



STATE OF CALIFORNIA
GOVERNOR'S OFFICE of PLANNING AND RESEARCH
 STATE CLEARINGHOUSE AND PLANNING UNIT



ARNOLD SCHWARZENEGGER
 GOVERNOR

CYNTHIA BRYANT
 DIRECTOR

Notice of Preparation

March 24, 2009



To: Reviewing Agencies
 Re: Diamond Specific Plan
 SCH# 2009031084

Attached for your review and comment is the Notice of Preparation (NOP) for the Diamond Specific Plan draft Environmental Impact Report (EIR).

Responsible agencies must transmit their comments on the scope and content of the NOP, focusing on specific information related to their own statutory responsibility, within 30 days of receipt of the NOP from the Lead Agency. This is a courtesy notice provided by the State Clearinghouse with a reminder for you to comment in a timely manner. We encourage other agencies to also respond to this notice and express their concerns early in the environmental review process.

Please direct your comments to:

Carole Donahoe
City of Lake Elsinore
130 S. Main Street
Lake Elsinore, CA 92530

with a copy to the State Clearinghouse in the Office of Planning and Research. Please refer to the SCH number noted above in all correspondence concerning this project.

If you have any questions about the environmental document review process, please call the State Clearinghouse at (916) 445-0613.

Sincerely,

Scott Morgan
 Assistant Deputy Director & Senior Planner, State Clearinghouse

Attachments
 cc: Lead Agency

**Document Details Report
State Clearinghouse Data Base**

SCH# 2009031084
Project Title Diamond Specific Plan
Lead Agency Lake Elsinore, City of

Type NOP Notice of Preparation
Description The Diamond Specific plan is intended to provide the necessary master planning to implement the goals and objectives of the Balipark District. The proposed project is a master planned, mixed use development providing for commercial, office, educational, entertainment and residential uses. Supporting uses will include parking, vehicular and pedestrian circulation, plazas and open space.

Lead Agency Contact

Name Carole Donahoe
Agency City of Lake Elsinore
Phone 951-674-3124 ext 287 **Fax**
email
Address 130 S. Main Street
City Lake Elsinore **State** CA **Zip** 92530

Project Location

County Riverside
City Lake Elsinore
Region
Cross Streets South of Interstate 15 - Diamond Drive and Lakeshore Drive
Lat / Long 33° 39' 9" N / 117° 18' 9" W
Parcel No. Several
Township 6S **Range** 4W **Section** 9, 16 **Base** SBB&M

Proximity to:

Highways I-15
Airports
Railways
Waterways Lake Elsinore
Schools Jean Hayman ES, Lakeland Village MS, Elsinore HS
Land Use East Lake Specific Plan and Riverside General Plan Neighborhood Commercial

Project Issues Aesthetic/Visual; Agricultural Land; Air Quality; Archaeologic-Historic; Biological Resources; Flood Plain/Flooding; Geologic/Seismic; Minerals; Noise; Population/Housing Balance; Public Services; Schools/Universities; Sewer Capacity; Soil Erosion/Compaction/Grading; Solid Waste; Toxic/Hazardous; Traffic/Circulation; Vegetation; Water Quality; Water Supply; Wetland/Riparian; Landuse; Cumulative Effects

Reviewing Agencies Resources Agency; Department of Conservation; Office of Historic Preservation; Department of Parks and Recreation; Department of Water Resources; Department of Fish and Game, Region 6; Native American Heritage Commission; State Lands Commission; California Highway Patrol; Department of Housing and Community Development; Caltrans, District 8; Department of Toxic Substances Control; Regional Water Quality Control Board, Region 8

Date Received 03/24/2009 **Start of Review** 03/24/2009 **End of Review** 04/22/2009

Resources Agency

- Resources Agency
Nadell Gayou
- Dept. of Boating & Waterways
Mike Sotelo
- California Coastal Commission
Elizabeth A. Fluchs
- Colorado River Board
Gerald R. Zimmerman
- Dept. of Conservation
Rebecca Salazar
- California Energy Commission
Dale Edwards
- Cal Fire
Allen Robertson
- Office of Historic Preservation
Wayne Donaldson
- Dept of Parks & Recreation
Environmental Stewardship Section
- Central Valley Flood Protection Board
Jon Yego
- S.F. Bay Conservation & Dev't. Comm.
Steve McAdam
- Dept. of Water Resources
Resources Agency
Nadell Gayou
- _____
Conservancy

Fish and Game

- Depart. of Fish & Game
Scott Flint
Environmental Services Division
- Fish & Game Region 1
Donald Koch
- Fish & Game Region 1E
Laurie Harnsberger

- Fish & Game Region 2
Jeff Drongesen
- Fish & Game Region 3
Robert Floerke
- Fish & Game Region 4
Julie Vance
- Fish & Game Region 5
Don Chadwick
Habitat Conservation Program
- Fish & Game Region 6
Gabrina Getchel
Habitat Conservation Program
- Fish & Game Region 6 I/M
Gabrina Getchel
Inyo/Mono, Habitat Conservation Program
- Dept. of Fish & Game M
George Isaac
Marine Region

Other Departments

- Food & Agriculture
Steve Shaffer
Dept. of Food and Agriculture
- Depart. of General Services
Public School Construction
- Dept. of General Services
Anna Garbeff
Environmental Services Section
- Dept. of Public Health
Bridgette Binning
Dept. of Health/Drinking Water

Independent Commissions, Boards

- Delta Protection Commission
Linda Flack
- Office of Emergency Services
Dennis Castrillo
- Governor's Office of Planning & Research
State Clearinghouse
- Native American Heritage Comm.
Debbie Treadway

- Public Utilities Commission
Leo Wong
- Santa Monica Bay Restoration
Guangyu Wang
- State Lands Commission
Marina Brand
- Tahoe Regional Planning Agency (TRPA)
Cherry Jacques

Business, Trans & Housing

- Caltrans - Division of Aeronautics
Sandy Hesnard
- Caltrans - Planning
Terri Pencovic
- California Highway Patrol
Scott Loetscher
Office of Special Projects
- Housing & Community Development
CEQA Coordinator
Housing Policy Division

Dept. of Transportation

- Caltrans, District 1
Rex Jackman
- Caltrans, District 2
Marcelino Gonzalez
- Caltrans, District 3
Bruce de Terra
- Caltrans, District 4
Lisa Carboni
- Caltrans, District 5
David Murray
- Caltrans, District 6
Michael Navarro
- Caltrans, District 7
Elmer Alvarez

- Caltrans, District 8
Dan Kopulsky
- Caltrans, District 9
Gayle Rosander
- Caltrans, District 10
Tom Dumas
- Caltrans, District 11
Jacob Armstrong
- Caltrans, District 12
Ryan P. Chamberlain

Cal EPA

Air Resources Board

- Airport Projects
Jim Lerner
- Transportation Projects
Douglas Ito
- Industrial Projects
Mike Tollstrup

- California Integrated Waste Management Board
Sue O'Leary

- State Water Resources Control Board
Regional Programs Unit
Division of Financial Assistance

- State Water Resources Control Board
Student Intern, 401 Water Quality Certification Unit
Division of Water Quality

- State Water Resources Control Board
Steven Herrera
Division of Water Rights

- Dept. of Toxic Substances Control
CEQA Tracking Center

- Department of Pesticide Regulation
CEQA Coordinator

Regional Water Quality Control Board (RWQCB)

