9.12 Tribal Communications



City of San Bernardino

Community and Economic Development Department| Planning Division

November 14, 2019

San Manuel Band of Mission Indians
Attn: Lee Clauss
26569 Community Center Drive
Highland, CA 92346

SUBJECT: ASSEMBLY BILL 52 CONSULTATION: NOTIFICATION OF THE BNSF ONO LEAD TRACK EXTENSION PROJECT, PURSUANT TO ASSEMBLY BILL52

Dear Mr. Lee Clauss

The City of San Bernardino (City) received the San Manuel Band of Mission Indians' request for formal notification of proposed projects within the Tribe's geographic area of traditional and cultural affiliation in accordance with AB 52. The City has received an application from Kimley-Horn Environmental Consultants involving the construction of a fourth lead track within/along approximately 4.3 miles of existing BNSF corridor generally from the BNSF overpass at State Street/University Parkway on the north to the existing SBD Intermodal A Yard at West 5th Street on the south. The approximately 41-acre Project site consists of the existing BNSF corridor and adjacent properties. *Exhibit 1, Regional Vicinity Map* and *Exhibit 2, Local Vicinity Map* depict the Project site in a regional and local context, respectively. The Project does not propose to increase line operations; instead it would increase the A Yard's operational efficiency. The Project involves storm drainage/water quality, circulation/roadway, signal, and utility improvements/ modifications ancillary and related to the lead track extension. Partial and full property acquisitions would be required to implement the proposed improvements.

In accordance with Section 21080.3.1(d), please consider this letter the City of San Bernardino's formal notification that it intends to implement the referenced project. It is our understanding that the San Manuel Band of Mission Indians has thirty (30) days to request consultation regarding this project. The City of San Bernardino's contact is Mr. Oliver Mujica and can be contacted via email at Mujica_ol@sbcity.org. or Phone at 909.384-3332; however we would appreciate formal notification of a request for consultation by US Mail, sent to 290 N. D Street, San Bernardino, CA 92401 if we do not receive notification within the thirty (30) day period, we will assume that the San Manuel Band of Mission Indians has no tribal cultural resource concerns for the proposed BNSF Ono Lead track extension and will proceed with the public review of an Environmental Impact Report in accordance with California Environmental Quality Act (CEQA). Should you have any concerns please contact Mr. Oliver Mujica. Should you have any questions, please do not hesitate to contact Mr. Oliver Mujica.

Respectfully,

Oliver Mujica,
Planning Division Manager

Attachments: *Exhibit 1, Regional Vicinity Map and Exhibit 2, Local Vicinity Map*

City of San Bernardino

Community and Economic Development Department| Planning Division

November 14, 2019

Mr. Andrew Salas, Chairman
Gabrieleño Band of Mission Indians - Kizh Nation
P.O. Box 393
Covina, CA 91723

Subject: **ASSEMBLY BILL 52 CONSULTATION: NOTIFICATION OF THE BNSF ONO LEAD TRACK EXTENSION PROJECT, PURSUANT TO ASSEMBLY BILL52**

Dear Mr. Andrew Salas, Chairman

The City of San Bernardino (City) received the Gabrieleño Band of Mission Indians - Kizh Nation's request for formal notification of proposed projects within the Tribe's geographic area of traditional and cultural affiliation in accordance with AB52. The City of San Bernardino has received an application from Kimley-Horn Environmental Consulting Firm involving the construction of a fourth lead track within/along approximately 4.3 miles of existing BNSF corridor generally from the BNSF overpass at State Street/University Parkway on the north to the existing SBD Intermodal A Yard at West 5th Street on the south. The approximately 41-acre Project site consists of the existing BNSF corridor and adjacent properties. *Exhibit 1, Regional Vicinity Map* and *Exhibit 2, Local Vicinity Map* depict the Project site in a regional and local context, respectively. The Project does not propose to increase line operations; instead it would increase the A Yard's operational efficiency. The Project involves storm drainage/water quality, circulation/roadway, signal, and utility improvements/ modifications ancillary and related to the lead track extension. Partial and full property acquisitions would be required to implement the proposed improvements.

