

From: [Adam Rush](#)
To: [Dionisios Glentis](#)
Cc: [Mark De Manincor](#)
Subject: Fwd: APN 532110001-003
Date: Friday, April 22, 2022 3:33:57 PM
Attachments: [image001.png](#)

Sincerely,

Adam B. Rush, M.A., AICP
Community Development Director

City of Banning

[99 Ramsey Street](#)

[Banning, CA, 92220](#)

Office: [\(951\) 922-3131](#)

Fax: [\(951\) 922-3128](#)

Cell: [\(760\) 219-2791](#)

Email: arush@banningca.gov

www.banningca.gov

Begin forwarded message:

From: "Vega, Jaqueline" <JaVega@rivco.org>
Date: April 22, 2022 at 3:15:13 PM PDT
To: Adam Rush <arush@banningca.gov>
Subject: APN 532110001-003

Hello Adam,

Thank you for transmitting the above reference project to ALUC for review. Please note that the proposed project is located within zone D of Banning Municipal AIA, and review by ALUC is required because the City of Banning is not yet consistent with the Banning ALUCP.

I did not see a case number and can not tell if this is pre-application or not, however, please note we do not review pre-applications, but at time of submittal it will require ALUC review.

Jackie Vega
Urban Regional Planner I

image001.png



Confidentiality Disclaimer

This email is confidential and intended solely for the use of the individual(s) to whom it is addressed. The information contained in this message may be privileged and confidential and protected from disclosure. If you are not the author's intended recipient, be advised that you have received this email in error and that any use, dissemination, forwarding, printing, or copying of this email is strictly prohibited. If you have received this email in error please delete all copies, both electronic and printed, and contact the author immediately.

[County of Riverside California](#)



Protecting People and the Environment

County of Riverside
DEPARTMENT OF ENVIRONMENTAL HEALTH

P.O. BOX 7909 • RIVERSIDE, CA 92513-7909
JEFF JOHNSON, DIRECTOR

April 22, 2022

City of Banning
Attn: Adam Rush
99 E. Ramsey Street
Banning CA 92220

SUBJECT: NOP DEIR - FIRST HATHAWAY LOGISTICS PROJECT-

Dear Mr. Rush:

City of Banning is responsible for implementing the requirements of CEQA^[1] for planning projects within their jurisdiction. To ensure compliance with CEQA^[2], City of Banning Planners distribute projects to the appropriate Agencies/Departments for review by staff with the specific knowledge and experience to evaluate projects for compliance with State and Local laws/regulations specific to their department and areas of expertise.

Proper review of proposed projects by appropriate staff ensures compliance with state and local laws and regulations as well as provides protection for the citizens of Riverside County and the environment from potential adverse effects of a project.

Based on the project description, Department of Environmental Health (DEH) has the following comments:

REVIEW FEES

For DEH to conduct a review of the project, please refer to the attached "Environmental Health Review Fees" Tier chart for the appropriate fees. The minimum initial deposit shall be \$1337.00. Additional fees may be required depending on time spent on the project. These fees will need to be collected prior to this Department issuing a final project comments letter.

^[1] The California Environmental Quality Act (CEQA) CCR Title 14 15065 is a statute that requires state and local agencies to determine whether a project may have a significant effect on the environment.

^[2] A project is an activity which must receive some discretionary approval (meaning that the agency has the authority to deny the requested permit or approval) from a government agency which may cause either a direct physical change in the environment or a reasonably foreseeable indirect change in the environment.

WATER AND WASTEWATER:

Provide information about water source and sanitary sewer service. Include supporting documentation if service is being established from a municipal purveyor.

ENVIRONMENTAL CLEANUPS PROGRAM (ECP)

The Department of Environmental Health Environmental Cleanup Programs (ECP) conducts environmental reviews on planning projects to ensure that existing site conditions will not negatively affect human health or the environment. The intent of the environmental review is to determine if there are potential sources of environmental and/or human exposures associated with the project, identify the significance of potential adverse effects from the contaminants, and evaluate the adequacy of mitigation measures for minimizing exposures and potential adverse effects from existing contamination and/or hazardous substance handling. Please note that an Environmental Site Assessment, Phase I study may be required based on project review. For further information, please contact ECP at 951-955-8980.

Should you have any questions regarding this letter, please contact me at (951) 955-8980.

Sincerely,

Kristine Kim, Supervising REHS
County of Riverside, Department of Environmental Health
Environmental Protection and Oversight Division
3880 North Lemon Street, Suite 200
Riverside, CA 92501



County of Riverside
DEPARTMENT OF ENVIRONMENTAL HEALTH

P.O. BOX 7909 • RIVERSIDE, CA 92513-7909
 JEFF JOHNSON, DIRECTOR

Environmental Health Review Fees
 (Planning Case Transmittals for Contracted Cities)

DESCRIPTION	FEE
<p>Tier 1 - Water and Sewer verification review</p> <ul style="list-style-type: none"> • Will Serve Letter • Onsite Wastewater Treatment Systems • Advance Treatment Units • Solis Percolation Report • Issuance of a SAN 53 and/or Comments Letter • Wells <p>Average time 3 hours for review</p>	\$573.00
<p>Tier 2 - Phase I Environmental Site Assessment (ESA) review or additional report reviews,</p> <ul style="list-style-type: none"> • Review of items aforementioned in Tier 1 <p>Average time 7 hours for review</p>	\$1337.00
<p>Tier 3 - Phase II Environmental Site Assessment (ESA) review and additional report reviews,</p> <ul style="list-style-type: none"> • Review of items aforementioned in Tier 1 and Tier 2 <p>Average time 10 hours for review</p>	\$1910.00

NOTES TO FEE SCHEDULE:

- The fees noted in the fee schedule are minimum fees to be paid at the time of application filing to cover the average Department cost of review. A signed agreement for payment of application processing fees between the Department and the applicant shall be required at the time of application filing. Should actual costs exceed the amount of the fee, the applicant will be billed for additional costs. Services are charged at a rate of \$191/hour.
- An hourly rate of \$191 shall be charged for other development-related fees which may be required, but are not necessarily limited to, well, and septic system fees.
- The Department reserves the right to charge actual cost (at a rate of \$191/hour) on large, complex, unusual, and/or time consuming projects in order to ensure that the fee will cover the actual cost of service.
- An application shall be filled with the Planning Department of the Contracted city prior to submitting any items listed above to this Department for Review. Please provide a copy of the Planning Case transmittal to this Department.

