

DOCKETED

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CULTURAL RESOURCES

Supplemental Testimony of Gabriel Roark

Staff sees two categories of potential compromise between the applicant and staff's original proposals for Condition of Certification **CUL-6**: One category seeks to reduce the administrative burden on the applicant's implementation of **CUL-6**, the other to reduce the burden of construction monitoring by carefully defining the spatial parameters of said monitoring. Staff's proposed changes to **CUL-6** are presented in track changes and **bold**, underlined text following a brief justification for staff's proposals.

Staff is amenable to the applicant's proposals to reduce the applicant's administrative burden. Staff proposes a departure from the applicant's suggestion regarding daily monitoring reports to the Compliance Project Manager. What the CPM and assisting staff finds useful for keeping a clear administrative record of monitoring activities is to receive a two-sentence email on a daily basis from the Cultural Resource Specialist stating whether monitoring occurred and that no inadvertent discoveries occurred, should that be the case. Notification procedures for inadvertent discoveries are described elsewhere in the proposed conditions and so do not need to be cross-referenced in the language concerning daily email reports. The balance of changes proposed to the administrative requirements of **CUL-6** are agreeable to staff.

In considering the applicant's clarifications of monitoring scope, staff concedes that it neglected to remove the references to power blocks that were described in the original application for certification (AFC). Thus, we agree that reference to them should be struck. That said, staff's final staff assessment (FSA) concluded that fire water piping and hydrants would surround the new power units under the project description in the supplemental AFC. Here, then, staff does not support striking fire water piping and hydrants from the monitoring program. Rather, staff clarifies that these project elements relate to the project as currently proposed. Staff agrees that deep pile driving is excluded from the monitoring program, per the conclusions in the FSA.

Staff recommends against the applicant's proposal that Native American monitoring would only be required once the non-fill materials are encountered. The Gabrielino Tongva tribes are on record in consultation with staff as well as in the docket that work in fill material could still encounter artifacts, features, and human remains relating to their culture. Mindful of the State of California's special relationship to California Native American tribes and tribal communities—and the Energy Commission's Tribal Consultation Policy—the applicant's proposal on this point is one that the Energy Commission's Tribal Liaison is obliged to discuss with local tribes and tribal communities. That consultative work is already underway.

CUL-6 UNDISCOVERED CULTURAL RESOURCES

The project owner shall ensure that a CRS, alternate CRS, or CRMs shall be on site for any ground disturbance, with the exception of deep pile driving, that extends into **would occurs** in sediments or soils below the artificial fill in the following areas:, ~~which varies from 6 to 9 feet in depth across the AEC project site.~~

Only Ground disturbance that occurs in the following areas shall be subject to this condition.

- Combustion turbine generator/heat recovery steam generator foundation slabs (~~Blocks 1, 3, and 4~~).
- Generator step-up transformer foundation pads (~~Blocks 1, 3, and 4~~).
- Overhead transmission line pole foundations.
- Steam turbine generator foundations.
- Fuel gas compressor/conditioning structure.
- Fire water piping and hydrants surrounding the new power units. ~~Power Block 4~~.
- Relocated gas metering station.
- Process/sanitary wastewater pipeline.

Prior to the start of ground disturbance, the project owner shall notify the CPM, who will notify ~~and~~ all interested Native Americans, of the date on which ground disturbance will ensue. The project owner is not required to monitor construction of other project components (that is, those not listed immediately above) unless the CRS or CPM determine that observable conditions in the field warrant monitoring. Where excavation equipment is actively removing dirt and hauling the excavated material farther than 50 feet from the location of active excavation, full-time archaeological monitoring shall require at least two monitors per excavation area. In this circumstance, one monitor shall observe the location of active excavation and a second monitor shall inspect the dumped material. For excavation areas where the excavated material is dumped no farther than 50 feet from the location of active excavation, one monitor shall observe both the location of active excavation and inspect the dumped material.

In the event that the CRS believes that the required number of monitors is not appropriate in certain locations, a letter or e-mail detailing the justification for changing the number of monitors shall be provided to the CPM for review and approval prior to any change in the number of monitors.

The project owner shall obtain the services of one or more NAMs to monitor construction-related ground disturbance in areas slated for excavation into non-fill (native) sediments as described in the previous bulleted list. Contact lists of interested Native Americans and guidelines for monitoring shall be obtained from the NAHC. Preference in selecting an NAM shall be given to Native Americans with traditional ties to the area that shall be monitored. If efforts to obtain the services of a qualified NAM are unsuccessful, the project owner shall immediately inform the CPM. The CPM will either identify potential monitors or will allow construction-related ground disturbance to proceed without an NAM.

