

APPENDIX H
AB 52 Consultation



CITY OF LONG BEACH

DEPARTMENT OF DEVELOPMENT SERVICES

333 West Ocean Blvd., 5th Floor Long Beach, CA 90802 (562) 570-6194 FAX (562) 570-6068

PLANNING BUREAU

October 24, 2018

Andrew Salas
Gabrieleno Band of Mission Indians -- Kizh Nation
P.O. Box 393
Covina, CA 91723

Re: AB-52 Consultation for the Long Beach Cruise Terminal Expansion Project

Dear Mr. Salas:

The City of Long Beach is conducting its consultation process for the Long Beach Cruise Terminal Expansion Project. Please consider this letter and preliminary project information as the initiation of the California Environmental Quality Act (CEQA) process, specifically Public Resources Code (PRC) Section 21080.3.1(d), if you would like to initiate consultation on this project.

PROJECT TITLE: Long Beach Cruise Terminal Expansion

PROJECT LOCATION: 231 Windsor Way and 1124 Queens Highway South, Long Beach California (Assessor's Parcel Number: 7436-021-907). The proposed improvement area is located adjacent to the Queen Mary.

PROJECT DESCRIPTION: The Project Applicant, Carnival Corporation proposes the following Maritime and Onshore improvements at 231 Windsor Way (Maritime) and 1124 Queens Highway South (Onshore):

Maritime Improvements:

- (1) Deepening the existing berth from the current design depth of 30 feet mean lower low water (MLLW) to a new design depth of 37 feet MLLW.
- (2) Estimated dredging volume is approximately 35,400 cubic yards (cy), which consists of the following:
 - (a) Total dredging volume to 37 feet MLLW within the existing berth: 29,000 cy;
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 - (a) Ocean disposal at the Los Angeles/Long Beach, CA (LA-2) site;
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- (6) Replacement of the existing, worn, foam-filled fenders with new oversized high-density, foam-filled fenders.

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- (1) Expansion of the existing parking structure by about 620 spaces toward the southwest and northeast. Only the existing levels will be expanded and the height of the structure will not increase.
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- (4) Reconfiguration of the leasehold traffic lanes on the southwestern side of the existing parking garage.
- (5) Construction is estimated to take 24-months and will include the installation of 236 foundation piles and backfilling the tunnel system over two weeks.

It is anticipated that a Mitigated Negative Declaration will be prepared in accordance with CEQA for this project.

Your comments and concerns are important to the City of Long Beach in moving forward with this project. If you have any questions or concerns with this project please contact me at:

Amy Harbin, AICP

Contract Planner | City of Long Beach
333 West Ocean Boulevard, 5th Floor | Long Beach, CA 90802
Amy.Harbin@longbeach.gov | 562.570.6872

Please be advised that you have 30 days upon receipt of this letter to provide input regarding this project.

Sincerely,

Amy L. Harbin, AICP
Contract Planner

AH



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PLANNING BUREAU

October 24, 2018

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

Re: AB-52 Consultation for the Long Beach Cruise Terminal Expansion Project

Dear Mr. Morales:

The City of Long Beach is conducting its consultation process for the Long Beach Cruise Terminal Expansion Project. Please consider this letter and preliminary project information as the initiation of the California Environmental Quality Act (CEQA) process, specifically Public Resources Code (PRC) Section 21080.3.1(d), if you would like to initiate consultation on this project.

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PLANNING BUREAU

October 28, 2018

Robert Dorame
Gabrieleno Tongva Indians of California Tribal Council
P.O. Box 490
Bellflower, CA 90707

Re: AB-52 Consultation for the Long Beach Cruise Terminal Expansion Project

Dear Mr. Dorame:

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PLANNING BUREAU

October 28, 2018

Sandonne Goad
Gabrieleno/Tongva Narion
106 1/2 Judge John Aiso Street, #231
Los Angeles, CA 90012

Re: AB-52 Consultation for the Long Beach Cruise Terminal Expansion Project

Dear Mr. Goad:

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PLANNING BUREAU

October 28, 2018

Charles Alvarez
Gabrieleno-Tongva Tribe
23454 VanOwen Street
West Hills, CA 91307