- RWQCB 1
Cathleen Hudson
North Coast Region (1)
- RWQCB 2
Environmental Document Coordinator
San Francisco Bay Region (2)
- RWQCB 3
Central Coast Region (3)
- RWQCB 4
Teresa Rodgers
Los Angeles Region (4)
- RWQCB 5S
Central Valley Region (5)
- RWQCB 5F
Central Valley Region (5)
Fresno Branch Office
- RWQCB 5R
Central Valley Region (5)
Redding Branch Office
- RWQCB 6
Lahontan Region (6)
- RWQCB 6V
Lahontan Region (6)
Victorville Branch Office
- RWQCB 7
Colorado River Basin Region (7)
- RWQCB 8
Santa Ana Region (8)
- RWQCB 9
San Diego Region (9)
- Other _____

Project: Diamond Development Specific Plan	Project No: 101221
Date: Wednesday April 22, 2009	Subject: Diamond NOP
Call to: Carole Donohoe, City of Lake Elsinore	Phone No:
Call from: Kathleen Pollett, USFWS	Phone No:

Document2

Discussion, Agreement and/or Action:

Kathleen Pollett from the United States Fish and Wildlife service called Carole Donohoe in response to the NOP for the Diamond Development Specific Plan. Ms. Pollett's office will not be sending a written response because they do not have time to respond before the deadline for the project.

The USFWS intends to respond to the project EIR and formally requests a copy. An electronic version will be accepted and should be sent to Kathleen.pollett@fws.gov. Ms. Pollett noted that the project area is within additional reserve land for the smooth tarplant.

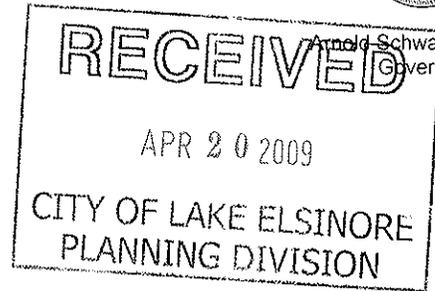


Department of Toxic Substances Control



Linda S. Adams
Secretary for
Environmental Protection

Maziar Movassaghi
Acting Director
5796 Corporate Avenue
Cypress, California 90630



Arnold Schwarzenegger
Governor

April 15, 2009

Carole Donahoe
Planning Consultant
City of Lake Elsinore
130 South Main Street
Lake Elsinore, California 92530

NOTICE OF PREPARATION FOR A PROGRAM ENVIRONMENTAL IMPACT REPORT FOR THE DIAMOND SPECIFIC PLAN PROJECT, (SCH# 2009031084), CITY OF LAKE ELSINORE, RIVERSIDE COUNTY

Dear Ms. Donahoe:

The Department of Toxic Substances Control (DTSC) has received your submitted Initial Study and Notice of Preparation (NOP) for a subsequent Program Environmental Impact Report (EIR) No. 507 for the above-mentioned Project. The following project description is stated in your document: "The Diamond Specific Plan (proposed project) is located in the City of Lake Elsinore, in the southwest portion of Riverside County. The Diamond Specific Plan will consist of an approximately 81.6 acre mixed use commercial/entertainment development adjacent to the ball park. The proposed project is a master planned, mixed use development providing for commercial, office, educational, entertainment, and residential use. The majority of the project site is currently within the East Lake Specific Plan (ELSP), which was originally adopted in 1993." DTSC has the following comments:

- 1) The EIR should identify the current or historic uses at the project site that may have resulted in a release of hazardous wastes/substances, and any known or potentially contaminated sites within the proposed Project area. For all identified sites, the EIR should evaluate whether conditions at the site may pose a threat to human health or the environment. Following are the databases of some of the pertinent regulatory agencies:
 - National Priorities List (NPL): A list maintained by the United States Environmental Protection Agency (U.S.EPA).
 - Envirostor: A Database primarily used by the California Department of Toxic Substances Control, accessible through DTSC's website (see below).

- Resource Conservation and Recovery Information System (RCRIS): A database of RCRA facilities that is maintained by U.S. EPA.
 - Comprehensive Environmental Response Compensation and Liability Information System (CERCLIS): A database of CERCLA sites that is maintained by U.S.EPA.
 - Solid Waste Information System (SWIS): A database provided by the California Integrated Waste Management Board which consists of both open as well as closed and inactive solid waste disposal facilities and transfer stations.
 - Leaking Underground Storage Tanks (LUST) / Spills, Leaks, Investigations and Cleanups (SLIC): A list that is maintained by Regional Water Quality Control Boards.
 - Local Counties and Cities maintain lists for hazardous substances cleanup sites and leaking underground storage tanks.
 - The United States Army Corps of Engineers, 911 Wilshire Boulevard, Los Angeles, California, 90017, (213) 452-3908, maintains a list of Formerly Used Defense Sites (FUDS).
- 2) The EIR should identify the mechanism to initiate any required investigation and/or remediation for any site that may be contaminated, and the government agency to provide appropriate regulatory oversight. If necessary, DTSC would require an oversight agreement in order to review such documents. Please see comment No. 11 below for more information.
- 3) All environmental investigations, sampling and/or remediation for the site should be conducted under a Workplan approved and overseen by a regulatory agency that has jurisdiction to oversee hazardous substance cleanup. The findings of any investigations, including any Phase I or II Environmental Site Assessment Investigations should be summarized in the document. All sampling results in which hazardous substances were found should be clearly summarized in a table.
- 4) Proper investigation, sampling and remedial actions overseen by the respective regulatory agencies, if necessary, should be conducted at the site prior to the new development or any construction. All closure, certification or remediation approval reports by these agencies should be included in the EIR.

- 5) If buildings or other structures, asphalt or concrete-paved surface areas are being planned to be demolished, an investigation should be conducted for the presence of other related hazardous chemicals, lead-based paints or products, mercury, and asbestos containing materials (ACMs). If other hazardous chemicals, lead-based paints or products, mercury or ACMs are identified, proper precautions should be taken during demolition activities. Additionally, the contaminants should be remediated in compliance with California environmental regulations and policies.
- 6) Project construction may require soil excavation or filling in certain areas. Sampling may be required. If soil is contaminated, it must be properly disposed and not simply placed in another location onsite. Land Disposal Restrictions (LDRs) may be applicable to such soils. Also, if the project proposes to import soil to backfill the areas excavated, sampling should be conducted to ensure that the imported soil is free of contamination.
- 7) Human health and the environment of sensitive receptors should be protected during the construction or demolition activities. If it is found necessary, a study of the site and a health risk assessment overseen and approved by the appropriate government agency and a qualified health risk assessor should be conducted to determine if there are, have been, or will be, any releases of hazardous materials that may pose a risk to human health or the environment.
- 8) If it is determined that hazardous wastes are, or will be, generated by the proposed operations, the wastes must be managed in accordance with the California Hazardous Waste Control Law (California Health and Safety Code, Division 20, Chapter 6.5) and the Hazardous Waste Control Regulations (California Code of Regulations, Title 22, Division 4.5). If it is determined that hazardous wastes will be generated, the facility should also obtain a United States Environmental Protection Agency Identification Number by contacting (800) 618-6942. Certain hazardous waste treatment processes or hazardous materials, handling, storage or uses may require authorization from the local Certified Unified Program Agency (CUPA). Information about the requirement for authorization can be obtained by contacting your local CUPA.
- 9) If during construction/demolition of the project, the soil and/or groundwater contamination is suspected, construction/demolition in the area should cease and appropriate health and safety procedures should be implemented.
- 10) If the site was used for agricultural, livestock or related activities, onsite soils and groundwater might contain pesticides, agricultural chemical, organic waste or other related residue. Proper investigation, and remedial actions, if necessary,

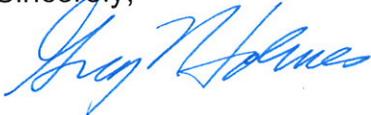
Carole Donahoe
April 15, 2009
Page 4

should be conducted under the oversight of and approved by a government agency at the site prior to construction of the project.

