

Appendix B Correspondence

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SECTION 106 NATIVE AMERICAN CONSULTATION RECORD

Proposed Interstate 5 HOV Extension Project, Cities of San Clemente, Dana Point, and San Juan Capistrano Orange County, California

Date LSA Requested Sacred Lands File Search: November 17, 2009

Date Native American Heritage Commission Replied: December 1, 2009

Results of Sacred Lands File Search: Indicated the presence of Native American cultural resources within 0.5 mi of the APE and recommended LSA contact the groups/individuals listed below.

Groups Contacted	Date LSA Letter to Tribes	Date Tribal Response Received	Date and Results Follow-up Telephone Calls, and/or Emails
<p>Juaneño Band of Mission Indians Acjachemen Nation David Belardes, Chairperson Juaneño</p>	<p>12-07-09</p>	<p>01-05-10 (via Joyce Perry): Ms. Perry requested that an archaeologist and Native American monitor be present during all ground disturbance. She also requested that a meeting be arranged early in the year to discuss sites they may know about. 05-18-10: The requested meeting was held with Mr. Belardes. After viewing the project Area of Potential Effects (APE) maps with known cultural resources plotted on them, Mr. Belardes concluded that the APE was completely disturbed and any archaeological site remnants would likely be in a redeposited context. He retracted the monitoring recommendation but requested that the Tribe be notified immediately of any discoveries.</p>	<p>Not applicable.</p>
<p>Juaneño Band of Mission Indians Anita Espinoza Juaneño</p>	<p>12-07-09</p>	<p>No response received.</p>	<p>01-21-10: There was no answer. 02-12-10: Ms. Espinoza responded that the area is very sensitive and recommends monitoring by an archaeologist. She requests that she be notified of any discoveries.</p>
<p>Juaneño Band of Mission Indians Alfred Cruz Juaneño</p>	<p>12-07-09</p>	<p>No response received.</p>	<p>01-21-10: Left voice mail. 01-22-10: Mr. Cruz responded that he knows of a lot of sites in that area and it is very sensitive. He recommends monitoring by a Native American and an archaeologist and he can provide monitoring.</p>
<p>United Coalition to Protect Panhe (UCPP) Rebecca Robles Juaneño</p>	<p>12-07-09</p>	<p>No response received.</p>	<p>01-21-10: Ms. Robles requested that an email be sent and she would respond to that. Please see attached email. To date, no response has been received.</p>
<p>Juaneño Band of Mission Indians Adolph "Bud" Sepulveda, Vice Chairperson Juaneño</p>	<p>12-07-09</p>	<p>No response received.</p>	<p>01-21-10: A detailed voicemail was left for Mr. Sepulveda. 02-12-10: A detailed voicemail was left for Mr. Sepulveda.</p>

<p>Juanefio Band of Mission Indians Acjachemen Nation Joyce Perry Juanefio</p>	<p>12-07-09</p>	<p>01-05-10: Ms. Perry requested that an archaeologist and Native American monitor be present during all ground disturbance. She also requested that a meeting be arranged early in the year to discuss sites they may know about. 05-18-10: The requested meeting was held with Mr. Belardes. After viewing the project Area of Potential Effects (APE) maps with known cultural resources plotted on them, Mr. Belardes concluded that the APE was completely disturbed and any archaeological site remnants would likely be in a redeposited context. He retracted the monitoring recommendation but requested that the Tribe be notified immediately of any discoveries.</p>	<p>Not applicable.</p>
<p>Juanefio Band of Mission Indians Sonia Johnston, Chairperson Juanefio</p>	<p>12-07-09</p>	<p>No response received.</p>	<p>01-21-10: A detailed voicemail was left for Ms. Johnston. 02-12-10: A detailed voicemail was left for Ms. Johnston.</p>

LSA

LSA ASSOCIATES, INC.
20 EXECUTIVE PARK, SUITE 200
IRVINE, CALIFORNIA 92614

949.553.0666 TEL
949.553.8076 FAX

BERKELEY
CARLSBAD
FORT COLLINS

FRESNO
PALM SPRINGS
POINT RICHMOND

RIVERSIDE
ROCKLIN
SAN LUIS OBISPO
SOUTH SAN FRANCISCO

November 17, 2009

Dave Singleton
Native American Heritage Commission
915 Capitol Mall, Room 364
Sacramento, CA 95814

Subject: Sacred Lands File Search for the Proposed I-5 HOV Extension Project, Orange County,
California

Dear Mr. Singleton:

Attached please find a portion of the *Dana Point, California* United States Geological Survey (USGS) 7.5-minute topographic quadrangle map. Plotted on the map is the location of the proposed I-5 HOV Extension Project, located in Orange County, California. Specifically, the project is situated in:

Sections 19, 28, 29, 30, 32, and 33, Township 8 South, Range 7 West; and

Sections 12, 13, and unsectioned portions, Township 8 South, Range 8 West.

There will be ground disturbance associated with this project. LSA is requesting a search of the Sacred Lands File for this project area; please notify LSA of any Traditional Cultural Properties (TCPs) and/or Native American cultural resources or sacred areas that may be impacted.

I will anticipate a response within 10 working days from your receipt of this request. Thank you very much for your assistance. If you have any questions or comments, please contact me at (949) 553-0666, or e-mail me at terri.fulton@lsa-assoc.com.

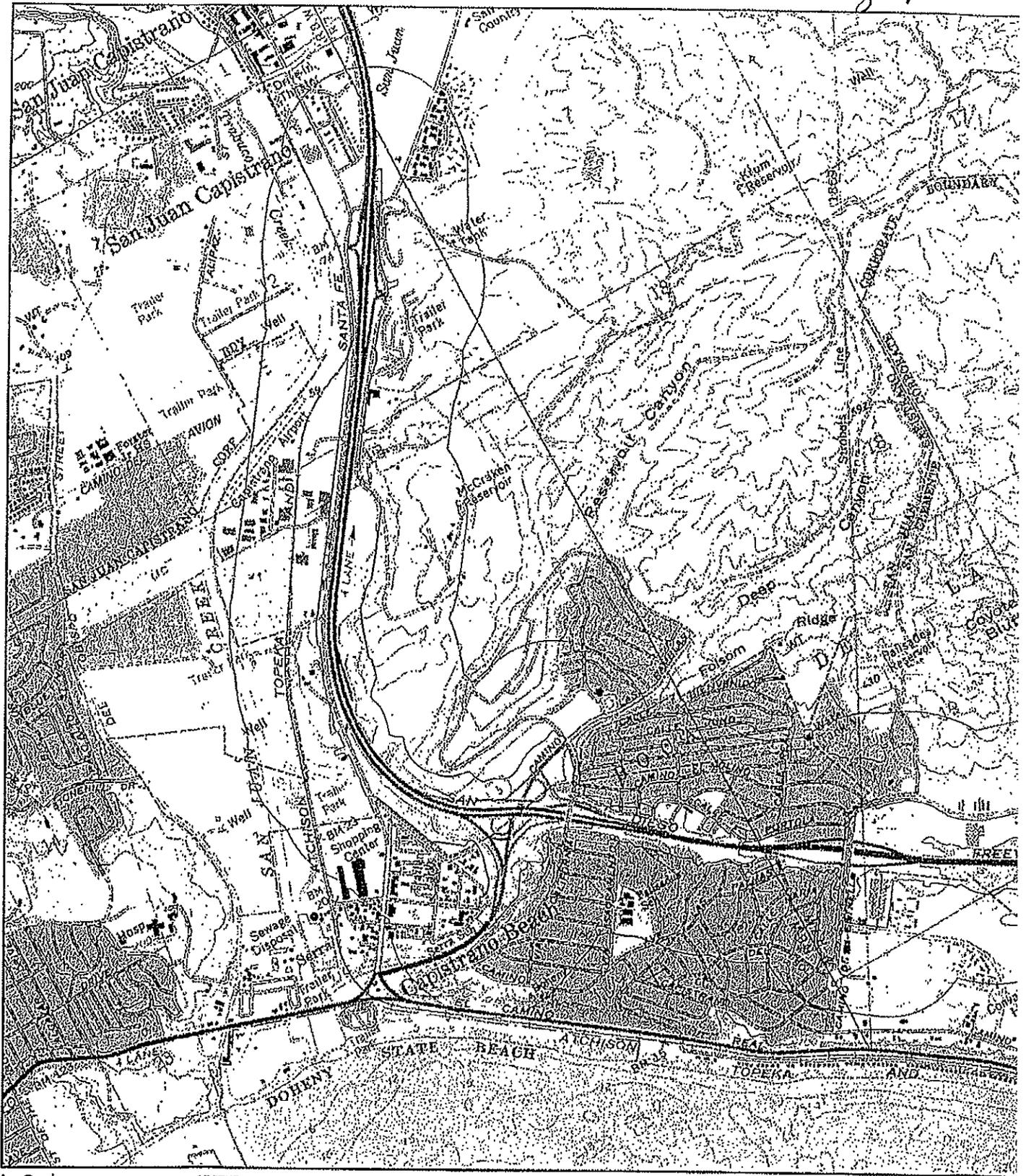
Best Regards,

LSA ASSOCIATES, INC.



Terri Fulton
Archaeologist/Senior Cultural Resources Manager
Native American Consultation

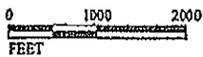
Attachments: Portions of USGS maps



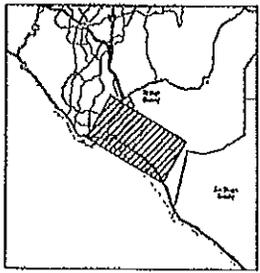
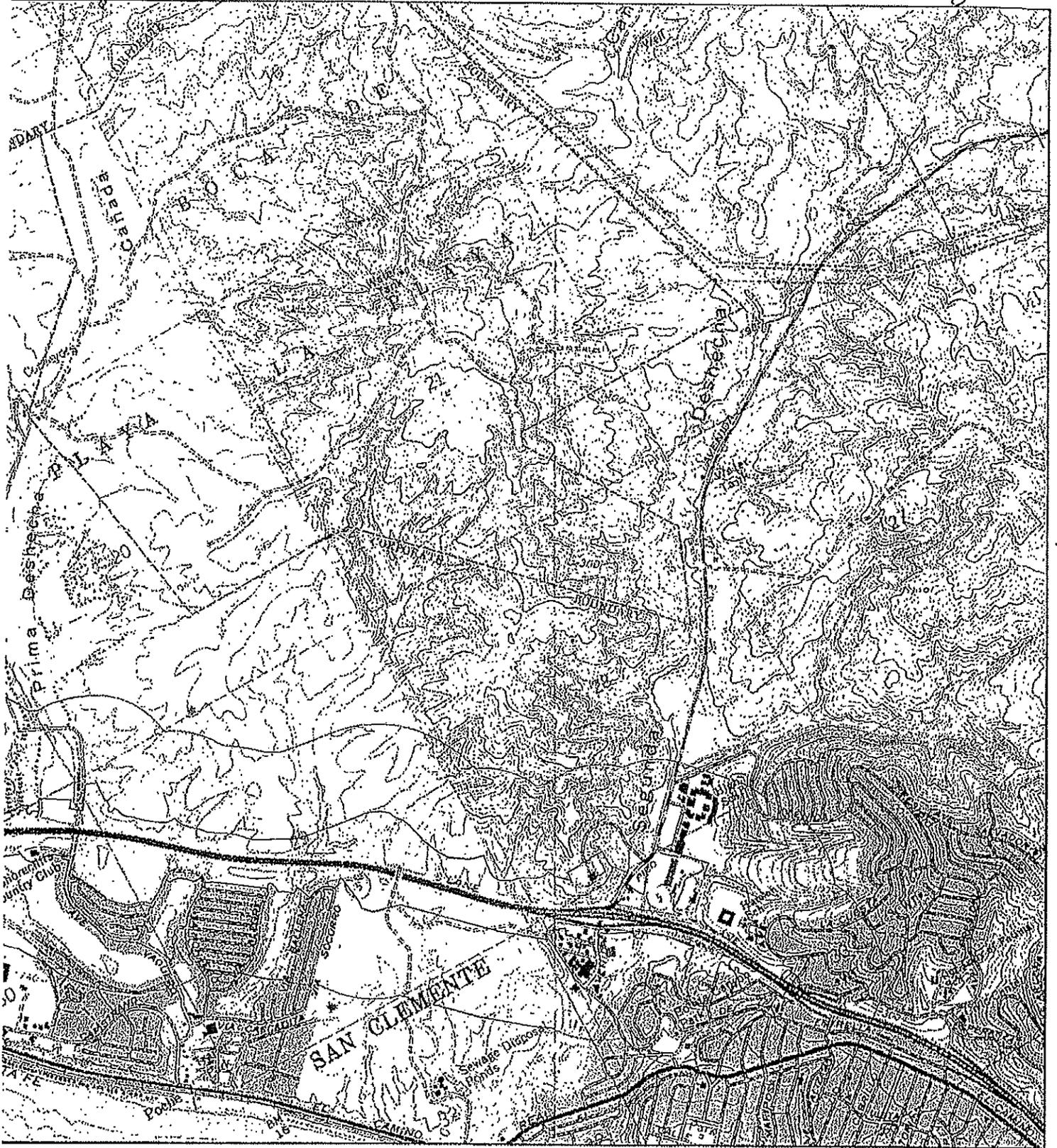
LSA

LEGEND

-  APE - Area of Potential Effects
-  APE 1/4 Mile Buffer



SOURCE: USGS 7.5' QUAD - DANA POINT (75); SAN CLEMENTE (75)



TRANSMISSION VERIFICATION REPORT

TIME : 11/17/2009 14:31
NAME :
FAX :
TEL :
SER. # : 00005J225683

DATE, TIME
FAX NO. /NAME
DURATION
PAGE(S)
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MODE

11/17 14:30
NAHC
00:01:15
03
OK
STANDARD
ECM

STATE OF CALIFORNIA

Arnold Schwarzenegger, Governor

NATIVE AMERICAN HERITAGE COMMISSION

015 CAPITOL MALL, ROOM 384
 SACRAMENTO, CA 95814
 (916) 653-6251
 Fax (916) 657-5390
 Web Site www.nahc.ca.gov
 da_nahc@pacbell.net



December 1, 2000

Ms. Terri Fulton, Archaeologist/Senior Cultural Resources Manager

LSA ASSOCIATES, INC.

20 Executive Park, Suite 200
 Irvine, CA 92614

Sent by FAX to 949-653-8076

No. of Pages: 3

Re: Request for a Sacred Lands File Search and Native American Contacts List for a Proposed Interstate 5 (I-5) HOV Extension Project; located in the San Juan Capistrano and San Clemente areas of Orange County, California

Dear Ms. Fulton:

The Native American Heritage Commission (NAHC), the State of California 'Trustee Agency' for the protection and preservation of Native American cultural resources (c.f. CA Public Resources Code §21070; also c.f. *Environmental Protection Information Center v. Johnson (1985) 170 Cal App. 3rd 604*), was able to perform a record search of its Sacred Lands File (SLF) for the affected project area (APE) requested. The California Environmental Quality Act (CEQA; CA Public Resources Code Section 21000 – 21177) 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 California Code of Regulations §15064.5(b)(c)(f) CEQA guidelines). Section 15382 of the 2007 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." The NAHC SLF search did indicate the presence of Native American cultural resources within one-half - mile radius of Sections 12 and 13 of Township 8 South and Range 8 West, but not in Township 8 South and Range 7 West of the proposed project (APE).