Rev 02/08/22

NATIVE AMERICAN HERITAGE COMMISSION

April 26, 2022

Adam Rush
City of Banning
99 E. Ramsey Street
Banning, CA 92220

Re: 2022040441, First Hathaway Logistics Project, Riverside County

Dear Mr. Rush:

The Native American Heritage Commission (NAHC) has received the Notice of Preparation (NOP), Draft Environmental Impact Report (DEIR) or Early Consultation for the project referenced above. The California Environmental Quality Act (CEQA) (Pub. Resources Code §21000 et seq.), specifically Public Resources Code §21084.1, states that a project that may cause a substantial adverse change in the significance of a historical resource, is a project that may have a significant effect on the environment. (Pub. Resources Code § 21084.1; Cal. Code Regs., tit.14, § 15064.5 (b) (CEQA Guidelines §15064.5 (b))). If there is substantial evidence, in light of the whole record before a lead agency, that a project may have a significant effect on the environment, an Environmental Impact Report (EIR) shall be prepared. (Pub. Resources Code §21080 (d); Cal. Code Regs., tit. 14, § 5064 subd.(a)(1) (CEQA Guidelines §15064 (a)(1))). In order to determine whether a project will cause a substantial adverse change in the significance of a historical resource, a lead agency will need to determine whether there are historical resources within the area of potential effect (APE).

CEQA was amended significantly in 2014. Assembly Bill 52 (Gatto, Chapter 532, Statutes of 2014) (AB 52) amended CEQA to create a separate category of cultural resources, "tribal cultural resources" (Pub. Resources Code §21074) and provides that a project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource is a project that may have a significant effect on the environment. (Pub. Resources Code §21084.2). Public agencies shall, when feasible, avoid damaging effects to any tribal cultural resource. (Pub. Resources Code §21084.3 (a)). **AB 52 applies to any project for which a notice of preparation, a notice of negative declaration, or a mitigated negative declaration is filed on or after July 1, 2015.** If your project involves the adoption of or amendment to a general plan or a specific plan, or the designation or proposed designation of open space, on or after March 1, 2005, it may also be subject to Senate Bill 18 (Burton, Chapter 905, Statutes of 2004) (SB 18). **Both SB 18 and AB 52 have tribal consultation requirements.** If your project is also subject to the federal National Environmental Policy Act (42 U.S.C. § 4321 et seq.) (NEPA), the tribal consultation requirements of Section 106 of the National Historic Preservation Act of 1966 (154 U.S.C. 300101, 36 C.F.R. §800 et seq.) may also apply.

The NAHC recommends consultation with California Native American tribes that are traditionally and culturally affiliated with the geographic area of your proposed project as early as possible in order to avoid inadvertent discoveries of Native American human remains and best protect tribal cultural resources. Below is a brief summary of portions of AB 52 and SB 18 as well as the NAHC's recommendations for conducting cultural resources assessments.

Consult your legal counsel about compliance with AB 52 and SB 18 as well as compliance with any other applicable laws.



CHAIRPERSON
Laura Miranda
Luiseño

VICE CHAIRPERSON
Reginald Pagaling
Chumash

PARLIAMENTARIAN
Russell Attebery
Karuk

SECRETARY
Sara Dutschke
Miwok

COMMISSIONER
William Mungary
Paiute/White Mountain
Apache

COMMISSIONER
Isaac Bojorquez
Ohlone-Costanoan

COMMISSIONER
Buffy McQuillen
Yokayo Pomo, Yuki,
Nomlaki

COMMISSIONER
Wayne Nelson
Luiseño

COMMISSIONER
Stanley Rodriguez
Kumeyaay

EXECUTIVE SECRETARY
Raymond C. Hitchcock
Miwok/Nisenan

NAHC HEADQUARTERS
1550 Harbor Boulevard
Suite 100
West Sacramento,
California 95691
(916) 373-3710
nahc@nahc.ca.gov
NAHC.ca.gov



AB 52 has added to CEQA the additional requirements listed below, along with many other requirements:

- 1. Fourteen Day Period to Provide Notice of Completion of an Application/Decision to Undertake a Project:** Within fourteen (14) days of determining that an application for a project is complete or of a decision by a public agency to undertake a project, a lead agency shall provide formal notification to a designated contact of, or tribal representative of, traditionally and culturally affiliated California Native American tribes that have requested notice, to be accomplished by at least one written notice that includes:
 - a.** A brief description of the project.
 - b.** The lead agency contact information.
 - c.** Notification that the California Native American tribe has 30 days to request consultation. (Pub. Resources Code §21080.3.1 (d)).
 - d.** A "California Native American tribe" is defined as a Native American tribe located in California that is on the contact list maintained by the NAHC for the purposes of Chapter 905 of Statutes of 2004 (SB 18). (Pub. Resources Code §21073).

- 2. Begin Consultation Within 30 Days of Receiving a Tribe's Request for Consultation and Before Releasing a Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report:** A lead agency shall begin the consultation process within 30 days of receiving a request for consultation from a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project. (Pub. Resources Code §21080.3.1, subs. (d) and (e)) and prior to the release of a negative declaration, mitigated negative declaration or Environmental Impact Report. (Pub. Resources Code §21080.3.1 (b)).
 - a.** For purposes of AB 52, "consultation shall have the same meaning as provided in Gov. Code §65352.4 (SB 18). (Pub. Resources Code §21080.3.1 (b)).

- 3. Mandatory Topics of Consultation If Requested by a Tribe:** The following topics of consultation, if a tribe requests to discuss them, are mandatory topics of consultation:
 - a.** Alternatives to the project.
 - b.** Recommended mitigation measures.
 - c.** Significant effects. (Pub. Resources Code §21080.3.2 (a)).