- 11) DTSC can provide guidance for cleanup oversight through an Environmental Oversight Agreement (EOA) for government agencies, or a Voluntary Cleanup Agreement (VCA) for private parties. For additional information on the EOA or VCA, please see [www.dtsc.ca.gov/ SiteCleanup/Brownfields](http://www.dtsc.ca.gov/SiteCleanup/Brownfields), or contact Ms. Maryam Tasnif-Abbasi, DTSC's Voluntary Cleanup Coordinator, at (714) 484-5489.
- 12) In future CEQA documents please provide the contact person's title and e-mail address.

If you have any questions regarding this letter, please contact Mr. Rafiq Ahmed, Project Manager, at rahmed@dtsc.ca.gov or by phone at (714) 484-5491.

Sincerely,



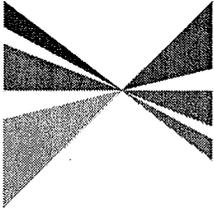
Greg Holmes
Unit Chief
Brownfields and Environmental Restoration Program

cc: Governor's Office of Planning and Research
State Clearinghouse
P.O. Box 3044
Sacramento, California 95812-3044
state.clearinghouse@opr.ca.gov

CEQA Tracking Center
Department of Toxic Substances Control
Office of Environmental Planning and Analysis
1001 I Street, 22nd Floor, M.S. 22-2
Sacramento, California 95814
nritter@dtsc.ca.gov

CEQA# 2537

SOUTHERN CALIFORNIA



ASSOCIATION of GOVERNMENTS

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90017-3435

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f (213) 236-1825

www.scag.ca.gov

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Richard Dixon, Lake Forest

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Human Development
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Energy and Environment
Keith Hanks, Azusa

Transportation
Mike Ten, South Pasadena

April 27, 2009

Ms. Carole Donahoe
City of Lake Elsinore
130 South Main Street
Lake Elsinore, CA 92530
cdonahoe@lake-elsinore.org

RE: SCAG Comments on the Notice of Preparation of a Draft Environmental Impact Report for the Diamond Specific Plan [SCAG No. I20090044]

Dear Ms. Donahoe,

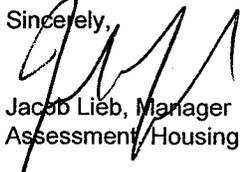
Thank you for submitting the **Notice of Preparation of a Draft Environmental Impact Report for the Diamond Specific Plan [SCAG No. I20090044]** to the Southern California Association of Governments (SCAG) for review and comment. SCAG is the authorized regional agency for Inter-Governmental Review of Programs proposed for federal financial assistance and direct development activities, pursuant to Presidential Executive Order 12372 (replacing A-95 Review). Additionally, pursuant to Public Resources Code Section 21083(d) SCAG reviews Environmental Impacts Reports of projects of regional significance for consistency with regional plans per the California Environmental Quality Act Guidelines, Sections 15125(d) and 15206(a)(1). SCAG is also the designated Regional Transportation Planning Agency and as such is responsible for both preparation of the Regional Transportation Plan (RTP) and Regional Transportation Improvement Program (RTIP) under California Government Code Section 65080 and 65082.

SCAG staff has reviewed this project and determined that the proposed project is regionally significant per California Environmental Quality Act (CEQA) Guidelines, Sections 15125 and/or 15206. The proposed project is the Diamond Specific Plan, which is an 87-acre area that is intended to provide the necessary master planning to implement the goals and objectives of the Ballpark District. The land use program suggests 897,000 square feet of regional serving commercial uses (retail, office, medical, and entertainment), along with 150 hotel rooms, and 600 dwelling units.

Policies of SCAG's Regional Transportation Plan (RTP) and Compass Growth Vision (CGV) that may be applicable to your project are outlined in the attachment. The RTP, CGV, and table of policies can be found on the SCAG web site at: <http://scag.ca.gov/igr>. For ease of review, we would encourage you to use a side-by-side comparison of all SCAG policies with a discussion of the consistency, non-consistency or non-applicability of the policy and supportive analysis in a table format (example attached).

The attached policies are meant to provide guidance for considering the proposed project within the context of our regional goals and policies. We also encourage the use of the SCAG List of Mitigation Measures extracted from the RTP to aid with demonstrating consistency with regional plans and policies. **Please provide a minimum of 45 days for SCAG to review the DEIR and associated plans when these documents are available.** If you have any questions regarding the attached comments, please contact Bernard Lee at (213) 236-1800 or lee@scag.ca.gov. Thank you.

Sincerely,


Jacob Lieb, Manager
Assessment/Housing & EIR

DOCS# 151392

**COMMENTS ON THE NOTICE OF PREPARATION OF A DRAFT
ENVIRONMENTAL IMPACT REPORT FOR THE DIAMOND SPECIFIC PLAN -
SCAG NO. I20090044**

PROJECT DESCRIPTION

The Diamond Specific Plan is intended to provide the necessary master planning to implement the goals and objectives of the Ballpark District. The proposed project is a master planned, mixed use development providing for commercial, office, educational, entertainment, and residential uses on 87 acres. Supporting uses will include parking, vehicular and pedestrian circulation, plazas and open space. The Specific Plan will also include comprehensive development guidelines and implementation measures to ensure the creation of a vibrant commercial center and entertainment area, and a livable community with readily accessible amenities, attractive streetscapes, and public places. Non-residential Floor Area Ratios (FARs) and residential density will also be consistent with the Commercial Mixed Use and Tourist Commercial use development criteria outlined in the City of Lake Elsinore General Plan, designated at up to 0.80 FAR and 18 dwelling units per acre (DU/AC), respectively.

The Diamond Conceptual Land Use program suggests 897,000 square feet of regional serving commercial uses (retail, office, medical, and entertainment), along with 150 hotel rooms, and 600 dwelling units.

PROJECT LOCATION

The proposed project is located in the City of Lake Elsinore, accessible from Interstate 15 by existing roadways including Diamond Drive and Lakeshore Drive. The project site is located west of Mission Trail.