This letter includes state and federal statutes relating to Native American historic properties of religious and cultural significance to American Indian tribes and individuals as 'consulting parties' under both state and federal law.

Early consultation with Native American tribes in your area is the best way to avoid unanticipated discoveries once a project is underway. Enclosed are the names of the nearest tribes and interested Native American individuals that the NAHC recommends as 'consulting parties,' for this purpose, that may have knowledge of the religious and cultural significance of the historic properties in the project area (e.g. APE). We recommend that you contact persons on the attached list of Native American contacts. Furthermore we suggest that you contact the California Historic Resources Information System (CHRIS) at the Office of Historic Preservation Coordinator's office (at (916) 653-7276, for referral to the nearest Information Center of which there are 10.

Consultation with tribes and interested Native American consulting parties, on the NAHC list, should be conducted in compliance with the requirements of federal NEPA (42 U.S.C. 4321-43351) and Section 106 and 4(f) of federal NHPA (16 U.S.C. 470 [f] et seq), 38 CFR Part 800.3, and NAGPRA (25 U.S.C. 3001-3013), as appropriate. .

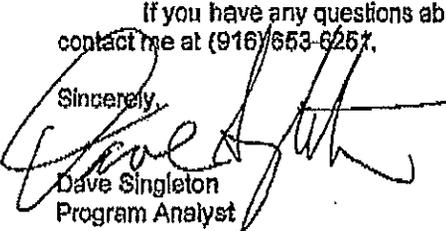
Lead agencies should consider avoidance, as defined in Section 15370 of the California Environmental Quality Act (CEQA) when significant cultural resources could be affected by a

project. Also, Public Resources Code Section 5097.98 and Health & Safety Code Section 7050.6 provide for provisions for accidentally discovered archeological resources during construction and mandate the processes to be followed in the event of an accidental discovery of any human remains in a project location other than a 'dedicated cemetery. Discussion of these should be included in your environmental documents, as appropriate.

The response to this search for Native American cultural resources is conducted in the NAHC Sacred Lands Inventory, established by the California Legislature (CA Public Resources Code §5097.94(a) and is exempt from the CA Public Records Act (c.f. California Government Code §6254.10) although Native Americans on the attached contact list may wish to reveal the nature of identified cultural resources/historic properties. Confidentiality of "historic properties of religious and cultural significance" 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 APE and possibly threatened by proposed project activity.

If you have any questions about this response to your request, please do not hesitate to contact me at (916)653-6257.

Sincerely,



Dave Singleton
Program Analyst

Attachment: Native American Contacts List (NOTE: we further recommend that other forms of 'proof of mailing or proof of contact be utilized instead of 'Return Receipt Requested' Certified or Registered Mail.) Further, we suggest a follow-up telephone call to the contacts if the replies are not received or need clarification.

**Native American Contact
Orange County
December 1, 2009**

Juaneno Band of Mission Indians Acjachemen Nation
David Belardes, Chairperson
32161 Avenida Los Amigos Juaneno
San Juan Capistrano CA 92675
DavidBelardes@hotmail.com
(949) 293-8522
(949) 493-4933 - Home

Juaneno Band of Mission Indians
Anita Espinoza
1740 Concerto Drive Juaneno
Anaheim , CA 92807
(714) 779-8832

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

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

Juaneno Band of Mission Indians
Adolph 'Bud' Sepulveda, Vice Chairperson
P.O. Box 25628 Juaneno
Santa Ana , CA 92799
bssepul@yahoo.net
714-838-3270
714-914-1812 - CELL
bsepul@yahoo.net

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

Juaneno Band of Mission Indians
Sonia Johnston, Tribal Chairperson
P.O. Box 25628 Juaneno
Santa Ana , CA 92799
sonia.johnston@sbcglobal.
(714) 323-8312

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

Distribution of this list does not relieve any person of 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 only applicable for contacting local Native Americans with regard to cultural resources for the proposed Interstate 5 HOV Extension Project; located in the San Juan Capistrano and San Clemente areas of southern Orange County, California for which a Sacred Lands File search and Native American Contacts list were requested.



LSA ASSOCIATES, INC.
20 EXECUTIVE PARK, SUITE 200
IRVINE, CALIFORNIA 92614

949.553.0666 TEL
949.553.8076 FAX

BERKELEY
CARLSBAD
FORT COLLINS

FRESNO
PALM SPRINGS
POINT RICHMOND

RIVERSIDE
ROCKLIN
SAN LUIS OBISPO
SOUTH SAN FRANCISCO

December 7, 2009

Juaneno Band of Mission Indians
Alfred Cruz
Cultural Resources Coordinator
P.O. Box 25628
Santa Ana, CA 92799

Subject: Native American Consultation for the Proposed I-5 HOV Lane Extension Project,
Cities of Dana Point, San Clemente, and San Juan Capistrano, Orange County,
California

Dear Mr. Cruz:

The Orange County Transportation Authority (OCTA), in cooperation with the California Department of Transportation (Caltrans), the City of Dana Point, the City of San Clemente, and the City of San Juan Capistrano, is proposing to widen Interstate 5 (I-5) between Avenida Pico and San Juan Creek Road. The project objectives are to provide continuity of the I-5 mainline high-occupancy vehicle (HOV) lane network within the project limits; maximize overall performance within the project limits by minimizing weaving conflicts at the termini of the HOV lanes and maintaining travel speeds for HOV lane users; provide intermittent auxiliary lanes, where needed, to relieve congestion at diverge and merge locations; minimize right-of-way acquisition; relieve congestion within interchange areas, on- and off-ramps, and local intersections; and reduce congestion on I-5 within the project limits. The project limits on I-5 extend from 0.1 mile (mi) south of the Avenida Pico Undercrossing (UC) (Post Mile [PM] 3.3) to 0.1 mi south of the San Juan Creek Road UC (PM 8.7). The proposed project will add one HOV lane in each direction on I-5 throughout the project limits, reestablish existing auxiliary lanes and construct new auxiliary lanes, and improve several existing on- and off-ramps. A map of the project area is attached.

Section 106 of the National Historic Preservation Act of 1966 (NHPA) requires that federal undertakings such as this consider the effect they may have on historic properties. These include properties of traditional religious and cultural significance to Indian tribes. Government-to-government relationships, as required by federal law, include the identification of an individual designated by an Indian Tribe for the purposes of consultation. If you are not the designated representative, please forward this information to the person who is responsible. Additionally, for the purposes of future consultation, please inform me who will handle consultation for your tribe.

To determine whether any historic properties may be affected by the project, LSA has conducted a records search at the South Central Coastal Information Center located at California State University, Fullerton. The results of the records search indicate there are 5 prehistoric archaeological sites within the project area, and 13 prehistoric archaeological sites within a 0.25 mi radius of the project area.

LSA also requested that a Sacred Lands File Search (SLF) be conducted by the Native American Heritage Commission (NAHC). The results of the SLF did indicate the presence of Native American cultural resources within a 0.5 mi radius of portions of the project area. The NAHC also provided your

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contact information as someone who may have information about cultural resources that could be impacted by the project.

If you know of any cultural resources that may be of religious and/or cultural significance to your community, or if you would like more information, please do not hesitate to contact me at the above telephone number or address, or by e-mail at terri.fulton@lsa-assoc.com. If I do not receive a response from you, I will contact you by telephone to discuss any comments or concerns you may have. Thank you for your time and involvement in this process.

Respectfully,

LSA ASSOCIATES, INC.

A handwritten signature in black ink, appearing to read 'TFulton', with a long horizontal flourish extending to the right.

Terri Fulton
Archaeologist/Senior Cultural Resources Manager
Native American Consultation

Attachment: USGS Maps

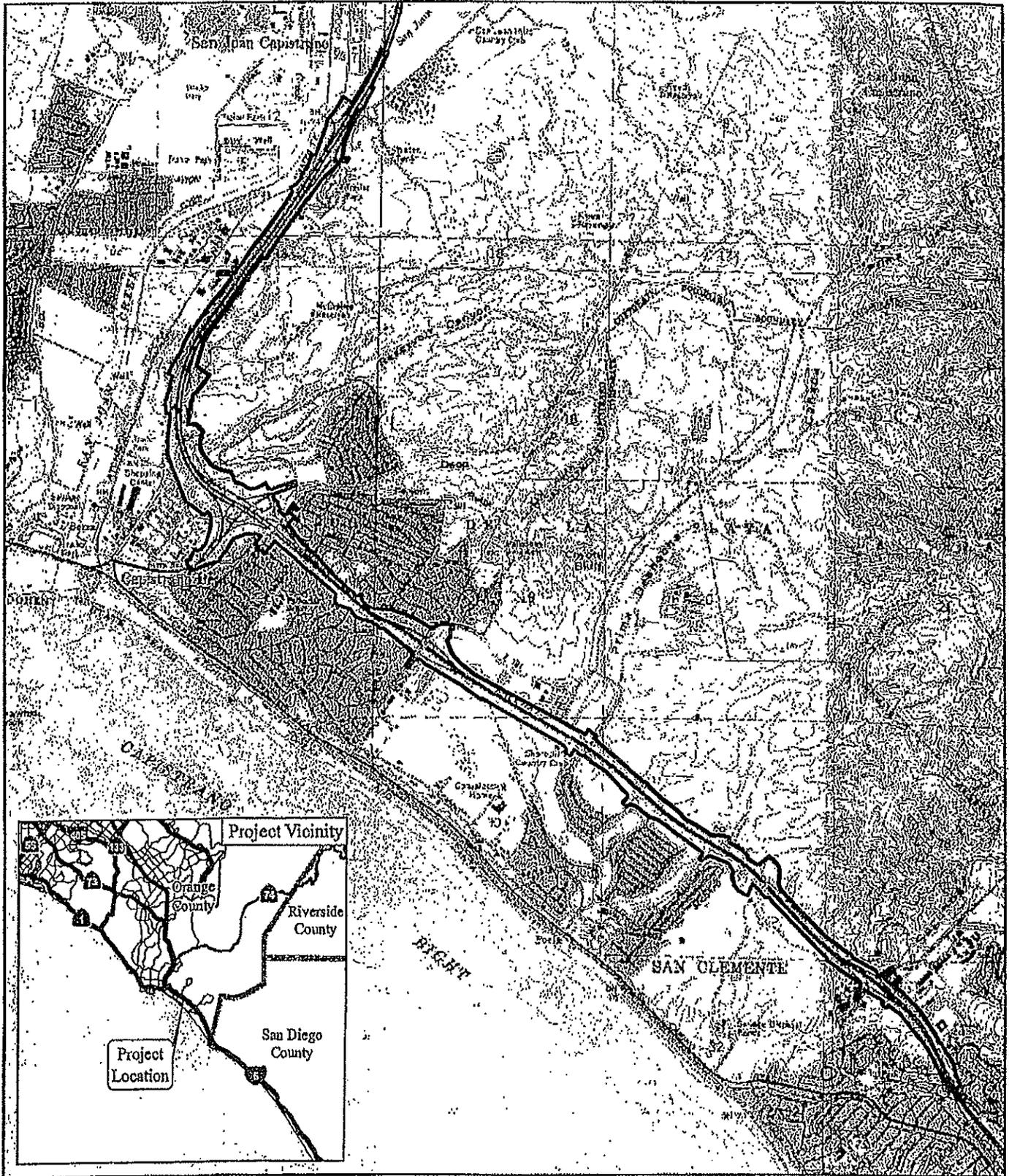


FIGURE 1

LEGEND

 Project Location



0 1500 3000
FEET

7006 0100 0000 3382 1796

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Total Postage & Fees	\$ 5.98	

Sent To
 Juaneno Band of Mission Indians
 Street, Apt. No. or PO Box No. Anita Espinoza
 1740 Concerto Drive
 City, State, ZIP+4 Anaheim, CA 92807 RmN0901

PS Form 3800

7006 0100 0000 3382 1802

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Total Postage & Fees	\$ 5.98	

Sent To
 United Coalition to Protect Panhe (UCPP)
 Street, Apt. No. or PO Box No. Rebecca Robles
 119 Avenida San Fernando
 City, State, ZIP+4 San Clemente, CA 92672 RmN0901

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Restricted Delivery Fee (Endorsement Required)		
Total Postage & Fees	\$ 5.98	

Sent To
 Juaneno Band of Mission Indians Acjachemen
 Nation
 Street, Apt. No. or PO Box No. David Belardes
 Chalperson RmN0901
 City, State, ZIP+4 32161 Avenida Los Amigos
 San Juan Capistrano, CA 92675

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Restricted Delivery Fee (Endorsement Required)		
Total Postage & Fees	\$ 5.98	

Sent To
 Juaneno Band of Mission Indians
 Alfred Cruz
 Street, Apt. No. or PO Box No. Cultural Resources Coordinator
 P.O. Box 25628 RmN0901
 City, State, ZIP+4 Santa Ana, CA 92799

PS Form 3800

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Restricted Delivery Fee (Endorsement Required)	
Total Postage	5.98

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Sent To: Juaneno Band of Mission Indians
Adolph 'Bud' Sepulveda
Vice Chairperson
P.O. Box 25828
Santa Ana, CA 92799 *RmN0901*

PS Form 3800, June 2002

7006 0100 0001 3362 1772

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Return Receipt Fee (Endorsement Required)	2.30
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 5.98

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Here

Sent To: Juaneno Band of Mission Indians Acjachemen
Nation
Joyce Perry
4955 Paseo Segovia
Irvine, CA 92612 *RmN0901*

PS Form 3800

9292 2932 1000 0000 4002

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Return Receipt Fee (Endorsement Required)	2.30
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 5.98

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Here

Sent To: Juaneno Band of Mission Indians
Sonia Johnston
Tribal Chairperson
P.O. Box 25828
Santa Ana, CA 92799 *RmN0901*

PS Form 3800, Jun

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- Complete Items 1, 2, and 3. Also complete Item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
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1. Article Addressed to:

Juaneno Band of Mission Indians Acjachemen Nation
 David Belardes
 Chairperson
 32161 Avenida Los Amigos *RmN0901*
 San Juan Capistrano, CA 92675

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent
X *Avonne Belardes* Address

B. Received by (Printed Name) C. Date of Delivery
Avonne Belardes

D. Is delivery address different from Item 1? Yes
 If YES, enter delivery address below: No

3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

2. Article Number (Transfer from service label) 7006 0100 0001 3382 1789

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-11

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1. Article Addressed to:

Juaneno Band of Mission Indians
 Anita Espinoza
 1740 Concerto Drive
 Anaheim, CA 92807 *RmN0901*

