

Letter O6



July 28, 2014

Mr. Mark Slovick
Department of Planning and Development Services
County of San Diego
5510 Overland Avenue, Suite 310
San Diego, California 92123

Subject: Revised Draft Environmental Impact Report
Lilac Hills Ranch Project

Dear Mr. Slovick:

I have reviewed the cultural resources portions of the subject Draft Revised EIR on behalf of the San Diego Archaeological Center and have the following comments.

Section 4.1.4 Curation of the EIR states that:

Cultural material collected will be curated at the San Diego Archaeological Center or other appropriate curatorial facility. Alternatively, cultural material may be repatriated to the appropriate Luiseño Tribe, as determined by agreement among the Tribes, the Principal Investigator, and County staff.

We believe that the scientific community should be given the opportunity for consultation regarding the final disposition of the archaeological collections, as they are unique records of the past. The artifacts, not subject to repatriation under NAGPRA, should be curated at a facility that is accessible to researchers, available for public education and cared for in a curatorial facility meeting the requirements in Federal Regulation, 36 CFR Part 79 (Curation of Federally-Owned and Administered Archeological Collections), which is generally regarded as the standard.

We feel that there has been a conflation of requirements set forth in SB 18 and the Native American Graves and Repatriation Act (NAGPRA), with tribes being assured during the SB 18 consultation that all artifacts will be given to them. The intent of SB 18 is to foster the "preservation of, or the mitigation of impacts to, specified Native American places, features, and objects" that may be impacted by changes to the general plan. In fact, SB 18 is clearly intended to protect places and preserve them in open space if possible. It does not require that artifacts that may be excavated during the course of mitigation be "repatriated" to tribes *in toto*.

NAGPRA is very specific on what archaeological artifacts that may be eligible for repatriation to culturally-affiliated tribes, including human remains, associated funerary objects, unassociated funerary objects, sacred objects and objects of cultural patrimony. All qualified archaeologists

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O6-1

O6-1 The language cited in this comment is not taken directly from the recommended mitigation measures. For clarification purposes, the County believes that the San Diego Archaeological Center is referring to Cultural Resources Mitigation Measure M-CR-2(a)(9); and, specifically, as it relates to the curation of previously unidentified cultural resources that may be discovered during the grading monitoring program required by the mitigation.

The mitigation measures related to the disposition of prehistoric artifacts includes curating artifacts at the San Diego Archaeological Center or at a culturally affiliated Tribal curation center that meets Federal standards (36 CFR Part 79). Alternatively, the prehistoric artifacts may be repatriated (returned) to a culturally affiliated Tribe. Historic artifacts may only be curated at a San Diego curation facility and may not be repatriated or curated at a Tribal curation facility. The term "repatriation" as used in the context of the conditions of approval means "to return" all prehistoric artifacts and not just human remains and associated grave goods as required under NAGPRA. CEQA identifies that curation (§15126.4b) may be an appropriate mitigation measure should data recovery be implemented but does not require curation.

Consultation with the San Diego Archaeological Center has been initiated.

Senate Bill 18 requires that consultation between culturally affiliated Tribes and the lead agency be conducted so that a meaningful dialogue can take place. As part of the consultation, if requested, repatriation of (returning of) artifacts to a culturally affiliated Tribe is included in the mitigation measures. The use of the term "repatriation" for this project is outside of NAGPRA which only requires that human remains and associated grave goods be repatriated. The commenter is correct in that SB-18 does not specifically require repatriation of artifacts.

The scientific value of the artifacts are addressed through the requirement to provide the cultural studies to a repository for archival purposes. The scientific value is retained through the information provided in the cultural study. Specifically, the study provides detailed information related to the identified artifacts such as artifact type,

LETTER

RESPONSE

and curation institutions in San Diego comply with NAGPRA as a matter of course. The remainder of the collection may then be employed in public education and continued research.

O6-1
cont.

We work to leverage the public value of archaeological collections by creating and delivering a variety of programming, emphasizing science as an exciting and dynamic process of discovery and a pathway to social change:

- K-12 educational programs focus on STEM learning using the archaeological process as an example of the scientific method.
- Exhibits, both on- and off-site, are based on current research and are designed to be provocative and interactive, asking the viewer questions and encouraging independent observation.
- Research, including student research, aims to apply new technologies to get the most out of existing archaeological collections. Research results help to satisfy curiosity as well as inform public policy.

O6-2

The Center currently has no collections from the sites involved in this project, which have great potential for continued scientific research, public education and cultural awareness. We urge you to consider having the collection curated at a qualified curatorial facility.

Sincerely,

Cindy Stankowski
Executive Director

O6-1 (cont.)

location, weight, material, features, composition, context, and chronological and cultural placement. This information is provided in the study text, tables, and graphics. In addition, any information provided by the Native American monitor related to the cultural perspective of the affiliated Tribe is also included in the study.

This comment does not raise an issue related to the adequacy of the environmental document.

O6-2

The County acknowledges the importance of making archaeological collections available for continued research and for public education and outreach efforts is acknowledged. As previously noted, the intent of the mitigation measure was not to preclude curation of cultural material from the project. The San Luis Rey Tribe and the property owner have entered into an agreement that provides for repatriation of the prehistoric artifacts. In addition, curation is still an option for the prehistoric artifacts should repatriation not be completed during project implementation. Curation is a requirement of the historic artifacts.