Re: AB-52 Consultation for the Long Beach Cruise Terminal Expansion Project

Dear Mr. Alvarez:

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PLANNING BUREAU

October 28, 2018

Joseph Ontiveros
Soboba Band of Luiseno Indians
P.O. Box 487
San Jacinto, CA 92581

Re: AB-52 Consultation for the Long Beach Cruise Terminal Expansion Project

Dear Mr. Ontiveros:

The City of Long Beach is conducting its consultation process for the Long Beach Cruise Terminal Expansion Project. Please consider this letter and preliminary project information as the initiation of the California Environmental Quality Act (CEQA) process, specifically Public Resources Code (PRC) Section 21080.3.1(d), if you would like to initiate consultation on this project.

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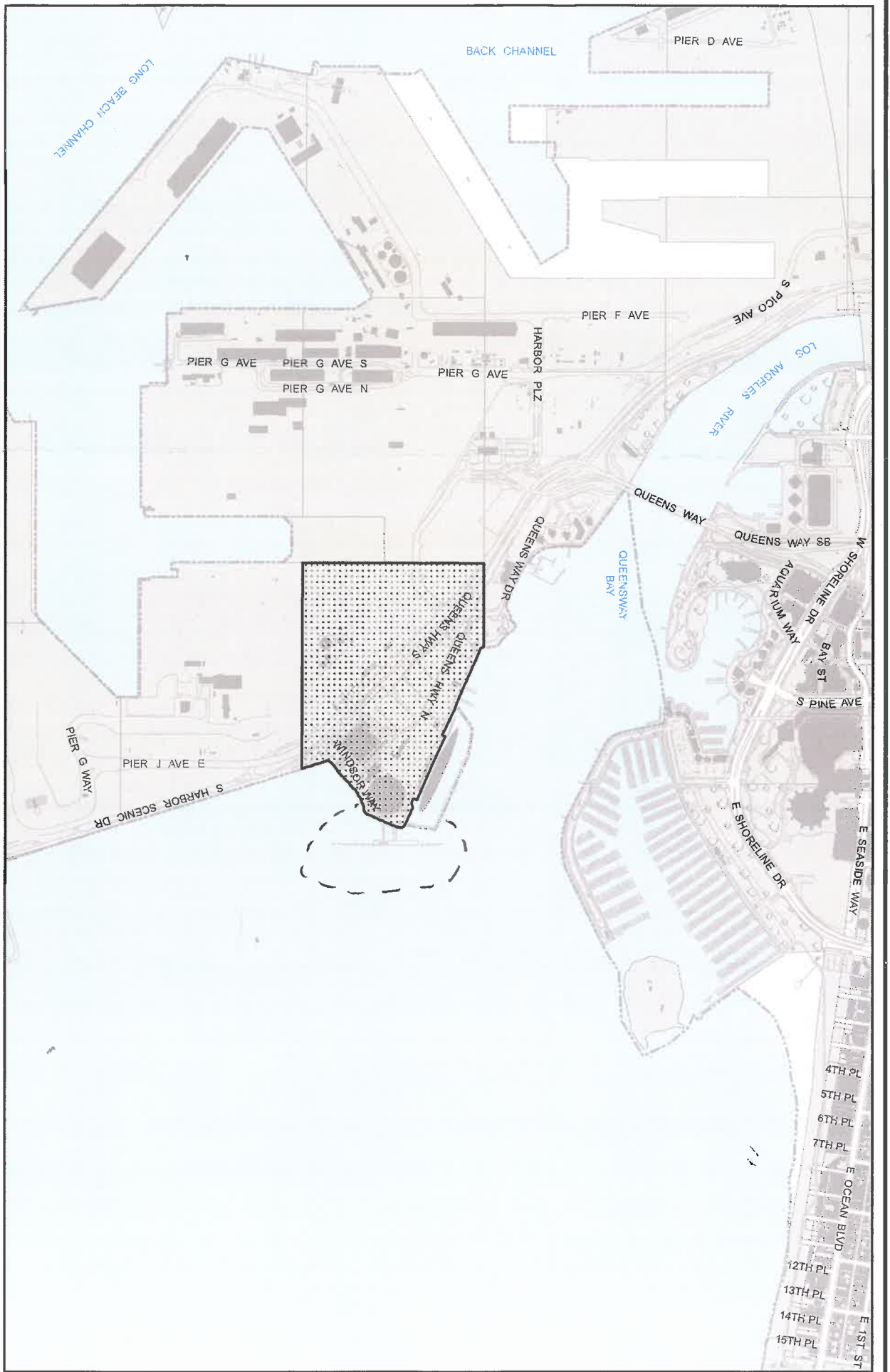
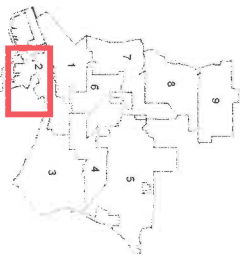
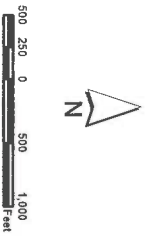
Amy L. Harbin, AICP
Contract Planner