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent
X *Anita Espinoza* Address

B. Received by (Printed Name) C. Date of Delivery

D. Is delivery address different from Item 1? Yes
 If YES, enter delivery address below: No

3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

2. Article Number (Transfer from service label) 7006 0100 0001 3382 1796

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-11

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- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Juaneno Band of Mission Indians
 Alfred Cruz
 Cultural Resources Coordinator
 P.O. Box 25628
 Santa Ana, CA 92799 *RmN0901*

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent
X *Alfred Cruz* Address

B. Received by (Printed Name) C. Date of Delivery
Alfred Cruz *12/11/06*

D. Is delivery address different from Item 1? Yes
 If YES, enter delivery address below: No

3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

2. Article Number 7006 0100 0001 3382 1833

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1. Article Addressed to:

United Coalition to Protect Panhe (UCPP)
 Rebecca Robles
 119 Avenida San Fernando
 San Clemente, CA 92672 *RmN0901*

2. Article Number
(Transfer from service label)

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X Rebecca Robles Agent Address

B. Received by (Printed Name) C. Date of Delivery

D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchant
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

7006 0100 0001 3382 1802

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- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Juaneno Band of Mission Indians
 Adolph 'Bud' Sepulveda
 Vice Chairperson
 P.O. Box 25828
 Santa Ana, CA 92799 *RmN0901*

2. Article Number
(Transfer from service label)

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X Adolph Sepulveda Agent Address

B. Received by (Printed Name) C. Date of Delivery
Adolph Sepulveda 12/11/04

D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchant
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

7006 0100 0001 3382 1826

SENDER: COMPLETE THIS SECTION

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- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Juaneno Band of Mission Indians Acjachemen Nation
 Joyce Perry
 4955 Paseo Segovia
 Irvine, CA 92612

RmN0901



COMPLETE THIS SECTION ON DELIVERY

A. Signature: *Joyce Perry* Agent Address:

B. Received by (Printed Name): *Joyce Perry* C. Date of Delivery: *12/19/09*

D. Is delivery address different from item 1? Yes No
 If YES, enter delivery address below:

3. Service Type:
 Certified Mail Express Mail
 Registered Return Receipt for Merchand
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

2. Article Number: *7006 0100 0001 3382 1772*
 (Transfer from service label)

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Juaneno Band of Mission Indians
 Sonia Johnston
 Tribal Chairperson
 P.O. Box 25628
 Santa Ana, CA 92799

RmN0901

COMPLETE THIS SECTION ON DELIVERY

A. Signature: *Alfred Cruz* Agent Address:

B. Received by (Printed Name): *Alfred Cruz* C. Date of Delivery: *12/11/09*

D. Is delivery address different from item 1? Yes No
 If YES, enter delivery address below:

3. Service Type:
 Certified Mail Express Mail
 Registered Return Receipt for Merchand
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

2. Article Number: *7006 0100 0001 3382 1819*
 (Transfer from service label)

Terri Fulton

From: Terri Fulton
Sent: Thursday, January 21, 2010 2:14 PM
To: rebrobles1@gmail.com
Cc: Terri Fulton
Subject: I-5 HOV Extension Project
Attachments: Figure1.pdf

Hi Rebecca,

Here is the text of the letter we just spoke about (pasted below my signature). A map of the project area is also attached. Please let me know if you have any information about cultural resources that could be impacted by this project. Thanks for your help.

Best,

Terri Fulton
Archaeologist/Senior Cultural Resources Manager
Native American Consultation

LSA Associates, Inc.
20 Executive Park, Suite 200
Irvine, CA 92614-4731
Phone (949) 553-0666
Fax (949) 553-8076
Wireless (949) 337-5454

December 7, 2009

United Coalition to Protect Panhe (UCPP)
Rebecca Robles
119 Avenida San Fernando
San Clemente, CA 92672

Subject: Native American Consultation for the Proposed I-5 HOV Lane Extension Project, Cities of Dana Point, San Clemente, and San Juan Capistrano, Orange County, California

Dear Ms. Robles:

The Orange County Transportation Authority (OCTA), in cooperation with the California Department of Transportation (Caltrans), the City of Dana Point, the City of San Clemente, and the City of San Juan Capistrano, is proposing to widen Interstate 5 (I-5) between Avenida Pico and San Juan Creek Road. The project objectives are to provide continuity of the I-5 mainline high-occupancy vehicle (HOV) lane network within the project limits; maximize overall performance within the project limits by minimizing weaving conflicts at the termini of the HOV lanes and maintaining travel speeds for HOV lane users; provide intermittent auxiliary lanes, where needed, to relieve congestion at diverge and merge locations; minimize right-of-way acquisition; relieve congestion within interchange areas, on- and off-ramps, and local intersections; and reduce congestion on I-5 within the project limits. The project limits on I-5 extend from 0.1 mile (mi) south of the Avenida Pico Undercrossing (UC) (Post Mile [PM] 3.3) to 0.1 mi south of the San Juan Creek Road UC (PM 8.7). The proposed project will add one HOV lane in each direction on I-5 throughout the project limits, reestablish existing auxiliary lanes and construct new auxiliary lanes, and improve several existing on- and off-ramps. A map of the project area is attached.

Section 106 of the National Historic Preservation Act of 1966 (NHPA) requires that federal undertakings such as this consider the effect they may have on historic properties. These include properties of traditional religious and cultural significance to Indian tribes. Government-to-government relationships, as required by federal law,

include the identification of an individual designated by an Indian Tribe for the purposes of consultation. If you are not the designated representative, please forward this information to the person who is responsible. Additionally, for the purposes of future consultation, please inform me who will handle consultation for your tribe.

To determine whether any historic properties may be affected by the project, LSA has conducted a records search at the South Central Coastal Information Center located at California State University, Fullerton. The results of the records search indicate there are 5 prehistoric archaeological sites within the project area, and 13 prehistoric archaeological sites within a 0.25 mi radius of the project area.

LSA also requested that a Sacred Lands File Search (SLF) be conducted by the Native American Heritage Commission (NAHC). The results of the SLF **did indicate** the presence of Native American cultural resources within a 0.5 mi radius of portions of the project area. The NAHC also provided your contact information as someone who may have information about cultural resources that could be impacted by the project.

If you know of any cultural resources that may be of religious and/or cultural significance to your community, or if you would like more information, please do not hesitate to contact me at the above telephone number or address, or by e-mail at terri.fulton@lsa-assoc.com. If I do not receive a response from you, I will contact you by telephone to discuss any comments or concerns you may have. Thank you for your time and involvement in this process.

Respectfully,

LSA ASSOCIATES, INC.

Terri Fulton
Archaeologist/Senior Cultural Resources Manager
Native American Consultation

Attachment: USGS Maps

ATTACHMENT F: RECORDS SEARCH RESULTS LETTER/HISTORIC CONSULTATION

South Central Coastal Information Center

California State University, Fullerton
Department of Anthropology MH-426
800 North State College Boulevard
Fullerton, CA 92834-6846
657.278.5395 / FAX 657.278.5542

anthro.fullerton.edu/sccic.html - sccic@fullerton.edu
California Historical Resources Information System
Orange, Los Angeles, and Ventura Counties

October 21, 2009

SCCIC #9926.6845

Ms. Terri Fulton
LSA Associates, Inc.
20 Executive Park, Suite 200
Irvine, CA 92614
949.553.0666

LSA
LSA ASSOCIATES, INC

OCT 23 2009

RECEIVED
IRVINE

RE: Records Search for I-5 HOV Extension Project, LSA Job Number RMN0901

Dear Ms. Fulton,

As per your request received on October 19, 2009, an expedited records search was conducted for the above referenced project. The search includes a review of all recorded archaeological sites within a ¼-mile radius of the project site as well as a review of cultural resource reports on file. In addition, the California Points of Historical Interest (PHI), the California Historical Landmarks (CHL), the California Register of Historical Resources (CR), the National Register of Historic Places (NR), and the California State Historic Resources Inventory (HRI) listings were reviewed for the above referenced project. The following is a discussion of the findings.

Dana Point and San Clemente, CA, USGS 7.5' Quadrangles

ARCHAEOLOGICAL RESOURCES:

Thirteen archaeological sites (30000021, 30-000188, 30-000549, 30-000599, 30-000835*, 30-000836*, 30-000837*, 30-000838*, 30-000903, 30-000924, 30-001107*, 30-001258, and 30-001579) have been identified within a ¼-mile radius of the project site. Five archaeological sites are located within the project site. One site is listed on the Archaeological Determination of Eligibility (DOE) list. Four isolates (30-100114*, 30-100115*, 30-100159, and 30-100160) have been identified within a ¼-mile radius of the project site. One isolate is located within the project site.
(* = Located within the project site)

HISTORIC RESOURCES:

Four additional cultural resources (30-176486*, 30-176663*, 30-176664*, and 30-176700) have been identified within a ¼-mile radius of the project site. Three cultural resources are located within the project site.
(* = Located within the project site)

Copies of our historic maps – San Juan Capistrano (1942) 15' USGS - are enclosed for your review.

The California Point of Historical Interest of the Office of Historic Preservation, Department of Parks and Recreation, lists no properties within a ¼-mile radius of the project site.

The California Historical Landmarks of the Office of Historic Preservation, Department of Parks and Recreation, lists no properties within a ¼-mile radius of the project site.

The California Register of Historic Places lists one property within a ¼-mile radius of the project site (see enclosed HRI list for property marked with a +). This property is determined to have a National Register of Historic Places Status of 1 or 2, a California Historical Landmark numbering 770 and higher, or a Point of Historical Interest listed after 1/1/1998.

The National Register of Historic Places lists one property within a ¼-mile radius of the project site (see enclosed HRI list for property marked with an *).

The California Historic Resources Inventory lists 45 properties that have been evaluated for historical significance within a ¼-mile radius of the project site (see enclosed list).

PREVIOUS CULTURAL RESOURCES INVESTIGATIONS:

Eighty-two studies (OR102, OR115, OR120, OR186, OR239, OR248*, OR279, OR288, OR329, OR378, OR467*, OR525, OR535*, OR536*, OR577*, OR610, OR625, OR636*, OR670, OR674, OR685*, OR833, OR892, OR912*, OR915, OR941*, OR951, OR958*, OR979*, OR995*, OR1090*, OR1113, OR1165, OR1178*, OR1204*, OR1215, OR1227, OR1260, OR1261, OR1298, OR1322, OR1336, OR1459*, OR1506, OR1602*, OR1603*, OR1683, OR1684, OR1695, OR1726*, OR1735*, OR1819*, OR1820*, OR1869, OR1915*, OR1955*, OR2011, OR2054*, OR2055*, OR2093, OR2215*, OR2317*, OR2454, OR2527, OR2566*, OR2871, OR2873, OR2877*, OR2921, OR2922*, OR2923*, OR3271, OR3295*, OR3333*, OR3367, OR3373, OR3390*, OR3473, OR3495*, OR3640, OR3689*, and OR3690) have been conducted within a ¼-mile radius of the project site. Of these, 37 are located within the project site. There are seven additional investigations located on the Dana Point and San Clemente, CA. 7.5' USGS Quadrangles that are potentially within a ¼-mile radius of the project site. These reports are not mapped due to insufficient locational information.
(* = Located within the project site)

Please forward a copy of any resulting reports from this project to the office as soon as possible. Due to the sensitive nature of archaeological site location data, we ask that you **do not include** resource location maps and resource location descriptions in your report if the report is for public distribution. If you have any questions regarding the results presented herein, please contact the office at 657.278.5395 Monday through Thursday 9:00 am to 3:30 pm.

Should you require any additional information for the above referenced project, reference the SCCIC number listed above when making inquiries. Requests made after initial invoicing will result in the preparation of a separate invoice.

Sincerely,
SCCIC



Michelle Galaz
Lead Staff Researcher

Enclosures:

- (X) Maps – 7.5' USGS Quadrangle, 15' USGS Quadrangle – 10 pages
- (X) Bibliography – 19 pages
- (X) Bibliography of Unmapped Reports – 2 pages
- (X) HRI – 7 pages
- (X) ADOE list – 1 page
- (X) National Register Status Codes – 1 page
- (X) Site Records – (30-000021, 30-000188, 30-000549, 30-000599, 30-000835*, 30-000836*, 30-000837*, 30-000838*, 30-000903, 30-000924, 30-001107*, 30-001258, 30-001579, 30-100114*, 30-100115*, 30-100159, 30-100160, 30-176486*, 30-176663*, 30-176664*, and 30-176700) – 58 pages
- (X) Confidentiality Form
- (X) Invoice #9926.6845



LSA ASSOCIATES, INC.
1500 IOWA AVENUE, SUITE 200
RIVERSIDE, CALIFORNIA 92507

951.781.9315 TEL
951.781.4277 FAX

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IRVINE
PALM SPRINGS

POINT RICHMOND
ROCKLIN
SAN LUIS OBISPO

December 1, 2009

City of San Juan Capistrano
Community Development Department, Planning Department
32400 Paseo Adelanto
San Juan Capistrano, California 92675
Attn: Teri Delcamp, Historic Preservation Manager

Subject: Historic Consultation for the Interstate 5 High Occupancy Vehicle Lane Extension Project, Orange County, California (LSA Project No. RMN0901)

To Whom It May Concern:

The Orange County Transportation Authority (OCTA), in cooperation with the California Department of Transportation (Caltrans), the City of Dana Point, the City of San Clemente, and the City of San Juan Capistrano, is proposing to widen Interstate 5 (I-5) between San Juan Creek Road and Avenida Pico (see attached map). The project objectives are to provide continuity of the I-5 mainline High Occupancy Vehicle (HOV) network within the project limits; maximize overall performance within the project limits by minimizing weaving conflicts at the termini of the HOV lanes and maintaining travel speeds for HOV lane users; provide intermittent auxiliary lanes, where needed, to relieve congestion at diverge and merge locations; minimize right-of-way acquisition; relieve congestion within interchange areas, on- and off-ramps, and local intersections; and reduce congestion on I-5 within the project limits. The project limits on I-5 extend from 0.1 mile (mi) south of the Avenida Pico Undercrossing (UC) (Post Mile [PM] 3.3) to 0.1 mi south of the San Juan Creek Road UC (PM 8.7). The proposed project will add one HOV lane in each direction on I-5 throughout the project limits, reestablish existing auxiliary lanes and construct new auxiliary lanes, and improve several existing on- and off-ramps. Four alternatives, including the No Build Alternative, will be analyzed as part of the Draft Initial Study/Environmental Assessment (IS/EA).

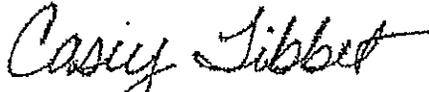
Section 106 of the National Historic Preservation Act of 1966 (NHPA) requires that federally regulated undertakings, such as this project, consider the effect they may have on historic properties. Evaluations are currently underway for historic resources. Pursuant to Section 36 CFR Part 800.3(e), LSA is soliciting your comments regarding any cultural resources that may exist within the project limits (see attached map). We are particularly interested in the Harrison House in San Juan Capistrano, the residential neighborhoods along Via California and Calle Portola in Dana Point, and the Shorecliffs golf course and residential area in San Clemente.

