

Appendix B

Initial Study and Notice of Preparation Comment Letters



Appendices

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PUBLIC UTILITIES COMMISSION

320 WEST 4TH STREET, SUITE 500
LOS ANGELES, CA 90013



October 12, 2012

Kenny Nguyen
City of Santa Ana
20 Civic Center Plaza
Santa Ana, California 92702

Dear Mr. Nguyen:

Re: SCH# 2012101004; Warner Street Widening Project

The California Public Utilities Commission (Commission) has jurisdiction over the safety of highway-rail crossings (crossings) in California. The California Public Utilities Code requires the Commission approval for construction or alteration of crossings and grants the Commission exclusive power on design, alteration, and/or closure of crossings in California. The Commission's Rail Crossings Engineering Section (RCES) received a copy of the *Notice of Preparation (NOP)* from the State Clearinghouse for the proposed Warner Avenue Widening project.

As noted in the NOP, the project would widen Warner Avenue from Main Street to Grand Avenue. The project segment crosses the Union Pacific Railroad (UPRR) Company Santa Ana Branch tracks. The Warner Avenue crossing (CPUC No. 001BK-519.16 and DOT No. 761248L) is located between Besson Lane and Standard Avenue.

The Commission's General Order (GO) No. 88-B requires staff approval for alteration of existing public crossings. Modifications to the aforementioned crossing falls under the scope of GO 88-B. The City of Santa Ana should contact RCES staff to arrange a diagnostic meeting with representatives of the Commission and UPRR to evaluate the impacts of any proposed changes on the crossing. The diagnostic meeting is the first step in the GO 88-B process; more information can be found at:
<http://www.cpuc.ca.gov/PUC/transportation/crossings/Filing+Procedures/>.

If you have any questions in this matter, please contact Ken Chiang, Utilities Engineer at (213) 576-7076, ken.chiang@cpuc.ca.gov, or myself at (213) 576-7078, rxm@cpuc.ca.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "Ken Chiang".

Ken Chiang, PE
Utilities Engineer
Rail Crossings Engineering Section
Consumer Protection & Safety Division

C: State Clearinghouse
Ken Tom, UPRR



CITY OF FOUNTAIN VALLEY

www.fountainvalley.org

10200 SLATER AVENUE • FOUNTAIN VALLEY, CA 92708-4736 • (714) 593-4400, FAX: (714) 593-4498

October 8, 2012

Mr. Kenny Nguyen
City of Santa Ana, Public Works Agency
20 Civic Center Plaza
Santa Ana, CA 92702

RE: NOTICE OF PREPARATION – DRAFT EIR FOR WARNER AVENUE WIDENING

Dear Mr. Nguyen:

Thank you for the opportunity to review the Notice of Preparation for the Draft Environmental Impact Report for the Warner Avenue Widening Project. The proposed project involves the widening of Warner Avenue from Main Street to Grand Avenue. The project will require the acquisition of some parcels along Warner Avenue. The Planning & Building and Public Works Departments have reviewed the document and have no comments regarding the scope of the analysis to be studied in the Draft Environmental Impact Report.

Thank you once again for the opportunity to review the Notice of Preparation.

Sincerely,


Andrew Perea
Planning & Building Director

C: Public Works Director
Deputy City Engineer

NATIVE AMERICAN HERITAGE COMMISSION

915 CAPITOL MALL, ROOM 364
SACRAMENTO, CA 95814
(916) 653-6251
Fax (916) 657-5390
Web Site www.nahc.ca.gov
ds_nahc@pacbell.net



October 10, 2012

Mr. Kenny Nguyen, Project Manager

City of Santa Ana Public Works Agency

20 Civic Center Plaza – No. 36
Santa Ana, CA 92702

Re: SCH#2012101004; CEQA Notice of Preparation (NOP); draft Environmental Impact Report (DEIR) for the “Warner Avenue Widening Project;” located in the City of Santa Ana; Orange County, California

Dear Mr. Nguyen:

The Native American Heritage Commission (NAHC) is the State of California ‘Trustee Agency’ for the protection and preservation of Native American cultural resources pursuant to California Public Resources Code §21070 and affirmed by the Third Appellate Court in the case of EPIC v. Johnson (1985: 170 Cal App. 3rd 604).