CONSISTENCY WITH REGIONAL TRANSPORTATION PLAN

Regional Growth Forecasts

The DEIR should reflect the most current SCAG forecasts, which are the 2008 RTP (May 2008) Population, Household and Employment forecasts. The forecasts for your region, subregion, and cities are as follows:

Adopted SCAG Regionwide Forecasts¹

	<u>2010</u>	<u>2015</u>	<u>2020</u>	<u>2025</u>	<u>2030</u>	<u>2035</u>
Population	19,418,344	20,465,830	21,468,948	22,395,121	23,255,377	24,057,286
Households	6,086,986	6,474,074	6,840,328	7,156,645	7,449,484	7,710,722
Employment	8,349,453	8,811,406	9,183,029	9,546,773	9,913,376	10,287,125

Adopted WRCOG Subregion Forecasts¹

	<u>2010</u>	<u>2015</u>	<u>2020</u>	<u>2025</u>	<u>2030</u>	<u>2035</u>
Population	1,735,426	1,918,962	2,096,544	2,262,992	2,414,256	2,550,867
Households	546,047	609,219	671,933	727,622	780,743	828,547
Employment	588,523	691,260	797,626	901,163	1,005,923	1,098,233

Adopted WRCOG Subregion Unincorporated Forecasts¹

	<u>2010</u>	<u>2015</u>	<u>2020</u>	<u>2025</u>	<u>2030</u>	<u>2035</u>
Population	526,517	592,744	664,725	728,423	783,621	845,475
Households	166,479	187,853	214,737	234,324	252,975	273,407
Employment	121,804	155,519	189,732	223,967	258,430	288,745

Adopted City of Lake Elsinore Forecasts¹

	<u>2010</u>	<u>2015</u>	<u>2020</u>	<u>2025</u>	<u>2030</u>	<u>2035</u>
Population	51,138	61,045	69,558	78,044	85,376	92,438
Households	15,239	18,149	21,022	23,898	26,448	28,662
Employment	12,152	13,525	15,006	16,487	18,012	19,297

1. The 2008 RTP growth forecast at the regional, subregional, and city level was adopted by the Regional Council in May 2008. City totals are the sum of small area data and should be used for advisory purposes only.

The **2008 Regional Transportation Plan (RTP)** also has goals and policies that are pertinent to this proposed project. This RTP links the goal of sustaining mobility with the goals of fostering economic development, enhancing the environment, reducing energy consumption, promoting transportation-friendly development patterns, and encouraging fair and equitable access to residents affected by socio-economic, geographic and commercial limitations. The RTP continues to support all applicable federal and state laws in implementing the proposed project. Among the relevant goals and policies of the RTP are the following:

Regional Transportation Plan Goals:

- RTP G1** *Maximize mobility and accessibility for all people and goods in the region.*
- RTP G2** *Ensure travel safety and reliability for all people and goods in the region.*
- RTP G3** *Preserve and ensure a sustainable regional transportation system.*
- RTP G4** *Maximize the productivity of our transportation system.*
- RTP G5** *Protect the environment, improve air quality and promote energy efficiency.*
- RTP G6** *Encourage land use and growth patterns that complement our transportation investments.*
- RTP G7** *Maximize the security of our transportation system through improved system monitoring, rapid recovery planning, and coordination with other security agencies.*

GROWTH VISIONING

The fundamental goal of the **Compass Growth Visioning** effort is to make the SCAG region a better place to live, work and play for all residents regardless of race, ethnicity or income class. Thus, decisions regarding growth, transportation, land use, and economic development should be made to promote and sustain for future generations the region's mobility, livability and prosperity. The following "Regional Growth Principles" are proposed to provide a framework for local and regional decision making that improves the quality of life for all SCAG residents. Each principle is followed by a specific set of strategies intended to achieve this goal.

Principle 1: Improve mobility for all residents.

- GV P1.1** *Encourage transportation investments and land use decisions that are mutually supportive.*
- GV P1.2** *Locate new housing near existing jobs and new jobs near existing housing.*
- GV P1.3** *Encourage transit-oriented development.*
- GV P1.4** *Promote a variety of travel choices*

Principle 2: Foster livability in all communities.

- GV P2.1 *Promote infill development and redevelopment to revitalize existing communities.*
- GV P2.2 *Promote developments, which provide a mix of uses.*
- GV P2.3 *Promote "people scaled," walkable communities.*
- GV P2.4 *Support the preservation of stable, single-family neighborhoods.*

Principle 3: Enable prosperity for all people.

- GV P3.1 *Provide, in each community, a variety of housing types to meet the housing needs of all income levels.*
- GV P3.2 *Support educational opportunities that promote balanced growth.*
- GV P3.3 *Ensure environmental justice regardless of race, ethnicity or income class.*
- GV P3.4 *Support local and state fiscal policies that encourage balanced growth*
- GV P3.5 *Encourage civic engagement.*

Principle 4: Promote sustainability for future generations.

- GV P4.1 *Preserve rural, agricultural, recreational, and environmentally sensitive areas*
- GV P4.2 *Focus development in urban centers and existing cities.*
- GV P4.3 *Develop strategies to accommodate growth that uses resources efficiently, eliminate pollution and significantly reduce waste.*
- GV P4.4 *Utilize "green" development techniques*

CONCLUSION

As the clearinghouse for regionally significant projects per Executive Order 12372, SCAG reviews the consistency of local plans, projects, and programs with regional plans. This activity is based on SCAG's responsibilities as a regional planning organization pursuant to state and federal laws and regulations. Guidance provided by these reviews is intended to assist local agencies and project sponsors to take actions that contribute to the attainment of regional goals and policies.

All feasible measures needed to mitigate any potentially negative regional impacts associated with the proposed project should be implemented and monitored, as required by CEQA. Refer to the SCAG List of Mitigation Measures for additional guidance.

The list can be found at: http://www.scag.ca.gov/igr/documents/SCAG_IGRMMRP_2008.pdf

SUGGESTED SIDE BY SIDE FORMAT - COMPARISON TABLE OF SCAG POLICIES

For ease of review, we would encourage the use of a side-by-side comparison of all SCAG policies with a discussion of the consistency, non-consistency or not applicable of the policy and supportive analysis in a table format. All policies and goals must be evaluated as to impacts. Suggested format is as follows:

The complete table can be found at: <http://www.scag.ca.gov/igr/>

- Click on "**Demonstrating Your Project's Consistency With SCAG Policies**"
- Scroll down to "**Table of SCAG Policies for IGR**"

SCAG Regional Transportation Plan Goals and Compass/Growth Visioning Principles		
Regional Transportation Plan Goals		
Goal/ Principle Number	Policy Text	Statement of Consistency, Non-Consistency, or Not Applicable
RTP G1	Maximize mobility and accessibility for all people and goods in the region.	Consistent: Statement as to why Not-Consistent: Statement as to why or Not Applicable: Statement as to why
RTP G2	Ensure travel safety and reliability for all people and goods in the region.	Consistent: Statement as to why Not-Consistent: Statement as to why or Not Applicable: Statement as to why
RTP G3	Preserve and ensure a sustainable regional transportation system.	Consistent: Statement as to why Not-Consistent: Statement as to why or Not Applicable: Statement as to why
Etc.	Etc.	Etc.



RIVERSIDE COUNTY FLOOD CONTROL
AND WATER CONSERVATION DISTRICT

April 15, 2009



Ms. Carol Donahoe
City of Lake Elsinore
130 South Main Street
Lake Elsinore, CA 92530

Dear Ms. Donahoe:

Re: Notice of Preparation of a Draft
Environmental Impact Report for the
Diamond Specific Plan

This letter is written in response to the Notice of Preparation (NOP) of a Draft Environmental Impact Report for the Diamond Specific Plan. The proposed project includes an amendment to the East Lake Specific Plan (ELSP) to remove 86.4 acres from the ELSP and place the majority of that acreage within a new specific plan called "The Diamond" Specific Plan. The proposed 87.2 acre Diamond Specific Plan is a master planned, mixed use development providing for commercial, office, educational, entertainment, and residential uses adjacent to the existing ball park. The project is located along both sides of Diamond Drive between Lakeshore/Mission Trail and Malaga Road in the city of Lake Elsinore, Riverside County.