LSA ASSOCIATES, INC.

If you have any comments or would like additional information regarding the project, please contact me by December 16, 2009. I can be reached at the above address and telephone number or by email at Casey.Tibbet@lsa-assoc.com.

Sincerely,

LSA ASSOCIATES, INC.

A handwritten signature in cursive script that reads "Casey Tibbet".

Casey Tibbet
Cultural Resources Manager

Attachment: Map



LSA ASSOCIATES, INC.
1500 IOWA AVENUE, SUITE 200
RIVERSIDE, CALIFORNIA 92507

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December 1, 2009

San Juan Capistrano Historical Society
31831 Los Rios Street
San Juan Capistrano, California 92675

Subject: Historic Consultation for the Interstate 5 High Occupancy Vehicle Lane Extension Project, Orange County, California (LSA Project No. RMN0901)

To Whom It May Concern:

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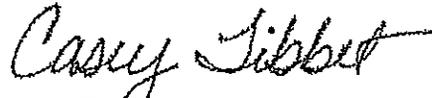
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Sincerely,

LSA ASSOCIATES, INC.

A handwritten signature in cursive script that reads "Casey Tibbet".

Casey Tibbet
Cultural Resources Manager

Attachment: Map



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December 1, 2009

San Clemente Historical Society
Post Office Box 283
San Clemente, California 92674
Attn: Raad Ghantous, Preservation Chair

Subject: Historic Consultation for the Interstate 5 High Occupancy Vehicle Lane Extension Project, Orange County, California (LSA Project No. RMN0901)

To Whom It May Concern:

The Orange County Transportation Authority (OCTA), in cooperation with the California Department of Transportation (Caltrans), the City of Dana Point, the City of San Clemente, and the City of San Juan Capistrano, is proposing to widen Interstate 5 (I-5) between San Juan Creek Road and Avenida Pico (see attached map). The project objectives are to provide continuity of the I-5 mainline High Occupancy Vehicle (HOV) network within the project limits; maximize overall performance within the project limits by minimizing weaving conflicts at the termini of the HOV lanes and maintaining travel speeds for HOV lane users; provide intermittent auxiliary lanes, where needed, to relieve congestion at diverge and merge locations; minimize right-of-way acquisition; relieve congestion within interchange areas, on- and off-ramps, and local intersections; and reduce congestion on I-5 within the project limits. The project limits on I-5 extend from 0.1 mile (mi) south of the Avenida Pico Undercrossing (UC) (Post Mile [PM] 3.3) to 0.1 mi south of the San Juan Creek Road UC (PM 8.7). The proposed project will add one HOV lane in each direction on I-5 throughout the project limits, reestablish existing auxiliary lanes and construct new auxiliary lanes, and improve several existing on- and off-ramps. Four alternatives, including the No Build Alternative, will be analyzed as part of the Draft Initial Study/Environmental Assessment (IS/EA).

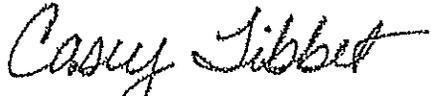
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Sincerely,

LSA ASSOCIATES, INC.

Handwritten signature of Casey Tibbet in cursive script.

Casey Tibbet
Cultural Resources Manager

Attachment: Map



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RIVERSIDE, CALIFORNIA 92507

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December 1, 2009

Dana Point Historical Society
Post Office Box 544
Dana Point, California 92629
Attn: Carlos Olvera, President

Subject: Historic Consultation for the Interstate 5 High Occupancy Vehicle Lane Extension Project, Orange County, California (LSA Project No. RMN0901)

To Whom It May Concern:

The Orange County Transportation Authority (OCTA), in cooperation with the California Department of Transportation (Caltrans), the City of Dana Point, the City of San Clemente, and the City of San Juan Capistrano, is proposing to widen Interstate 5 (I-5) between San Juan Creek Road and Avenida Pico (see attached map). The project objectives are to provide continuity of the I-5 mainline High Occupancy Vehicle (HOV) network within the project limits; maximize overall performance within the project limits by minimizing weaving conflicts at the termini of the HOV lanes and maintaining travel speeds for HOV lane users; provide intermittent auxiliary lanes, where needed, to relieve congestion at diverge and merge locations; minimize right-of-way acquisition; relieve congestion within interchange areas, on- and off-ramps, and local intersections; and reduce congestion on I-5 within the project limits. The project limits on I-5 extend from 0.1 mile (mi) south of the Avenida Pico Undercrossing (UC) (Post Mile [PM] 3.3) to 0.1 mi south of the San Juan Creek Road UC (PM 8.7). The proposed project will add one HOV lane in each direction on I-5 throughout the project limits, reestablish existing auxiliary lanes and construct new auxiliary lanes, and improve several existing on- and off-ramps. Four alternatives, including the No Build Alternative, will be analyzed as part of the Draft Initial Study/Environmental Assessment (IS/EA).

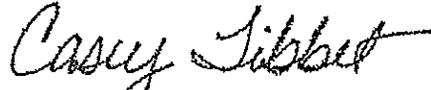
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Sincerely,

LSA ASSOCIATES, INC.

Handwritten signature of Casey Tibbet in cursive script.

Casey Tibbet
Cultural Resources Manager

Attachment: Map



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December 1, 2009

Orange County Historical Society
Post Office Box 10984
Santa Ana, California 92711
Attn: Greg Rankin, President

Subject: Historic Consultation for the Interstate 5 High Occupancy Vehicle Lane Extension Project, Orange County, California (LSA Project No. RMN0901)

To Whom It May Concern:

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LSA ASSOCIATES, INC.

If you have any comments or would like additional information regarding the project, please contact me by December 16, 2009. I can be reached at the above address and telephone number or by email at Casey.Tibbet@lsa-assoc.com.

Sincerely,

LSA ASSOCIATES, INC.

A handwritten signature in cursive script that reads "Casey Tibbet".

Casey Tibbet
Cultural Resources Manager

Attachment: . Map



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December 1, 2009

Orange County Historical Commission
211 West Santa Ana Boulevard
Santa Ana, California 92701
Attn: Griselda Castillo

Subject: Historic Consultation for the Interstate 5 High Occupancy Vehicle Lane Extension Project, Orange County, California (LSA Project No. RMN0901)

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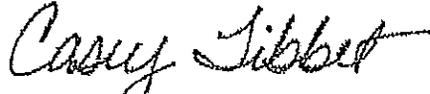
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Sincerely,

LSA ASSOCIATES, INC.

A handwritten signature in cursive script that reads "Casey Tibbet". The signature is written in black ink and is positioned above the printed name and title.

Casey Tibbet
Cultural Resources Manager

Attachment: Map



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POINT RICHMOND
ROCKLIN
SAN LUIS OBISPO

December 1, 2009

City of San Clemente
Community Development Department, Planning Department
910 Calle Negocio, Suite 100
San Clemente, California 92673-6247
Attn: Jennifer Gates, Associate Planner

Subject: Historic Consultation for the Interstate 5 High Occupancy Vehicle Lane Extension Project, Orange County, California (LSA Project No. RMN0901)

To Whom It May Concern:

The Orange County Transportation Authority (OCTA), in cooperation with the California Department of Transportation (Caltrans), the City of Dana Point, the City of San Clemente, and the City of San Juan Capistrano, is proposing to widen Interstate 5 (I-5) between San Juan Creek Road and Avenida Pico (see attached map). The project objectives are to provide continuity of the I-5 mainline High Occupancy Vehicle (HOV) network within the project limits; maximize overall performance within the project limits by minimizing weaving conflicts at the termini of the HOV lanes and maintaining travel speeds for HOV lane users; provide intermittent auxiliary lanes, where needed, to relieve congestion at diverge and merge locations; minimize right-of-way acquisition; relieve congestion within interchange areas, on- and off-ramps, and local intersections; and reduce congestion on I-5 within the project limits. The project limits on I-5 extend from 0.1 mile (mi) south of the Avenida Pico Undercrossing (UC) (Post Mile [PM] 3.3) to 0.1 mi south of the San Juan Creek Road UC (PM 8.7). The proposed project will add one HOV lane in each direction on I-5 throughout the project limits, reestablish existing auxiliary lanes and construct new auxiliary lanes, and improve several existing on- and off-ramps. Four alternatives, including the No Build Alternative, will be analyzed as part of the Draft Initial Study/Environmental Assessment (IS/EA).

Section 106 of the National Historic Preservation Act of 1966 (NHPA) requires that federally regulated undertakings, such as this project, consider the effect they may have on historic properties. Evaluations are currently underway for historic resources. Pursuant to Section 36 CFR Part 800.3(e), LSA is soliciting your comments regarding any cultural resources that may exist within the project limits (see attached map). We are particularly interested in the Harrison House in San Juan Capistrano, the residential neighborhoods along Via California and Calle Portola in Dana Point, and the Shorecliffs golf course and residential area in San Clemente.

LSA ASSOCIATES, INC.

If you have any comments or would like additional information regarding the project, please contact me by December 16, 2009. I can be reached at the above address and telephone number or by email at Casey.Tibbet@lsa-assoc.com.

Sincerely,

LSA ASSOCIATES, INC.

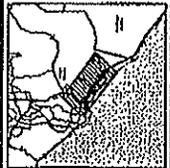
A handwritten signature in cursive script that reads "Casey Tibbet".

Casey Tibbet
Cultural Resources Manager

Attachment: Map

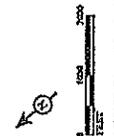


MAP 2



I-5 HOV Extension
 Area of Potential Effects
 EAF OFP800

LEGEND
 [Symbol] AS2-004 #7000418214



SOURCE: Map (042005); MAF (022005); EAC (022005)
 EAF-020101G181A172.mxd (11/4/2005)

Hi Evan,

Page 1 of 2

From: EVAN LANGAN [ELANGAN@DanaPoint.org]
Sent: Wednesday, December 16, 2009 2:29 PM
To: Casey Tibbet
Subject: RE: Historic Resources Register
Good Afternoon Mr. Tibbet,

Records indicate "34262 Via Velez" as being listed on the City's (circa 1997) Historic Inventory, and that the property was subsequently added to the Historic Registry (formally recognized as a "local historic resource" by the City at the request of the property owner). No other addresses from your list are cited within the inventory, and so at present, are not eligible for listing on the Registry.

The City has no designated historic districts, and accordingly, no such maps exist.

Evan Langan, AICP
Associate Planner
City of Dana Point, Planning Division
33282 Golden Lantern
Dana Point, CA 92629
949-248-3591

From: Casey Tibbet [mailto:casey.tibbet@lsa-assoc.com]
Sent: Wednesday, December 16, 2009 1:06 PM
To: EVAN LANGAN
Subject: Historic Resources Register

Hi Evan,

I am in the process of preparing a cultural resources report related to the I-5 HOV expansion project which runs through a portion of Dana Point. I am hoping that you can tell me whether or not any of the following properties are listed on the City's Historic Resources Register:

12328253	34522	Calle Portola
12328252	34532	Calle Portola
12328249	34542	Calle Portola
69120202	26981	Avenida Las Palmas
12331211	34575	Calle Portola
12331216	34591	Calle Portola
12331256	34621	Calle Portola
12316243	34283	Via Lopez
12316237	34285	Via Lopez
12316240	34295	Via Lopez

Hi Evan,

Page 2 of 2

12318201 26601 Via California

12317221 26375 Via Canon

12316239 34301 Via Lopez

12318317 34262 Via Velez

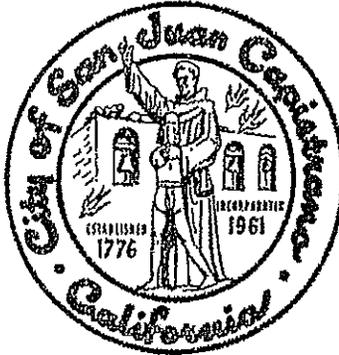
Also, I would like to know if the City has any designated historic districts and if maps of those districts are available.

Thank you very much for your assistance,

Casey Tibbet, M.A.
Senior Architectural Historian/Historian

LSA Associates, Inc.
1500 Iowa Avenue, Suite 200
Riverside, CA 92507
951-781-9310
951-781-4277 (fax)

32400 PASEO ADELANTO
SAN JUAN CAPISTRANO, CA 92675
(949) 493-1171
(949) 493-1053 FAX
www.sanjuancapistrano.org



MEMBERS OF THE CITY COUNCIL

SAM ALLEVATO
LAURA FREESE
THOMAS W. HRIBAR
MARK NIELSEN
DR. LONDRES USO

December 16, 2009

Casey Tibbet
LSA Cultural Resources Manager
1500 Iowa Avenue, Suite 200
Riverside, CA 92507

Subject: Historic Consultation for the Interstate 5 HOV Lane Extension Project

Dear Ms. Tibbet:

Thank you for your letter dated December 1, 2009, soliciting comments on the above project. The Area of Potential Effects (APE) does appear to have the possibility of affecting what I believe your letter referred to as the Harrison House. The property is locally designated as the Pablo Pryor Adobe/Hide House and is addressed as 33751 Camino Capistrano (APN 121-254-04). (Another property east on Ortega Highway is the National Register-listed Harrison House so I wanted to be sure we avoid any confusion.)

This property was designated locally a long time ago, and no detailed historic report about the property has ever been completed, and no determination of eligibility for the National Register of Historic places has been formally completed to my knowledge. The above project's historic resources evaluation should assess the property's potential eligibility for the National Register, and if determined eligible, should assess potential adverse impacts that may result from the proposed project.

The Juaneño Band of Mission Indians, Acjachemen Nation, should be consulted with regard to the potential for affecting possible Native American cultural resources.

Should you have any questions, please don't hesitate to contact me at 949-443-6330 or by Email at tdelcamp@sanjuancapistrano.org. City Hall will be closed for the holidays and a furlough until January 4, 2010.