- 4. Discretionary Topics of Consultation:** The following topics are discretionary topics of consultation:
 - a.** Type of environmental review necessary.
 - b.** Significance of the tribal cultural resources.
 - c.** Significance of the project's impacts on tribal cultural resources.
 - d.** If necessary, project alternatives or appropriate measures for preservation or mitigation that the tribe may recommend to the lead agency. (Pub. Resources Code §21080.3.2 (a)).

- 5. Confidentiality of Information Submitted by a Tribe During the Environmental Review Process:** With some exceptions, any information, including but not limited to, the location, description, and use of tribal cultural resources submitted by a California Native American tribe during the environmental review process shall not be included in the environmental document or otherwise disclosed by the lead agency or any other public agency to the public, consistent with Government Code §6254 (r) and §6254.10. Any information submitted by a California Native American tribe during the consultation or environmental review process shall be published in a confidential appendix to the environmental document unless the tribe that provided the information consents, in writing, to the disclosure of some or all of the information to the public. (Pub. Resources Code §21082.3 (c)(1)).

- 6. Discussion of Impacts to Tribal Cultural Resources in the Environmental Document:** If a project may have a significant impact on a tribal cultural resource, the lead agency's environmental document shall discuss both of the following:
 - a.** Whether the proposed project has a significant impact on an identified tribal cultural resource.
 - b.** Whether feasible alternatives or mitigation measures, including those measures that may be agreed to pursuant to Public Resources Code §21082.3, subdivision (a), avoid or substantially lessen the impact on the identified tribal cultural resource. (Pub. Resources Code §21082.3 (b)).

- 7. Conclusion of Consultation:** Consultation with a tribe shall be considered concluded when either of the following occurs:
- a.** The parties agree to measures to mitigate or avoid a significant effect, if a significant effect exists, on a tribal cultural resource; or
 - b.** A party, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached. (Pub. Resources Code §21080.3.2 (b)).
- 8. Recommending Mitigation Measures Agreed Upon in Consultation in the Environmental Document:** Any mitigation measures agreed upon in the consultation conducted pursuant to Public Resources Code §21080.3.2 shall be recommended for inclusion in the environmental document and in an adopted mitigation monitoring and reporting program, if determined to avoid or lessen the impact pursuant to Public Resources Code §21082.3, subdivision (b), paragraph 2, and shall be fully enforceable. (Pub. Resources Code §21082.3 (a)).
- 9. Required Consideration of Feasible Mitigation:** If mitigation measures recommended by the staff of the lead agency as a result of the consultation process are not included in the environmental document or if there are no agreed upon mitigation measures at the conclusion of consultation, or if consultation does not occur, and if substantial evidence demonstrates that a project will cause a significant effect to a tribal cultural resource, the lead agency shall consider feasible mitigation pursuant to Public Resources Code §21084.3 (b). (Pub. Resources Code §21082.3 (e)).
- 10. Examples of Mitigation Measures That, If Feasible, May Be Considered to Avoid or Minimize Significant Adverse Impacts to Tribal Cultural Resources:**
- a.** Avoidance and preservation of the resources in place, including, but not limited to:
 - i.** Planning and construction to avoid the resources and protect the cultural and natural context.
 - ii.** Planning greenspace, parks, or other open space, to incorporate the resources with culturally appropriate protection and management criteria.
 - b.** Treating the resource with culturally appropriate dignity, taking into account the tribal cultural values and meaning of the resource, including, but not limited to, the following:
 - i.** Protecting the cultural character and integrity of the resource.
 - ii.** Protecting the traditional use of the resource.
 - iii.** Protecting the confidentiality of the resource.
 - c.** Permanent conservation easements or other interests in real property, with culturally appropriate management criteria for the purposes of preserving or utilizing the resources or places.
 - d.** Protecting the resource. (Pub. Resource Code §21084.3 (b)).
 - e.** Please note that a federally recognized California Native American tribe or a non-federally recognized California Native American tribe that is on the contact list maintained by the NAHC to protect a California prehistoric, archaeological, cultural, spiritual, or ceremonial place may acquire and hold conservation easements if the conservation easement is voluntarily conveyed. (Civ. Code §815.3 (c)).
 - f.** Please note that it is the policy of the state that Native American remains and associated grave artifacts shall be repatriated. (Pub. Resources Code §5097.991).
- 11. Prerequisites for Certifying an Environmental Impact Report or Adopting a Mitigated Negative Declaration or Negative Declaration with a Significant Impact on an Identified Tribal Cultural Resource:** An Environmental Impact Report may not be certified, nor may a mitigated negative declaration or a negative declaration be adopted unless one of the following occurs:
- a.** The consultation process between the tribes and the lead agency has occurred as provided in Public Resources Code §21080.3.1 and §21080.3.2 and concluded pursuant to Public Resources Code §21080.3.2.
 - b.** The tribe that requested consultation failed to provide comments to the lead agency or otherwise failed to engage in the consultation process.
 - c.** The lead agency provided notice of the project to the tribe in compliance with Public Resources Code §21080.3.1 (d) and the tribe failed to request consultation within 30 days. (Pub. Resources Code §21082.3 (d)).

The NAHC's PowerPoint presentation titled, "Tribal Consultation Under AB 52: Requirements and Best Practices" may be found online at: http://nahc.ca.gov/wp-content/uploads/2015/10/AB52TribalConsultation_CalEPAPDF.pdf

SB 18

SB 18 applies to local governments and requires local governments to contact, provide notice to, refer plans to, and consult with tribes prior to the adoption or amendment of a general plan or a specific plan, or the designation of open space. (Gov. Code §65352.3). Local governments should consult the Governor's Office of Planning and Research's "Tribal Consultation Guidelines," which can be found online at: https://www.opr.ca.gov/docs/09_14_05_Updated_Guidelines_922.pdf.