In accordance with Section 21080.3.1(d), please consider this letter the City of San Bernardino's formal notification that it intends to implement the referenced project. It is our understanding that the Kizh Nation has thirty (30) days to request consultation regarding this project. The City of San Bernardino's contact is Mr. Oliver Mujica and can be contacted via email at Mujica_ol@sbcity.org. or Phone at 909.384-3332; however we would appreciate formal notification of a request for consultation by US Mail, sent to 290 N. D Street, San Bernardino, CA 92401 if we do not receive notification within the thirty (30) day period, we will assume that the Kizh Nation has no tribal cultural resource concerns for the proposed BNSF Ono Lead track extension and will proceed with the public review of an Environmental Impact Report in accordance with California Environmental Quality Act (CEQA). Should you have any concerns please contact Mr. Oliver Mujica

Thank you and respectively,

Oliver Mujica
Planning Division Manager

Attachments: *Exhibit 1, Regional Vicinity Map and Exhibit 2, Local Vicinity Map*

City of San Bernardino

Community and Economic Development Department| Planning Division

November 14, 2019

Soboba Band of Luiseño Indians
Attn. Joseph Ontiveros
P. O. Box 487
San Jacinto, CA 92581

SUBJECT: ASSEMBLY BILL 52 CONSULTATION: NOTIFICATION OF THE BNSF ONO LEAD TRACK EXTENSION PROJECT, PURSUANT TO ASSEMBLY BILL52

Dear Mr. Ontiveros,

The City of San Bernardino (City) received the Soboba Band of Luiseño Indians' request for formal notification of proposed projects within the Tribe's geographic area of traditional and cultural affiliation in accordance with AB52. The City of San Bernardino has received an application from Kimley-Horn Environmental Consulting Firm involving the construction of a fourth lead track within/along approximately 4.3 miles of existing BNSF corridor generally from the BNSF overpass at State Street/University Parkway on the north to the existing SBD Intermodal A Yard at West 5th Street on the south. The approximately 41-acre Project site consists of the existing BNSF corridor and adjacent properties. *Exhibit 1, Regional Vicinity Map* and *Exhibit 2, Local Vicinity Map* depict the Project site in a regional and local context, respectively. The Project does not propose to increase line operations; instead it would increase the A Yard's operational efficiency. The Project involves storm drainage/water quality, circulation/roadway, signal, and utility improvements/ modifications ancillary and related to the lead track extension. Partial and full property acquisitions would be required to implement the proposed improvements.

In accordance with Section 21080.3.1(d), please consider this letter the City of San Bernardino's formal notification that it intends to implement the referenced project. It is our understanding that Soboba Band of Luiseño Indians' has thirty (30) days to request consultation regarding this project. The City of San Bernardino's contact is Mr. Oliver Mujica and can be contacted via email at Mujica_ol@sbcity.org. or Phone at 909.384-3332; however we would appreciate formal notification of a request for consultation by US Mail, sent to 290 N. D Street, San Bernardino, CA 92401 if we do not receive notification within the thirty (30) day period, we will assume that the Soboba Band of Luiseño Indians' has no tribal cultural resource concerns for the proposed BNSF Ono Lead track extension and will proceed with the public review of an Environmental Impact Report in accordance with California Environmental Quality Act (CEQA). Should you have any concerns please contact Mr. Oliver Mujica. Should you have any questions, please do not hesitate to contact Mr. Oliver Mujica.

Respectfully,

Oliver Mujica,
Planning Division Manager
Attachments: *Exhibit 1, Regional Vicinity Map and Exhibit 2, Local Vicinity Map*

From:	Thomas, Kevin
To:	Garcia, Rita; Fidler, Karina
Subject:	Fwd: BNSF Ono Lead Track Extension Project
Date:	Monday, October 14, 2019 3:33:41 PM
Attachments:	image001.png image002.png

Fyi

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From: Oliver Mujica <Mujica_Ol@sbcity.org>
Sent: Monday, October 14, 2019, 3:22 PM
To: Thomas, Kevin
Subject: FW: BNSF Ono Lead Track Extension Project

Hello Kevin,

FYI

Oliver Mujica
Planning Division Manager
Community & Economic Development
City of San Bernardino
Office: 201 North E Street, 3rd Floor
Mail: 290 North D Street
San Bernardino, CA 92401
O: 909-384-7272, ext. 3332
Mujica_ol@sbcity.org
www.SBCity.org
Please note our new office and mailing address.

Our office/counter hours are Monday thru Thursday 7:30am – 5:30pm & Friday 7:30am – 4:30pm
I will be out of the office on October 11th and 25th

From: Jessica Mauck [mailto:JMauck@sanmanuel-nsn.gov]
Sent: Monday, October 14, 2019 12:40 PM
To: Oliver Mujica
Subject: BNSF Ono Lead Track Extension Project

Hi Oliver,

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 our Cultural Resources Management Department on 23 Sep 2019, pursuant to

CEQA (as amended, 2015) and CA PRC 21080.3.1. The proposed project area exists within Serrano ancestral territory and, therefore, is of interest to the Tribe.