The Riverside County Flood Control and Water Conservation District has reviewed the NOP and has the following comments/concerns:

1. Please be advised that portions of The Diamond Specific Plan are located within the back basin 100-year floodplain for Lake Elsinore. New development around the lake should preserve the volume of storage available for flood waters. Any storage volume lost between elevations 1240 and 1263.3 feet (NGVD29) due to this project shall be made up by excavating a volume of earthwork that is 1.3 times the displaced volume. The engineer may provide calculations justifying the use of a value less than 1.3 times. However, the adjustment factor for make-up volume shall not be less than 1.1 times the displaced volume. The excavation shall come from an area of the lake margin that is contiguous with the project and located within the range of elevations as stated above. A detailed account of the cut/fill and import/export volumes shall be provided in order to justify the proposed grading operations.
2. The FEMA 100-year flood level within the lake is at elevation 1265.7 feet NAVD88 (1263.3 feet NGVD29). All elevations stated throughout the DEIR shall be consistently referenced to the North American Vertical Datum of 1988 (NAVD) and/or the National Geodetic Vertical Datum of 1929 (NGVD).

Ms. Carol Donahoe
Re: Notice of Preparation of a Draft
Environmental Impact Report for the
Diamond Specific Plan

-2-

April 15, 2009

3. The DEIR should evaluate the potential adverse effects of prolonged flooding. When major flooding does occur, the back basin will be subject to inundation for extended periods (e.g. weeks or months). Mitigation for such an event should ensure that flooding near the proposed development is kept to a limited transitional period and not subject to long-term saturation.

Thank you for the opportunity to review the NOP. Please forward any subsequent environmental documents regarding the project to my attention at this office. Any further questions concerning this letter may be referred to Art Diaz at 951.955.4643 or me at 951.955.8581.

Very truly yours,



KRIS FLANIGAN
Senior Civil Engineer

c: TLMA
Attn: Kathleen Browne
David Garcia

AD:mcv
P8\124651

From: Alfredo Garcia [mailto:agarcia@cityofcanyonlake.com]
Sent: Wednesday, March 25, 2009 9:52 AM
To: Carole Donohoe
Subject: Draft Enviornmental Impact Report for the Diamond Specific Plan

Carole,

The City of Canyon Lake received your letter dated March 23, 2009 regarding the Notice of Preparation of a Draft Enviornmental Impact Report for the Diamond Specific Plan.

The City of Canyon Lake appreciates your request for our input, however, at this time we do not have any comments relating to the Diamond Specific Plan.

Thank you

Alfredo Garcia
City of Canyon Lake
Planning Intern



PECHANGA CULTURAL RESOURCES
Temecula Band of Luiseño Mission Indians

Post Office, Box 2183 • Temecula, CA 92593
Telephone (951) 308-9295 • Fax (951) 506-9491

April 7, 2009

Chairperson:
Germaine Arenas

Vice Chairperson:
Mary Bear Magee

Committee Members:
Evie Gerber
Darlene Miranda
Bridgett Barcello Maxwell

Director:
Gary DuBois

Coordinator:
Paul Macarro

Cultural Analyst:
Anna Hoover

Monitor Supervisor:
Aurelia Marruffo

VIA E-Mail and USPS

Ms. Carole Donahoe
Planning Consultant
City of Lake Elsinore
Community Development Dept
130 South Main Street
Lake Elsinore, CA 92530

Re: Pechanga Tribe Comments on the Notice of Preparation for Draft Environmental Impact Report and Tribal Consultation in Association with SB18 for the Diamond Specific Plan Project

Dear Ms. Donahoe:

This comment letter is submitted by the Pechanga Band of Luiseño Indians (hereinafter, "the Tribe"), a federally recognized Indian tribe and sovereign government, in response to the SB18 consultation request and NOP of a DEIR from the City of Lake Elsinore. The Tribe is formally requesting, pursuant to Public Resources Code §21092.2, to be notified and involved in the entire CEQA environmental review process for the duration of the above referenced project (the "Project"), and requests that these comments be part of the record of approval for this Project. If you have not already done so, please add the Tribe to your distribution list(s) for public notices and circulation of all documents, including environmental review documents, archeological reports, and all documents pertaining to this Project. The Tribe further requests to be directly notified of all public hearings and scheduled approvals concerning this Project and requests that these comments be made part of the record of approval for this Project.

CITY OF LAKE ELSINORE MUST INCLUDE INVOLVEMENT OF AND CONSULTATION WITH THE PECHANGA TRIBE IN ITS ENVIRONMENTAL REVIEW PROCESS

It has been the intent of the Federal Government¹ and the State of California² that Indian

¹ See Executive Memorandum of April 29, 1994 on Government-to-Government Relations with Native American Tribal Governments; Executive Order 13175 of November 6, 2000 on Consultation and Coordination with Indian Tribal Governments; and Executive Memorandum of September 23, 2004 on Government-to-Government Relationship with Tribal Governments.

tribes be consulted with regard to issues which impact cultural and spiritual resources, as well as other governmental concerns. The responsibility to consult with Indian tribes stems from the unique government-to-government relationship between the United States and Indian tribes. This arises when tribal interests are affected by the actions of governmental agencies and departments. In this case, it is undisputed that the project lies within the Pechanga Tribe's traditional territory. Therefore, in order to comply with CEQA and other applicable Federal and California law, it is imperative that the City and the Project Applicant consult with the Tribe in order to guarantee an adequate basis of knowledge for an appropriate evaluation of the project effects, as well as generating adequate mitigation measures.

LEAD AGENCY CONSULTATION WITH THE PECHANGA TRIBE REQUIRED
PURSUANT TO
CAL. GOVT. C. §§ 65351, 65352, 65352.3, AND 65352.4
(SENATE BILL 18 – TRADITIONAL TRIBAL CULTURAL PLACES LAW)

As this Project entails a Specific Plan, the Lead Agency is required to consult with the Pechanga Tribe pursuant to a State law entitled Traditional Tribal Cultural Places (also known as SB 18; Cal. Govt. C. § 65352.3). Such consultation shall be for the purposes of identifying any Native American sacred places and any geographical areas which could potentially yield sacred places, identifying proper means of treatment and management of such places, and to ensure the protection and preservation of such places through agreed upon mitigation (Cal. Govt. C. 65352.3; SB18, Chapter 905, Section 1(4)(b)(3)). All consultations shall be government-to-government, meaning they shall be directly between the Tribe and the Lead Agency, seeking agreement where feasible (Cal. Govt. C. § 65352.4; SB18, Chapter 905, Section 1(4)(b)(3)). Lastly, any such information conveyed to the Lead Agency concerning Native American sacred places shall be confidential in terms of the specific identity, location, character and use of those places and associated features and objects. Such information shall not be subject to public disclosure pursuant the California Public Records Act (Cal. Govt. C. 6254(r)).

PECHANGA CULTURAL AFFILIATION TO PROJECT AREA

The Tribe asserts that the Project area is part of the Tribe's aboriginal territory, as evidenced by the existence of Luiseño place names, *tóota eskánishtum* (rock art, pictographs, petroglyphs, cupules), and an extensive Luiseño artifact record in the vicinity of the Project. The Pechanga Tribe knows this Project area as the *Paayaxchi* area and further asserts that this culturally sensitive area is affiliated specifically with the Pechanga Band of Luiseño Indians because of the Tribe's specific cultural ties to this area. The Tribe considers any resources located on this Project property to be Pechanga cultural resources.