Sincerely,

Teri Delcamp
Historic Preservation Manager

**OFFICE OF HISTORIC PRESERVATION
DEPARTMENT OF PARKS AND RECREATION**

1725 23rd Street, Suite 100
SACRAMENTO, CA 95816-7100
(916) 445-7000 Fax: (916) 445-7053
calshpo@parks.ca.gov
www.ohp.parks.ca.gov



November 10, 2010

In Reply Refer To: FHWA101012A

Chris Flynn
Department of Transportation
District 12
3347 Michelson Drive, Suite 100
Irvine, CA 92612-1692

Re: Determination of National Register of Historic Places Eligibility and Subsequent Finding of No Historic Properties Affected for Proposed Widening and Addition of HOV Lanes on I-5 between Avenida Pico and San Juan Creek Road

Dear Mr. Flynn:

Thank you for seeking my consultation regarding the above noted undertaking in accordance with the *Programmatic Agreement (PA) Among the Federal Highway Administration, the Advisory Council on Historic Preservation, the California State Historic Preservation Officer, and the California Department of Transportation Regarding Compliance with Section 106 of the National Historic Preservation Act, as it Pertains to the Administration of the Federal-Aid Highway Program in California*. Pursuant to Stipulation VIII of the PA, the California Department of Transportation (Caltrans) has determined the Area of Potential Effects (APE) and has completed identification and evaluation of historic properties within the APE. You are requesting my concurrence, pursuant to Stipulation VIII.C.5 of the PA, on your determination of eligibility, for the National Register of Historic Places (NRHP), of 16 historic properties identified within the APE. Caltrans is also requesting concurrence of the absence of four archaeological sites previously recorded within the APE. In addition to your letter of October 5, 2010, you have submitted the following documents in support of this undertaking:

- *Historic Property Survey Report District 12, Orange County, I-5, PM 3.0/8.7, EA OF9600* (Casey Tibbet, LSA Associates, September 2010)

As documented in the reports noted above, Caltrans has identified archeological sites as being located on Information Center maps within the project APE. Sites CA-ORA-835, -836, 837, and -838 were all originally located in 1957 by Dr. William J. Wallace. This has resulted in likely inaccuracy in GIS plotting of the sites. Caltrans has made a reasonable attempt to relocate these sites within their plotted locations and none could be relocated within the APE. The plotted locations of two of these sites has been completely graded and developed, disturbing any sites if present.

Caltrans has also determined that 16 architectural properties within the APE are not eligible for the National Register of Historic Places. The 16 properties are: 26601 Via

California, 26375 Via Canon, 34283 Via Lopez, 34285 Via Lopez, 34295 Via Lopez, 34301 Via Lopez, 34262 Via Velez, 34522 Calle Portola, 34532 Calle Portola, 34542 Calle Portola, 26981 Avenida Las Palmas, 34575 Calle Portola, 34591 Calle Portola, 34621 Calle Portola, 420 Calle Vista Torito, and 529 Avenida Pico.

The NRHP eligibility determinations that Caltrans is requesting my concurrence on are not eligible for the 16 architectural properties and comments regarding the absence of four archaeological sites within the APE; therefore Caltrans has determined a finding of No Historic Properties Affected is appropriate for this undertaking, the I-5 HOV Extension Project in the Cities of Dana Point, San Clemente, and San Juan Capistrano. Based on my review of your letter and supporting documentation, I have the following comments:

- 1) I concur that CA-ORA-835, -836, -837, and -838 could not be located within the APE and may have been destroyed by development.
- 2) I further concur that the 16 architectural properties mentioned above are not eligible for the National Register of Historic Places.
- 3) Therefore, I concur with your finding of No Historic Properties Affected for the proposed widening of I-5 between Post Miles 3.0 and 8.7 in Orange County.

Be advised that under certain circumstances, such as unanticipated discovery or a change in project description, Caltrans may have additional future responsibilities for this undertaking under 36 CFR Part 800. Thank you for seeking my comments and considering historic properties as part of your project planning. If you require further information, please contact Trevor Pratt or Natalie Lindquist of my staff, at phone 916-445-7017 or 916-445-7014 or email tpratt@parks.ca.gov or nlindquist@parks.ca.gov.

Sincerely,



Milford Wayne Donaldson, FAIA
State Historic Preservation Officer

APPENDIX B WILDLIFE SPECIES DETECTED

This is a list of the conspicuous aerial insects (i.e., damselflies, dragonflies, and butterflies), reptiles, birds, and mammals observed or otherwise detected by consultant biologists during surveys conducted from October 2009 through January 2010. Presence may be noted if a species is seen or heard, or identified by the presence of tracks, scat, or other signs.

* Species not native to the study area

ANISOPTERA

Aeshnidae

Rhionaeschna multicolor

Libellulidae

Sympetrum corruptum

Pantala flavescens

LEPIDOPTERA

Pieridae

* *Pieris rapae*

Anthocharis sara

Lycaenidae

Brephidium exilie

Nymphalidae

Nymphalis antiopa

Vanessa cardui

Hesperiidae

Pyrgus albescens/communis

AMPHIBIA

Hylidae

Pseudacris hypochondriaca

TYPICAL DRAGONFLIES

Darners

Blue-eyed darner

Skimmers

Variegated meadowhawk

Wandering glider

BUTTERFLIES

Whites and Sulphurs

Cabbage white

Sara orangetip

Gossamer-Wing Butterflies

Western pygmy-blue

Brush-Footed Butterflies

Mourning cloak

Painted lady

Skippers

White/common checkered-skipper

AMPHIBIANS

Treefrogs and Relatives

Baja California treefrog

REPTILIA

Phrynosomatidae

Sceloporus occidentalis

AVES

Pelecanidae

Pelecanus occidentalis

Ardeidae

Ardea alba

Egretta thula

Cathartidae

Cathartes aura

Accipitridae

Pandion haliaetus

Accipiter cooperii

Buteo lineatus

Buteo jamaicensis

Falconidae

Falco sparverius

Charadriidae

Charadrius vociferus

Laridae

Larus occidentalis

Larus californicus

Larus argentatus

Columbidae

* *Columba livia*

Zenaida macroura

Cuculidae

Geococcyx californianus

Trochilidae

Calypte anna

Calypte costae

Selasphorus rufus/sasin

REPTILES

Phrynosomatid Lizards

Western fence lizard

BIRDS

Pelicans

Brown pelican

Hérons, Bitterns, and Allies

Great egret

Snowy egret

New World Vultures

Turkey vulture

Hawks, Kites, Eagles, and Allies

Osprey

Cooper's hawk

Red-shouldered hawk

Red-tailed hawk

Caracaras and Falcons

American kestrel

Plovers and Lapwings

Killdeer

Gulls, Terns, and Skimmers

Western gull

California gull

Herring gull

Pigeons and Doves

Rock pigeon

Mourning dove

Cuckoos, Roadrunners, and Anis

Greater roadrunner

Hummingbirds

Anna's hummingbird

Costa's hummingbird

Rufous/Allen's hummingbird

Picidae*Picoides nuttallii***Tyrannidae***Sayornis nigricans**Sayornis saya**Tyrannus vociferans***Vireonidae***Vireo huttoni***Corvidae***Aphelocoma californica**Corvus brachyrhynchos***Aegithalidae***Psaltriparus minimus***Troglodytidae***Thryomanes bewickii**Troglodytes aedon***Regulidae***Regulus calendula***Sylviidae***Poliophtila caerulea**Poliophtila californica californica***Turdidae***Sialia mexicana**Catharus guttatus***Timaliidae***Chamaea fasciata***Mimidae***Mimus polyglottos**Toxostoma redivivum***Sturnidae*** *Sturnus vulgaris***Motacillidae***Anthus rubescens***Woodpeckers and Allies**

Nuttall's woodpecker

Tyrant Flycatchers

Black phoebe

Say's phoebe

Cassin's kingbird

Vireos

Hutton's vireo

Crows and Jays

Western scrub-jay

American crow

Long-Tailed Tits and Bushtits

Bushtit

Wrens

Bewick's wren

House wren

Kinglets

Ruby-crowned kinglet

Old World Warblers and Gnatcatchers

Blue-gray gnatcatcher

Coastal California gnatcatcher

Thrushes

Western bluebird

Hermit thrush

Babblers

Wrentit

Mockingbirds and Thrashers

Northern mockingbird

California thrasher

Starlings

European starling

Wagtails and Pipits

American pipit

Ptilonotidae

Phainopepla nitens

Parulidae

Vermivora celata
Dendroica coronata
Dendroica townsendi
Geothlypis trichas

Emberizidae

Pipilo maculatus
Pipilo crissalis
Melospiza melodia
Melospiza lincolni
Zonotrichia leucophrys
Zonotrichia atricapilla

Fringillidae

Carpodacus mexicanus
Spinus psaltria

Passeridae

* *Passer domesticus*

MAMMALIA

Sciuridae

Spermophilus beecheyi

Geomyidae

Thomomys bottae

Cricetidae

Neotoma lepida

Leporidae

Sylvilagus audubonii

Canidae

Canis latrans

Mephitidae

Mephitis mephitis

Silky-flycatchers

Phainopepla

Wood Warblers

Orange-crowned warbler
Yellow-rumped warbler
Townsend's warbler
Common yellowthroat

Emberizids

Spotted towhee
California towhee
Song sparrow
Lincoln's sparrow
White-crowned sparrow
Golden-crowned sparrow

Fringilline and Cardueline Finches and Allies

House finch
Lesser goldfinch

Old World Sparrows

House sparrow

MAMMALS

Squirrels, Chipmunks, and Marmots

California ground squirrel

Pocket Gophers

Botta's pocket gopher

Hamsters, Voles, Lemmings, and New World Rats and Mice

Desert woodrat

Rabbits and Hares

Audubon's cottontail

Foxes, Wolves, and Allies

Coyote

Skunks

Striped skunk

Procyonidae
Procyon lotor

Raccoons and Allies
Raccoon

Cervidae
Odocoileus hemionus

Deer, Elk, and Allies
Mule deer

Taxonomy and nomenclature are based on the following.

Damselflies and dragonflies: Paulson, D. (2009, *Dragonflies and Damselflies of the West*, Princeton University Press, Princeton, New Jersey).

Butterflies: North American Butterfly Association (2001, *NABA checklist and English Names of North American Butterflies, Second Edition*, North American Butterfly Association, Morristown, New Jersey; see <http://www.naba.org/pubs/checklst.html>).

Amphibians and reptiles: Crother, B.I. ed. (2008, *Scientific and Standard English Names of Amphibians and Reptiles of North America North of Mexico. Herpetological Circular 37*) for species taxonomy and nomenclature; Stebbins, R.C. (2003, *A Field Guide to Western Reptiles and Amphibians*, third edition, Houghton Mifflin, Boston) for sequence and higher order taxonomy.

Birds: American Ornithologists' Union (1998, *The A.O.U. Checklist of North American Birds, Seventh Edition*, American Ornithologists' Union, Washington D.C.; and supplements; see <http://www.aou.org/checklist/north/index.php>).

Mammals: Wilson, D.E., and D.M. Reeder, eds. (2005, *Mammal Species of the World, 3rd ed.*, Johns Hopkins University Press, Baltimore, Maryland; see <http://vertebrates.si.edu/mammals/msw/>).



LSA ASSOCIATES, INC.
20 EXECUTIVE PARK, SUITE 200 IRVINE, CALIFORNIA 92614
949.553.0666 TEL
949.553.8076 FAX

BERKELEY
CARLSBAD
FORT COLLINS
FRESNO
PALM SPRINGS
POINT RICHMOND

RIVERSIDE
ROCKLIN
SAN LUIS OBISPO
SOUTH SAN FRANCISCO

February 3, 2010

Sandra Marquez
United States Fish and Wildlife Service
Carlsbad Field Office
6010 Hidden Valley Road, Suite 101
Carlsbad, CA 92011

Lyann Comrack
Nongame Wildlife Program
California Department of Fish and Game
1812 Ninth Street
Sacramento, CA 95811

Subject: Coastal California Gnatcatcher Winter Survey Results: Interstate-5 High Occupancy Vehicle (HOV) Lane Extension Project, October 2009–January 2010

Dear Ms. Marquez and Ms. Comrack:

This letter report documents the results of protocol non-breeding season surveys for the coastal California gnatcatcher (*Poliophtila californica californica*) conducted by LSA Associates, Inc. (LSA). Surveys were conducted for the proposed Interstate-5 (I-5) High Occupancy Vehicle (HOV) Lane Extension project in the Cities of San Clemente, Dana Point, and San Juan Capistrano, Orange County, California (Figures 1–2 in Appendix A). The coastal California gnatcatcher is a federally listed threatened species.

Up to seven pairs of California gnatcatchers were found in coastal sage scrub (CSS) within the I-5 right-of-way during the surveys (Figures 2A and 2B).

STUDY AREA

The Orange County Transportation Authority (OCTA), in cooperation with the California Department of Transportation (Caltrans), proposes road improvements and the extension of HOV lanes on I-5 from 0.1 mile (mi) south of the Avenida Pico Undercrossing (UC) (Post Mile [PM] 3.3) to 0.1 mi south of the San Juan Creek Road UC (PM 8.7). The linear project area begins in the north near San Juan Creek at approximately 33°29'39" N, 117°39'36" W and terminates south of East Avenida Pico at approximately 33°25'57" N, 117°36'57" W with a major curve at approximately 33°28'16" N, 117°40'27" W. The project ranges in elevation from approximately 70 to 225 feet (ft) above mean sea level (amsl). Vegetation within and adjacent to the State right-of-way for the project segment of I-5 is dominated by CSS, saltbush (*Atriplex* sp.) scrub, and ornamental plantings (e.g., hottentot fig [*Carpobrotus edulis*], *Eucalyptus* sp., *Pinus* sp., *Schinus* sp.).

METHODS

LSA biologists Ingrid Quon and Richard Erickson conducted nine protocol non-breeding season surveys from October 5, 2009 to January 25, 2010. During each survey, the biologist walked slowly through the CSS and adjacent habitats, listening for coastal California gnatcatchers. A taped coastal California gnatcatcher recording was played periodically along the survey route.

Mr. Erickson and Ms. Quon's surveys were conducted pursuant to Federal Fish and Wildlife Permit TE-777965-8 (April 8, 2008–April 7, 2012) and a letter permit from the California Department of Fish and Game (CDFG) attached to Scientific Collecting Permit SC-000777 covering conditions for

research on listed birds (July 23, 2009–April 12, 2012). On September 22, 2009, per permit requirements, a 10-day notification was faxed to Sandra Marquez (United States Fish and Wildlife Service [USFWS]) and Lyann Comrack (CDFG). The survey schedule and conditions are shown in Table A.

Table A: Survey Schedule and Conditions

Date 2009-2010	Time	Weather	Surveyor
October 5	0715–1130	Partly cloudy, mild, light air	IQ
October 19	0815–1115	Partly cloudy, mild, light air	IQ
November 2	0900–1100	Clear, mild, light air	IQ
November 13	0745–1130	Overcast, cool, calm	RE
November 27	0800–1130	Clear, mild, calm	IQ
December 15	0745–1130	Overcast, cool, calm	RE
December 30	0900–1200	Overcast, cool, light air	IQ
January 12	0745–1100	Overcast, cool, calm	RE
January 25	0800–1115	Clear, chilly-mild, light air	IQ

Surveyor: RE = Richard Erickson; IQ = Ingri Quon

RESULTS

Most CSS within the I-5 right-of-way is occupied by coastal California gnatcatchers. Up to seven pair of California gnatcatchers were observed during the surveys (Figures 2A and 2B). Many of the pairs were observed during each survey. On November 13, three pairs of gnatcatchers were observed in CSS along the western slope of I-5 near Camino Capistrano and Doheny Park Road. On the same day, a fourth pair was detected across the freeway approximately 350 ft south of the Stonehill Drive on-ramp to I-5 north. On January 25, up to three more pairs were observed in the high quality CSS along the southwest side of I-5 between Camino de Estrella and the Shorecliff Golf Club at Avenida Vaquero.

