properly noticed pursuant to CEQA code and regulations in regards to the hazardous substance/waste site.

-Gino Gabriel Altamirano

Sent from my iPad mini

On Apr 29, 2013, at 11:09 AM, "Fred Collins" <fcollins@northernchumash.org>
wrote:

>
>
> -----Original Message-----
> From: bpedrotti@co.slo.ca.us [mailto:bpedrotti@co.slo.ca.us]
> Sent: Monday, April 29, 2013 9:29 AM
> To: Clinton Blount
> Cc: Fred Collins; Shawna Scott (sscott@swca.com)
> Subject: RE: Continuing work at DANA
>
> Clinton and Fred-
>
> How about 11:00 instead? I can get a conference room from 11 to 12.
>
> -Brian
>
> Brian Pedrotti, AICP
> San Luis Obispo County
> Department of Planning & Building
> (805) 788-2788
> bpedrotti@co.slo.ca.us
>
>
>
>
> From: Clinton Blount <CBlount@albionenvironmental.com>
> To: Fred Collins <fcollins@northernchumash.org>
> Cc: "bpedrotti@co.slo.ca.us" <bpedrotti@co.slo.ca.us>, "Shawna
> Scott (sscott@swca.com)" <sscott@swca.com>

3

> Date: 04/26/2013 02:16 PM
> Subject: RE: Continuing work at DANA
>
>
>
> Hi Fred
>
> How about Tuesday mid-morning say 10:00 or 10:30. I imagine an hour or
> so
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>
> Thanks
> Clinton
>
> Clinton Blount
> Albion Environmental, Inc.
> 1414 Soquel Avenue, #205
> Santa Cruz, CA 95062
> (831) 466-1787
> (831) 818-8287 (c)
> Albionenvironmental.com
>
> From: Fred Collins [mailto:fcollins@northernchumash.org]
> Sent: Thursday, April 25, 2013 5:43 PM
> To: Clinton Blount
> Subject: RE: Continuing work at DANA
>
> Hello Clinton,
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> Can you come to the farm for our meeting, I am available Mon, Tue and
part of Wednesday.
>
> Be Well,
>
> Fred
>
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> To: Fred Collins (fcollins@northernchumash.org)
> Cc: Shawna Scott (sscott@swca.com); bpedrotti@co.slo.ca.us
> Subject: Continuing work at DANA
>
> Hi Fred
> I trust all is well.
>
> We are gearing up for additional work at the DANA project, some phase
> 1A
and some Phase 2 testing.
>
> I'm hoping we can sit down early next week to Review the proposed

4

activities, Record your comments and recommendations, and discuss compensated participation in the field effort.
>
> Please let me know and looking forward to talking with you.
>
> Thanks
> Clinton
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> [Scanned @co.slo.ca.us]
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[Scanned @co.slo.ca.us]

(See attached file: CAP approval_07-30-10.pdf)(See attached file: FS approval_01-26-10.pdf)(See attached file: FS Ext Req_12-16-08.pdf)(See attached file: FS Req_10-24-08.pdf)

[Scanned @co.slo.ca.us]

5

California Regional Water Quality Control Board

Central Coast Region

Linda S. Adams.
Secretary for
Environmental Protection

895 Aerovista Place, Suite 101, San Luis Obispo, California 93401-7906
(805) 549-3147 • Fax (805) 543-0397
http://www.waterboards.ca.gov/centralcoast

Arnold Schwarzenegger
Governor

October 28, 2008

Mr. Ed Ralston
ConocoPhillips
76 Broadway
Sacramento, CA 95818

Dear Mr. Ralston:

SITE CLEANUP PROGRAM: NIPOMO CREEK PIPELINE SITE, NIPOMO CALIFORNIA, REQUEST FOR FEASIBILITY STUDY AND CORRECTIVE ACTION PLAN

We have received the *Additional Assessment Report* dated September 27, 2007 submitted by the Terra Pacific Group on behalf of ConocoPhillips. The *Additional Assessment Report* indicates that the extent of petroleum hydrocarbons in the subsurface at the site has been adequately assessed.

The *Additional Assessment Report* indicates that significant amounts of crude oil remain in the subsurface at the site. Therefore, you are required to submit a feasibility study and corrective action plan to address impacts to soil and groundwater at the site. The feasibility study and corrective action plan shall include an evaluation of potential remedial alternatives, a recommendation for implementation of the selected cleanup alternative, cleanup goals, and a time schedule for implementation. The feasibility study and corrective action plan is to be submitted by **December 19, 2008**.

Failure to comply with these requirements will subject ConocoPhillips to enforcement action by the Regional Board, including issuance of an order under Water Code Sections 13267 and/or 13304, and potential administrative civil liabilities.

If you have questions, please call **Rich Chandler at (805) 542-4627** or Chris Adair at (805) 549-3761.

Sincerely,

Chris Adair

for Roger W. Briggs
Executive Officer

California Environmental Protection Agency

Recycled Paper

Mr. Ed Ralston 2 October 28, 2008

S:\Site Cleanup Program\REGULATED SITES\San Luis Obispo Co\Pipelines\Nipomo Creek\FS Req_10-24-08.doc

cc:

Mr. Raul Briones
Terra Pacific Group
13900 Alton Parkway, Suite 122
Irvine, CA 92618

Ms. Melissa Boggs-Blalack
State of California
Department of Fish and Game
Office of Spill Prevention and Response
213 Beach Street
Morro Bay, CA 93442

Mr. Peter Hague
San Luis Obispo County
Division of Environmental Health
Post Office Box 1489
San Luis Obispo, CA 93406

Mr. Lloyd Guss
Trihydro Corporation
1252 Commerce Drive
Laramie, WY 82070

Mr. Herb Kandel
Dana Adobe Nipomo Amigos
P. O. Box 729
Nipomo, CA 93444

Ms. Elaine Grishinger
c/o Trish Weatherby
P.O. Box 1280
Solvang, CA 93464

California Environmental Protection Agency

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Linda S. Adams.
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Arnold Schwarzenegger
Governor

