

Tribe Treatment Protocol

C
APPENDIX



KaKoon Ta Ruk Band of Ohlone-Costanoan Indians of the Big Sur Rancheria

January 8, 2023

Chris Schmidt
Senior Associate Planner
City of Monterey
570 Pacific Street
Monterey, CA 93940

RE: Laguna Grande Trail Maintenance, Monterey and Seaside, California

Thank you for your follow-up regarding project notification email dated, 12/22/2022, regarding cultural information on or near the proposed Laguna Grande Regional Park, Monterey County. We appreciate your effort to contact us and wish to respond.

The Cultural Specialist has reviewed the project and concluded that it is within the aboriginal territories of the KaKoon Ta Ruk Band of Ohlone-Costanoan Indians of the Big Sur Rancheria. Therefore, we have a cultural interest and authority in the proposed project area. We had originally responded back on 10/25/2021 requestion consultation.

Based on the information provided, the Tribe has concerns that the project could impact known cultural resources. We highly recommend including cultural monitors during development and ground disturbance. Additionally, we request that you incorporate KaKoon Ta Ruk Band of Ohlone-Costanoan Indians of the Big Sur Rancheria's Treatment Protocol into the mitigation measures for this project. Please submit the updated mitigation measures to the Cultural Specialist once completed.

To setup a monitoring agreement, please contact the following individuals:

Isaac Bojorquez
Chairman
Cell: (916) 572-8036
Email: chairman@kakoontaruk.org

Lydia Bojorquez
Vice-Chairperson
Cell: (530) 650-5943
Email: vicechair@kakoontaruk.org

Please refer to identification number KKTR-10052021-01 in any correspondence concerning this project.

Thank you for providing us the opportunity to comment.

Shurruru,

Chairman

Treatment Protocol for Handling Human Remains and Cultural Items Affiliated with the KaKoon Ta Ruk Band of Ohlone-Costanoan Indians of the Big Sur Rancheria

The purpose of this Protocol is to formalize procedures for the treatment of Native American human remains, grave goods, ceremonial items, and items of cultural patrimony, in the event that any are found in conjunction with development, including archaeological studies, excavation, geotechnical investigations, grading, and any ground disturbing activity. This Protocol also formalizes procedures for Tribal monitoring during archaeological studies, grading, and ground-disturbing activities.

I. Cultural Affiliation

The KaKoon Ta Ruk Band of Ohlone-Costanoan Indians of the Big Sur Rancheria (“Tribe”) traditionally occupied lands in Monterey County. The Tribe has designated its Cultural Resources Specialist to act on the Tribe's behalf with respect to the provisions of this Protocol. Any human remains which are found in conjunction with Projects on lands culturally affiliated with the Tribe shall be treated in accordance with Section III of this Protocol. Any other cultural resources shall be treated in accordance with Section IV of this Protocol.

II. Inadvertent Discovery of Native American Human Remains

Whenever Native American human remains are found during the course of a Project, the determination of Most Likely Descendant (“MLD”) under California Public Resources Code Section 5097.98 will be made by the Native American Heritage Commission (“NAHC”) upon notification to the NAHC of the discovery of said remains at a Project site. If the location of the site and the history and prehistory of the area is culturally affiliated with the Tribe, the NAHC contacts the Tribe; a Tribal member will be designated by the Tribe to consult with the landowner and/or project proponents.

Should the NAHC determine that a member of an Indian tribe other than KaKoon Ta Ruk Band of Ohlone-Costanoan Indians of the Big Sur Rancheria is the MLD, and the Tribe is in agreement with this determination, the terms of this Protocol relating to the treatment of such Native American human remains shall not be applicable; however, that situation is very unlikely.

III. Treatment of Native American Remains

In the event that Native American human remains are found during development of a Project and the Tribe, or a member of the Tribe is determined to be MLD pursuant to Section II of this Protocol, the following provisions shall apply. The Medical Examiner shall immediately be notified, ground disturbing activities in that location shall cease and the Tribe shall be allowed, pursuant to California Public Resources Code Section 5097.98(a), to (1) inspect the site of the discovery and (2) make determinations as to how the human remains and grave goods should be treated and disposed of with appropriate dignity.

The Tribe shall complete its inspection and make its MLD recommendation within forty-eight (48) hours of getting access to the site. The Tribe shall have the final determination as to the disposition and treatment of human remains and grave goods. Said determination may

include avoidance of the human remains, reburial on-site, or reburial on other lands that will not be disturbed in the future.