The brown-headed cowbird (*Molothrus ater*), which is a brood parasite of California gnatcatchers and other passerines, was not detected on any survey. Animal species detected during the surveys are listed in Appendix B.

If you have any questions or comments, please call (949) 553-0666 or email me at ingri.quon@lsa-assoc.com or Mr. Erickson at richard.erickson@lsa-assoc.com.

Sincerely,

LSA ASSOCIATES, INC.



Ingri Quon
Senior Biologist

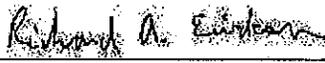
Attachments: Appendix A: Figures 1–2
Appendix B: Animal Species Detected

I CERTIFY THAT THE INFORMATION IN THIS SURVEY REPORT AND ATTACHED EXHIBITS FULLY AND ACCURATELY REPRESENT MY WORK:

SURVEYOR:

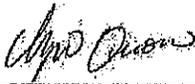
PERMIT NUMBER:

DATE:


Richard Erickson

TE-777965-8

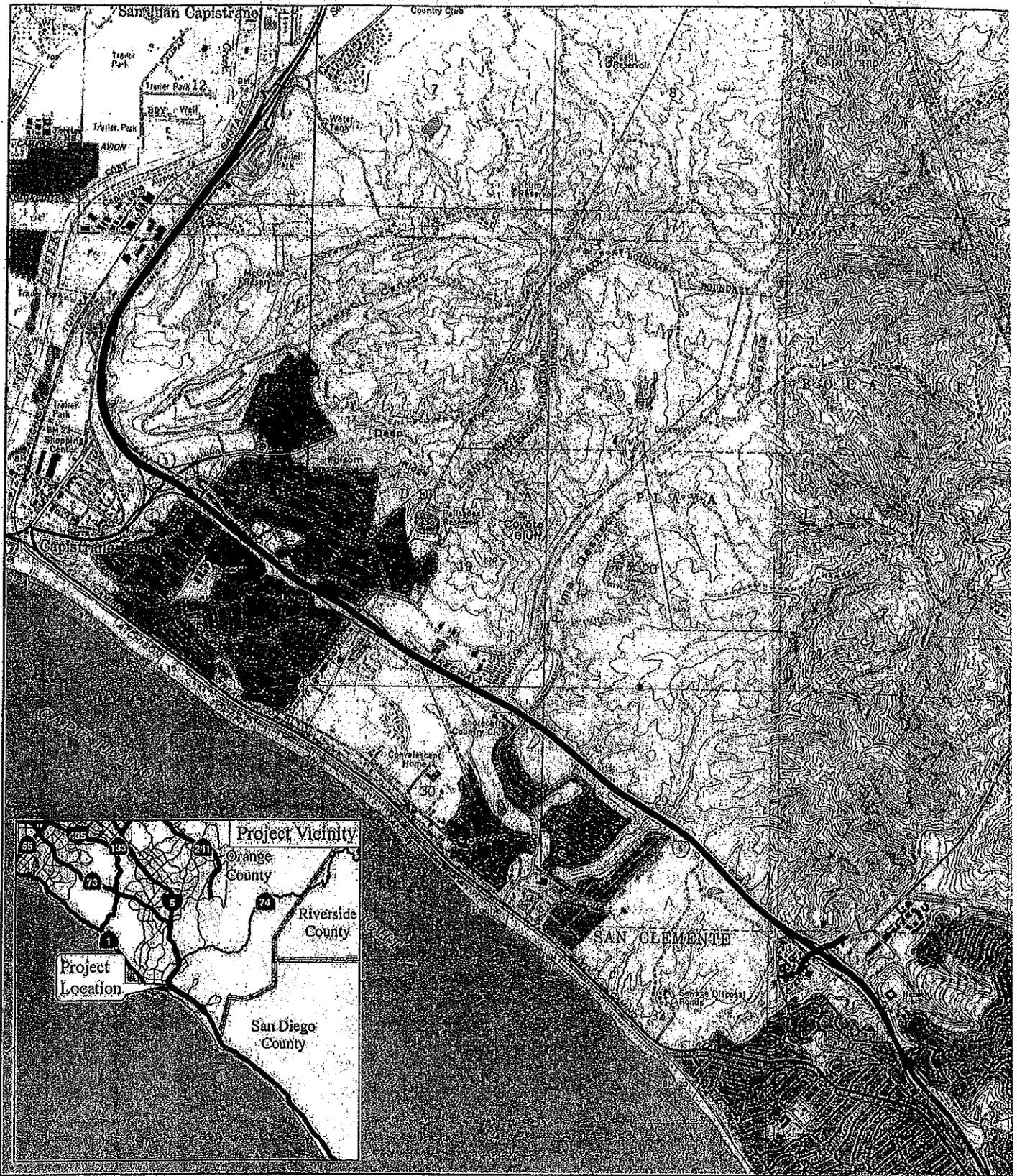
February 3, 2010


Ingri Quon

TE-777965-8

February 3, 2010

APPENDIX A
FIGURES



LEGEND

— Project Location

FIGURE



0 1500 3000
FBEP

SOURCE: USGS 7.5' QUAD - Dana Point ('75); San Clemente ('75)
I:\RMN0901\GIS\Figure1_ProjLoc.mxd (2/3/2010)

I-5 HOV Lane Extension Proj.
Project Location
12-ORA-005 PM 3.30/8
12840-0F96
EA# OF96

Ptiligonatidae

Phainopepla nitens

Parulidae

Vermivora celata
Dendroica coronata
Dendroica townsendi
Geothlypis trichas

Emberizidae

Pipilo maculatus
Pipilo crissalis
Melospiza melodia
Melospiza lincolni
Zonotrichia leucophrys
Zonotrichia atricapilla

Fringillidae

Carpodacus mexicanus
Spinus psaltria

Passeridae

* *Passer domesticus*

MAMMALIA

Sciuridae

Spermophilus beecheyi

Geomyidae

Thomomys bottae

Cricetidae

Neotoma lepida

Leporidae

Sylvilagus audubonii

Canidae

Canis latrans

Mephitidae

Mephitis mephitis

Silky-flycatchers

Phainopepla

Wood Warblers

Orange-crowned warbler
Yellow-rumped warbler
Townsend's warbler
Common yellowthroat

Emberizids

Spotted towhee
California towhee
Song sparrow
Lincoln's sparrow
White-crowned sparrow
Golden-crowned sparrow

Fringilline and Cardueline Finches and Allies

House finch
Lesser goldfinch

Old World Sparrows

House sparrow

MAMMALS

Squirrels, Chipmunks, and Marmots

California ground squirrel

Pocket Gophers

Botta's pocket gopher

Hamsters, Voles, Lemmings, and New World Rats and Mice

Desert woodrat

Rabbits and Hares

Audubon's cottontail

Foxes, Wolves, and Allies

Coyote

Skunks

Striped skunk

Procyonidae

Procyon lotor

Raccoons and Allies

Raccoon

Cervidae

Odocoileus hemionus

Deer, Elk, and Allies

Mule deer

Taxonomy and nomenclature are based on the following.

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Butterflies: North American Butterfly Association (2001, *NABA checklist and English Names of North American Butterflies*, Second Edition, North American Butterfly Association, Morristown, New Jersey; see <http://www.naba.org/pubs/checklst.html>).

Amphibians and reptiles: Crother, B.I. ed. (2008, *Scientific and Standard English Names of Amphibians and Reptiles of North America North of Mexico. Herpetological Circular 37*) for species taxonomy and nomenclature; Stebbins, R.C. (2003, *A Field Guide to Western Reptiles and Amphibians*, third edition, Houghton Mifflin, Boston) for sequence and higher order taxonomy.

Birds: American Ornithologists' Union (1998, *The A.O.U. Checklist of North American Birds*, Seventh Edition, American Ornithologists' Union, Washington D.C.; and supplements; see <http://www.aou.org/checklist/north/index.php>).

Mammals: Wilson, D.E., and D.M. Reeder, eds. (2005, *Mammal Species of the World*, 3rd ed., Johns Hopkins University Press, Baltimore, Maryland; see <http://vertebrates.si.edu/mammals/msw/>).



United States Department of the Interior

LSA
LSA ASSOCIATES, INC.

FISH AND WILDLIFE SERVICE

Ecological Services
Carlsbad Fish and Wildlife Office
6010 Hidden Valley Road, Suite 101
Carlsbad, California 92011



OCT 01 2009

RECEIVED

In Reply Refer To: IRVINE
FWS-OR-09B0458-09SL1235

SEP 28 2009

Elizabeth Delk
LSA Associates, Inc.
20 Executive Park, Suite 200
Irvine, CA 92614

Subject: Request for a List of Proposed, Threatened, and Endangered Species, and Critical Habitats Occurring in the Vicinity of the I-5 HOV Lane Extension Project, Cites of San Clemente, Dana Point, and San Juan Capistrano, Orange County, California

Dear Ms. Delk:

This letter is in response to your request, received August 31, 2009, for a list of federally endangered, threatened, and proposed species and critical habitats present in Orange County, California. To assist you in evaluating the potential occurrence of federally listed endangered, threatened, proposed, and candidate species and their critical habitat that occur in Orange County, we are providing the enclosed list.

Because we do not have site-specific information for the proposed project, we recommend that you seek assistance from a biologist familiar with the habitat conditions and associated species in and around the project site to assess the actual potential for direct, indirect, and cumulative impacts likely to result from the proposed activity. We also suggest that you contact the California Department of Fish and Game regarding State-listed and sensitive species that may occur within the project area. Please note that State-listed species are protected under the provisions of the California Endangered Species Act.

As a reminder, if a proposed project is authorized, funded, or carried out by a Federal agency and may affect a federally listed species, then section 7 consultation pursuant to the Endangered Species Act of 1973 (Act), as amended, is required. If a proposed project does not involve a Federal agency, but is likely to result in the take of a listed animal species, then the project proponent should apply for an incidental take permit, pursuant to section 10 of the Act.

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Elizabeth Delk (FWS-OR-09B0458-09SL1235)

2

Should you have any questions regarding the species listed or your responsibilities under the Act, please contact Sally Brown of this office at (760) 431-9440, extension 278.

Sincerely,



 Karen A. Goebel
Assistant Field Supervisor

Enclosure

**Federally Endangered, Threatened, Proposed, and Candidate Species and Critical Habitat
that Occur in the Vicinity of the I-5 HOV Lane Extension Project, Orange
County, California**

September 28, 2009

Common Name	Scientific Name	Federal Status	Critical Habitat
<u>Plants</u>			
thread-leaved brodiaea	<i>Brodiaea filifolia</i>	threatened	none
<u>Invertebrates</u>			
Riverside fairy shrimp	<i>Streptocephalus woottoni</i>	endangered	none
<u>Fish</u>			
tidewater goby	<i>Eucyclogobius newberryi</i>	endangered	none
southern steelhead	<i>Oncorhynchus mykiss</i>	endangered	present
<u>Amphibians</u>			
arroyo toad	<i>Bufo californicus</i>	endangered	none
<u>Birds</u>			
western snowy plover	<i>Charadrius alexandrinus nivosus</i>	threatened	none
southwestern willow flycatcher	<i>Empidonax traillii extimus</i>	endangered	none
brown pelican	<i>Pelecanus occidentalis</i>	endangered	N/A*
coastal California gnatcatcher	<i>Polioptila californica californica</i>	threatened	present
California least tern	<i>Sternula antillarum browni</i>	endangered	N/A
least Bell's vireo	<i>Vireo bellii pusillus</i>	endangered	none

* N/A = Not Applicable



<p>TO: CALIFORNIA COASTAL COMMISSION South Coast Area 200 Oceangate, 10th Floor Long Beach, California 90802 (562) 590-5071</p>	<p>FROM: COMMUNITY DEVELOPMENT City of Dana Point 33282 Golden Lantern Dana Point, California 92629 (949) 248-3588</p>
---	---

CITY OF DANA POINT

NOTICE OF EXEMPTION FROM A COASTAL DEVELOPMENT PERMIT

On March 25, 2011, California Department of Transportation (Caltrans) inquired about discretionary permits required for the following project:

The project involves minor improvements at two locations in the City. The first area is at the terminus of the south bound off-ramp from I-5 to Camino Las Ramblas. The minor adjustments to the ramp include restriping, guard rail removal, concrete barrier installation, minor grading and pavement work. The second area is at the beginning of the south bound Pacific Coast highway to south bound I-5 connector. The minor adjustments at this location to the ramp include restriping, minor grading and pavement work.

This proposed development is located within the City of Dana Point's Coastal Zone. The Community Development Director has determined this application is exempt from the Coastal Development Permit requirements pursuant to the City of Dana Point Local Coastal Program and the exclusions established in subsections (c) and (e) of Section 30610 of the Coastal Act which exempts maintenance and repair of existing facilities. Furthermore, it was determined that no other discretionary approval from the Community Development Department was required for the proposed project.

Signature:  on 3/28/11
 Kyle Butterwick, Date
 Community Development Director

I-5 HOV Lane Extension Project

SUMMARY OF IMPROVEMENTS WITHIN THE COASTAL ZONE

The Interstate 5 (I-5) HOV Lane Extension Project proposes to add one high-occupancy vehicle (HOV) lane in each direction on I-5 from Avenida Pico to San Juan Creek Road. At the interchange of I-5 with Pacific Coast Highway (SR-1), the proposed project improvements result in two minor encroachments into the City of Dana Point Local Coastal Program (LCP). The attached map shows the locations of these areas. A description of the proposed work in each area and associated cost is included below.