Due to the nature and location of the proposed project, SMBMI respectfully requests the following for review upon availability, if required for the project:

- Cultural report
- Geotechnical report
- Project plans showing the exact area of proposed disturbance (including depth)

The provision of this information will assist San Manuel Band of Mission Indians in ascertaining how the Tribe will assume consulting party status under CEQA and participate, moving forward, in project review and implementation. Please note that if this information cannot be provided within the Tribe's 30-day response window, the Tribe automatically elects to be a consulting party under CEQA, as stipulated in AB52. If you should have any questions with regard to this matter, please do not hesitate to contact me at your convenience, as I will be your Point of Contact (POC) for SMBMI with respect to this project.

Once again, the San Manuel Band of Mission Indians appreciates the opportunity to comment on the proposed project.

Respectfully,

Jessica Mauck
CULTURAL RESOURCES ANALYST
O: (909) 864-8933 x3249
M: (909) 725-9054
26569 Community Center Drive Highland California 92346
SAN MANUEL
BAND OF MISSION INDIANS

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From:	Garcia, Rita
To:	JMauck@sanmanuel-nsn.gov
Cc:	Harry, Jennifer; Oliver Mujica; Mark Ostoich
Subject:	BNSF Ono Lead Track Extension Project
Date:	Wednesday, November 13, 2019 3:33:00 PM
Attachments:	Fwd BNSF Ono Lead Track Extension Project.msg

Ms. Mauck,

This letter is in response to your October 14, 2019 letter to Mr. Oliver Mujica, City of San Bernardino Planning Division Manager; attached for your reference.

As you are aware, we are currently preparing the Project EIR, and your letter was in response to the Notice of Preparation.

At your request, attached for your review is the documentation listed below, which is accessible here: https://kimley-horn.securevdr.com/d-scf0afe0ed714fefa

- Cultural Resources Reports,
- Geotechnical Report, and
- Project Exhibits.

As noted in your letter, we await your response concerning how the Tribe will assume consulting party status under CEQA.

In the meantime, please do not hesitate to call, if you have questions or require further assistance.

Best,

RG

Kimley»Horn

Rita Garcia | Project Manager
Kimley-Horn | 765 The City Drive, Suite 200, Orange, CA 92868
Direct: 714.786.6116 | Mobile: 714.345.7482 | Office: 714.939.1030
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From: Jessica Mauck
To: Oliver Mujica
Cc: Harry, Jennifer; Mark Ostoich; Garcia, Rita
Subject: RE: BNSF Ono Lead Track Extension Project
Date: Thursday, November 14, 2019 12:19:32 PM
Attachments: image4e08b2.PNG

Hi Oliver,

Before I get too far into reviewing the documents sent over by Kimley Horn (thanks!) and provide a formal response, I want to make sure the City has not yet consulted with SMBMI on this project. I assumed that the submittal of the NOP to the Tribe served as the City's consultation notice, pursuant to CEQA, as we see this from other agencies. Additionally, the only record we have for this project is an information request from CRM Tech, and our response, from August 2017 – I do not internally have a record of a formal project notice from the City, or any consultation thereafter. Please let me know what the City's understanding is regarding Tribal consultation for this project, and any history I may not finding in our records.

Thank you,

Jessica Mauck
CULTURAL RESOURCES ANALYST
O: (909) 864-8933 x3249
M: (909) 725-9054
26569 Community Center Drive Highland California 92346
SAN MANUEL
BAND OF MISSION INDIANS

From: Garcia, Rita [mailto:Rita.Garcia@kimley-horn.com]
Sent: Wednesday, November 13, 2019 3:34 PM
To: Jessica Mauck
Cc: Harry, Jennifer; Oliver Mujica; Mark Ostoich
Subject: BNSF Ono Lead Track Extension Project

Ms. Mauck,
This letter is in response to your October 14, 2019 letter to Mr. Oliver Mujica, City of San Bernardino Planning Division Manager; attached for your reference.
As you are aware, we are currently preparing the Project EIR, and your letter was in response to the Notice of Preparation.
At your request, attached for your review is the documentation listed below, which is accessible here: https://kimley-horn.securevdr.com/d-scf0afe0ed714fefa