The Tribe may wish to rebury said human remains and grave goods or ceremonial and cultural items on or near the site of their discovery, in an area which will not be subject to future disturbances over a prolonged period of time. Reburial of human remains shall be accomplished in compliance with the California Public Resources Code Sections 5097.98(a) and (b).

The term "human remains" encompasses more than human bones because the Tribe's traditions call for the burial of associated cultural items with the deceased (funerary objects), and/or the ceremonial burning of Native American human remains, funerary objects, grave goods and animals. Ashes, soils and other remnants of these burning ceremonies, as well as associated funerary objects and unassociated funerary objects buried with or found near the Native American remains are to be treated in the same manner as bones or bone fragments that remain intact.

IV. Non-Disclosure of Location of Reburials

Unless otherwise required by law, the site of any reburial of Native American human remains shall not be disclosed and will not be governed by public disclosure requirements of the California Public Records Act, Cal. Govt. Code § 6250 et seq. The Medical Examiner shall withhold public disclosure of information related to such reburial pursuant to the specific exemption set forth in California Government Code Section 6254(r). The Tribe will require that the location for reburial is recorded with the California Historic Resources Inventory System ("CHRIS") on a form that is acceptable to the CHRIS center. The Tribe may also suggest that the landowner enter into an agreement regarding the confidentiality of site information that will run with title on the property.

V. Treatment of Cultural Resources

Treatment of all cultural items, including ceremonial items and archeological items will reflect the religious beliefs, customs, and practices of the Tribe. All cultural items, including ceremonial items and archeological items, which may be found at a Project site should be turned over to the Tribe for appropriate treatment, unless otherwise ordered by a court or agency of competent jurisdiction. The Project Proponent should waive any and all claims to ownership of Tribal ceremonial and cultural items, including archeological items, which may be found on a Project site in favor of the Tribe. If any intermediary, (for example, an archaeologist retained by the Project Proponent) is necessary, said entity or individual shall not possess those items for longer than is reasonably necessary, as determined solely by the Tribe.

VI. Inadvertent Discoveries

If additional significant sites or sites not identified as significant in a Project environmental review process, but later determined to be significant, are located within a Project impact area, such sites will be subjected to further archeological and cultural significance evaluation by the Project Proponent, the Lead Agency, and the Tribe to determine if additional mitigation measures are necessary to treat sites in a culturally appropriate manner consistent with

CEQA requirements for mitigation of impacts to cultural resources. If there are human remains present that have been identified as Native American, all work will cease for a period of up to 30 days in accordance with Federal Law.

VIII. Work Statement for Tribal Monitors

The description of work for Tribal monitors of the grading and ground disturbing operations at the development site is attached hereto as Addendum I and incorporated herein by reference.

ADDENDUM I

KaKoon Ta Ruk Band of Ohlone-Costanoan Indians Tribal Monitors Description of Work and Treatment Protocol

I. Preferred Treatment

The preferred protocol upon the discovery of Native American human remains is to (1) secure the area, (2) cover any exposed human remains or other cultural items, and (3) avoid further disturbances in the area.

II. Comportment

All parties to the action are strongly advised to treat the remains with appropriate dignity, as provided in Public Resource Code Section 5097.98. We further recommend that all parties to the action treat tribal representatives and the event itself with appropriate respect. For example, jokes and antics pertaining to the remains or other inappropriate behavior are ill advised.

III. Excavation Methods

If, after the KaKoon Ta Ruk Bad of Ohlone-Costanoan Indians Tribal representative has been granted access to the site and it is determined that avoidance is not feasible, an examination of the human remains will be conducted to confirm they are human and to determine the position, posture, and orientation of the remains. At this point, we recommend the following procedures:

(A) Tools. All excavation in the vicinity of the human remains will be conducted using fine hand tools and fine brushes to sweep loose dirt free from the exposure.

(B) Extent of Exposure. In order to determine the nature and extent of the grave and its contents, controlled excavation should extend to a full buffer zone around the perimeter of the remains.

(C) Perimeter Balk. To initiate the exposure, a perimeter balk (especially, a shallow trench) should be excavated, representing a reasonable buffer a minimum of 10 cm around the maximum extent of the known skeletal remains, with attention to counter-intuitive discoveries or unanticipated finds relating to this or other remains. The dirt from the perimeter balk should be bucketed, distinctly labeled, and screened for cultural materials.