Some of SB 18's provisions include:

1. **Tribal Consultation:** If a local government considers a proposal to adopt or amend a general plan or a specific plan, or to designate open space it is required to contact the appropriate tribes identified by the NAHC by requesting a "Tribal Consultation List." If a tribe, once contacted, requests consultation the local government must consult with the tribe on the plan proposal. **A tribe has 90 days from the date of receipt of notification to request consultation unless a shorter timeframe has been agreed to by the tribe.** (Gov. Code §65352.3 (a)(2)).
2. **No Statutory Time Limit on SB 18 Tribal Consultation.** There is no statutory time limit on SB 18 tribal consultation.
3. **Confidentiality:** Consistent with the guidelines developed and adopted by the Office of Planning and Research pursuant to Gov. Code §65040.2, the city or county shall protect the confidentiality of the information concerning the specific identity, location, character, and use of places, features and objects described in Public Resources Code §5097.9 and §5097.993 that are within the city's or county's jurisdiction. (Gov. Code §65352.3 (b)).
4. **Conclusion of SB 18 Tribal Consultation:** Consultation should be concluded at the point in which:
 - a. The parties to the consultation come to a mutual agreement concerning the appropriate measures for preservation or mitigation; or
 - b. Either the local government or the tribe, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached concerning the appropriate measures of preservation or mitigation. (Tribal Consultation Guidelines, Governor's Office of Planning and Research (2005) at p. 18).

Agencies should be aware that neither AB 52 nor SB 18 precludes agencies from initiating tribal consultation with tribes that are traditionally and culturally affiliated with their jurisdictions before the timeframes provided in AB 52 and SB 18. For that reason, we urge you to continue to request Native American Tribal Contact Lists and "Sacred Lands File" searches from the NAHC. The request forms can be found online at: <http://nahc.ca.gov/resources/forms/>.

NAHC Recommendations for Cultural Resources Assessments

To adequately assess the existence and significance of tribal cultural resources and plan for avoidance, preservation in place, or barring both, mitigation of project-related impacts to tribal cultural resources, the NAHC recommends the following actions:

1. Contact the appropriate regional California Historical Research Information System (CHRIS) Center (http://ohp.parks.ca.gov/?page_id=1068) for an archaeological records search. The records search will determine:
 - a. If part or all of the APE has been previously surveyed for cultural resources.
 - b. If any known cultural resources have already been recorded on or adjacent to the APE.
 - c. If the probability is low, moderate, or high that cultural resources are located in the APE.
 - d. If a survey is required to determine whether previously unrecorded cultural resources are present.
2. If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.
 - a. The final report containing site forms, site significance, and mitigation measures should be submitted immediately to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum and not be made available for public disclosure.
 - b. The final written report should be submitted within 3 months after work has been completed to the appropriate regional CHRIS center.

3. Contact the NAHC for:
 - a. A Sacred Lands File search. Remember that tribes do not always record their sacred sites in the Sacred Lands File, nor are they required to do so. A Sacred Lands File search is not a substitute for consultation with tribes that are traditionally and culturally affiliated with the geographic area of the project's APE.
 - b. A Native American Tribal Consultation List of appropriate tribes for consultation concerning the project site and to assist in planning for avoidance, preservation in place, or, failing both, mitigation measures.

4. Remember that the lack of surface evidence of archaeological resources (including tribal cultural resources) does not preclude their subsurface existence.
 - a. Lead agencies should include in their mitigation and monitoring reporting program plan provisions for the identification and evaluation of inadvertently discovered archaeological resources per Cal. Code Regs., tit. 14, §15064.5(f) (CEQA Guidelines §15064.5(f)). In areas of identified archaeological sensitivity, a certified archaeologist and a culturally affiliated Native American with knowledge of cultural resources should monitor all ground-disturbing activities.
 - b. Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the disposition of recovered cultural items that are not burial associated in consultation with culturally affiliated Native Americans.
 - c. Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the treatment and disposition of inadvertently discovered Native American human remains. Health and Safety Code §7050.5, Public Resources Code §5097.98, and Cal. Code Regs., tit. 14, §15064.5, subdivisions (d) and (e) (CEQA Guidelines §15064.5, subds. (d) and (e)) address the processes to be followed in the event of an inadvertent discovery of any Native American human remains and associated grave goods in a location other than a dedicated cemetery.

If you have any questions or need additional information, please contact me at my email address:
Andrew.Green@nahc.ca.gov.

Sincerely,



Andrew Green
Cultural Resources Analyst

cc: State Clearinghouse

From: [Adam Rush](#)
To: [Dionisios Glentis](#)
Cc: [Mark De Manincor](#); [Sandra Calderon](#)
Subject: Fwd: First Hathaway Logistics project
Date: Monday, May 9, 2022 11:23:46 AM

Sincerely,

Adam B. Rush, M.A., AICP
Community Development Director

City of Banning

[99 Ramsey Street](#)

[Banning, CA, 92220](#)

Office: [\(951\) 922-3131](#)

Fax: [\(951\) 922-3128](#)

Cell: [\(760\) 219-2791](#)

Email: arush@banningca.gov

www.banningca.gov

Begin forwarded message:

From: "Mr. Bonnie Bryant" <Bonnie.Bryant@sanmanuel-nsn.gov>
Date: May 9, 2022 at 9:52:02 AM PDT
To: Adam Rush <arush@banningca.gov>
Cc: Ryan Nordness <Ryan.Nordness@sanmanuel-nsn.gov>
Subject: **First Hathaway Logistics project**

Dear Mr. Rush,

Thank you for contacting the San Manuel Band of Mission Indians (SMBMI) regarding the above-referenced project. SMBMI appreciates the opportunity to review the project documentation, which was received by the Cultural Resources Management Department on April 22, 2022. The proposed project is located outside of Serrano ancestral territory and, as such, SMBMI will not be requesting to receive consulting party status with the lead agency or to participate in the scoping, development, or review of documents created pursuant to legal and regulatory mandates.

Note: San Manuel Band of Mission Indians realizes that there may be additional tribes claiming cultural affiliation to the area; however, San Manuel Band of Mission Indians can only speak for itself. The Tribe has no objection if the agency, developer, and/or archaeologist wishes to consult with other tribes in addition to SMBMI and if the Lead

Agency wishes to revise the conditions to recognize additional tribes.