December 16, 2008

Mr. Ed Ralston
ConocoPhillips
76 Broadway
Sacramento, CA 95818

Dear Mr. Ralston:

SITE CLEANUP PROGRAM: NIPOMO CREEK PIPELINE SITE, NIPOMO CALIFORNIA, REQUEST FOR DUE DATE EXTENSION FOR FEASIBILITY STUDY AND CORRECTIVE ACTION PLAN

The Central Coast Regional Water Quality Control Board requested that ConocoPhillips submit a feasibility study and corrective action plan for the above referenced site in correspondence dated October 28, 2008. The due date for the feasibility study and corrective action plan was December 19, 2008. In correspondence dated December 4, 2008, Terra Pacific Group, on behalf of ConocoPhillips, requested an extension of the due date for the feasibility study and corrective action plan due to the complex nature of the site. Central Coast Water Board staff approves extension request. The feasibility study and corrective action plan is to be submitted by **January 30, 2009**.

Failure to comply with these requirements will subject ConocoPhillips to enforcement action by the Regional Board, including issuance of an order under Water Code Sections 13267 and/or 13304, and potential administrative civil liabilities.

If you have questions, please call **Rich Chandler at (805) 542-4627** or Sheila Soderberg at (805) 549-3592.

Sincerely,

Sheila Soderberg for/

Roger W. Briggs
Executive Officer

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California Environmental Protection Agency

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Mr. Ed Ralston **2** **December 16, 2008**

cc [via email]:

Ms. Melissa Boggs-Blalack, Dept. Fish & Game, OSPR mboggs@ospr.dfg.ca.gov

cc [via mail]:

Mr. Raul Briones
Terra Pacific Group
13900 Alton Parkway, Suite 122
Irvine, CA 92618

Mr. Peter Hague
San Luis Obispo County
Division of Environmental Health
Post Office Box 1489
San Luis Obispo, CA 93406

Mr. Herb Kandel
Dana Adobe Nipomo Amigos
P. O. Box 729
Nipomo, CA 93444

Ms. Elaine Grishinger
c/o Trish Weatherby
P.O. Box 1280
Solvang, CA 93464

Mr. Lloyd Guss
Trihydro Corporation
1252 Commerce Drive
Laramie, WY 82070

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California Regional Water Quality Control Board

Central Coast Region

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Arnold Schwarzenegger
Governor

January 26, 2010

Mr. Ed Ralston
ConocoPhillips
76 Broadway
Sacramento, CA 95818

Dear Mr. Ralston:

SITE CLEANUP PROGRAM: NIPOMO CREEK PIPELINE SITE, NIPOMO CALIFORNIA, REVIEW OF FEASIBILITY STUDY AND CORRECTIVE ACTION PLAN AND REQUEST FOR CORRECTIVE ACTION PLAN

Central Coast Water Quality Control Board staff have received the *Feasibility Study and Corrective Action Plan* (FS) for the above-referenced site dated February 13, 2009 submitted by the Terra Pacific Group on behalf of ConocoPhillips. The FS presented a study of potential remedial options for the site and indicated a preferred remedial option.

The FS evaluated the feasibility of six separate remedial options, including: 1) no further action; 2) monitored natural attenuation for groundwater excavation; 3) excavation, backfill, and reconstruction of Nipomo Creek; 4) limited excavation and lining of key areas within the creek bottom; 5) creek bank stabilization; and, 6) rerouting of Nipomo Creek around the impacted area. Also considered was a combination of one more of the potential remedial options. The FS concluded that of these remedial options, Option 4, limited excavation and lining of key areas within the creek bottom, combined semi-annual monitoring of groundwater monitoring wells, has been selected as the preferred remedial alternative. Based on our review of the FS, Central Coast Water Board staff concurs that Option 4 is the preferred remedial alternative.

Central Coast Water Board staff requires that you submit a Corrective Action Plan (CAP) by **May 28, 2010.** The CAP must present detailed plans and a timeline for implementation of the preferred remedial option. Also, please prepare a draft fact sheet detailing the proposed CAP and submit this along with a list of names and addresses of residences and businesses within a 2,500 radius of the site. We require a 30-day public comment period so that nearby interested parties can be notified of the proposed remedial action, and provide an opportunity for public comment. If no significant public comments are received, the Executive Officer can approve the CAP and Water Board staff will notify the Board itself at a future meeting.

Mr. Ed Ralston **2** **January 26, 2010**

As the site is located in an environmentally sensitive area, Central Coast Water Board staff encourage ConocoPhillips to work with the property owner (Dana Adobe Nipomo Amigos) and other interested parties to design a plan that will effectively remediate the impacted area while minimizing damage to biological and cultural resources. Copies of comments on the FS that we received from the Dana Adobe Nipomo Amigos (Dana Adobe), the California Department of Fish and Game (DFG), and Ralph Bishop, a concerned citizen, are attached. Please review these comments and incorporate any ideas that are feasible.

Failure to comply with these requirements will subject ConocoPhillips to enforcement action by the Central Coast Water Board, including issuance of an order under Water Code Sections 13267 and/or 13304, and potential administrative civil liabilities. If you have questions, please call **Rich Chandler at (805) 542-4627** or Sheila Soderberg at (805) 549-3592.