² See California Public Resource Code §5097.9 et seq.; California Government Code §§65351,65352,65352.3 and 65352.4

The Tribe's knowledge of our ancestral boundaries is based on reliable information passed down to us from our elders; published academic works in the areas of anthropology, history and ethno-history; and through recorded ethnographic and linguistic accounts. Of the many anthropologists and historians who have presented boundaries of the Luiseño traditional territory, none have excluded the Lake Elsinore area from their descriptions (Sparkman 1908; Kroeber 1925; White 1963; Harvey 1974; Oxendine 1983; Smith and Freers 1994), and such territory descriptions correspond almost identically with what was communicated to the Pechanga people by our elders.

There is a connection between Temecula and Lake Elsinore area that stems from the beginning of time for Pechanga people. Luiseño history originates with the creation of all things at *'éxva Teméeku*, known today as the City of Temecula, and dispersing out to all corners of creation (what is today known as Luiseño territory). The name *'éxva* can be translated as a "place of sand" and *Teméeku* means "sun place." Temecula derives its etymology from this place, where the Murrieta and Temecula Creeks converge to form the Santa Margarita River which flows onto the Pacific Ocean. This location is integral to Luiseño cultural history and heritage.

In many of the creation songs, Temecula and Elsinore are mentioned interchangeably, intimating a relationship between Temecula and Elsinore, including the entire area in between. It was at Temecula that the first human, *Wuyóot*, lived, fed and taught the people and here that he became sick. Several of our traditional songs relate the account of the people taking the dying *Wuyóot* to various hot springs, which included *Churúkunuknu Sákiwuna* (sliding place where hot water bubbles)--Murrieta Hot Springs and *'iténgvu Wumówmu*--Lake Elsinore, where he died. As he journeyed to these various springs, *Wuyóot* also named the increments of time that had passed, which became the months of the Luiseño calendar. During this time, he taught the First People all of his knowledge (Dubois 1908; Roberts 1933, 6-7). It is the Luiseño creation account that connects Elsinore to Temecula, and thus to the Temecula people who were evicted and moved to the Pechanga Reservation, and now known as the Pechanga Band of Luiseño Mission Indians (the Pechanga Tribe).

The area known as Lake Elsinore is also the location for noteworthy events in Luiseño culture. For example, it is the place where two of the *Káamalam* (first people), *Qáwqaw* and *Chixéemal*, had their first menses, which is the subject of one of the girls' coming-of-age songs (DuBois 1908). Another song recounts the travels of the people to Elsinore after a great flood (DuBois 1908). From here, they again spread out to the north, south, east and west. Three songs, called *Montívol*, are songs of the places and landmarks that were destinations of the Luiseño ancestors. They describe the exact route of the Temecula (Pechanga) people and the landmarks made by each to claim title to places in their migrations (DuBois 1908:110). Another account involves a Temecula village leader killing the evil *Táakwish* (the Luiseño evil spirit) at Elsinore, followed by his cremation in Temescal Canyon (Kroeber 1906).

Tóota eskánishtum (rock art) is also an important element in the determination of Luiseño territorial boundaries. *Tóota eskánishtum* can consist of petroglyphs (incised) elements, or pictographs (painted) elements. The science of archaeology tells us that places can be described through these rock art elements. Riverside and Northern San Diego Counties are home to red-pigmented pictograph panels. Archaeologists have adopted the name for these pictograph-versions, as defined by Ken Hedges of the Museum of Man, as the San Luis Rey style. Gerald Smith and Steve Freers book "Fading Images" describes this style of *tóota eskánishtum* as being, "Generally associated with late prehistoric and historic Luiseño populations, with extensions into neighboring territories. This type of site is the major locus of the style, on the San Luis Rey River, San Diego County" (Smith and Freers 26). The San Luis Rey style incorporates elements which include chevrons, zig-zags, dot patterns, sunbursts, handprints, net/chain, anthropomorphic (human-like) and zoomorphic (animal-like) designs. Tribal historians and photographs inform us that some design elements are reminiscent of Luiseño ground paintings. A few of these design elements, particularly the flower motifs, the net/chain and zig-zags, were sometimes depicted in Luiseño basket designs and can be observed in remaining baskets and textiles today.

An additional type of *tóota eskánishtum*, identified by archaeologists also as rock art or petroglyphs, is known as cupules. Throughout Luiseño territory, there are certain types of large boulders, taking the shape of mushrooms or waves, which contain numerous small pecked and ground indentations, also called cupules. We know that cupules occur throughout the world although, throughout Riverside and Northern San Diego Counties, we have observed that these cupule boulders are located at permanent Luiseño villages. Tribal knowledge reflects that cupules can be located on either vertical "wave-shaped" boulders or horizontal "ridge-back" boulders. According to historian Constance DuBois:

When the people scattered from Ekvo Temeko, Temecula, they were very powerful. When they got to a place, they would sing a song to make water come there, and would call that place theirs; or they would scoop out a hollow in a rock with their hands to have that for their mark as a claim upon the land. The different parties of people had their own marks. For instance, Albañas's ancestors had theirs, and Lucario's people had theirs, and their own songs of Munival to tell how they traveled from Temecula, of the spots where they stopped and about the different places they claimed (1908:158).

Additionally, numerous ethnographers make mention of the fact that the Luiseño were highly territorial, and that territories were marked and jealously guarded. Trespassing was cause for conflict and at times outright warfare between groups. The young were taught never to trespass on the land of others in pursuit of game or the gathering of food without permission (Sparkman 1908:190).

Thus, our songs and stories, as well as academic works, demonstrate that the Luiseño people who occupied what we know today as Temecula, Lake Elsinore and the areas in between (*Páayaxchi, Nivé'wuna, Páa'a, Páašukwa, Pii'iv, Pivmay, We'éeva, Wiina* and *Temeeku*) are ancestors of the present-day Pechanga Band of Luiseño Indians, and as such, Pechanga is the appropriate culturally affiliated tribe for projects that impact this geographic area.

In addition, the Pechanga Tribe has a long modern day history of involvement with Projects in the area known as Lake Elsinore. No only has the Pechanga Tribe been involved, but it has been given the designation of the consulting tribe or affiliated tribe on projects located in the City of Lake Elsinore and its sphere of influence, such as Cottonwood Hills, Liberty Serenity, North Peak, Temescal Canyon, Lakeview Villas, County Sheriff's Station, Spy Glass Ranch, Meadowbrook, Oak Springs, Canyon Hills, Wasson West, Greenwald Property, Lake Street Marketplace and Glen Ivy. In addition, Pechanga was the consulting tribe on the projects which have been developed within the overarching East Lake/Liberty Specific Plan such as the Laing/Summerly, Waterbury and the Marina District Specific Plan. Moreover, the Pechanga Tribe has been the only tribe that we know of to assume the role of MLD in the Lake Elsinore area. NAHC records confirm that no other tribe has been named MLD in the Lake Elsinore area.

The Tribe would welcome to opportunity to meet with the City to further explain and provide documentation concerning our specific cultural affiliation to lands within your jurisdiction.