The research design in the CRMMP shall govern the collection, treatment, retention/disposal, and curation of any archaeological materials encountered. ~~On forms provided by the CPM,~~ CRMs shall keep a daily log of any monitoring and other cultural resources activities and any instances of noncompliance with the Conditions and/or applicable LORS. The daily monitoring logs shall at a minimum include the following information.

- First and last name of the CRM and any accompanying NAM.

- Time in and out.
- Weather. Specify if weather conditions led to work stoppages.
- Work location (project component). Provide specifics—e.g., power block, landscaping.
- Proximity to site location. Specify if work conducted within 1000 feet of a known cultural resource.
- Work type (machine).
- Work crew (company, operator, and foreman).
- Depth of excavation.
- Description of work.
- Stratigraphy.
- Artifacts, listed with the following identifying features:
 - Field artifact #: When recording artifacts in the daily monitoring logs, the CRS shall institute a field numbering system to reduce the likelihood of repeat artifact numbers. A typical numbering system could include a project abbreviation, monitor’s initials, and a set of numbers given to that monitor: e.g., AEC-MB-123.
 - Description.
 - Measurements.
 - Universal Transverse Mercator (UTM) coordinates.
 - Whether artifacts are likely to be isolates or components of larger resources.
 - Assessment of significance of any finds.
 - Actions taken.
 - Plan for the next work day.
- A cover sheet shall be submitted with each day’s monitoring logs, and shall at a minimum include the following:
 - Count and list of first and last names of all CRMs and of all NAMs for that day.
 - General description (in paragraph form) of that day’s overall monitoring efforts, including monitor names and locations.
 - Any reasons for halting work that day.
 - Count and list of all artifacts found that day: include artifact #, location (i.e., grading in Unit X), measurements, UTM’s, and very brief description (i.e., historic can, granitic biface, quartzite flake).
 - Whether any artifacts were found out of context (i.e., in fill, caisson drilling, flood debris, spoils pile).

If requested by the CPM, Copies of the daily monitoring logs and cover sheets shall be provided by email from the CRS to the CPM, as follows:

- Each day’s monitoring logs and cover sheet shall be merged into one PDF document
- The PDF title and headings, and emails shall clearly indicate the date of the applicable monitoring logs.
- PDFs for any revised or resubmitted versions shall use the word “revised” in the title.
- Daily and/or weekly maps shall be submitted along with the monitoring logs as follows:
 - The CRS shall provide daily and/or weekly maps of artifacts at the request of the CPM. A map shall also be provided if artifact locations show complexity, high

- density, or other unique considerations.
- Maps shall include labeled artifacts, project boundaries, previously recorded sites and isolates, aerial imagery background, and appropriate scales.

~~From the daily monitoring logs, the CRS shall compile a monthly monitoring summary report to be included in the MCR. If there are no monitoring activities, the summary report shall specify why monitoring has been suspended.~~

- The Cultural Resources section of the MCR shall be prepared in coordination with the CRS, and shall include a monthly summary report of cultural resources-related monitoring. The summary shall:
 - List the number of CRMs and NAMs on a daily basis, as well as provide monthly monitoring-day totals.
 - Give an overview of cultural resource monitoring work for that month, and discuss any issues that arose.
 - Describe fulfillment of requirements of each cultural mitigation measure.
 - Summarize the confidential appendix to the MCR, without disclosing any specific confidential details.
 - Include the artifact concordance table (as discussed under the next bullet point), but with removal of UTM numbers.
 - Each MCR, prepared under supervision of the CRS, shall be accompanied by a confidential appendix that contains completed DPR 523A forms for all artifacts recorded or collected in that month. For any artifact without a corresponding DPR form, the CRS shall specify why the DPR form is not applicable or pending (i.e. as part of a larger site update).
 - A concordance table that matches field artifact numbers with the artifact numbers used in the DPR forms shall be included. The sortable table shall contain each artifact's date of collection and UTM numbers, and note if an artifact has been deaccessioned or otherwise does not have a corresponding DPR form. Any post-field log recordation changes to artifact numbers shall also be noted.
 - DPR forms shall be submitted as one combined PDF.
 - The PDF shall organize DPR forms by site and/or artifact number.
 - The PDF shall include an index and bookmarks.
 - If artifacts from a given site location (in close proximity of each other or an existing site) are collected month after month, and if agreed upon with the CPM, a final updated DPR for the site may be submitted at the completion of monitoring. The monthly concordance table shall note that the DPR form for the included artifacts is pending.

~~The CRS or alternate CRS shall report daily~~ **send a brief email to the CPM, reporting whether monitoring occurred (or a statement that no ground disturbance occurred if monitoring did not transpire) and confirming that no cultural resource discoveries occurred that day.** ~~on the status of the project's cultural resources-related activities, unless reducing or ending daily reporting is requested by the CRS and approved by the CPM.~~

In the event that the CRS believes that the current level of monitoring is not appropriate in certain locations, a letter or e-mail detailing the justification for changing the level of monitoring shall be provided to the CPM for review and approval prior to any change in the level of monitoring.