Sincerely,

Sheila Soderberg for

Roger W. Briggs
Executive Officer

Attachments:
1. Dana Adobe letter received March 20, 2009
2. DFG email received July 17, 2009
3. Mr. Bishop's letter received October 27, 2008

S:\Shared\Site Cleanup Program\REGULATED SITES\San Luis Obispo Co\Pipelines\Nipomo Creek\FS approval_01-26-10.doc

cc with attachments:
Mr. Raul Briones
Terra Pacific Group
13900 Alton Parkway, Suite 122
Irvine, CA 92618

cc w/out attachments:
Ms. Elaine Grishinger
c/o Trish Weatherby
P.O. Box 1280
Solvang, CA 93464

Ms. Melissa Boggs-Blalack
CA Department of Fish and Game OSPR
213 Beach Street
Morro Bay, CA 93442

Mr. Peter Hague
San Luis Obispo County
Division of Environmental Health
P. O.Box 1489
San Luis Obispo, CA 93406

Mr. Lloyd Guss
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Laramie, WY 82070

California Environmental Protection Agency

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Mr. Herb Kandel
Dana Adobe Nipomo Amigos
P. O. Box 729
Nipomo, CA 93444

Mr. Ralph Bishop
618 E. 6th Street
Santa Maria, CA 93454

California Regional Water Quality Control Board

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Arnold Schwarzenegger
Governor

August 2, 2010

Mr. Ed Ralston
ConocoPhillips
76 Broadway
Sacramento, CA 95818

Dear Mr. Ralston:

SITE CLEANUP PROGRAM: REVIEW OF CORRECTIVE ACTION PLAN, CONOCOPHILLIPS NIPOMO CREEK PIPELINE SITE, NIPOMO, CALIFORNIA

Central Coast Regional Water Quality Control Board (Central Coast Water Board) staff reviewed the Corrective Action Plan (CAP) for the above-referenced site, dated May 21, 2010, and submitted by the Terra Pacific Group on your behalf. The CAP detailed the procedures for implementing the selected remedy outlined in Terra Pacific Group's Feasibility Study and Corrective Action Plan dated February 13, 2009. Following the 30-day public comment period and after receiving/reviewing one comment letter supporting the CAP, Central Coast Water Board staff finds the CAP acceptable, as presented.

As you are aware, you will need permits from many other agencies prior to implementing your plan. Central Coast Water Board staff is available to help you in the process, as needed. Because the permitting process may take time, you are required to submit to the Central Coast Water Board quarterly progress reports describing your CAP permitting and implementation efforts until field work is initiated. The first progress report will be due within two weeks following the end of the third quarter of 2010. Please submit the first quarterly progress report **by October 14, 2010**. For your information, staff plans to provide a project status report to the Central Coast Water Board at the September 2, 2010 meeting in San Luis Obispo.

The Central Coast Water Board's requirement for the quarterly progress report is made pursuant to California Water Code (CWC) § 13267. Pursuant to CWC §, a violation of a request made pursuant to CWC Section 13267 may subject you to civil liability of up to $1,000 per day.

The Central Coast Water Board needs the requested information to evaluate the impact of this discharge of petroleum hydrocarbons to the environment. You are required to submit this information because petroleum hydrocarbons have been detected in soil

Mr. Ed Ralston **2** **August 2, 2010**

and groundwater at the site and you are responsible for the discharge. More detailed information is available in the Water Board's public file on this matter.

Any person affected by this action of the Central Coast Water Board may petition the State Water Resources Control Board (State Water Board) to review the action in accordance with CWC § 13320 and Title 23, California Code of Regulations, § 2050. The petition must be received by the State Water Board within 30 days of the date of this order. Copies of the law and regulations applicable to filing petitions will be provided upon request.

If you have any questions, please call **Rich Chandler at (805) 542-4627** (rchandler@waterboards.ca.gov) or Sheila Soderberg at (805) 549-3592.

Sincerely,

for Roger Briggs
Executive Officer

S:\Site Cleanup Program\REGULATED SITES\San Luis Obispo Co\Pipelines\Nipomo Creek\CAP approval_07-30-10.doc

cc

Mr. Leonard E. Dana
239 Oakglen Avenue
Nipomo, CA 93444

Mr. Raul Briones
Terra Pacific Group
13900 Alton Parkway, Suite 122
Irvine, CA 92618

Ms. Melissa Boggs
State of California
Department of Fish and Game
Office of Spill Prevention and Response
213 Beach Street
Morro Bay, CA 93442

Mr. Peter Hague
San Luis Obispo County
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Post Office Box 1489
San Luis Obispo, CA 93406

Mr. Herb Kandel
Dana Adobe Nipomo Amigos
P. O. Box 729
Nipomo, CA 93444

Mr. Carl Holloway
561 Oakglen Avenue
Nipomo, 93444

Ms. Elaine Grishinger
c/o Trish Weatherby
P.O. Box 1280
Solvang, California 93464

Mr. Ralph Bishop
618 Cook Street
Santa Maria, CA 93454

California Environmental Protection Agency

Recycled Paper

Mr. Ed Ralston **3** **August 2, 2010**

Mr. Richard Weldon
P.O. Box 1280
Solvang, CA 93464

Ms. Ellen Carroll
County of San Luis Obispo
1087 Santa Rosa
San Luis Obispo, CA 93401

California Environmental Protection Agency

Recycled Paper

Shawna Scott

From:	bpedrotti@co.slo.ca.us
Sent:	Friday, September 27, 2013 4:06 PM
To:	Shawna Scott
Subject:	Fw: Comments to Dana Adobe DEIR (SCH No. 2012041037)
Attachments:	DANA NOP letter_4-29-13.pdf

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From: Gino Gabriel Altamirano <galta@att.net>
To: "bpedrotti@co.slo.ca.us" <bpedrotti@co.slo.ca.us>
Date: 09/27/2013 03:48 PM
Subject:Comments to Dana Adobe DEIR (SCH No. 2012041037)

Mr. Pedrotti- Per our comments in the emails sent to you moments ago, attached is the email sent by your office on April 29, 2013 with letter response attachment to be incorporated as part of the comments referenced above. **GA-1**