Respectfully,

Mr. Bonnie Bryant

Cultural Resource technician

San Manuel Band of Mission Indians

Bonnie.Bryant@sanmanuel-nsn.gov

Mr. Bonnie Bryant

Cultural Resources Tech

Bonnie.Bryant@sanmanuel-nsn.gov

O:(909) 864-8933 x 50-2033

M:(909) 633-6615

26569 Community Center Dr Highland, California 92346



TRIBAL HISTORIC PRESERVATION OFFICE

VIA ELECTRONIC MAIL

arush@banningca.gov

May 13, 2022

Adam Rush
Director, Community Development
City of Banning
99 E. Ramsey Street
Banning, CA 92220

MORONGO
BAND OF
MISSION
INDIANS



A SOVEREIGN NATION

Re: First Hathaway Logistics Project. Notice of Preparation of an Environmental Impact Report

Dear Mr. Rush:

The Morongo Band of Mission Indians (Tribe/MBMI) Tribal Historic Preservation Office is in receipt of the City of Banning notice and information letter regarding the above referenced project. The proposed First Hathaway Logistics Project (Project) is located within the ancestral territory and traditional use area of the Cahuilla and Serrano people of the Morongo Band of Mission Indians. In fact, the Project is immediately adjacent to the Morongo Band of Mission Indians Reservation in Banning.

Tribal cultural resources are non-renewable resources and therefore of high importance to the Morongo Tribe, therefore, tribal participation (a.k.a. tribal monitors) is recommended during all ground disturbing activities for this Project. We look forward to working with the City of Banning to protect these irreplaceable resources out of respect for ancestors of the Morongo people who left them there, and for the people of today and for generations to come.

Projects within this area are highly sensitive for cultural resources regardless of the presence or absence of remaining surface artifacts and features. Moreover, Tribe is aware of important prehistoric and historic Tribal cultural resources on its reservation and adjacent to it. Although portions of the proposed Project area have been previously developed and/or used for other purposes, this does not rule out subsurface cultural materials that likely will be revealed during the Project. Our office requests to initiate government-to-government consultation under Assembly Bill (AB) 52 (California Public Resources Code § 21080.3.1) and requests the following from the lead agency to ensure meaningful consultation:

- Currently proposed Project design and Mass Grading Maps
- A records search conducted at the appropriate California Historical Resources Information System (CHRIS) center with at least a 1.0-mile search radius from the project boundary. If this work has already been done, please furnish copies of the cultural resource documentation (reports and site records) generated through this search so that we can compare and review with our records to begin productive consultation.

- Tribal participation (a.k.a. tribal monitors) during the pedestrian survey and testing, if this fieldwork has not already taken place. In the event that archaeological crews have completed this work, our office requests a copy of the current Phase I study or other cultural assessments (including the cultural resources inventory).
- Shapefiles of the Projects area of effect (APE)
- Geotechnical Report

This letter does not conclude consultation. Upon receipt of the requested documents the MBMI THPO may further provide recommendations and/or mitigation measures. For your information and convenience, MBMI has enclosed the preferred list of Mitigation Measures that Tribe has developed; the developers of the EIR may find it useful.

The lead contact for this Project is Bernadette Ann Brierty, Tribal Historic Preservation Officer (THPO). Dr. Joan Schneider, Consulting Archaeologist, will be assisting the Tribe in the review of this project. Please do not hesitate to contact us at ABrierty@morongo-nsn.gov, THPO@morongo-nsn.gov, or (951) 663-2842, should you have any questions. The Tribe looks forward to meaningful government-to-government consultation with the City of Banning.

Respectfully,



Bernadette Ann Brierty

Tribal Historic Preservation Officer

Morongo Band of Mission Indians

CC: Morongo THPO

Cultural Resource Mitigation Measures:

CR-1: Native American Treatment Agreement Prior to the issuance of grading permits, the applicant shall enter into a Tribal Monitoring Agreement with the Morongo Band of Mission Indians for the project. The Tribal Monitor shall be on-site during all ground-disturbing activities (including, but not limited to, clearing, grubbing, tree and bush removal, grading, trenching, fence post placement and removal, construction excavation, excavation for all utility and irrigation lines, and landscaping phases of any kind). The Tribal Monitor shall have the authority to temporarily divert, redirect, or halt the ground-disturbing activities to allow identification, evaluation, and potential recovery of cultural resources.

CR-2: Retention of Archaeologist Prior to any ground-disturbing activities (including, but not limited to, clearing, grubbing, tree and bush removal, grading, trenching, fence post replacement and removal, construction excavation, excavation for all utility and irrigation lines, and landscaping phases of any kind), and prior to the issuance of grading permits, the Applicant shall retain a qualified archaeologist who meets the U.S. Secretary of the Interior Standards (SOI). The archaeologist shall be present during all ground-disturbing activities to identify any known or suspected archaeological and/or cultural resources. The archaeologist will conduct a Cultural Resource Sensitivity Training, in conjunction with the Tribe[s] Tribal Historic Preservation Officer (THPO), and/or designated Tribal Representative. The training session will focus on the archaeological and tribal cultural resources that may be encountered during ground-disturbing activities as well as the procedures to be followed in such an event.

CR-3: Cultural Resource Management Plan Prior to any ground-disturbing activities the project archaeologist shall develop a Cultural Resource Management Plan (CRMP) and/or Archaeological Monitoring and Treatment Plan (AMTP) to address the details, timing, and responsibilities of all archaeological and cultural resource activities that occur on the project site. This Plan shall be written in consultation with the consulting Tribe[s] and shall include the following: approved Mitigation Measures (MM)/Conditions of Approval (COA), contact information for all pertinent parties, parties' responsibilities, procedures for each MM or COA, and an overview of the project schedule.

CR-4: Pre-Grade Meeting The retained qualified archeologist and Consulting Tribe[s] representative shall attend the pre-grade meeting with the grading contractors to explain and coordinate the requirements of the monitoring plan.

CR-5: On-site Monitoring During all ground-disturbing activities the qualified archaeologist and the Native American monitor shall be on-site full-time. The frequency of inspections shall depend on the rate of excavation, the materials excavated, and any discoveries of Tribal Cultural Resources as defined in California Public Resources Code Section 21074. Archaeological and Native American monitoring will be discontinued when the depth of grading and the soil conditions no longer retain the potential to contain cultural deposits. The qualified archaeologist, in consultation with the Native American monitor, shall be responsible for determining the duration and frequency of monitoring.