CULTURAL RESOURCES SHOULD BE EVALUATED IN THE DEIR

The proposed Project is on land that is within the traditional territory of the Pechanga Band of Luiseño Indians. The Tribe's primary concerns stem from the Project's likely impacts on Native American cultural resources. The Tribe is concerned about both the protection of unique and irreplaceable cultural resources, such as Luiseño village sites and archaeological items which would be displaced by ground disturbing work on the Project, and on the proper and lawful treatment of cultural items, Native American human remains and sacred items likely to be discovered in the course of the work.

Review of internal maps and verbal communication with the Project Archaeologist has confirmed that a previously recorded cultural resource still exists within the Specific Plan boundaries (CA-RIV-4042). This site consists of flaked stone materials and is extensive in size. The original site record indicates that there was also a small amount of burned bone observed on the surface however, no analysis was conducted at that time to identify the type of bone. Although the site record also states that there were no human remains, we are concerned that this bone may be human and request additional identification to rule out the possibility of a human cremation. In fact, human remains have been found in the vicinity of the Project, to the west, and the Tribe believes that the site on the Project is directly related to the other previously recorded resources in the area. At this time, the Tribe is highly concerned about this resource

and believes that the proposed Project will impact RIV-4042. While the Tribe believes that all cultural sites should be left intact and protected, we understand the applicable cultural resources protection laws and always strive to work together with the Project Archaeologist, the Lead Agency and the Applicant to both adequately investigate and evaluate cultural resources on a Project site and to determine appropriate mitigation for all cultural sites. The Tribe strives to ensure that such cultural analysis, evaluations, and mitigation measures not only comply with applicable laws, but honors and takes into account the Tribe's governmental and cultural practices for cultural resources protection.

Because this area is rich in cultural resources, the CEQA requires a thorough evaluation of the cultural resources within the Project area. Any lack of investigation regarding the entire site is contrary to the mandates of the CEQA to evaluate potential project impacts. The Pechanga Tribe contends that a thorough cultural resources assessment, including investigative Phase II excavations, should be required as part of the EIR for the Project. The Tribe requests to continue to be involved in all assessment and evaluation done by the Applicant, the City, and the Project Archaeologist through direct participation and consultation regarding such assessment and evaluation, and to participate as a partner in interpreting the results and devising appropriate mitigation based upon those results. Further, the Tribe requests additional information on the Project and requests to work closely with the City, the Applicant and the Project archaeologist in order to provide adequate recommendations regarding mitigation for RIV-4042.

The Pechanga Tribe also requests that the City and developer take steps for the protection of any uncovered resources in the process of these assessments. The additional studies may reveal significant archaeological resources and sites which may be eligible for inclusion in the historic site register, may contain human remains and/or may be sacred Luiseño sites.

PECHANGA TRIBAL INVOLVEMENT

The Tribe officially requests to continue consultation with the City and to receive official notice of all actions concerning this Project pursuant to the Tribal Traditional Cultural Properties law and CEQA. To continue this consultation, the Tribe requests copies of all available documents pertaining to the cultural resource and archaeological impacts of this Project, including environmental documents, archaeological reports, proposed mitigation measures and conditions of approval and archaeological site records from studies done for the earlier East Lake/Liberty Specific Plan which incorporates the property on which this Project is being developed. Specifically, the Tribe requests to continue our consultation upon the City's receipt and review of this comment letter as well as incorporating this letter as part of the official record for SB 18 purposes. The Pechanga Tribe may be requesting that the City adopt specific procedures and policies concerning the protection, preservation and mitigation of sacred places, and all cultural resources pertaining to this Project.

The Pechanga Tribe will itself be engaging in further assessment of the Project area, in consultation with tribal elders, to identify more specific information about this culturally sensitive area. The Tribe will also be offering additional proposed mitigation once it has completed the assessment of the Project. Moreover, the Tribe possesses necessary information about the archeological and cultural sensitivity that an archeological survey alone will not reveal, and appreciates early consultation in the environmental review process to assist in identifying and mitigating the cultural resources impacts for this Project. Given that Native American cultural resources will be affected by the Project, the Pechanga Tribe requests it be allowed to be involved and participate with the City and Applicant in creating mitigation plans for the duration of the Project under California Public Resources Code § 21081.

According to the California Public Resources Code, § 5097.98, if Native American human remains are discovered, the Native American Heritage commission must name a “most likely descendant,” who shall be consulted as to the appropriate disposition of the remains. Given the Project’s location in Pechanga aboriginal territory, the Tribe intends to assert its right pursuant to California law with regard to any remains or items discovered in the course of this Project.

PROPOSED MITIGATION MEASURES

Because there is a cultural site on the Project property, the Tribe will be working with the Project Applicant and Project Archaeologist to thoroughly evaluate and assess potential impacts to that site. Once that process is completed, the Tribe will be submitting suggested mitigation to specifically address impacts to that site and any other sites found during the archaeological site assessments. For the present time, the Tribe asks that, at a minimum, the City’s standard mitigation measures/conditions of approval be included in the DEIR:

- MM 1** Prior to issuance of grading permit(s) for the project, the project applicant shall retain an archaeological monitor to monitor all ground-disturbing activities in an effort to identify any unknown archaeological resources. Any newly discovered cultural resource deposits shall be subject to a cultural resources evaluation.
- MM 2** At least 30 days prior to seeking a grading permit, the project applicant shall contact the appropriate Tribe³ to notify the Tribe of grading, excavation and the monitoring program, and to coordinate with the City of Lake Elsinore and the Tribe to develop a Cultural Resources Treatment and Monitoring Agreement. The Agreement shall address the treatment of known cultural resources, the designation, responsibilities, and participation of Native American Tribal monitors during grading, excavation and ground disturbing activities; project grading and development scheduling; terms of compensation; and

³ It is anticipated that the Pechanga Tribe will be the “appropriate” Tribe due to their prior and extensive participation in the East Lake/Liberty Specific Plan and their coordination with the City and project applicant in determining potentially significant impacts and appropriate mitigation measures.

treatment and final disposition of any cultural resources, sacred sites, and human remains discovered on the site.

- MM 3** Prior to issuance of any grading permit, the project archaeologist shall file a pre-grading report with the City and County (if required) to document the proposed methodology for grading activity observation. Said methodology shall include the requirement for a qualified archaeological monitor to be present and to have the authority to stop and redirect grading activities. In accordance with the agreement required in MM 4.4-2, the archaeological monitor's authority to stop and redirect grading will be exercised in consultation with the appropriate Tribe in order to evaluate the significance of any archaeological resources discovered on the property. Tribal monitors shall be allowed to monitor all grading, excavation and groundbreaking activities, and shall also have the authority to stop and redirect grading activities in consultation with the project archaeologist.
- MM 4** If human remains are encountered, California Health and Safety Code Section 7050.5 states that no further disturbance shall occur until the Riverside County Coroner has made the necessary findings as to origin. Further, pursuant to California Public Resources Code Section 5097.98(b) remains shall be left in place and free from disturbance until a final decision as to the treatment and disposition has been made. If the Riverside County Coroner determines the remains to be Native American, the Native American Heritage Commission shall be contacted within a reasonable timeframe. Subsequently, the Native American Heritage Commission shall identify the "most likely descendant." The most likely descendant shall then make recommendations, and engage in consultations concerning the treatment of the remains as provided in Public Resources Code 5097.98.
- MM 5** The landowner shall relinquish ownership of all cultural resources, including sacred items, burial goods and all archaeological artifacts that are found on the project area to the appropriate Tribe for proper treatment and disposition.
- MM 6** All sacred sites, should they be encountered within the project area, shall be avoided and preserved as the preferred mitigation, if feasible.
- MM 7** If inadvertent discoveries of subsurface archaeological resources are discovered during grading, the Developer, the project archaeologist, and the appropriate Tribe shall assess the significance of such resources and shall meet and confer regarding the mitigation for such resources. If the Developer and the Tribe cannot agree on the significance or the mitigation for such resources, these issues will be presented to the Community Development Director (CDD) for decision. The CDD shall make the determination based on the provisions of the California Environmental Quality Act with respect to archaeological resources and shall take into account the religious beliefs, customs, and practices of the appropriate Tribe. Notwithstanding any other rights available under the law, the decision of the CDD shall be appealable to the City of Lake Elsinore.