This letter includes state and federal statutes relating to Native American historic properties or resources of religious and cultural significance to American Indian tribes and interested Native American individuals as ‘consulting parties’ under both state and federal law. State law also addresses the freedom of Native American Religious Expression in Public Resources Code §5097.9. This project is also subject to California Government Code Section 65352.3.

The California Environmental Quality Act (CEQA – CA Public Resources Code 21000-21177, amendments effective 3/18/2010) requires that any project that causes a substantial adverse change in the significance of an historical resource, that includes archaeological resources, is a ‘significant effect’ requiring the preparation of an Environmental Impact Report (EIR) per the CEQA Guidelines defines a significant impact on the environment as ‘a substantial, or potentially substantial, adverse change in any of physical conditions within an area affected by the proposed project, including ... objects of historic or aesthetic significance.’ In order to comply with this provision, the lead agency is required to assess whether the project will have an adverse impact on these resources within the ‘area of potential effect (APE), and if so, to mitigate that effect. The NAHC recommends that lead agencies conduct a Sacred Lands File search of the proposed ‘area of potential effect’ (APE) as part of their due diligence.

The NAHC ‘Sacred Sites,’ as defined by the Native American Heritage Commission and the California Legislature in California Public Resources Code §§5097.94(a) and 5097.96. Items in the NAHC Sacred Lands Inventory are confidential and exempt from the Public Records Act pursuant to California Government Code §6254 (r).

Early consultation with Native American tribes in your area is the best way to avoid unanticipated discoveries of cultural resources or burial sites once a project is underway.

Culturally affiliated tribes and individuals may have knowledge of the religious and cultural significance of the historic properties in the project area (e.g. APE). We strongly urge that you make contact with the list of Native American Contacts on the attached list of Native American contacts, to see if your proposed project might impact Native American cultural resources and to obtain their recommendations concerning the proposed project. Pursuant to CA Public Resources Code § 5097.95, the NAHC requests cooperation from other public agencies in order that the Native American consulting parties be provided pertinent project information. Consultation with Native American communities is also a matter of environmental justice as defined by California Government Code §65040.12(e). Pursuant to CA Public Resources Code §5097.95, the NAHC requests that pertinent project information be provided consulting tribal parties, including archaeological studies. The NAHC recommends *avoidance* as defined by CEQA Guidelines §15370(a) to pursuing a project that would damage or destroy Native American cultural resources and California Public Resources Code Section 21083.2 (Archaeological Resources) that requires documentation, data recovery of cultural resources, construction to avoid sites and the possible use of covenant easements to protect sites.

Furthermore, the NAHC if the proposed project is under the jurisdiction of the statutes and regulations of the National Environmental Policy Act (e.g. NEPA; 42 U.S.C. 4321-43351). Consultation with tribes and interested Native American consulting parties, on the NAHC list, should be conducted in compliance with the requirements of federal NEPA and Section 106 and 4(f) of federal NHPA (16 U.S.C. 470 *et seq.*), 36 CFR Part 800.3 (f) (2) & .5, the President's Council on Environmental Quality (CSQ, 42 U.S.C 4371 *et seq.* and NAGPRA (25 U.S.C. 3001-3013) as appropriate. The 1992 *Secretary of the Interiors Standards for the Treatment of Historic Properties* were revised so that they could be applied to all historic resource types included in the National Register of Historic Places and including cultural landscapes. Also, federal Executive Orders Nos. 11593 (preservation of cultural environment), 13175 (coordination & consultation) and 13007 (Sacred Sites) are helpful, supportive guides for Section 106 consultation. The aforementioned Secretary of the Interior's *Standards* include recommendations for all 'lead agencies' to consider the historic context of proposed projects and to "research" the cultural landscape that might include the 'area of potential effect.'