AH



Subject Property:
 231 Windsor Way &
 1124 Queens Hwy S
 Council District 2
 Zoning Code : IP, PD-21 SubArea 3,4,5

Exhibit A





GABRIELEÑO BAND OF MISSION INDIANS - KIZH NATION

Historically known as The San Gabriel Band of Mission Indians / Gabrielino Tribal Council
recognized by the State of California as the aboriginal tribe of the Los Angeles basin

lft mj: 11/16
email 11/16

City of Long Beach
333 West Ocean Blvd. 5th Floor
Long Beach, CA 90802

November 2, 2018

Re: AB52 Consultation request for Long Beach Cruise Terminal Expansion

Dear Amy Harbin,

Please find this letter as a written request for consultation regarding the above-mentioned project pursuant to Public Resources Code § 21080.3.1, subd. (d). Your project lies within our ancestral tribal territory, meaning belonging to or inherited from, which is a higher degree of kinship than traditional or cultural affiliation. Your project is located within a sensitive area and may cause a substantial adverse change in the significance of our tribal cultural resources. Most often, a records search for our tribal cultural resources will result in a "no records found" for the project area. The Native American Heritage Commission (NAHC), ethnographers, historians, and professional archaeologists can only provide limited information that has been previously documented about California Native Tribes. For this reason, the NAHC will always refer the lead agency to the respective Native American Tribe of the area. The NAHC is only aware of general information and are not the experts on each California Tribe. Our Elder Committee & tribal historians are the experts for our Tribe and can provide a more complete history (both written and oral) regarding the location of historic villages, trade routes, cemeteries and sacred/religious sites in the project area.

Additionally, CEQA now defines Tribal Cultural Resources (TCRs) as their own independent element separate from archaeological resources. Environmental documents shall now address a separate Tribal Cultural Resource section which includes a thorough analysis of the impacts to only Tribal Cultural Resources (TCRs) and includes independent mitigation measures created with Tribal input during AB-52 consultations. As a result, all mitigation measures, conditions of approval and agreements regarding TCRs (i.e. prehistoric resources) shall be handled solely with the Tribal Government and not through an Environmental/Archaeological firm.

In effort to avoid adverse effects to our tribal cultural resources, we would like to consult with you and your staff to provide you with a more complete understanding of the prehistoric use(s) of the project area and the potential risks for causing a substantial adverse change to the significance of our tribal cultural resources.

Consultation appointments are available on Wednesdays and Thursdays at our offices at 910 N. Citrus Ave. Covina, CA 91722 or over the phone. Please call toll free 1-844-390-0787 or email admin@gabrielenoindians.org to schedule an appointment.