- Cultural Resources Reports,
- Geotechnical Report, and

From: Jessica Mauck
To: Oliver Mujica
Cc: Harry, Jennifer; Mark Ostoich; Garcia, Rita
Subject: RE: BNSF Ono Lead Track Extension Project
Date: Friday, November 22, 2019 3:04:14 PM
Attachments: image48b8a1.PNG

Hi Oliver,

I did not hear back regarding any potential previous CEQA consultation regarding this project, and so I went forward and conducted a review. Upon conclusion of SMBMI's review of the project, the Tribe agrees with the conclusions made in the cultural study that the project is highly unlikely to disturb previously unknown resources, especially given the amount of existing disturbance and/or the 3-5 feet of artificial fill located within the project footprint. As such, SMBMI has no concerns with the proposed project and simply requests the following language be included within the COAs/MMs with regards to inadvertent discoveries:

CUL MMs

In the event that cultural resources are discovered during project activities, all work in the immediate vicinity of the find (within a 60-foot buffer) shall cease and a qualified archaeologist meeting Secretary of Interior standards shall be hired to assess the find. Work on the other portions of the project outside of the buffered area may continue during this assessment period. Additionally, the San Manuel Band of Mission Indians Cultural Resources Department (SMBMI) shall be contacted, as detailed within TCR-1, regarding any pre-contact finds and be provided information after the archaeologist makes his/her initial assessment of the nature of the find, so as to provide Tribal input with regards to significance and treatment.

If significant pre-contact cultural resources, as defined by CEQA (as amended, 2015), are discovered and avoidance cannot be ensured, the archaeologist shall develop a Monitoring and Treatment Plan, the drafts of which shall be provided to SMBMI for review and comment, as detailed within TCR-1. The archaeologist shall monitor the remainder of the project and implement the Plan accordingly.

If human remains or funerary objects are encountered during any activities associated with the project, work in the immediate vicinity (within a 100-foot buffer of the find) shall cease and the County Coroner shall be contacted pursuant to State Health and Safety Code §7050.5 and that code enforced for the duration of the project.

TCR MMs

The San Manuel Band of Mission Indians Cultural Resources Department (SMBMI) shall be contacted, as detailed in CR-1, of any pre-contact cultural resources discovered during project implementation, and be provided information regarding the nature of the find, so as to provide Tribal input with regards to significance and treatment. Should the find be deemed significant, as defined by CEQA (as amended, 2015), a cultural resources Monitoring and Treatment Plan shall be created by the archaeologist, in coordination with SMBMI, and all subsequent finds shall be subject to this Plan. This Plan shall allow for a monitor to be present that represents SMBMI for the remainder of the project, should SMBMI elect to place a monitor on-site.

Any and all archaeological/cultural documents created as a part of the project (isolate records, site records, survey reports, testing reports, etc.) shall be supplied to the applicant and Lead Agency for dissemination to SMBMI. The Lead Agency and/or applicant shall, in good faith, consult with SMBMI throughout the life of the project.

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.

Please provide the final copy of the project/permit/plan conditions so that SMBMI may review the included language. This communication concludes SMBMI's input on this project, at this time, and no additional consultation pursuant to CEQA is required unless there is an unanticipated discovery of cultural resources during project implementation. If you should have any further questions with regard to this matter, please do not hesitate to contact me at your convenience.

Respectfully,

Jessica Mauck
CULTURAL RESOURCES ANALYST
O: (909) 864-8933 x3249
M: (909) 725-9054
26569 Community Center Drive Highland California 92346
SAN MANUEL
BAND OF MISSION INDIANS

From: Jessica Mauck
Sent: Thursday, November 14, 2019 12:19 PM
To: Oliver Mujica
Cc: Harry, Jennifer; Mark Ostoich; 'Garcia, Rita'
Subject: RE: BNSF Ono Lead Track Extension Project

Hi Oliver,

Before I get too far into reviewing the documents sent over by Kimley Horn (thanks!) and provide a formal response, I want to make sure the City has not yet consulted with SMBMI on this project. I assumed that the submittal of the NOP to the Tribe served as the City's consultation notice, pursuant to CEQA, as we see this from other agencies. Additionally, the only record we have for this project is an information request from CRM Tech, and our response, from August 2017 – I do not

internally have a record of a formal project notice from the City, or any consultation thereafter. Please let me know what the City's understanding is regarding Tribal consultation for this project, and any history I may not finding in our records.