Confidentiality of "historic properties of religious and cultural significance" should also be considered as protected by California Government Code §6254(r) and may also be protected under Section 304 of the NHPA or at the Secretary of the Interior discretion if not eligible for listing on the National Register of Historic Places. The Secretary may also be advised by the federal Indian Religious Freedom Act (cf. 42 U.S.C., 1996) in issuing a decision on whether or not to disclose items of religious and/or cultural significance identified in or near the APEs and possibility threatened by proposed project activity.

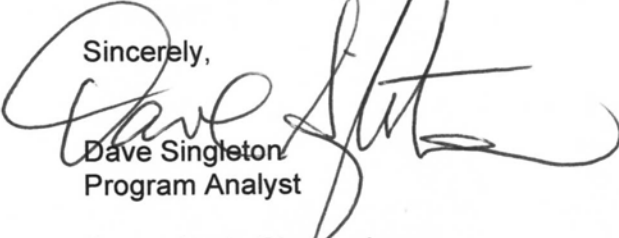
Furthermore, Public Resources Code Section 5097.98, California Government Code §27491 and Health & Safety Code Section 7050.5 provide for provisions for inadvertent discovery of human remains mandate the processes to be followed in the event of a discovery of human remains in a project location other than a 'dedicated cemetery'.

To be effective, consultation on specific projects must be the result of an ongoing relationship between Native American tribes and lead agencies, project proponents and their contractors, in the opinion of the NAHC. Regarding tribal consultation, a relationship built around regular meetings and informal involvement with local tribes will lead to more qualitative consultation tribal input on specific projects.

Finally, when Native American cultural sites and/or Native American burial sites are prevalent within the project site, the NAHC recommends 'avoidance' of the site as referenced by CEQA Guidelines Section 15370(a).

If you have any questions about this response to your request, please do not hesitate to contact me at (916) 653-6251.

Sincerely,

A handwritten signature in black ink, appearing to read "Dave Singleton", written over the typed name and title.

Dave Singleton
Program Analyst

Cc: State Clearinghouse

Attachment: Native American Contact List

**Native American Contacts
Orange County
October 10, 2012**

Ti'At Society/Inter-Tribal Council of Pimu
Cindi M. Alvitre, Chairwoman-Manisar
3094 Mace Avenue, Apt. B Gabrielino
Costa Mesa, , CA 92626
calvitre@yahoo.com
(714) 504-2468 Cell

Juaneno Band of Mission Indians Acjachemen Nation
David Belardes, Chairperson
32161 Avenida Los Amigos Juaneno
San Juan Capistrano CA 92675 m
chiefdavidbelardes@yahoo.
(949) 493-4933 - home
(949) 293-8522

Tongva Ancestral Territorial Tribal Nation
John Tommy Rosas, Tribal Admin.
Private Address Gabrielino Tongva
tattnlaw@gmail.com
310-570-6567

Gabrieleno/Tongva San Gabriel Band of Mission
Anthony Morales, Chairperson
PO Box 693 Gabrielino Tongva
San Gabriel , CA 91778
GTTribalcouncil@aol.com
(626) 286-1632
(626) 286-1758 - Home
(626) 286-1262 -FAX

Gabrielino Tongva Nation
Sam Dunlap, Cultural Resources Director
P.O. Box 86908 Gabrielino Tongva
Los Angeles , CA 90086
samdunlap@earthlink.net

(909) 262-9351 - cell

Juaneno Band of Mission Indians Acjachemen Nation
Anthony Rivera, Chairman
31411-A La Matanza Street Juaneno
San Juan Capistrano CA 92675-2674
arivera@juaneno.com
(949) 488-3484
(949) 488-3294 - FAX
(530) 354-5876 - cell

Gabrielino Tongva Indians of California Tribal Council
Robert F. Dorame, Tribal Chair/Cultural Resources
P.O. Box 490 Gabrielino Tongva
Bellflower , CA 90707
gtongva@verizon.net
562-761-6417 - voice
562-761-6417- fax

Juaneno Band of Mission Indians
Alfred Cruz, Cultural Resources Coordinator
P.O. Box 25628 Juaneno
Santa Ana , CA 92799
alfredgcruz@sbcglobal.net
714-998-0721
714-998-0721 - FAX
714-321-1944 - cell

This list is current only as of the date of this document.