----- Forwarded Message -----
From: "bpedrotti@co.slo.ca.us" <bpedrotti@co.slo.ca.us>
To: Gabriel Altamirano <galta@att.net>
Cc: Fred Collins <fcollins@northernchumash.org>; wmcdonald@co.slo.ca.us; elcarroll@co.slo.ca.us; kgriffin@co.slo.ca.us
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-Brian

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Brian Pedrotti, AICP
San Luis Obispo County
Department of Planning & Building
(805) 788-2788
bpedrotti@co.slo.ca.us

1

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-Gino Gabriel Altamirano

Sent from my iPad mini

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> Cc: "bpedrotti@co.slo.ca.us" <bpedrotti@co.slo.ca.us>, "Shawna
> Scott (sscott@swca.com)" <sscott@swca.com>
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2

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> Sent: Thursday, April 25, 2013 5:02 PM
> To: Fred Collins (fcollins@northernchumash.org)
> Cc: Shawna Scott (sscott@swca.com); bpedrotti@co.slo.ca.us
> Subject: Continuing work at DANA
>
> Hi Fred
> I trust all is well.
>
> We are gearing up for additional work at the DANA project, some phase
> 1A
and some Phase 2 testing.
>
> I'm hoping we can sit down early next week to Review the proposed
activities, Record your comments and recommendations, and discuss compensated participation in the field effort.
>
> Please let me know and looking forward to talking with you.
>
> Thanks

3

SAN LUIS OBISPO COUNTY
DEPARTMENT OF PLANNING AND BUILDING

April 29, 2013

Gino Altamirano
yaktityutityu tilhini
26871 Freitas Drive
Hayward, CA 94544

Subject: **Dana Adobe Land Use Ordinance Amendment and Conditional Use Permit EIR Notice of Preparation & Telephone Call Summary**

Thank you for your comments regarding the completeness of the Notice of Preparation (NOP) for the Dana Adobe EIR. We have reviewed the issues you raised carefully.

Notice of Preparation
The NOP is part of the "scoping" process that determines "...the scope, focus, and content of an EIR..." (CEQA Deskbook, 1999). As such, the NOP circulated for the Dana Adobe project included the Initial Study for the project. The Initial Study correctly identified that the subject property had been the site of a previous clean-up project related to contamination associated with a pipeline that crosses the subject property. The Initial Study summarized the completed clean-up and identified the constituent materials associated with the contamination. In addition, the Initial Study provided the State-assigned number for the clean-up site. While the clean-up project identification number was included, the Initial Study does not identify the site as being on any particular "list" maintained pursuant to Section 65962.5 of the Government Code. It is unclear whether the clean-up site qualifies as one that must be identified on a list under Section 65962.5. CalEPA maintains the lists identified in Section 65962.5 (aka "Cortese List") at its website (http://www.calepa.ca.gov/sitecleanup/corteselist/). That site includes links to a number of other databases and lists maintained by other agencies. The clean-up site appears on the State Water Resources Control Board's GeoTracker database as an "Other Cleanup Site," which is not a category of sites required to be listed under Section 65962.5(c).

The NOP and Initial Study was circulated by the State Clearinghouse to CalEPA constituent Boards, Departments and Offices (BDOs) including: Air Resources Board (ARB), Department of Toxic Substance Control (DTSC), State Water Resources Control Board (SWRCB) and Regional Water Quality Control Board (RWQCB). It was also circulated to the County Department of Environmental Health. Consistent with the overarching intent that the NOP is part of the "scoping" process, Public Resources Code 21092.6 anticipates that complete information as it relates to sites on the state "lists" (pursuant to Section 65962.5 of the Government Code), may not be included in the NOP. Section 21092.6(b) specifically provides for CalEPA to correct this information and for the Lead Agency to include the corrected information in the subsequent steps in the environmental review process. While neither CalEPA, nor any of its BDOs provided this corrected information to the County in response to the NOP, now that the County is aware that the clean-up project appears on a website linked to CalEPA's Cortese List database, which might be considered to be one of the State "lists", this information will be included

976 OSOS STREET, ROOM 300 • SAN LUIS OBISPO • CALIFORNIA 93408 • (805) 781-5600
EMAIL: planning@co.slo.ca.us • FAX: (805) 781-1242 • WEBSITE: http//www.sloplanning.org

in the Draft EIR and the public Notice of Availability of the EIR as required by the State CEQA Guidelines (15087).

Summary of Telephone Call
On April 2, 2013, you called me to discuss the above issue regarding the NOP. I referred you back to the March 5, 2013 e-mail from Jason Giffen to you, and stated that County Counsel was further reviewing your request. You also stated that you had contacted the California Office of Grants and Local Services (OGALS) with your concerns, and asked whether they had contacted me. I stated that OGALS had not contacted me. You also asked about the water source for the proposed Dana Adobe project and about associated traffic impacts. I stated that these would be discussed in the Draft EIR, but that I would follow up with more information. Currently, the applicant proposes a well for the proposed project. A Traffic Impact Analysis was completed for the project in 2012. You can obtain additional information about these items from the Initial Study that was attached to the NOP. Finally, you asked whether the project description had changed since the Board of Supervisors hearing in July 2012. I stated that the primary project components had not changed.

If you have any questions concerning the information in this letter, please contact me at (805) 788-2788 or by email at bpedrotti@co.slo.ca.us.