The CRS, at his or her discretion, or at the request of the CPM, may informally discuss cultural resources monitoring and mitigation activities with Energy Commission technical staff.

Cultural resources monitoring activities are the responsibility of the CRS. Any interference with monitoring activities, removal of a monitor from duties assigned by the CRS, or direction to a monitor to relocate monitoring activities by anyone other than the CRS shall be considered non-compliance with these Conditions.

Upon becoming aware of any incidents of non-compliance with the Conditions and/or applicable LORS, the CRS and/or the project owner shall notify the CPM.

The CRS shall also recommend corrective action to resolve the problem or achieve compliance with the Conditions. When the issue is resolved, the CRS shall write a report describing the issue, the resolution of the issue, and the effectiveness of the resolution measures. This report shall be provided in the next MCR for the review of the CPM.

Verification:

1. At least 30 days prior to the start of ground disturbance, the CPM will notify all Native Americans with whom the Energy Commission communicated during the project review of the date on which the project's ground disturbance will begin.
2. At least 30 days prior to the start of ground disturbance, the CPM will provide to the CRS an electronic copy of a form to be used as a daily monitoring log ~~and information to be included in the cover sheet for the daily monitoring logs.~~
3. While monitoring is on-going and if required by the CPM, the project owner shall submit each day's monitoring logs and cover sheet merged into one PDF document by email within 24 hours.
4. The CRS and/or project owner shall notify the CPM of any incidents of noncompliance with the conditions and/or applicable LORS by telephone or email within 24 hours.
5. The CRS shall provide daily maps of artifacts along with the daily monitoring logs if more than 10 artifacts are found per day, or as requested by the CPM.
6. The CRS shall provide weekly maps of artifacts if there more than 50 artifacts are found per week, or as requested by the CPM. The map shall be submitted within two business days after the end of each week.
7. Within 15 days of receiving from a local Native American group a request that a NAM be employed, the project owner shall submit a copy of the request and a copy of a response letter to the CPM. The project owner shall include a copy of this Condition of Certification in any response letter. ~~group notifying them that a NAM has been employed and identifying the NAM.~~
8. While monitoring is on-going, the project owner shall include in each ~~submit monthly~~

MCRs a copy of the monthly summary of cultural resources related monitoring prepared by the CRS and ~~and accompanying weekly summary reports.~~ The project owner shall attach any new DPR 523A forms, under confidential cover, completed for finds treated prescriptively, as specified in the CRMMP.

9. Final updated DPRs with sites (where artifacts are collected month after month) can be submitted at the completion of monitoring, as agreed upon with the CPM.
10. At least 24 hours prior to implementing a proposed change in monitoring level, the project owner shall submit to the CPM, for review and approval, a letter or email (or some other form of communication acceptable to the CPM) detailing the CRS's justification for changing the monitoring level.
11. ~~At least 24 hours prior to reducing or ending daily reporting, the project owner shall submit to the CPM, for review and approval, a letter or e-mail (or some other form of communication acceptable to the CPM) detailing the CRS's justification for reducing or ending daily reporting.~~
12. Within 15 days of receiving them, the project owner shall submit to the CPM copies of any comments or information provided by Native Americans in response to the project owner's transmittals of information.

WORKER SAFETY AND FIRE PROTECTION

Supplemental Testimony of Brett Fooks, PE and Geoff Lesh, PE

This testimony supplements and clarifies the information in the Final Staff Assessment Part 1. Staff has reviewed the opening testimony filed by the parties, and in consideration of this testimony, staff has proposed new language to condition of certification **Worker Safety-8** to help clarify that these are only design requirements for the natural gas compressor buildings. The proposed changes are set forth below and were shown to the applicant at the prehearing conference on November 9, 2016 where the applicant agreed to the proposed changes below.

PROPOSED CONDITIONS OF CERTIFICATION

WORKER SAFETY-8 The project owner shall ensure that the natural gas compressor buildings at the Alamitos Energy Center ~~shall~~ **are designed to** comply with ~~NEPA requirements for compressor enclosures and that it shall also comply with the~~ requirements set forth in **Title** 40 CFR **Part** 192 Sections 163 through 173 and Sections 731 through 736 regarding fire and explosion protection systems. All documentation of plans for the compressor enclosure shall be submitted to the CPM for review and approval.

Verification: At least 60 days prior to the start of construction of the natural gas compressor building the project owner shall submit to the Lbfd for review and comment, and to the CPM for review and approval, documentation of plans for the compressor enclosure at the Alamitos Energy Center demonstrating compliance with the condition described above.