CR-6: Inadvertent Discovery of Cultural Resources In the event that previously unidentified cultural resources are unearthed during construction, the qualified archaeologist and the Native American monitor shall have the authority to temporarily divert and/or temporarily halt ground-disturbance operations in the area of discovery to allow for the evaluation of potentially significant cultural resources. Isolates and clearly non-significant deposits shall be minimally documented in the field and collected so the monitored grading can proceed.

If a potentially significant cultural resource(s) is discovered, work shall stop within a 60-foot perimeter of the discovery and an Environmentally Sensitive Area (ESA) physical demarcation/barrier constructed. All work shall be diverted away from the vicinity of the find, so that the find can be evaluated by the qualified archaeologist and Tribal Monitor[s]. The archaeologist shall notify the Lead Agency and consulting Tribe[s] of said discovery. The qualified archaeologist, in consultation with the Lead Agency, the consulting Tribe[s], and the Native American monitor, shall determine the significance of the discovered resource. A recommendation for the treatment and disposition of the Tribal Cultural Resource shall be made by the qualified archaeologist in consultation with the Tribe[s] and the Native American monitor[s] and be submitted to the Lead Agency for review and approval. Below are the possible treatments and dispositions of significant cultural resources in order of CEQA preference:

- A. Full avoidance.
- B. If avoidance is not feasible, Preservation in place.
- C. If Preservation in place is not feasible, all items shall be reburied in an area away from any future impacts and reside in a permanent conservation easement or Deed Restriction.
- D. If all other options are proven to be infeasible, data recovery through excavation and then curation in a Curation Facility that meets the Federal Curation Standards (CFR 79.1)

CR-7: Inadvertent Discovery of Human Remains The Morongo Band of Mission Indians requests the following specific conditions to be imposed in order to protect Native American human remains and/or cremations. **No photographs are to be taken except by the coroner, with written approval by the consulting Tribe[s].**

- A. Should human remains and/or cremations be encountered on the surface or during any and all ground-disturbing activities (i.e., clearing, grubbing, tree and bush removal, grading, trenching, fence post placement and removal, construction excavation, excavation for all water supply, electrical, and irrigation lines, and landscaping phases of any kind), work in the immediate vicinity of the discovery shall immediately stop within a 100-foot perimeter of the discovery. The area shall be protected; project personnel/observers will be restricted. The County Coroner is to be contacted within 24 hours of discovery. The County Coroner has 48 hours to make his/her determination pursuant to State and Safety Code §7050.5. and Public Resources Code (PRC) § 5097.98.
- B. In the event that the human remains and/or cremations are identified as Native American, the Coroner shall notify the Native American Heritage Commission within 24 hours of determination pursuant to subdivision (c) of HSC §7050.5.
- C. The Native American Heritage Commission shall immediately notify the person or persons it believes to be the Most Likely Descendant (MLD). The MLD has 48 hours, upon being granted access to the Project site, to inspect the site of discovery and make his/her recommendation for final treatment and disposition, with appropriate dignity, of the remains and all associated grave goods pursuant to PRC §5097.98

- D. If the Morongo Band of Mission Indians has been named the Most Likely Descendant (MLD), the Tribe may wish to rebury the human remains and/or cremation and sacred items in their place of discovery with no further disturbance where they will reside in perpetuity. The place(s) of reburial will not be disclosed by any party and is exempt from the California Public Records Act (California Government Code § 6254[r]). Reburial location of human remains and/or cremations will be determined by the Tribe's Most Likely Descendant (MLD), the landowner, and the City Planning Department.

CR-8: FINAL REPORT: The final report[s] created as a part of the project (AMTP, isolate records, site records, survey reports, testing reports, etc.) shall be submitted to the Lead Agency and Consulting Tribe[s] for review and comment. After approval of all parties, the final reports are to be submitted to the Eastern Information Center, and the Consulting Tribe[s].

From: [Adam Rush](#)
To: [Dionisios Glentis](#)
Cc: [Mark De Manincor](#)
Subject: Fwd: Scoping Meeting - First Hathaway Logistics - DR 21-7015
Date: Wednesday, May 18, 2022 9:55:57 AM
Attachments: [image001.jpg](#)

FYI

Sincerely,

Adam B. Rush, M.A., AICP
Community Development Director

City of Banning

[99 Ramsey Street](#)

[Banning, CA, 92220](#)

Office: [\(951\) 922-3131](#)

Fax: [\(951\) 922-3128](#)

Cell: [\(760\) 219-2791](#)

Email: arush@banningca.gov

www.banningca.gov

Begin forwarded message:

From: Sandra Calderon <scalderon@banningca.gov>
Date: May 18, 2022 at 9:38:34 AM PDT
To: Brandon Robinson <brobinson@banningca.gov>
Cc: Ben Coffey <bcoffey@banningca.gov>, Adam Rush <arush@banningca.gov>
Subject: RE: Scoping Meeting - First Hathaway Logistics - DR 21-7015

Thank you Brandon!

Sandra

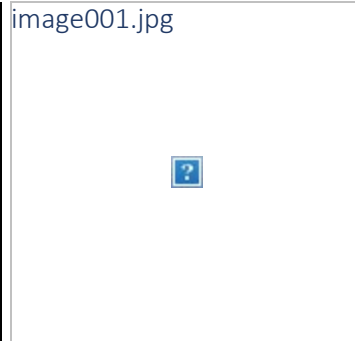
From: Brandon Robinson <brobinson@banningca.gov>
Sent: Wednesday, May 18, 2022 9:30 AM
To: Sandra Calderon <scalderon@banningca.gov>
Cc: Ben Coffey <bcoffey@banningca.gov>
Subject: RE: Scoping Meeting - First Hathaway Logistics - DR 21-7015

Hi Sandra,

Tom and I will not be available for the meeting tomorrow, but we will have Ben Coffey listening in. I can follow up with the developer after the scoping meeting with any additional questions they have for electric utility requirements.

Just wanted to give you a heads up. Thanks.