Thank you,

From: Garcia, Rita [mailto:Rita.Garcia@kimley-horn.com]
Sent: Wednesday, November 13, 2019 3:34 PM
To: Jessica Mauck
Cc: Harry, Jennifer; Oliver Mujica; Mark Ostoich
Subject: BNSF Ono Lead Track Extension Project

Ms. Mauck,
This letter is in response to your October 14, 2019 letter to Mr. Oliver Mujica, City of San Bernardino Planning Division Manager; attached for your reference.
As you are aware, we are currently preparing the Project EIR, and your letter was in response to the Notice of Preparation.
At your request, attached for your review is the documentation listed below, which is accessible here: https://kimley-horn.securevdr.com/d-scf0afe0ed714fefa

- Cultural Resources Reports,
- Geotechnical Report, and
- Project Exhibits.

As noted in your letter, we await your response concerning how the Tribe will assume consulting party status under CEQA.
In the meantime, please do not hesitate to call, if you have questions or require further assistance.
Best,
RG

Kimley»Horn
Rita Garcia | Project Manager
Kimley-Horn | 765 The City Drive, Suite 200, Orange, CA 92868
Direct: 714.786.6116 | Mobile: 714.345.7482 | Office: 714.939.1030
Connect with us: Twitter| LinkedIn | Facebook | YouTube

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From: Oliver Mujica
To: Thomas, Kevin; Garcia, Rita
Subject: FW: BNSF Ono Lead Track Extension Project
Date: Friday, December 13, 2019 2:27:15 PM
Attachments: image002.png
image003.png

FYI

Oliver Mujica
Planning Division Manager
Community & Economic Development
City of San Bernardino
Office: 201 North E Street, 3rd Floor
Mail: 290 North D Street
San Bernardino, CA 92401
O: 909-384-7272, ext. 3332
Mujica_ol@sbcity.org
www.SBCity.org
Please note our new office and mailing address.

Our office/counter hours are Monday thru Thursday 7:30am – 5:30pm & Friday 7:30am – 4:30pm
I will be out of the office on December 20th, 24th, 25th and 31st

---

From: Jessica Mauck [mailto:JMauck@sanmanuel-nsn.gov]
Sent: Friday, December 13, 2019 1:57 PM
To: Oliver Mujica
Subject: RE: BNSF Ono Lead Track Extension Project

Hi Oliver – SMBMI is in receipt of the CEQA notice for this project, and requests the following correspondence/mitigation be used as the CEQA consultation for this project.

Jessica Mauck
CULTURAL RESOURCES ANALYST
O: (909) 864-8933 x3249
M: (909) 725-9054
26569 Community Center Drive Highland California 92346
SAN MANUEL
BAND OF MISSION INDIANS

From: Jessica Mauck
Sent: Friday, November 22, 2019 3:04 PM

To: 'Oliver Mujica'
Cc: 'Harry, Jennifer'; 'Mark Ostoich'; 'Garcia, Rita'
Subject: RE: BNSF Ono Lead Track Extension Project

Hi Oliver,

I did not hear back regarding any potential previous CEQA consultation regarding this project, and so I went forward and conducted a review. Upon conclusion of SMBMI's review of the project, the Tribe agrees with the conclusions made in the cultural study that the project is highly unlikely to disturb previously unknown resources, especially given the amount of existing disturbance and/or the 3-5 feet of artificial fill located within the project footprint. As such, SMBMI has no concerns with the proposed project and simply requests the following language be included within the COAs/MMs with regards to inadvertent discoveries:

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Any and all archaeological/cultural documents created as a part of the project (isolate records, site records, survey reports, testing reports, etc.) shall be supplied to the applicant and Lead Agency for dissemination to SMBMI. The Lead Agency and/or applicant shall, in good faith, consult with SMBMI throughout the life of the project.

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.

Please provide the final copy of the project/permit/plan conditions so that SMBMI may review the included language. This communication concludes SMBMI's input on this project, at this time, and no additional consultation pursuant to CEQA is required unless there is an unanticipated discovery of cultural resources during project implementation. If you should have any further questions with regard to this matter, please do not hesitate to contact me at your convenience.

Respectfully,

From: Jessica Mauck
Sent: Thursday, November 14, 2019 12:19 PM
To: Oliver Mujica
Cc: Harry, Jennifer; Mark Ostoich; 'Garcia, Rita'
Subject: RE: BNSF Ono Lead Track Extension Project

Hi Oliver,

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Thank you,

From: Garcia, Rita [mailto:Rita.Garcia@kimley-horn.com]
Sent: Wednesday, November 13, 2019 3:34 PM
To: Jessica Mauck
Cc: Harry, Jennifer; Oliver Mujica; Mark Ostoich
Subject: BNSF Ono Lead Track Extension Project