Distribution of this list does not relieve any person of the statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5097.94 of the Public Resources Code and Section 5097.98 of the Public Resources Code.

This list is applicable for contacting local Native Americans with regard to cultural resources for the proposed SCH#2012101004; CEQA Notice of Preparation (NOP); draft Environmental Impact Report (DEIR) for the Warner Avenue Widening Project; located in the City of Santa Ana; Orange County, California.

**Native American Contacts
Orange County
October 10, 2012**

Juaneno Band of Mission Indians
Anita Espinoza
639 Holten Road Juaneno
Talent , Or 97540
neta777@sbcglobal.net
(505) 310-5850 - cell

Gabrielino-Tongva Tribe
Linda Candelaria, Chairwoman
1875 Century Pk East #1500 Gabrielino
Los Angeles , CA 90067
lcandelaria1@gabrielinoTribe.org
626-676-1184- cell
(310) 587-0170 - FAX

United Coalition to Protect Panhe (UCPP)
Rebecca Robles
119 Avenida San Fernando Juaneno
San Clemente CA 92672
rebrobles1@gmail.com
(949) 573-3138

Gabrieleno Band of Mission Indians
Andrew Salas, Chairperson
P.O. Box 393 Gabrielino
Covina , CA 91723
(626) 926-4131
gabrielenoindians@yahoo.
com

Gabrielino-Tongva Tribe
Bernie Acuna
1875 Century Pk East #1500 Gabrielino
Los Angeles , CA 90067
(619) 294-6660-work
(310) 428-5690 - cell
(310) 587-0170 - FAX
bacuna1@gabrieinotribe.org

Juaneno Band of Mission Indians Acjachemen Nation
Joyce Perry, Representing Tribal Chairperson
4955 Paseo Segovia Juaneno
Irvine , CA 92612
949-293-8522

This list is current only as of the date of this document.

Distribution of this list does not relieve any person of the statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5097.94 of the Public Resources Code and Section 5097.98 of the Public Resources Code.

This list is applicable for contacting local Native Americans with regard to cultural resources for the proposed SCH#2012101004; CEQA Notice of Preparation (NOP); draft Environmental Impact Report (DEIR) for the Warner Avenue Widening Project; located in the City of Santa Ana; Orange County, California.



South Coast Air Quality Management District

21865 Copley Drive, Diamond Bar, CA 91765-4182
(909) 396-2000 • www.aqmd.gov

November 1, 2012

Kenny Nguyen, Project Manager
City of Santa Ana, Public Works Agency
20 Civic Center Plaza, M-36
Santa Ana, CA 92702

Notice of Preparation of a CEQA Document for the Warner Avenue Widening from Main Street to Grand Avenue Project

The South Coast Air Quality Management District (SCAQMD) appreciates the opportunity to comment on the above-mentioned document. The SCAQMD's comments are recommendations regarding the analysis of potential air quality impacts from the proposed project that should be included in the draft CEQA document. Please send the SCAQMD a copy of the Draft EIR upon its completion. Note that copies of the Draft EIR that are submitted to the State Clearinghouse are not forwarded to the SCAQMD. Please forward a copy of the Draft EIR directly to SCAQMD at the address in our letterhead. **In addition, please send with the draft EIR all appendices or technical documents related to the air quality and greenhouse gas analyses and electronic versions of all air quality modeling and health risk assessment files. These include original emission calculation spreadsheets and modeling files (not Adobe PDF files). Without all files and supporting air quality documentation, the SCAQMD will be unable to complete its review of the air quality analysis in a timely manner. Any delays in providing all supporting air quality documentation will require additional time for review beyond the end of the comment period.**

Air Quality Analysis

The SCAQMD adopted its California Environmental Quality Act (CEQA) Air Quality Handbook in 1993 to assist other public agencies with the preparation of air quality analyses. The SCAQMD recommends that the Lead Agency use this Handbook as guidance when preparing its air quality analysis. Copies of the Handbook are available from the SCAQMD's Subscription Services Department by calling (909) 396-3720. The lead agency may wish to consider using land use emissions estimating software such as the recently released CalEEMod. This model is available on the SCAQMD Website at: <http://www.aqmd.gov/ceqa/models.html>.