Brandon Robinson
Electrical Engineering Supervisor
Electric Utility
City of Banning
Direct Line: 951-922-3263
Direct Fax: 951-849-1550
brobinson@banningca.gov
PO Box 998
176 E. Lincoln Street
Banning, CA 92220
www.banningca.gov



The information contained in this email message is intended only for the use of the individual or entity to which it is addressed and may contain information that is legally privileged and/or confidential. If the reader of this message is not the intended recipient or the employee or agent responsible for delivering the message to the intended recipient, if you have received this communication in error, please notify us immediately by telephone. Thank you.

-----Original Appointment-----

From: Sandra Calderon <scalderon@banningca.gov>

Sent: Monday, April 18, 2022 10:10 AM

To: Sandra Calderon; Sandra Calderon; Paul Loubet; 'Crevoiserat, Stephen'; Mark De Manincor; Adam Rush; Kevin Sin; Dionisios Glentis; Ruben Choi; Nathan Smith; Michael Goodwin; Brandon Robinson; Luis Cardenas; Paul Lindley; Patrick Johnson; Emery Papp

Cc: Arturo Vela; Art Chacon; Perry Gerdes; Doug Schulze; Ben Coffey; Matthew Hamner; Ralph Wright; Silvia Tapia; Thomas Miller; Diana Serrano; Victor Jasso; Richard Soriano; Ann Marie Loconte; Rouhi El-Rabaa; John Garside;
adamrushcitycouncil@gmail.com

Subject: Scoping Meeting - First Hathaway Logistics - DR 21-7015

When: Thursday, May 19, 2022 10:00 AM-12:00 PM (UTC-08:00) Pacific Time (US & Canada).

Where: Council Chambers & via Zoom

Sandra Calderon is inviting you to a scheduled Zoom meeting.

Join Zoom Meeting

[https://us02web.zoom.us/j/89547011617?](https://us02web.zoom.us/j/89547011617?pwd=UzBFWFFlQ2d5VHNiYnVBVlJDR1JZQT09)

[pwd=UzBFWFFlQ2d5VHNiYnVBVlJDR1JZQT09](https://us02web.zoom.us/j/89547011617?pwd=UzBFWFFlQ2d5VHNiYnVBVlJDR1JZQT09)

Meeting ID: 895 4701 1617

Passcode: 611129

One tap mobile

+16699009128,,89547011617#,,,,*611129# US (San Jose)

+13462487799,,89547011617#,,,,*611129# US (Houston)

Dial by your location

+1 669 900 9128 US (San Jose)

+1 346 248 7799 US (Houston)

+1 253 215 8782 US (Tacoma)

+1 646 558 8656 US (New York)

+1 301 715 8592 US (Washington DC)

+1 312 626 6799 US (Chicago)

Meeting ID: 895 4701 1617

Passcode: 611129

Find your local number: <https://us02web.zoom.us/j/89547011617>



05/19/2022

VIA EMAIL ONLY

Adam B. Rush, M.A., AICP, Director
City of Banning
Community Development Department
99 E. Ramsey Street Banning, CA 92220
Email: arush@banningca.gov

RE: NOP Comments for First Hathaway Logistics Project

Dear Mr. Rush,

On behalf of Californians Allied for a Responsible Economy ("CARE CA") thank you for the opportunity to provide comments on the Notice of Preparation ("NOP") for environmental review of the First Hathaway Logistics Project (the "Project").

The proposed Project consists of a proposed 1,414,362 square-foot warehouse distribution building with employee/visitor and trailer parking. The Project requires approval for Design Review, Tentative Parcel Map, and other discretionary and ministerial approvals.

The NOP identifies the Project's potentially significant impacts under CEQA to include all environmental considerations. CARE CA respectfully requests, under CEQA complete analysis of these impacts, imposition of all feasible mitigation and study of a reasonable range of alternatives to the Project.

I. Background on CEQA EIRs

CEQA advances three related purposes. First, CEQA is designed to inform decision makers and the public about the potential, significant environmental effects of a project. 14 Cal. Code Regs. ("Guidelines") § 15002(a)(1). "Its purpose is to inform the public and its responsible officials of the environmental consequences of their decisions before they are made. Thus, the EIR 'protects not only the environment but also informed self-government.'" *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 564.

Second, CEQA requires public agencies to avoid or reduce environmental damage when “feasible” by requiring implementation of “environmentally superior” alternatives and all feasible mitigation measures. Guidelines § 15002(a)(2) and (3); *Citizens of Goleta Valley*, 52 Cal.3d at 564. If the project will have a significant effect on the environment, the agency may approve the project only if it finds that it has “eliminated or substantially lessened all significant effects on the environment where feasible” and that any unavoidable significant effects on the environment are “acceptable due to overriding concerns.” Pub. Res. Code § 21081; Guidelines § 15092(b)(2)(A) and (B).

Third, CEQA compels disclosing “to the public the rationale for governmental approval of a project that may significantly impact the environment.” *California Building Industry Assn. v. Bay Area Air Quality Management Dist.* (2015) 62 Cal.4th 369, 382.

Although the courts review an EIR using an “abuse of discretion” standard, “the reviewing court is not to ‘uncritically rely on every study or analysis presented by a project proponent in support of its position.’ A ‘clearly inadequate or unsupported study is entitled to no judicial deference.’” *Berkeley Keep Jets Over the Bay v. Bd. of Port Comm’rs.* (2001) 91 Cal.App.4th 1344, 1355 (quoting *Laurel Heights Improvement Ass’n v. Regents of Univ. of Cal.*, 47 Cal.3d 376, 409 n. 12 (1988)). Substantial evidence in the record must support any foundational assumptions used for the impact analyses in the EIR. *Citizens of Goleta Valley*, 52 Cal.3d at 568 (EIR must contain facts and analysis, not just bare conclusions); *Laurel Heights*, 47 Cal.3d at 392-93 (agency’s conclusions must be supported with substantial evidence).