Pechanga Comment Letter to the City of Lake Elsinore
Re: Pechanga Tribe Comments on SB18 Consultation and NOP for a DEIR for Diamond SP
April 7, 2009
Page 9

The Pechanga Tribe looks forward to working together with the City of Lake Elsinore in protecting the invaluable Pechanga cultural resources found in the Project area. Please contact myself at 951-308-9295 X8104 or Deputy General Counsel Laura Miranda at 951-676-2768 X2138 once you have had a chance to review these comments so that we might address the issues concerning the mitigation language. If you have any questions, please do not hesitate to contact me. Thank you for the opportunity to submit these comments.

Sincerely,



Anna M. Hoover
Cultural Analyst

cc: Laura Miranda, Pechanga Office of the General Counsel
Brenda Tomaras, Tomaras and Ogas, LLP

February 5, 2009

Attn: Carole K. Donahoe
AICP Project Planner

Re: Tribal Consultation in accordance with SB 18 (Government Code §§ 65352.3, 65352.4, and 65352.5) for Diamond Specific Plan #2009-01 and East Lake Specific Plan Amendment No. 9; City of Lake Elsinore, Riverside County, California

The Soboba Band of Luiseño Indians appreciates your observance of Tribal Cultural Resources and their preservation in your project. The information provided to us on said project has been assessed through our Cultural Resource Department, where it was concluded that although it is outside the existing reservation, the project area does fall within the bounds of our Luiseño Tribal Traditional Use Areas. The project location is part of a known village site and is in close proximity to other known sites. Both of these villages are known to the Luiseno in their traditional names, Pa'Axchey and Wee'va. It is also a shared use area that was used in ongoing trade between the Luiseno bands, not considered as a location occupied by one existing band, but rather the Luiseno Tribe. For these reasons the site is regarded as sensitive to the people of Soboba for the possibility of unanticipated finds.

Soboba Band of Luiseño Indians is requesting the following:

1. **Government to government** consultation. Meaning the transfer of information to the Soboba Band of Luiseno Indians regarding the progress of this project should be done as soon as new developments occur.
2. Soboba Band of Luiseño Indians be regarded as the lead consulting tribal entity for this project.
3. Working in and around traditional use areas intensifies the possibility of encountering cultural resources during the construction/excavation phase. For this reason the Soboba Band of Luiseño Indians requests that Native American Monitor(s) from the Soboba Band of Luiseño Indians Cultural Resource Department to be present during any ground disturbing proceedings. Including surveys and archaeological testing.
4. Request that proper procedures be taken and requests of the tribe be honored (Please see the attachment)

Sincerely,

Joseph Ontiveros
Soboba Cultural Resource Department
P.O. Box 487
San Jacinto, CA 92581
Phone (951) 654-5544 ext. 4137
Cell (951) 663-5279

Cultural Items (Artifacts). Ceremonial items and items of cultural patrimony reflect traditional religious beliefs and practices of the Soboba Band. The Developer should agree to return all Native American ceremonial items and items of cultural patrimony that may be found on the project site to the Soboba Band for appropriate treatment. In addition, the Soboba Band requests the return of all other cultural items (artifacts) that are recovered during the course of archaeological investigations. Where appropriate and agreed upon in advance, Developer's archeologist may conduct analyses of certain artifact classes if required by CEQA, Section 106 of NHPA, the mitigation measures or conditions of approval for the Project. This may include but is not limited or restricted to include shell, bone, ceramic, stone or other artifacts.

The Developer should waive any and all claims to ownership of Native American ceremonial and cultural artifacts that may be found on the Project site. Upon completion of authorized and mandatory archeological analysis, the Developer should return said artifacts to the Soboba Band within a reasonable time period agreed to by the Parties and not to exceed (30) days from the initial recovery of the items.

Treatment and Disposition of Remains. Given that Native American human remains have been found during development of the Project and the Soboba Band has been designated the MLD, the following provisions shall apply to the Parties:

- A. The Soboba Band shall be allowed, under California Public Resources Code § 5097.98 (a), to (1) inspect the site of the discovery and (2) make determinations as to how the human remains and grave goods shall be treated and disposed of with appropriate dignity.
- B. The Soboba Band, as MLD, shall complete its inspection within twenty-four (24) hours of receiving notification from either the Developer or the NAHC, as required by California Public Resources Code § 5097.98 (a). The Parties agree to discuss in good faith what constitutes "appropriate dignity" as that term is used in the applicable statutes.
- C. Reburial of human remains shall be accomplished in compliance with the California Public Resources Code § 5097.98 (a) and (b). The Soboba Band, as the MLD in consultation with the Developer, shall make the final discretionary determination regarding the appropriate disposition and treatment of human remains.
- D. All parties are aware that the Soboba Band may wish to rebury the human remains and associated ceremonial and cultural items (artifacts) on or near, the site of their discovery, in an area that shall not be subject to future subsurface

disturbances. The Developer should accommodate on-site reburial in a location mutually agreed upon by the Parties.

E. The term "human remains" encompasses more than human bones because the Soboba Band's traditions periodically necessitated the ceremonial burning of human remains. Grave goods are those artifacts associated with any human remains. These items, and other funerary remnants and their ashes are to be treated in the same manner as human bone fragments or bones that remain intact

Coordination with County Coroner's Office. The Lead Agencies and the Developer should immediately contact both the Coroner and the Soboba Band in the event that any human remains are discovered during implementation of the Project. If the Coroner recognizes the human remains to be those of a Native American, or has reason to believe that they are those of a Native American, the Coroner shall ensure that notification is provided to the NAHC within twenty-four (24) hours of the determination, as required by California Health and Safety Code § 7050.5 (c).

Non-Disclosure of Location Reburials. It is understood by all parties that unless otherwise required by law, the site of any reburial of Native American human remains or cultural artifacts shall not be disclosed and shall not be governed by public disclosure requirements of the California Public Records Act. The Coroner, parties, and Lead Agencies, will be asked to withhold public disclosure information related to such reburial, pursuant to the specific exemption set forth in California Government Code § 6254 (r).

Ceremonial items and items of cultural patrimony reflect traditional religious beliefs and practices of the Soboba Band. The Developer agrees to return all Native American ceremonial items and items of cultural patrimony that may be found on the project site to the Soboba Band for appropriate treatment. In addition, the Soboba Band requests the return of all other cultural items (artifacts) that are recovered during the course of archaeological investigations. Where appropriate and agreed upon in advance, Developer's archeologist may conduct analyses of certain artifact classes if required by CEQA, Section 106 of NHPA, the mitigation measures or conditions of approval for the Project. This may include but is not limited or restricted to include shell, bone, ceramic, stone or other artifacts.