The Lead Agency should identify any potential adverse air quality impacts that could occur from all phases of the project and all air pollutant sources related to the project. Air quality impacts from both construction (including demolition, if any) and operations should be calculated. Construction-related air quality impacts typically include, but are not limited to, emissions from the use of heavy-duty equipment from grading, earth-loading/unloading, paving, architectural coatings, off-road mobile sources (e.g., heavy-duty construction equipment) and on-road mobile sources (e.g., construction worker vehicle trips, material transport trips). Operation-related air quality impacts may include, but are not limited to, emissions from stationary sources (e.g., boilers), area sources (e.g., solvents and coatings), and vehicular trips (e.g., on- and off-road tailpipe emissions and entrained dust). Air quality impacts from indirect sources, that is, sources that generate or attract vehicular trips should be included in the analysis.

The SCAQMD has developed a methodology for calculating PM_{2.5} emissions from construction and operational activities and processes. In connection with developing PM_{2.5} calculation methodologies, the SCAQMD has also developed both regional and localized significance thresholds. The SCAQMD requests that the lead agency quantify PM_{2.5} emissions and compare the results to the recommended PM_{2.5} significance thresholds. Guidance for calculating PM_{2.5} emissions and PM_{2.5} significance thresholds can be found at the following internet address: http://www.aqmd.gov/ceqa/handbook/PM2_5/PM2_5.html.

In addition to analyzing regional air quality impacts the SCAQMD recommends calculating localized air quality impacts and comparing the results to localized significance thresholds (LSTs). LST's can be used in addition to the recommended regional significance thresholds as a second indication of air quality impacts when preparing a CEQA document. Therefore, when preparing the air quality analysis for the proposed project, it is recommended that the lead agency perform a localized significance analysis by either using the LSTs developed by the SCAQMD or performing dispersion modeling as necessary. Guidance for performing a localized air quality analysis can be found at <http://www.aqmd.gov/ceqa/handbook/LST/LST.html>.

In the event that the proposed project generates or attracts vehicular trips, especially heavy-duty diesel-fueled vehicles, it is recommended that the lead agency perform a mobile source health risk assessment. Guidance for performing a mobile source health risk assessment ("Health Risk Assessment Guidance for Analyzing Cancer Risk from Mobile Source Diesel Idling Emissions for CEQA Air Quality Analysis") can be found on the SCAQMD's CEQA web pages at the following internet address: http://www.aqmd.gov/ceqa/handbook/mobile_toxic/mobile_toxic.html. An analysis of all toxic air contaminant impacts due to the decommissioning or use of equipment potentially generating such air pollutants should also be included.

Mitigation Measures

In the event that the project generates significant adverse air quality impacts, CEQA requires that all feasible mitigation measures that go beyond what is required by law be utilized during project construction and operation to minimize or eliminate significant adverse air quality impacts. To assist the Lead Agency with identifying possible mitigation measures for the project, please refer to Chapter 11 of the SCAQMD CEQA Air Quality Handbook for sample air quality mitigation measures. Additional mitigation measures can be found on the SCAQMD's CEQA web pages at the following internet address: www.aqmd.gov/ceqa/handbook/mitigation/MM_intro.html Additionally, SCAQMD's Rule 403 – Fugitive Dust, and the Implementation Handbook contain numerous measures for controlling construction-related emissions that should be considered for use as CEQA mitigation if not otherwise required. Other measures to reduce air quality impacts from land use projects can be found in the SCAQMD's Guidance Document for Addressing Air Quality Issues in General Plans and Local Planning. This document can be found at the following internet address: <http://www.aqmd.gov/prdas/aqguide/aqguide.html>. In addition, guidance on siting incompatible land uses can be found in the California Air Resources Board's Air Quality and Land Use Handbook: A Community Perspective, which can be found at the following internet address: <http://www.arb.ca.gov/ch/handbook.pdf>. CARB's Land Use Handbook is a general reference guide for evaluating and reducing air pollution impacts associated with new projects that go through the land use decision-making process. Pursuant to state CEQA Guidelines §15126.4 (a)(1)(D), any impacts resulting from mitigation measures must also be discussed.