Sincerely,

Brian Pedrotti, AICP
Inland Planning and Permitting

cc: Ellen Carroll, County Environmental Coordinator
Kami Griffin, Assistant Director of Planning and Building
Whitney McDonald, Deputy County Counsel

Shawna Scott

From: bpedrotti@co.slo.ca.us
Sent: Friday, September 27, 2013 4:06 PM
To: Shawna Scott
Subject: Fw: Comments to Dana Adobe DEIR (SCH No. 2012041037)

----- Forwarded by Brian Pedrotti/Planning/COSLO on 09/27/2013 04:06 PM

From: Gino Gabriel Altamirano <galta@att.net>
To: "bpedrotti@co.slo.ca.us" <bpedrotti@co.slo.ca.us>
Date: 09/27/2013 03:51 PM
Subject:Comments to Dana Adobe DEIR (SCH No. 2012041037)

Mr. Pedrotti- Per our comments in the emails sent to you moments ago, attached is the email inquiring response from county counsel sent by us to your office on July 26, 2013 with letter response attachment to be incorporated as part of the comments referenced above. **GA-1**

----- Forwarded Message -----
From: Gino Gabriel Altamirano <galta@att.net>
To: "bpedrotti@co.slo.ca.us" <bpedrotti@co.slo.ca.us>
Sent: Friday, July 26, 2013 3:43 PM
Subject: Re: Continuing work at DANA

Mr. Pedrotti- This issue remains open. Have you heard back from county counsel?

-Gino Altamirano

From: Gino Gabriel Altamirano <galta@att.net>
To: "bpedrotti@co.slo.ca.us" <bpedrotti@co.slo.ca.us>
Cc: Fred Collins <fcollins@northernchumash.org>; "wmcdonald@co.slo.ca.us" <wmcdonald@co.slo.ca.us>; "elcarroll@co.slo.ca.us" <elcarroll@co.slo.ca.us>; "kgriffin@co.slo.ca.us" <kgriffin@co.slo.ca.us>
Sent: Tuesday, April 30, 2013 3:35 PM
Subject: Re: Continuing work at DANA

Mr. Pedrotti- Thank you for the letter sent on April 29, 2013. In your letter you stated:

"[it] is unclear whether the clean-up site qualifies as one that must be identified on a list under Section 65962.5"

The California Regional Water Quality Control Board (CRWQCB) cleanup and abatement/enforcement orders (attached) pursuant to Sections 13301 and
13304 of the Water Code, requires that:

1

"[t]he Lead Agency shall specify the list and include the information in the statement required pursuant to subdivision (f) of Section 65962.5"

Section 65962.5(c)(3) of the Government Code states:

"All cease and desist orders issued after January 1, 1986, pursuant to Section 13301 of the Water Code, and all cleanup or abatement orders issued after January 1, 1986, pursuant to Section 13304 of the Water Code, that concern the discharge of wastes that are hazardous materials."

Also, Water Code Section 13307.5(a) requires:

"The regional board shall take all of the following actions when reviewing or approving a cleanup proposal from a primary or active responsible discharger with respect to a site issued a cleanup and abatement order pursuant to Section 13304:"
-and-

Section 13307.5(a) (3):

"Provide no less than 30 days for an interested person to review and comment on the cleanup proposal regarding the site. The regional board shall consider any comments received before taking final action on a cleanup proposal regarding the site."
Provided attached is an August 2, 2010 letter issued by the CRWQCB stating the Corrective Action Plan was approved after the required 30 day comment period.

We will confirm all of the above information next week with the CRWQCB in hope your uncertainty as to whether this clean-up site qualifies to be placed on "Cortese List" is clarified.

Again, we are alarmed at the direct violation of CEQA as to the Notice of Preparation's inadequacy to factually notice hazardous waste/substance as required by state law. We ask you re-notice the Notice of Preparation to allow full public participation by informing the public and decision makers of adverse impacts.

tyu ksisime,
Gino Gabriel Altamirano
yaktitʸutitʸu tiłhini (Northern Chumash of Avila Beach and San Luis Obispo)

From: "bpedrotti@co.slo.ca.us" <bpedrotti@co.slo.ca.us>
To: Gabriel Altamirano <galta@att.net>
Cc: Fred Collins <fcollins@northernchumash.org>; wmcdonald@co.slo.ca.us; elcarroll@co.slo.ca.us; kgriffin@co.slo.ca.us
Sent: Monday, April 29, 2013 11:46 AM
Subject: Re: Continuing work at DANA

Gino-

Please see attached letter with response to your question regarding your question below. A hard copy will follow in the mail. If you have any questions, feel free to contact me.

2

-Brian

(See attached file: DANA NOP letter_4-29-13.pdf)

Brian Pedrotti, AICP
San Luis Obispo County
Department of Planning & Building
(805) 788-2788
bpedrotti@co.slo.ca.us

From: Gabriel Altamirano <galta@att.net>
To: Fred Collins <fcollins@northernchumash.org>
Cc: bpedrotti@co.slo.ca.us
Date: 04/29/2013 11:20 AM
Subject: Re: Continuing work at DANA

We have asked the city to clarify their position as to the improper noticing regarding the hazardous substance/waste on the NOP. The EIR cannot move forward until it is properly noticed pursuant to CEQA code and regulations in regards to the hazardous substance/waste site.

-Gino Gabriel Altamirano

Sent from my iPad mini

On Apr 29, 2013, at 11:09 AM, "Fred Collins" <fcollins@northernchumash.org>
wrote:

>
>
> -----Original Message-----
> From: bpedrotti@co.slo.ca.us [mailto:bpedrotti@co.slo.ca.us]
> Sent: Monday, April 29, 2013 9:29 AM
> To: Clinton Blount
> Cc: Fred Collins; Shawna Scott (sscott@swca.com)
> Subject: RE: Continuing work at DANA
>
> Clinton and Fred-
>
> How about 11:00 instead? I can get a conference room from 11 to 12.
>
> -Brian
>
> Brian Pedrotti, AICP
> San Luis Obispo County
> Department of Planning & Building
> (805) 788-2788
> bpedrotti@co.slo.ca.us