**** Prior to the first consultation with our Tribe, we ask all those individuals participating in the consultation to view a video produced and provided by CalEPA and the NAHC for sensitivity and understanding of AB52. You can view their videos at: <http://calepa.ca.gov/Tribal/Training/> or <http://nahc.ca.gov/2015/12/ab-52-tribal-training/>**

With Respect,

Andrew Salas, Chairman

Andrew Salas, Chairman

Albert Perez, treasurer |

PO Box 393, Covina, CA 91723

Nadine Salas, Vice-Chairman

Martha Gonzalez Lemos, treasurer ||

www.gabrielenoindians.org

Christina Swindall Martinez, secretary

Richard Gradias, Chairman of the Council of Elders

gabrielenoindians@yahoo.com



Gabrieleno Band of Mission Indians – Kizh Nation

Protection of Tribal Cultural Resources (TCRs)

Most Important Things for Agencies to Know About AB52:

- An EIR, MND, or ND can not be certified until AB-52 tribal consultation has concluded.
- Agreed mitigation measures with the tribe, **MUST** be recommended for inclusion in the environmental document.
- Signature confirming acceptance of these mitigation measures recommended by our Tribal Government is required within 14 days of receipt to conclude AB52 consultation.

Tribal Cultural Resources Mitigation Measures within Kizh Nation Tribal Territory:

Note: To avoid compliance issues with the following laws, all Native American Monitoring shall be conducted by a documented lineal descendant from the ancestral Tribe of the project area.

- The Native American Graves Protection and Repatriation Act (NAGPRA), Public Law-101-601, 25 U.S.C. 3001 et seq., 104 Stat. 3048.
- CEQA Guidelines Section 15064.5, PRC 5097.98 (d)(1).
- The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).

If you are receiving these measures, The Gabrieleno Band of Mission Indians Kizh -Nation are the direct lineal descendants of your project area. The Kizh Nation ONLY responds and consults on projects within their ANCESTRAL tribal territory. Therefore, to remain in compliance with above referenced laws and to enable our Tribe with the ability to protect and preserve our last remaining and irreplaceable Tribal Cultural Resources, it is recommended that the project applicant retain a qualified professional tribal monitor/consultant from the Gabrieleno Band of Mission Indians Kizh -Nation. The Kizh Nation possesses Tribal archives including documented historical information as well as multiple members who possess unique knowledge derived from oral tradition passed down through generations of the Tribe in order to provide the expertise needed to identify whether a project is located within a culturally sensitive area given its proximity to village areas, commerce areas, recreation areas, ceremonial areas, and burial locations.

Native American Heritage Commission (NAHC) Guidelines for Native American Monitors/Consultants (approved 9/13/05): By acting as a liaison between Native American, archaeologist, developers, contactors and public agency, a Native American monitor/consultant can ensure that cultural features are treated appropriately from the Native American point of view. This can help others involved in a project to coordinate mitigation measures. These guidelines are intended to provide prospective monitors/consultants, and people who hire monitors/consultants, with an understanding of the scope and extent of knowledge that should be expected.

Mitigation Guidelines for Tribal Cultural Resources (TCRs): CEQA now defines TCRs as an independent element separate from archaeological resources. Environmental documents shall address a separate Tribal Cultural Resources section that includes a thorough analysis of the impacts to only TCRs and includes separate and independent mitigation measures created with tribal input under AB-52 consultations. Therefore, all agreements, mitigation, and conditions of approval regarding TCRs shall be handled solely with the Tribal Government and conversely all agreements, mitigation, and conditions of approval regarding Archaeological Resources shall be handled by an Archaeological resource company.



MITIGATION MEASURES

Non-invasive Investigations for presence of Tribal Cultural Resources & Human Burials: The Project Applicant shall utilize non-destructive investigation techniques such as LIDAR, infrared photography, magnetometer, and Ground Penetrating Radar within areas to be disturbed. Non-invasive techniques are highly advised as a reconnaissance tool over all areas of potential ground disturbance to identify any potential graves sites or Tribal Cultural Resources within the area prior to the start of construction.