Data Sources

SCAQMD rules and relevant air quality reports and data are available by calling the SCAQMD's Public Information Center at (909) 396-2039. Much of the information available through the Public Information Center is also available via the SCAQMD's World Wide Web Homepage (<http://www.aqmd.gov>).

The SCAQMD staff is available to work with the Lead Agency to ensure that project-related emissions are accurately identified, categorized, and evaluated. If you have any questions regarding this letter, please call Ian MacMillan, Program Supervisor, CEQA Section, at (909) 396-3244.

Sincerely,



Ian MacMillan

Program Supervisor, CEQA Inter-Governmental Review
Planning, Rule Development & Area Sources

IM
ORC121002-05
Control Number

Martinez_NOP Comment Letter.txt

From: mmamaflip@aol.com [mailto:mmamaflip@aol.com]

Sent: Friday, October 26, 2012 8:45 AM

To: warnerwidening

Subject: Proposed Street widening

Written Comment in reference to the Warner Widening Project

Concerns: 10/26/12

Air Quality - Many unknown particles will be floating around in the air, therefore, the safety for breathing may be compromised.

Cultural Resources - years ago there was a nursery adjacent to the City Yard on the South side of Warner@ Halladay. Many pesticides may have been used and therefore part of the air quality, soils and geology or even greenhouse gas emissions may compromise the air quality.

Hazards and Hazardous Materials - an Armory that has existed on Warner for decades may have or have had exposure to these.

Hydrology and Water Quality - a serious issue and no one could address it at all the meetings regarding this project that I have attended. Warner, back in the early teens and thru 30's or 40's was a canal, running water ran down this stretch, therefore, may create some serious consequences as construction has since evolved to a state of the art type which, back in those times, did not. I do believe that this particular street and adjacent streets running north and south to Warner Ave may not be able to handle the traffic expected it to and would consider that important to look at for this project.

Land Use/Planning - Loss of residents homes (1 house deep (south side) per last meeting) and therefore loss of taxable income positively for the City of Santa Ana. These homes are most likely paid for and firmly paying taxes twice a year. This also changes the demographics for this historic (Delhi) neighborhood in the census of working, taxpaying, home owning, contributing to the tax base for the City of Santa Ana. Apparently The City of Tustin aka: Tustin Legacy is the major, if not whole funding source to this project. I would hope that our City would recommend what is best for ITS homeowners and communities. Yes, there are some issues along Warner, however, to completely gut families from their 5 to 6 year generation homes would be worse.

Population/Housing - The community is a long standing one with rich culture, traditions, and historical contributions. We went from a nursery, City Yard to a Park, Playground, and beautiful Delhi Center that continues to thrive within this vibrant community. We have a Catholic Church that maintains itself and brings positive focus to its members. We have an Elementary school that houses 485 students that walk down a bike trail that connects itself via Warner Ave north and south. Children may be affected by the

Martinez_NOP Comment Letter.txt

above and we need to ensure their quality of life is not compromised. Many families, businesses will also be affected during the project financially.

Transportation and Traffic - Modes of operation will definitely affect the surrounding streets. Bus, taxi, car, business, vehicles will need notification early to assist their travel adjustment.

Utilities and service systems - Water, Gas, Light, Police, Paramedic, Health Care need to be considered to those being removed from their homes along Warner Ave. Many elderly folks may reside in these homes and need careful consideration to accomodate their needs. Our local SAPD or Paramedics must have access to all areas during the planned project, if this project proceeds.

Thank you for your allowing Public Comments to this project.

Vivian Martinez
Delhi Neighborhood Association
Homeowner/Property Owner