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>
>
> From: Clinton Blount <CBlount@albionenvironmental.com>
> To: Fred Collins <fcollins@northernchumash.org>
> Cc: "bpedrotti@co.slo.ca.us" <bpedrotti@co.slo.ca.us>, "Shawna
> Scott (sscott@swca.com)" <sscott@swca.com>
> Date: 04/26/2013 02:16 PM
> Subject: RE: Continuing work at DANA
>
>
>
> Hi Fred
>
> How about Tuesday mid-morning say 10:00 or 10:30. I imagine an hour or
> so
should cover it. Brian Pedrotti will be attending and I have not confirmed time with him yet, although we was hoping we could meet downtown. Let me know if that time is OK, and if downtown is a possibility. I'm copying Brian so he can respond re the date and time.
>
> Thanks
> Clinton
>
> Clinton Blount
> Albion Environmental, Inc.
> 1414 Soquel Avenue, #205
> Santa Cruz, CA 95062
> (831) 466-1787
> (831) 818-8287 (c)
> Albionenvironmental.com
>
> From: Fred Collins [mailto:fcollins@northernchumash.org]
> Sent: Thursday, April 25, 2013 5:43 PM
> To: Clinton Blount
> Subject: RE: Continuing work at DANA
>
> Hello Clinton,
>
> Can you come to the farm for our meeting, I am available Mon, Tue and
part of Wednesday.
>
> Be Well,
>
> Fred
>
> From: Clinton Blount [mailto:CBlount@albionenvironmental.com]
> Sent: Thursday, April 25, 2013 5:02 PM
> To: Fred Collins (fcollins@northernchumash.org)
> Cc: Shawna Scott (sscott@swca.com); bpedrotti@co.slo.ca.us
> Subject: Continuing work at DANA
>

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> Hi Fred
> I trust all is well.
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> We are gearing up for additional work at the DANA project, some phase
> 1A
and some Phase 2 testing.
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> I'm hoping we can sit down early next week to Review the proposed
activities, Record your comments and recommendations, and discuss compensated participation in the field effort.
>
> Please let me know and looking forward to talking with you.
>
> Thanks
> Clinton
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> [Scanned @co.slo.ca.us]
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9.3.3 Response to Emails from Gino Altamirano, yak tit^{Y}u tit^{Y}u tiłhini (Northern Chumash of Avila Beach and San Luis Obispo)

Comment No.	Response
GA-1	As documented in the record, and attachments to the commenter's email, the County has provided responses to the commenter at the time the questions and comments were raised. As noted by Jason H. Giffen, Director (March 5, 2013): "The NOP and Initial Study do acknowledge that hazardous materials and substances are an issue. Hazardous materials and substances were preliminarily addressed in the previous Draft Mitigated Negative Declaration and they will also be addressed in the context of the EIR. The County does not concur that this issue was omitted or not adequately disclosed as part of the NOP process." The County responded to the commenter in a letter included in the commenter's attached materials (Brian Pedrotti, April 29, 2013). As noted in the April 29, 2013 letter, the purpose of the NOP is to solicit guidance from Responsible Agencies, Trustee Agencies, the Office of Planning and Research, and involved federal agencies "as to the scope and content of the environmental information to be included in the EIR" (CEQA Guidelines Section 15375 Notice of Preparation). The NOP circulated for the proposed project included the Initial Study for the project, which correctly identified that the subject property had been the site of a previous clean-up project related to the contamination associated with a pipeline that crosses the subject property. The Initial Study summarized the completed clean-up and identified the constituent materials associated with the contamination. In addition, the Initial Study provided the State-assigned number for the clean-up site. While the clean-up project identification number was included, the Initial Study does not identify the site as being on any particular "list" maintained pursuant to Section 65962.5 (aka "Cortese List") at its website (http://www.calepa.ca.gov/sitecleanup/corteslist/). That site includes links to a number of other databases and lists maintained by other agencies. The clean-up site appears on the State Water Resources Control Board's GeoTracker database as an "Other Cleanup Site", which is not a category of sites required to be listed under Section 65962.5(c). The NOP and Initial Study were circulated by the State Clearinghouse to CalEPA constituent Boards, Departments, and Offices including but not limited to the Department of Toxic Substances Control. Consistent with the intent of the NOP as a scoping process, Public Resources Code 21092.6 anticipates that complete information as it relates to sites on the state "lists" may not be included in the NOP, and Section 21092.6(b) specifically provides for CalEPA to correct this information and for the Lead Agency to include the corrected information in the subsequent steps in the environmental review process. While neither CalEPA, nor any of its Boards, Departments, and Offices provided this corrected information to the County in response to the NOP, the County correctly included this information in the Draft EIR and the public Notice of Availability of the EIR as required by CEQA Guidelines Section 15087. In addition, as noted in EIR Section 4.6 (Hazards and Hazardous Materials): "Section 65962.5(f) of the California Government Code states that 'before a lead agency accepts as complete an application for any development project which will be used by any person, the applicant shall consult the lists sent to the appropriate city or county and shall submit a signed statement to the local agency indicating whether the project and any alternatives are located on a site which is included on any of the lists compiled pursuant to this section and shall specify any list. If the site is included on a list, and the list is not specified on the statement, the lead agency shall notify the applicant pursuant to Section 65943." The applicant signed and submitted an Information Disclosure Form, including a Hazardous Waste and Substance Sites and Landfill Disclosure upon application for the Conditional Use Permit (November 14, 2011), based on the County's available list. During preparation of the Initial Study for the project, environmental analysis included review of the CalEPA website, including all available lists and data sources such as GeoTracker, and additional information regarding Line 300, RM&R Site No. 3788, SL0607907605 was provided in the publically-circulated Initial Study and proposed Mitigated Negative Declaration. This information was also provided in the Initial Study and Notice of Preparation (NOP) of an EIR, and the NOP was available to the public and circulated to agencies including (but not limited to) the Air Resources Board, Department of Toxic Substances Control, State Water Resources Control Board, Regional Water Quality Control Board, and County Environmental Health.