(D) Exposure Methods. Excavation should then proceed inward from the walls of the balk as well as downward from the surface of the exposure. Loose dirt should be scooped out and brushed off into a dustpan or other collective device. Considerable care should be given to ensure that human remains are not further impacted by the process of excavation.

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(E) Provenience. Buckets, collection bags, notes, and tags should be fully labeled per provenience, and a distinction should be made between samples collected from: (1) **Perimeter Balk** (described above), (2) **Exposure** (dirt removed in exposing the exterior/burial plan and associations, and (3) **Matrix** (dirt from the interstices between bones or associations). Thus, each burial may have three bags, “Burial 1 Perimeter Balk,” “Burial 1 Exposure Balk,” “Burial 1 Matrix.”

Please note the provisions below with respect to handling and conveyance of records and samples.

(F) Records. The following records should be compiled in the field: (1) a detailed scale drawing of the burial, including the provenience of and full for all human remains, associated artifacts, and the configuration of all associated phenomena such as burial pits, evidence for preinterment grave pit burning, soil variability, and intrusive disturbance, (2) complete a formal burial record using the consultants proprietary form or other standard form providing information on site #, unit or other proveniences, level depth, depth and location of the burial from a fixed datum, workers, date(s), artifact list, skeletal inventory, and other pertinent observations, (3) crew chief and worker field notes that may supplement or supercede information contained in the burial recording form, and (4) photographs, including either or standard photography or high-quality (400-500 DPI or 10 MP recommended) digital imaging.

(G) Stipulations for Acquisition and Use of Imagery. Photographs and images may be used only for showing location or configuration of questionable formation or for the position of the skeleton. They are not to be duplicated for publication unless a written release is obtained from the Tribe.

(H) Association. Association between the remains and other cultural materials should be determined in the field in consultation with an authorized Tribal representative and may be amended per laboratory findings. Records of provenience and sample labels should be adequate to determine association or degree of likelihood of association of human remains and other cultural materials.

(I) Samples. For each burial, all **Perimeter Balk** soil is to be 1/8”-screened. All **Exposure** soil is to be 1/8”-screened, and a minimum of one 5-gallon bucket of excavated but unscreened Exposure soil is to be collected, placed in a plastic garbage bag in the bucket. All **Matrix** soil is to be carefully excavated, screened as appropriate, and then collected in plastic bags placed in 5-gallon buckets.

(J) Human remains are not to be cleaned in the field.

(K) Blessings. Prior to any physical action related to human remains, a designated tribal representative will conduct prayers and blessings over the remains. The archaeological consultant will be responsible for insuring that individuals and tools involved in the action are available for traditional blessings and prayers, as necessary.

IV. Lab Procedures

No laboratory studies are permitted without consultation with the tribe. Lab methods are determined on a project-specific basis in consultation with KaKoon Ta Ruk Band of Ohlone-Costanoan Indians of the Big Sur Rancheria representatives. The following procedures are recommended:

(A) Responsibility. The primary archaeological consultant will be responsible for insuring that all lab procedures follow stipulations made by the Tribe.

(B) Blessings. Prior to any laboratory activities related to the remains, a designated tribal representative will conduct prayers and blessings over the remains. The archaeological consultant will be responsible for insuring that individuals and tools involved in the action are available for traditional blessings and prayers, as necessary.

(C) Physical Proximity of Associations. To the extent possible, all remains, associations, samples, and original records are to be kept together throughout the laboratory process. In particular, **Matrix** dirt is to be kept in buckets and will accompany the remains to the lab. The primary archaeological consultant will be responsible for copying all field records and images and insuring that the original notes and records accompany the remains throughout the process.

(E) Additional Lab Finds. Laboratory study should be done making every effort to identify unanticipated finds or materials missed in the field, such as objects encased in dirt or human remains misidentified as faunal remains in the field. In the event of discovery of additional remains, materials, and other associations the tribal representatives are to be contacted immediately.

V. Re-internment without Further Disturbance

No laboratory studies are permitted on human remains and funerary objects. The preferred treatment preference for exhumed Native American human remains is reburial in an area not subject to further disturbance. Any objects associated with remains will be reinterred with the remains.

VI. Curation of Recovered Materials

Should all, or a sample, of any archaeological materials collected during the data recovery activities – with the exception of Human Remains – need to be curated, an inventory and location information of the curation facility shall be given to tribe for our records.