Area 1 – Terminus of the Southbound (SB) Off-Ramp from I-5 to Camino Las Ramblas

The first area is at the terminus of the SB off-ramp from I-5 to Camino Las Ramblas (total area = 4,400 sq ft.). At this location, the project proposes to make minor adjustments to the ramp, including:

- Restriping work
- Metal Beam Guard Rail (MBGR) removal
- Installation of concrete barrier
- Minor earthwork grading
- Minor pavement work

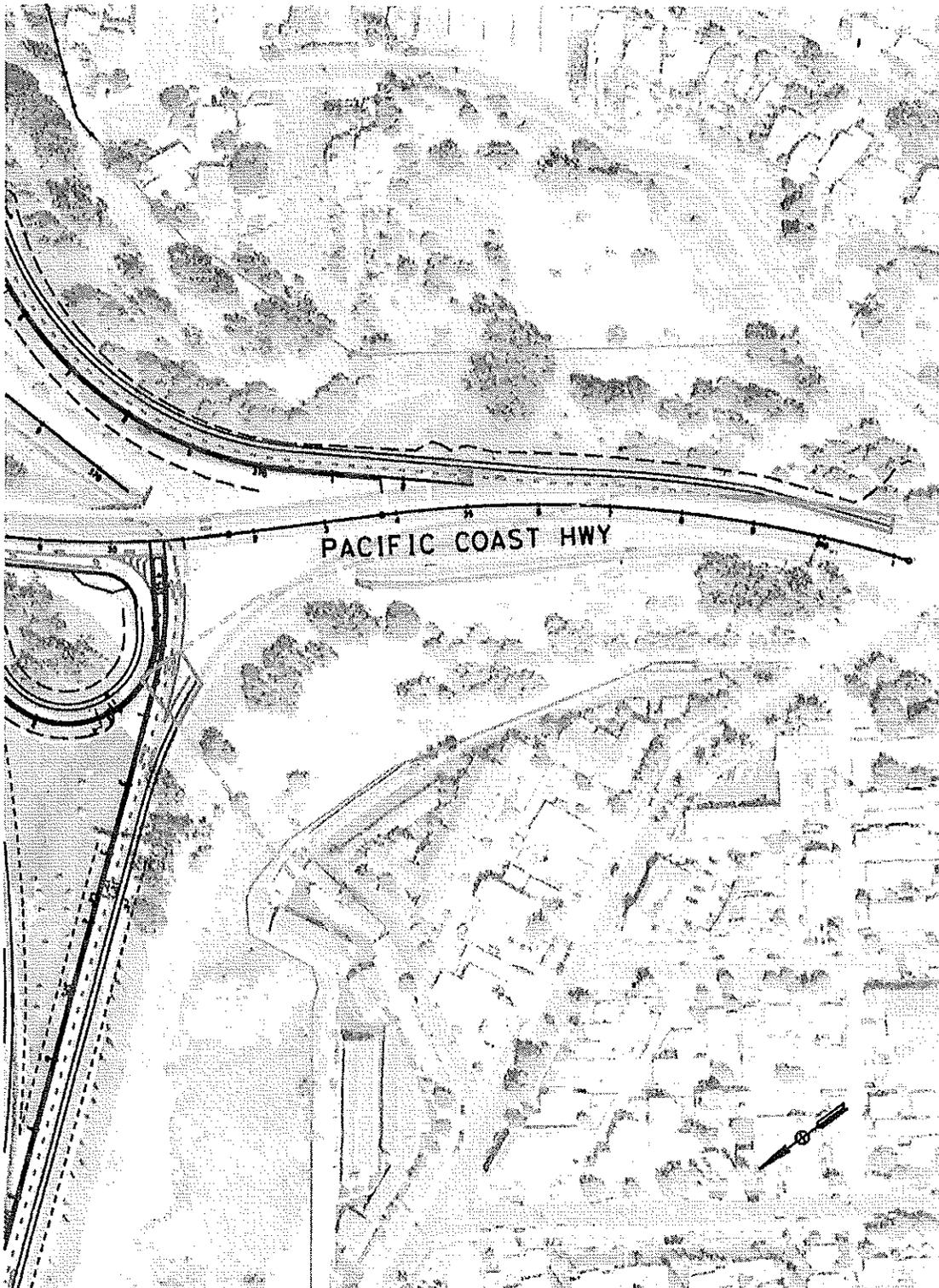
The total cost of the improvements proposed in this first area is estimated to be \$10,000.

Area 2 – Beginning of the SB Pacific Coast Highway to SB I-5 Connector

The second area is at the beginning of the SB Pacific Coast Highway (SR-1) to SB I-5 connector (total area = 2,300 sq ft.). At this location, the project proposes to make minor adjustments to the ramp, including:

- Restriping work
- Minor earthwork grading
- Minor pavement work

The total cost of the improvements proposed in the second area is estimated to be \$5,000.



COASTAL ZONE BOUNDARY LINE
AREA OF ENCROACHMENT INTO COASTAL ZONE

I-5 HOV LANE EXTENSION PROJECT
COASTAL ZONE BOUNDARY

SCALE 1" = 200'



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Ecological Services
Carlsbad Fish and Wildlife Office
6010 Hidden Valley Road, Suite 101
Carlsbad, California 92011



In Reply Refer To:
FWS-OR-09B0458-11I0399

JUN 23 2011

Mr. Chris Flynn
Senior Environmental Planner
California Department of Transportation
District 12
3347 Michelson Drive, Suite 100
Irvine, California 92612-1692

Attention: Kedest Ketsela, Associate Environmental Planner

Subject: Informal Section 7 Consultation for the I-5 HOV Lane Extension Project between Avenida Pico and San Juan Creek Road, Orange County, California

Dear Mr. Flynn:

This is in response to your letter dated May 9, 2011, requesting our concurrence with your determination that the subject project is not likely to adversely affect the federally endangered least Bell's vireo (*Vireo bellii pusillus*, "vireo") and the federally threatened coastal California gnatcatcher (*Polioptila californica californica*, "gnatcatcher") and its designated critical habitat in accordance with section 7 of the Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*). The California Department of Transportation (Caltrans) has assumed the Federal Highway Administration's responsibilities under the Act for this consultation in accordance with Sections 6004 and 6005 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) 2005, as described in the National Environmental Policy Act Delegation Pilot Program Memorandum of Understanding between Federal Highway Administration and Caltrans (effective July 1, 2007) and codified in Renewed 23 U.S.C. 326 and 23 U.S.C. 327.

The Orange County Transportation Authority, in cooperation with Caltrans, the City of Dana Point, the City of San Clemente, and the City of San Juan Capistrano, is proposing to widen Interstate 5 (I-5) between Avenida Pico and San Juan Creek Road. The proposed project will add one high-occupancy vehicle (HOV) lane in each direction on I-5 throughout the project limits, reestablish existing auxiliary lanes and construct new auxiliary lanes, and improve several existing on- and off-ramps. The project limits on I-5 extend from 0.4 mile (mi) south of the Avenida Pico Undercrossing (Post Mile [PM] 3.0) to 0.1 mi south of the San Juan Creek Road Undercrossing (PM 8.7). While the Natural Environmental Study for the proposed project includes several alternatives, consultation has been requested for Alternative 4b. Alternative 4b differs from the other alternatives in that the Avenida Pico Overcrossing structure will be reconfigured with a

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northbound loop on-ramp and realigned northbound off-ramp. In addition, no buffer will be included between the HOV lanes and general travel lanes instead of the 4 foot (ft) buffer proposed under Alternatives 2 and 3.

We have reviewed the information provided to us, including *I-5 HOV Lane Extension Project Natural Environmental Study I-5 Between Avenida Pico and San Juan Creek Road 12-ORA-05 (PM 3.0/8.7)* (Caltrans 2010). The gnatcatcher and vireo are known to occur in the vicinity of the project. Gnatcatchers were observed within most of the coastal sage scrub (CSS) within the I-5 right-of-way in the vicinity of the project. Up to seven pairs of gnatcatchers were observed during the surveys (LSA Associates, Inc. 2010a). However, the project will not result in any direct permanent impacts to gnatcatchers or their critical habitat. Project Alternative 4b will result in the permanent loss of 0.4 acre (ac) of unoccupied CSS and temporary impacts to 0.32 ac of unoccupied CSS. A small portion of the temporary impact area, totaling 0.018 ac of ornamentals and disturbed CSS, is located within Unit 6 of designated gnatcatcher critical habitat. The function of Unit 6 is to support a stable population of gnatcatchers and to provide connectivity between populations to the south in San Diego County and farther north in Orange County.

Vireos were observed at three locations in the vicinity of the project during focused surveys conducted in 2010 (LSA Associates, Inc. 2010b). Project Alternative 4b will result in the permanent loss of 0.07 ac of unoccupied degraded riparian scrub habitat that is located approximately 0.25 mi away from the vireo occupied areas.

The following measures have been incorporated into the project design to avoid and minimize impacts to the gnatcatcher and vireo:

1. A biologist (“Project Biologist”) approved by the Carlsbad Fish and Wildlife Office (CFWO) will be on site during: a) initial clearing and grubbing; and b) weekly during project construction within 61 meters (200 ft) of offsite gnatcatcher and vireo habitat to ensure compliance with all conservation measures. The Project Biologist will be familiar with gnatcatchers, vireos, and their habitat and will have experience monitoring these species. Caltrans will submit the biologist’s name, address, telephone number, and work schedule on the project to the CFWO prior to initiating project impacts. The biologist will be provided with a copy of this consultation.
2. Under the supervision of the Project Biologist, the limits of project impacts (including construction staging areas and access routes) will be clearly delineated with bright orange plastic fencing, stakes, flags, or markers that will be installed in a manner that does not impact habitats to be avoided and such that they are clearly visible to personnel on foot and operating heavy equipment. If work occurs beyond the fenced or demarcated limits of impact, all work will cease until the problem has been remedied to the satisfaction of the CFWO. Temporary construction fencing and markers will be removed upon project completion.
3. The clearing and grubbing of native habitats for the project will be conducted between September 1 and February 14 to avoid the gnatcatcher and vireo breeding season (or sooner

than September 1 if the Project Biologist demonstrates to the satisfaction of the CFWO that all nesting is complete). If vegetation clearing must be conducted during the breeding season, Caltrans will re-initiate consultation with the CFWO to address unanticipated effects to these species.

4. The Project Biologist will submit a final report to the CFWO within 120 days of project completion including photographs of impact areas and adjacent habitat, documentation that authorized impacts were not exceeded, and documentation that general compliance with all conservation measures was achieved. The report will specify numbers, locations, and sex of gnatcatchers and vireos (if observed), observed gnatcatcher and vireo behavior (especially in relation to project activities), and remedial measures employed to avoid and minimize impacts to gnatcatchers and vireos. Raw field notes should be available upon request by the CFWO.
5. An employee education program will be developed. Each employee (including temporary, contractors, and subcontractors) will receive a training/awareness program prior to working on the proposed project. They will be advised of the potential impact to the listed species and the potential penalties for taking such species. At a minimum, the program will include the following topics: occurrence of the listed and sensitive species in the area (including photographs), their general ecology, sensitivity of the species to human activities, legal protection afforded these species, penalties for violations of Federal and State laws, reporting requirements, and project features designed to reduce the impacts to these species and promote continued successful occupation of the project area.
6. Caltrans will ensure that the following conditions will be implemented with regard to project landscaping:
 - a. Caltrans will ensure that project landscaping does not include exotic plant species listed on the California Invasive Plant Council's (Cal-IPC) "Invasive Plant Inventory" list. A copy of the complete list can be obtained from Cal-IPC's web site at <http://www.cal-ipc.org>.
 - b. If invasive weed species are already growing within the project area, special care will be taken during transport, use, and disposal of soils containing invasive weed seeds to ensure that invasive weeds are not spread into new areas by the project. All heavy equipment will be washed and cleaned of debris prior to entering a new area to minimize the spread of invasive weeds. Eradication strategies will be implemented should an invasion of nonnative plant species occur.
 - c. The 0.32 ac CSS temporary impact area will be revegetated with native coastal sage scrub species. The proposed seed palette will be provided to the CFWO for review and approval prior to application in the field. A 3-year plant establishment period is proposed that will include exotic species removal and reapplication of seed as necessary.
7. Caltrans will ensure that the following conditions will be implemented during project construction.

- a. The project site will be kept as clean of debris as possible. All food-related trash items will be enclosed in sealed containers and regularly removed from the site.
- b. Pets of project personnel will not be allowed on the project site.
- c. Impacts from fugitive dust will be avoided and minimized through watering and other appropriate measures.
- d. Cut and fill will be balanced within the project or the construction contractor will identify the source or disposal location. All spoils and material disposal will be disposed of properly.
- e. Appropriate erosion and siltation controls will be installed prior to the onset of vegetation clearing and be maintained in good repair until the completion of project construction. Erosion and sediment control devices used for the proposed project, including fiber rolls and bonded fiber matrix, will be made from biodegradable materials such as jute, with no plastic mesh, to avoid creating a wildlife entanglement hazard.
- f. All equipment maintenance, staging, and dispensing of fuel, oil, coolant, or any other such activities will be restricted to designated disturbed/developed areas. These designated areas will be located in such a manner as to prevent run-off from entering existing native vegetation areas.
- g. Should construction occur within or adjacent to CSS or riparian habitats during the February 15 to August 31 gnatcatcher and vireo nesting season, all construction equipment, fixed or mobile, will be equipped with properly operating and maintained mufflers to reduce construction noise.
- h. All pile driving for the project that will occur near habitats that support gnatcatchers and vireos will be conducted between September 1 and February 14 to avoid the gnatcatcher and vireo breeding season (or sooner than September 1 if the Project Biologist demonstrates to the satisfaction of the CFWO that all nesting is complete) and to minimize construction noise impacts to nesting gnatcatchers and vireos.
- i. If nighttime construction is necessary, all project lighting (e.g., staging areas, equipment storage sites, roadway) will be selectively placed and directed onto the roadway or construction site and away from sensitive habitats. Light glare shields will be used to reduce the extent of illumination into sensitive habitats.

Temporary indirect impacts may occur to gnatcatcher and vireo as a result of noise, night lighting, introduction of invasive species, dust, erosion, sedimentation, and human encroachment resulting from the project. Noise and vibrations associated with the use of heavy equipment during construction of the proposed project has the potential to disrupt vireo and gnatcatcher nesting and foraging behaviors in adjacent habitat by masking intraspecific communication and startling birds

(e.g., see Dooling and Popper 2007 for a discussion of observed effects of highway noise on birds). Gnatcatchers and vireos that nest and forage in habitats adjacent to the existing I-5 freeway are subjected to existing noise and vibration and continue to use the habitat. Once construction is complete, project operations are anticipated to result no change in noise levels (LSA Associates, Inc. 2010c). In addition, measures (listed above) have been incorporated into the project to reduce the effects of construction noise on essential vireo and gnatcatcher behaviors (breeding, feeding, sheltering) to the level of insignificance. For the purposes of section 7 consultation, an insignificant effect is one that is sufficiently small that a person would not be able to meaningfully measure, detect, or evaluate it.

Construction and operational lighting has the potential to affect gnatcatchers and vireos. Light that alters natural light patterns in ecosystems can lead to increased predation, disorientation, and disruption of inter-specific interactions (Longcore and Rich 2004). Measures (listed above) will be implemented by Caltrans to reduce the impacts of lighting on gnatcatcher and vireo behavior in the adjacent habitat to the level of insignificance. The project has also incorporated measures (listed above) to prevent the introduction and spread of invasive species, and to minimize construction dust, erosion, sedimentation, and human encroachment into the adjacent habitat. I-5 is an existing facility, so with the proposed measures, any increase in habitat degradation associated with these factors is likely to be insignificant.

The primary constituent elements of designated gnatcatcher critical habitat consist of CSS and other vegetation communities necessary to support core gnatcatcher populations and provide connectivity within populations. The temporary impacts to 0.018 ac of unoccupied ornamentals and disturbed CSS on the edge of Unit 6 of designated gnatcatcher critical habitat will not affect the function of the unit to support a stable population of gnatcatchers and to provide connectivity between populations to the south in San Diego County and farther north in Orange County. With the incorporation of the above measures, the proposed project impacts on the primary constituent elements in Unit 6 of gnatcatcher critical habitat are considered to be insignificant.