Comment No.	Response
	In addition, the applicant signed and submitted an updated "Hazardous Waste and Substances Statement", which is provided at the end of this EIR section, and specifically identifies Line 300, RM&R Site No. 3788, SL0607907605 consistent with the list of requirements identified in Section 65962.5(f) of the California Government Code." Based on information regarding Line 300, RM&R Site No. 3788, SL0607907605 presented in the Initial Study (which was included in the NOP package), and submittal of the NOP to the California Department of Toxic Substances Control, the County met the intention of the Government Code by allowing agencies and the public an opportunity to review and consider information regarding Line 300, RM&R Site No. 3788, SL0607907605, and provide comments regarding the scope of the EIR in response to the NOP. The intent of the process is to identify known hazardous materials site and/or provide an opportunity for the State to correct or educate the lead agency regarding unknown sites. In this case, the site was known and documented throughout the Initial Study, NOP, and EIR process. Therefore, this issue has been adequately addressed. No changes to the EIR are necessary.

9.4 GENERAL PUBLIC COMMENT LETTERS AND RESPONSES

The following members of the general public have submitted comments on the Draft EIR.

Respondent	Code	Contact Information	Page
Robert S. Vessely, P.E. Letter dated: August 27,2013	RV	743 Pacific Street, Suite B San Luis Obispo, CA 93401	9-81
Don Hertel, Principal Architect **Westberg + White Inc.** Letter dated: September 30,2013	DH	719 South McClelland Street Santa Maria, CA 93454	9-84

ROBERT S. VESSELY
CIVIL & STRUCTURAL ENGINEERING
743 Pacific St., Suite B San Luis Obispo, CA 93401 805/541-2003

August 27, 2013

Ms. Ellen Carroll, Environmental Coordinator
Department of Planning and Building
976 Osos Street, Room 300
San Luis Obispo, CA 93408-2040

RE: Dana Adobe Draft EIR

Ms. Carroll,

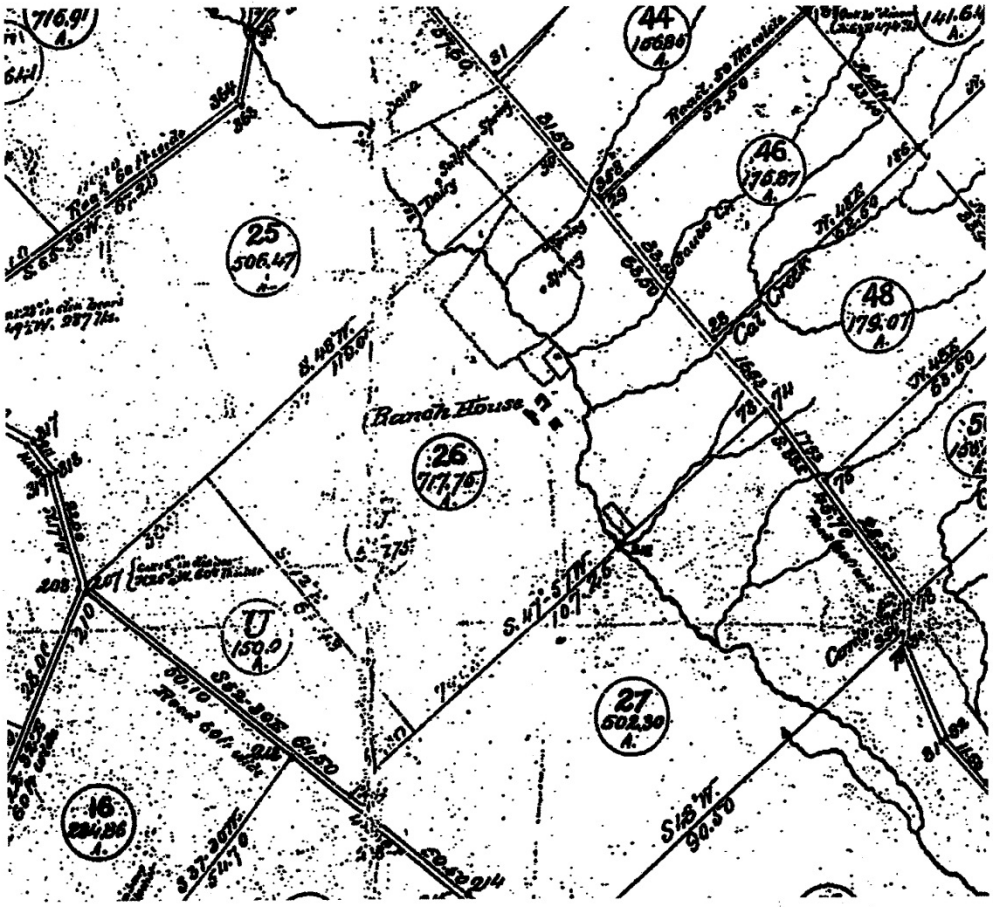
After reviewing the Draft Environmental Impact Report (DEIR) for the DANA Land Use Ordinance Amendment and Conditional Use Permit, I am concerned that the proposed plan does not adequately protect some of the historic features on the site. On the map entitled "Map of the Subdivision of Rancho Nipomo, San Luis Obispo Co. Cal." Dated 1878 found at page 13 of County Map Book 'A' the Dana Adobe is depicted along with several other structures and site features. A copy of the pertinent section of the map is attached. **RV-1**

The adobe, with its distinctive "U" shape is referred to as the "Ranch House". A square structure, probably the barn is shown to the south east of the adobe. A rectangular structure is shown to the south west of the adobe. Across the creek and along the property line between lots 26 and 27 there is a large rectangle, possibly a corral. A small rectangle is shown north of the adobe, possibly a windmill, surrounded by what may be a fence. Also north of the adobe are several areas enclosed by what may be fences, adjacent to and spanning the creek. The Cultural Resources section of the DEIR discusses only those features that remain visible on the surface today, specifically, the tallow vat, barn foundation and stone foundation between the house and the tallow vat. The author may have been unaware of this map.