II. General Comments

- i) Unspecified Industrial Use: We are encouraged by the fact that the NOP reflects a good faith effort at full disclosure by assuming that 50% of the warehouse will be refrigerated. Subsequently, the DEIR will consider and analyze the impacts of construction and operation of cold storage warehouse space and the potential use of transportation refrigeration units (TRUs) during Project operation. The analysis must also include heavy truck traffic in its VMT analysis.
- ii) Air Quality & Public Health: CARE CA has a particular interest in air quality and public health. The Project will be truck intensive including TRUs, operate 24-hours a day 7 days a week, and adjacent to residences. Residences and other sensitive receptors located near the Project would be exposed to diesel exhaust emissions that would result in a significant cancer risk.

Therefore, the DEIR must include a Health Risk Assessment. In addition, estimates of the significance of air quality impacts must be consistent with current epidemiological studies regarding the effects of pollution and various kinds of environmental stress on public health. This is particularly important because goods movement industry is one of the major contributors of air pollutants across Southern California. Warehouse operations including trips by heavy duty trucks and cargo handling equipment contribute to local pollution.

- iii) Mitigation measures: Mitigation measures must be effective and enforceable. Every effort must be made to incorporate modern technology in the mitigation measures and MMRP. For example, a requirement that all off-road equipment and trucks using the site during

construction and operations be zero emission, near-zero emissions or alternative-fueled vehicle would both reduce and/or eliminate air pollution impacts and CO2 emissions.

A requirement for future tenants to utilize natural refrigerant alternatives would reduce the Project's impact on greenhouse gas emissions (GHG). As more cold storage warehouses are built, the use of refrigerants with potent greenhouse gas emissions is growing, as is their contribution to global climate change.

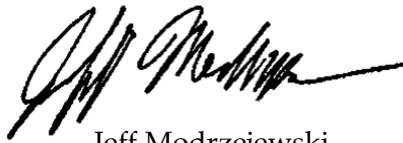
iv) Full Disclosure: Provide all sources and referenced materials when the DEIR is made available.

III. Conclusion

Thank you for the opportunity to submit NOP comments. Again, CARE CA respectfully requests under CEQA full analysis of the environmental impacts, feasible mitigation, and reasonable alternatives to the Project.

We look forward to reviewing and commenting on subsequent environmental review documents when these documents are released for public review.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeff Modrzejewski", with a long horizontal flourish extending to the right.

Jeff Modrzejewski
Executive Director

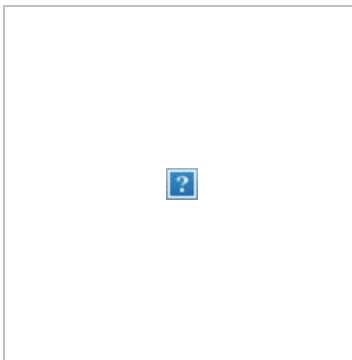
From: [Adam Rush](#)
To: [Dionisios Glentis](#)
Cc: [Mark De Manincor](#); [Sandra Calderon](#)
Subject: FW: First Hathaway Logistics Project EIR - NOP Comments and Request for Notice
Date: Monday, May 23, 2022 8:39:40 AM
Attachments: [image001.jpg](#)
[image002.jpg](#)
[Adam B. Rush_M.A._AICP.vcf](#)

Comments from a member of the public that attended the NOP Scoping Session last week.



Adam

B. Rush, AICP
Community Development Director
Community Development
City of Banning
Direct Line: 951-3131
Cell: 760-219-2791
arush@banningca.gov
99 E. Ramsey Street
Banning, CA 92220
www.banningca.gov



The information contained in this email message is intended only for the use of the individual or entity to which it is addressed and may contain information that is legally privileged and/or confidential. If the reader of this message is not the intended recipient or the employee or agent responsible for delivering the message to the intended recipient, if you have received this communication in error, please notify us immediately by telephone. Thank you.

From: Kathleen Dale <kdalenmn@aol.com>
Sent: Monday, May 23, 2022 8:40 AM
To: Adam Rush <arush@banningca.gov>
Subject: First Hathaway Logistics Project EIR - NOP Comments and Request for Notice

Mr. Rush - the following recaps the points I raised at the scoping meeting on May 19th. Please also accept this message as a request that I be added to the direct notification list for all notices regarding the CEQA process and public hearings for this project. E-mail notification is adequate on my part; please let me know if you need a mailing address.

1. The project as presented, with the truck access directly across Hathaway Street from existing homes, is certain to have project-level and/or cumulative traffic-related impacts that cannot be mitigated below a level of significance. Accordingly, the EIR must look at alternatives that would reduce these impacts. The EIR should include an alternative that looks at circulation system improvements for the planned industrial area generally east of Hathaway Street to provide a truck access route that keeps truck traffic out of residential areas. It appears that this could be feasible using Ramsey Street and Hathaway Street, south of Williams Street.

2. The EIR must address enforceable project elements and/or mitigation measures to confine truck access to the designated access route and to prohibit errant truck traffic through the adjoining residential neighborhoods. As indicated by another resident that attended the scoping meeting, errant traffic is an issue under current conditions, particularly when traffic is heavy or blocked on I-10.

3. The project site lies within a criteria cell intended to preserve a major wildlife corridor under the Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP), namely the San Gorgonio River/San Bernardino - San Jacinto Mountains Linkage. The MSHCP provisions require a rebuttable presumption of significance and coordination with the Regional Conservation Authority for all projects affecting this criteria cell. The EIR must address potential impacts in this regard and acknowledge this as an element of the project entitlements.

I would like clarification on conflicting information that was presented during the scoping meeting as to the entitlements included as part of this project and identification of the responsible decision-making body. The NOP indicates the entitlements include a parcel map, which according to City of Banning Municipal Code sections 17.44.010 and 17.44.020, establishes the City Council as the decision-making body. At the scoping meeting, it was stated that the Planning Commission is the decision-making authority, unless their decision is appealed. Please provide clarification both by direct response to this e-mail and in the project description content in the forthcoming EIR. Please also consider and disclose the City's decision-making policy as to MSHCP matters.

In a conversation with two First Industrial representatives following the meeting, it was mentioned that there is a project in early planning stages for a new interchange on the I-10, east of Ramsey Street. They referred to this as the Cottonwood Interchange. Please let me know who I can contact to learn more about this and ensure that any appropriate disclosures and analysis are included as part of the forthcoming EIR.

Thank you,

Kathleen Dale