Retain a Native American Monitor/Consultant: The Project Applicant shall be required to retain and compensate for the services of a Tribal monitor/consultant who is both approved by the Gabrieleño Band of Mission Indians-Kizh Nation Tribal Government and is listed under the NAHC's Tribal Contact list for the area of the project location. This list is provided by the NAHC. The monitor/consultant will only be present on-site during the construction phases that involve ground disturbing activities. Ground disturbing activities are defined by the Gabrieleño Band of Mission Indians-Kizh Nation as activities that may include, but are not limited to, pavement removal, pot-holing or auguring, grubbing, tree removals, boring, grading, excavation, drilling, and trenching, within the project area. The Tribal Monitor/consultant will complete daily monitoring logs that will provide descriptions of the day's activities, including construction activities, locations, soil, and any cultural materials identified. The on-site monitoring shall end when the project site grading and excavation activities are completed, or when the Tribal Representatives and monitor/consultant have indicated that the site has a low potential for impacting Tribal Cultural Resources.

Unanticipated Discovery of Tribal Cultural and Archaeological Resources: Upon discovery of any archaeological resources, cease construction activities in the immediate vicinity of the find until the find can be assessed. All archaeological resources unearthed by project construction activities shall be evaluated by the qualified archaeologist and tribal monitor/consultant approved by the Gabrieleño Band of Mission Indians-Kizh Nation. If the resources are Native American in origin, the Gabrieleño Band of Mission Indians-Kizh Nation shall coordinate with the landowner regarding treatment and curation of these resources. Typically, the Tribe will request reburial or preservation for educational purposes. Work may continue on other parts of the project while evaluation and, if necessary, mitigation takes place (CEQA Guidelines Section 15064.5 [f]). If a resource is determined by the qualified archaeologist to constitute a "historical resource" or "unique archaeological resource", time allotment and funding sufficient to allow for implementation of avoidance measures, or appropriate mitigation, must be available. The treatment plan established for the resources shall be in accordance with CEQA Guidelines Section 15064.5(f) for historical resources and

Public Resources Code Sections 21083.2(b) for unique archaeological resources. Preservation in place (i.e., avoidance) is the preferred manner of treatment. If preservation in place is not feasible, treatment may include implementation of archaeological data recovery excavations to remove the resource along with subsequent laboratory processing and analysis. Any historic archaeological material that is not Native American in origin shall be curated at a public, non-profit institution with a research interest in the materials, such as the Natural History Museum of Los Angeles County or the Fowler Museum, if such an institution agrees to accept the material. If no institution accepts the archaeological material, they shall be offered to a local school or historical society in the area for educational purposes.

Unanticipated Discovery of Human Remains and Associated Funerary Objects:

Native American human remains are defined in PRC 5097.98 (d)(1) as an inhumation or cremation, and in any state of decomposition or skeletal completeness. Funerary objects, called associated grave goods in PRC 5097.98, are also to be treated according to this statute. Health and Safety Code 7050.5 dictates that any discoveries of human skeletal material shall be immediately reported to the County Coroner and excavation halted until the coroner has determined the nature of the remains. If the coroner recognizes the human remains to be those of a Native American or has reason to believe that they are those of a Native American, he or she shall contact, by telephone within 24 hours, the Native American Heritage Commission (NAHC) and PRC 5097.98 shall be followed.



Resource Assessment & Continuation of Work Protocol:

Upon discovery, the tribal and/or archaeological monitor/consultant/consultant will immediately divert work at minimum of 150 feet and place an exclusion zone around the burial. The monitor/consultant(s) will then notify the Tribe, the qualified lead archaeologist, and the construction manager who will call the coroner. Work will continue to be diverted while the coroner determines whether the remains are Native American. The discovery is to be kept confidential and secure to prevent any further disturbance. If the finds are determined to be Native American, the coroner will notify the NAHC as mandated by state law who will then appoint a Most Likely Descendent (MLD).

Kizh-Gabrieleno Procedures for burials and funerary remains:

If the Gabrieleno Band of Mission Indians – Kizh Nation is designated MLD, the following treatment measures shall be implemented. To the Tribe, the term “human remains” encompasses more than human bones. In ancient as well as historic times, Tribal Traditions included, but were not limited to, the burial of funerary objects with the deceased, and the ceremonial burning of human remains. These remains are to be treated in the same manner as bone fragments that remain intact. Associated funerary objects are objects that, as part of the death rite or ceremony of a culture, are reasonably believed to have been placed with individual human remains either at the time of death or later; other items made exclusively for burial purposes or to contain human remains can also be considered as associated funerary objects.