Clearly, part of what makes the Dana Adobe property significant is that it represents a relatively intact segment of early California history, spanning from the Mexican period to statehood including the generally underrepresented Rancho period. As such, I believe that it is imperative to preserve, display and interpret whatever features of that history remain. I propose that all of the features represented on this map should be located where possible and investigated. At that point a decision can be made as to whether they contribute to the interpretation of the site and, as historic features, how they are to be treated under the Secretary of the Interior Standards. Alternately, it may be appropriate to modify the site plan to simply leave the surface over these features undisturbed for future investigation. **RV-2**

Sincerely,

Robert S. Vessely, PE



C:AA_Documents/Projects/HistoricBuildings/Adobes/Dana/DraftEIRComments.doc

9.4.1 Response to Letter from Robert S. Vessely, P.E.

Comment No.	Response
RV-1	Please refer to EIR Section 4.4.1.2 (Cultural Resources, Historic Resources), which includes a summary of the structures that are known to occur on the site at some point in history, including the windmill and corrals. This information is considered in the EIR based on records that were reviewed as part of the Phase I Archaeological and Paleontological Survey (CRMS 2011), which also included an assessment of historic features and resources. No changes to the EIR are necessary.
RV-2	Please refer to CR/mm-7 and CR/mm-8, which include preservation of key historic features and compliance with a Phase III Date Recovery Plan and Monitoring Plan. Features that no longer exist are documented in the historic record of the site, and features that remain are proposed to be preserved, which would be verified through implementation of recommended mitigation measures including preparation and implementation of a Monitoring Plan (CR/mm-3, CR/mm-5, and CR/mm-6) and cultural resources awareness training (CR/mm-4). All preservation and restoration actions continue to be conducted pursuant to Secretary of Interior Standards and approved Phase III Data Recovery Plan and Monitoring Plan. No changes to the EIR are necessary.

Don Hertel,
Principal Architect
Westberg + White Inc., 719 S. McClelland Street, Santa Maria, Ca 93454
TEL: 805-346-2991 FAX: 805-346-8790
dhertel@wwarch.com

September 30, 2013

Brian Pedrotti, AICP
San Luis Obispo County
Department of Planning & Building
(805) 788-2788
bpedrotti@co.slo.ca.us

Re: The Dana Adobe DEIR and NCTC Review Comments

Dear Brian,

With this letter I wish to express my continued support for and agreement with the recent comments provided in the letter to your office, dated September 27, 2013, by NCTC Tribal Administrator Fred Collins with respect to the Dana Adobe Draft E.I.R. **DH-1**

I also wish to reaffirm the comments made previously by me in a letter to the BOS with respect to the Dana project and the assurances that were given by DANA to the NCTC in order to gain their support in obtaining the State Parks Grant and then reneged upon once the grant was obtained. **DH-2**

Sincerely,

Don Hertel

Architect
Santa Maria, CA

9.4.2 Response to Letter from Don Hertel, Westberg + White Inc.

Comment No.	Response
DH-1	Please refer to response to comments NCTC-1 through NCTC-29.
DH-2	The commenter did not include a copy of the August 6, 2012 letter; however, this letter was reviewed and considered during preparation of the EIR. As documented in the EIR, Native American consultation included conversations and discussions with NCTC. Further evaluation of the archaeological site was conducted with Native American involvement, including discussions regarding the work plan and presence of a Native American monitor during the Phase II fieldwork. The commenter's previously submitted "Attachment B", conceptual design, is considered in the EIR as a project alternative (refer to Chapter 5 Alternatives Analysis). The potential presence of the diseno circles, and all information submitted into the record was reviewed, and discussed in EIR Section 4.3 (Cultural Resources). Specific comments related to the previously proposed Mitigated Negative Declaration were further considered in the EIR: ▪ Cumulative impacts are addressed in the EIR, based on the list of approved and reasonably foreseeable projects. At this time, only the project description defined in the EIR is proposed. ▪ The project would obscure views of the Nipomo Creek corridor, as seen from South Oakglen; however, this public view is limited primarily to visitors to the project site and does not represent a significant scenic viewshed (please refer to EIR Section 4.1 Aesthetics). ▪ The project does not include removal of any oak trees. Mitigation is identified to plant oak trees on site due to potential impacts to the root zone of existing trees, as documented in EIR Section 4.3 (Biological Resources). ▪ Please refer to EIR Section 4.4 (Cultural Resources), which addresses these issues. ▪ The project is consistent with Section 22.112.020 (South County Planning Area, Areawide Standards), including standards specific to the edge of the Nipomo Mesa. A preliminary grading and drainage plan was submitted, which includes some grading on the edge of the mesa (15% slopes). Pursuant to the Ordinance, the applicant is requesting approval of a Conditional Use Permit (exceeding the Minor Use Permit review standard), and potential impacts related to site disturbance, slope stability, erosion, and visual impacts are addressed in the EIR (please refer to Section 4.1 Aesthetics, Section 4.5 Geology and Soils, and 4.10 Water Resources). ▪ Regarding flood impacts, please refer to EIR Section 4.10 (Water Resources). No significant impacts were identified. ▪ Regarding water supply, please refer to EIR Section 4.10 (Water Resources). No significant water supply impacts were identified based on water demand calculations and review by the NCSD. ▪ Regarding water supply, limited sources and appliances are proposed, and the project does not include water supply within the Adobe, Chumash Interpretive Area, Rancho buildings, arena, caretaker's shop, trail system, or parking areas. Please refer to EIR Section 4.10 (Water Resources). The letter requests preparation of an EIR, which has occurred. No changes to the EIR are necessary.

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