Because the above measures have been incorporated into the project, we concur with your determination that the proposed project is not likely to adversely affect the vireo and gnatcatcher and its designated critical habitat. We base our concurrence on the following reasons: 1) no direct permanent or temporary impacts to vireo and gnatcatcher occupied habitat will occur; 2) the permanent loss of 0.4 ac unoccupied CSS and 0.07 ac unoccupied riparian scrub and the temporary loss of 0.32 ac of unoccupied CSS, including 0.018 ac of disturbed CSS and ornamentals within gnatcatcher critical habitat, is not anticipated to significantly interfere with essential gnatcatcher and vireo breeding, feeding, or sheltering behaviors; 3) construction activities will be modified to limit noise, night lighting, introduction of invasive species, dust, erosion, sedimentation, and human encroachment disturbance to gnatcatchers and vireos as described in the measures above to ensure that gnatcatcher and vireo breeding, feeding and sheltering activities in the adjacent habitat are not substantially disrupted. In addition, the project's temporary impact areas will be restored, which will support the survival and recovery of these species.

Therefore, the interagency consultation requirements of section 7 of the Act have been satisfied. Although our concurrence ends informal consultation, obligations under section 7 of the Act will be

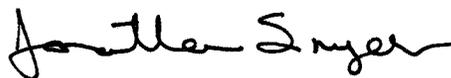
reconsidered if new information reveals effects of the agency action that may affect listed species or critical habitat in a manner or to an extent not previously considered or this action is subsequently modified in a manner that was not considered in this assessment.

This document does not authorize take under the Migratory Bird Treaty Act (MBTA) of 1918, as amended (16 U.S.C. §§ 703-712). In order to avoid violation of the MBTA, Caltrans will avoid take of active nests through implementation of the following measures:

- In order to avoid impacts to nesting birds, any native or exotic vegetation removal, tree trimming activities, or bridge demolition will occur outside of the nesting season. The nesting season is from February 15 to August 31. In the event that vegetation clearing is necessary during the nesting season, a qualified biologist will conduct a preconstruction survey to identify the locations of nests. Should nesting birds be found, an exclusionary buffer will be established by the biologist. This buffer will be clearly marked in the field by construction personnel under the guidance of the biologist, and construction or clearing will not be conducted in this zone until the biologist determines that the young have fledged or the nest is no longer active.
- To prevent project effects to bridge- and crevice-nesting birds (i.e., swifts and swallows), all work on existing bridges with potential habitat that is conducted between February 15 and October 31 will include the removal of all bird nests prior to construction under the guidance and observation of a qualified biologist. Removal will occur prior to February 1 of that year, before the swallow colony returns to the nesting site. Removal of swallow nests that are under construction must be repeated as frequently as necessary to prevent nest completion or until a nest exclusion device is installed (such as netting or a similar mechanism that keeps birds from building nests). Nest removal and exclusion device installation will be monitored by a qualified biologist. Such exclusion efforts must be continued to keep the structures free of swallows until September or the completion of construction. All nest exclusion techniques will be coordinated between the Caltrans District Biologist and the resource agencies.

Thank you for your coordination on this project. If you have any questions regarding this letter, please contact Sally Brown of my staff at (760) 431-9440, extension 278.

Sincerely,



for Karen A. Goebel
Assistant Field Supervisor

Literature Cited:

- California Department of Transportation (Caltrans). 2010. I-5 HOV Lane Extension Project Natural Environmental Study I-5 Between Avenida Pico and San Juan Creek Road 12-ORA-05 (PM 3.0/8.7). 90+pp.
- Dooling, R. J. and A. N. Popper. 2007. The effects of highway noise on birds. Prepared by Environmental BioAcoustics LLC for the California Department of Transportation, Sacramento, California. 74 pp.
- Longcore, T. and C. Rich. 2004. Ecological light pollution. *Front Ecological Environment* 2(4):191-198.
- LSA Associates, Inc. 2010a. Coastal California Gnatcatcher Winter Survey Results: Interstate-5 High Occupancy Vehicle (HOV) Lane Extension Project, October 2009–January 2010. 3+pp.
- LSA Associates, Inc. 2010b. Least Bell's Vireo Survey Results: Interstate 5 High-Occupancy Vehicle Lane Extension Project, April–July 2010. 3+pp.
- LSA Associates, Inc. 2010c. Noise Study Report I-5 HOV Lane Addition Project.



Larry Simon
<lsimon@coastal.ca.gov>
08/26/2011 10:28 AM

To Smita Deshpande <smita_deshpande@dot.ca.gov>
cc <scott_shelley@dot.ca.gov>, <chris_flynn@dot.ca.gov>, Karl
Schwing <kschwing@coastal.ca.gov>
bcc

Subject RE: Requirements for Federal Consistency Determination

Smita,

The Coastal Commission staff concurs that this level of coordination for the activity described below is adequate to satisfy federal Coastal Zone Management Act coordination responsibilities. Submittal of a consistency certification by Caltrans for the proposed HOV project in the City of Dana Point is not necessary. Please contact me should you have any additional questions regarding this matter. Best regards,

Larry Simon
Federal Consistency Coordinator
Energy, Ocean Resources and Federal Consistency Division
California Coastal Commission
45 Fremont St., Suite 2000
San Francisco, CA 94105
(415) 904-5288
lsimon@coastal.ca.gov
www.coastal.ca.gov

-----Original Message-----

From: Smita Deshpande [mailto:smita_deshpande@dot.ca.gov]
Sent: Thursday, July 28, 2011 2:44 PM
To: Larry Simon; chris_flynn@dot.ca.gov
Cc: scott_shelley@dot.ca.gov
Subject: RE: Requirements for Federal Consistency Determination

Larry - Thanks very much for your guidance. We look forward for your approval on this project so we can move forward. I am ccing Chris Flynn, so if you have any questions he should be able to help. He is our coastal contact and has worked extensively with Karl Schwing. Chirs can be reached at (949)724-2243 incase you have questions.

Chris - Larry will be discussing with Karl on Monday about this project. He will either send us a letter of concurrence or if they think we need to do more, they will let us know. He may contact you if he needs more information. Once you get the letter of concurrence, can you send it to the project team so they can move forward.

Thanks

Smita Deshpande, Branch Chief
Division of Environmental Analysis, Branch 'A'
Caltrans District 12
(949) 724-2245

Smita
Deshpande/D12/Cal
trans/CAGov
07/28/2011 11:27 AM
To
Larry Simon <lsimon@coastal.ca.gov>
cc
scott_shelley@dot.ca.gov
Subject
RE: Requirements for Federal
Consistency Determination(Document
link: Smita Deshpande)

Thanks Larry for your quick response. We were in the process of making a negative determination for this project. You may or may not know but Caltrans has been delegated all NEPA responsibilities for FHWA. The environmental review, consultation, and any other action required in accordance with applicable Federal laws for this project is being, or has been, carried out by Caltrans under its assumption of responsibility pursuant to 23 USC 327. So it would be Caltrans filing a Negative determination not FHWA.

However, we began drafting a letter for requesting a negative determination (see attached file ccc negativedeterminationrequest.doc). Also attached are the following files. You will see that the area within the coastal

zone is very minimal and therefore we already received an exemption from Dana Point. We are in the process of finalizing this document (ND/FONSI), but this issue came up and wanted to make sure that we are doing the right thing. I am hoping that we have to do nothing due to the minor nature of encroachment.

I will call you this afternoon to discuss but wanted you to have something prior to our discussion.

Thanks very much for your help!

Attachments:

1. Letter from Caltrans to CCC requesting a negative determination
2. Description of Alternative 4
3. Figure 1-1 Regional Location
4. Figure 1-2 Coastal Zone Boundary
5. Coastal Zone Exemption Letter - City of Dana Point

[attachment "CCC-negdeterminationrequest.doc" deleted by Smita Deshpande/D12/Caltrans/CAGov] [attachment "Alternative 4 Description.doc" deleted by Smita Deshpande/D12/Caltrans/CAGov] [attachment "CDP Exemption (3-25-11) Caltrans.pdf" deleted by Smita Deshpande/D12/Caltrans/CAGov] [attachment "CoastalZoneBdy.pdf" deleted by Smita Deshpande/D12/Caltrans/CAGov] [attachment "Fig_1_regional_location.pdf" deleted by Smita Deshpande/D12/Caltrans/CAGov]

Smita Deshpande, Branch Chief
Division of Environmental Analysis, Branch 'A'
Caltrans District 12
(949) 724-2245

Larry Simon
<lsimon@coastal.ca.gov>

To

Smita Deshpande
07/28/2011 08:49 AM <smita_deshpande@dot.ca.gov>
cc

Subject
RE: Requirements for Federal
Consistency Determination

A negative determination would be filed only by a federal government agency. Caltrans may need to file a consistency certification or a no-effects determination, or perhaps nothing at all. I would first send us a map illustrating the location of your project in relation to the coastal zone, a very brief project description, and a copy of the exemption you received from the local government. We can then determine what type of federal consistency review is required, if any, for your project.

Regarding your second question, federal agency activities/projects within or outside the coastal zone that hold the potential to affect coastal zone resources must undergo federal consistency review, through submittal to the Commission of either a consistency or negative determination. The Commission then either concurs or objects to the agency's determination. For non-federal projects that require federal permits/approvals (or occasionally, funding) and that are located within or outside the coastal zone and hold the potential to affect coastal zone resources, submittal of a consistency certification (or no-effects determination) to the Commission may be required. Oftentimes, a coastal development permit (CDP) from the Commission is also needed for a project and that permit review serves as federal consistency review. In other situations, a local-government-issued CDP is needed; that permit does NOT serve as federal consistency review. If that permit is appealable to the Commission, the appeal process may end up serving as the vehicle for federal consistency review, if there are unresolved coastal resource issues. It all depends on the particulars of a project. Consultation with the Commission's federal consistency unit is helpful early on in the process to identify what type of federal consistency review might be required.

Give me a call if you'd like to discuss further. I hope this helps.
Regards,

Larry Simon
Federal Consistency Coordinator
Energy, Ocean Resources and Federal Consistency Division
California Coastal Commission
45 Fremont St., Suite 2000
San Francisco, CA 94105
(415) 904-5288
lsimon@coastal.ca.gov
www.coastal.ca.gov

-----Original Message-----

From: Smita Deshpande [mailto:smita_deshpande@dot.ca.gov]
Sent: Wednesday, July 27, 2011 10:47 PM
To: Larry Simon
Cc: scott_shelley@dot.ca.gov
Subject: Requirements for Federal Consistency Determination

Hello Larry - I work for Caltrans and we are doing a HOV Project on I 5. A FONSI is being prepared. A very very small section falls with the coastal zone and we have received an exemption as part of the City's local programs. . There are minimum impacts to water resources, My question is do we need to apply for a negative determination? Another question do all projects that are subject to federal approval and are within the coastal zone need either a Federal consistency determination or negative determination?

Smita Deshpande, Branch Chief
Division of Environmental Analysis, Branch 'A'
Caltrans District 12
(949) 724-2245



United States Department of the Interior



FISH AND WILDLIFE SERVICE

Ecological Services
Carlsbad Fish and Wildlife Office
6010 Hidden Valley Road, Suite 101
Carlsbad, California 92011

AUG 18 2011

In Reply Refer To:
FWS-OR-09B0458-11SL0525

Chris Flynn
Branch Chief
Environmental Planning
Department of Transportation
3347 Michelson Drive, Suite 100
Irvine, California 92612-8894

Attention: Kedest Ketsela, Associate Environmental Planner

Subject: Request for a List of Proposed, Threatened, and Endangered Species, and Critical Habitats Occurring in the Vicinity of the I-5 HOV Lane Extension Project, Cites of San Clemente, Dana Point, and San Juan Capistrano, Orange County, California

Dear Mr. Flynn:

This letter is in response to your request, received by our office on December 8, 2010, for information on federally endangered, threatened, proposed, and candidate species that may occur in the vicinity of Interstate 5 (I-5) High Occupancy Vehicle (HOV) Lane Extension Project. The project site is located along I-5 between Avenida Pico and San Juan Creek Road in the Cites of San Clemente, Dana Point, and San Juan Capistrano, Orange County, California. The project proposes to extend the HOV lanes in both directions from State Route 1 to Avenida Pico. To assist you in evaluating the potential occurrence of federally listed endangered, threatened, proposed, and candidate species that may occur in the vicinity of the proposed action, we are providing the enclosed list.

Because we do not have site-specific information for the proposed project, we recommend that you seek assistance from a biologist familiar with the habitat conditions and associated species in and around the project site to assess the actual potential for direct, indirect, and cumulative impacts likely to result from the proposed activity. We also suggest that you contact the California Department of Fish and Game regarding State-listed and sensitive species that may occur within the project area. Please note that State-listed species are protected under the provisions of the California Endangered Species Act.

As a reminder, if a proposed project is authorized, funded, or carried out by a Federal agency and may affect a federally listed species, then section 7 consultation pursuant to the Endangered Species Act of 1973 (Act), as amended, is required. If a proposed project does not involve a

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Mr. Chris Flynn (FWS-OR-09B0458-11SL0525)

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Federal agency, but is likely to result in the take of a listed animal species, then the project proponent should apply for an incidental take permit, pursuant to section 10 of the Act.

Please note that the Carlsbad Fish and Wildlife Office is hosting all critical habitat GIS data within our jurisdictional area on our website at <http://www.fws.gov/carlsbad>. Select the GIS DATA link to access current critical habitat layers.

Should you have any questions regarding the species listed or your responsibilities under the Act, please contact Sally Brown of this office at (760) 431-9440, extension 278.

Sincerely,



ba Karen A. Goebel
Assistant Field Supervisor

Enclosure

**Federally Endangered, Threatened, Proposed, and Candidate Species and Critical Habitat
that Occur in the Vicinity of the I-5 HOV Lane Extension Project, Orange
County, California
August 18, 2011**

Common Name	Scientific Name	Federal Status	Critical Habitat
<u>Plants</u>			
thread-leaved brodiaea	<i>Brodiaea filifolia</i>	threatened	none
<u>Invertebrates</u>			
Riverside fairy shrimp	<i>Streptocephalus woottoni</i>	endangered	none
<u>Fish</u>			
tidewater goby	<i>Eucyclogobius newberryi</i>	endangered	none
southern steelhead	<i>Oncorhynchus mykiss</i>	endangered	present
<u>Amphibians</u>			
arroyo toad	<i>Bufo californicus</i>	endangered	none
<u>Birds</u>			
western snowy plover	<i>Charadrius alexandrinus nivosus</i>	threatened	none
southwestern willow flycatcher	<i>Empidonax traillii extimus</i>	endangered	none
coastal California gnatcatcher	<i>Polioptila californica californica</i>	threatened	present
California least tern	<i>Sternula antillarum browni</i>	endangered	N/A*
least Bell's vireo	<i>Vireo bellii pusillus</i>	endangered	none

* N/A = Not Applicable