Treatment Measures:

Prior to the continuation of ground disturbing activities, the land owner shall arrange a designated site location within the footprint of the project for the respectful reburial of the human remains and/or ceremonial objects. In the case where discovered human remains cannot be fully documented and recovered on the same day, the remains will be covered with muslin cloth and a steel plate that can be moved by heavy equipment placed over the excavation opening to protect the remains. If this type of steel plate is not available, a 24-hour guard should be posted outside of working hours. The Tribe will make every effort to recommend diverting the project and keeping the remains in situ and protected. If the project cannot be diverted, it may be determined that burials will be removed. The Tribe will work closely with the qualified archaeologist to ensure that the excavation is treated carefully, ethically and respectfully. If data recovery is approved by the Tribe, documentation shall be taken which includes at a minimum detailed descriptive notes and sketches. Additional types of documentation shall be approved by the Tribe for data recovery purposes. Cremations will either be removed in bulk or by means as necessary to ensure completely recovery of all material. If the discovery of human remains includes four or more burials, the location is considered a cemetery and a separate treatment plan shall be created. Once complete, a final report of all activities is to be submitted to the Tribe and the NAHC. The Tribe does NOT authorize any scientific study or the utilization of any invasive diagnostics on human remains.

Each occurrence of human remains and associated funerary objects will be stored using opaque cloth bags. All human remains, funerary objects, sacred objects and objects of cultural patrimony will be removed to a secure container on site if possible. These items should be retained and reburied within six months of recovery. The site of reburial/repatriation shall be on the project site but at a location agreed upon between the Tribe and the landowner at a site to be protected in perpetuity. There shall be no publicity regarding any cultural materials recovered.



Professional Standards: Archaeological and Native American monitoring and excavation during construction projects will be consistent with current professional standards. All feasible care to avoid any unnecessary disturbance, physical modification, or separation of human remains and associated funerary objects shall be taken. Principal personnel must meet the Secretary of Interior standards for archaeology and have a minimum of 10 years of experience as a principal investigator working with Native American archaeological sites in southern California. The Qualified Archaeologist shall ensure that all other personnel are appropriately trained and qualified.

Acceptance of Tribal Government Recommended Mitigation Measures:

By _____
Lead Agency Representative Signature

Date: _____

Revised: August 2018



Attachment A

Kizh Nation Ancestral Tribal Territory extended along the coast from Malibu Creek in Los Angeles County down to Aliso Creek in Orange County and encompassed the Channel Islands of Catalina (Pimugna), San Nicolas (Haraasnga), and San Clemente (Kiinkenga). Our inland border was the San Gabriel Mountains (Hidakupa) and eastwardly our territory extended to parts of San Bernardino (Waatsngna), Orange, and Riverside counties.





GABRIELENO BAND OF MISSION INDIANS - KIZH NATION

Historically known as The San Gabriel Band of Mission Indians
recognized by the State of California as the aboriginal tribe of the Los Angeles basin

January 24, 2019

Amy L. Harbin, AICP

Long Beach Development Services - Planning Bureau

333 West Ocean Blvd., 5th Floor

Long Beach, CA 90802

Subject: AB52 Consultation - Long Beach Cruise Terminal Expansion

Ms. Harbin,

Thank you for your time during the AB52 consultation on January 24, 2019 at 3pm. After reviewing the information you provided regarding the project location and the fill material substrate that will be impacted as part of this project we have concluded that your project has a low potential to impact Tribal Cultural Resources (TCR). Therefore, additional mitigation for TCR's is not necessary for this project and your agency's standard protective measures are acceptable. However, there is always a chance for discoveries, so if something is inadvertently found please have the project staff contact our Tribal Government.

Sincerely,

Andrew Salas, Chairman

Gabrieleno Band of Mission Indians – Kizh Nation

(844) 390-0787

Andrew Salas, Chairman

Albert Perez, treasurer I

Nadine Salas, Vice-Chairman

Martha Gonzalez Lemos, treasurer II

Dr. Christina Swindall Martinez, secretary

Richard Gradias, Chairman of the council of Elders

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