

RESOLUTION NUMBER R- **298869**

ADOPTED ON **FEB 09 2004**

BE IT RESOLVED, by the Council of the City of San Diego, that it is certified that Mitigated Negative Declaration LDR No. 42-0714 on file in the office of the City Clerk, has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code section 21000 et seq.), as amended, and the State guidelines thereto (California Code of Regulations section 15000 et seq.), that the declaration reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in the report, together with any comments received during the public review process, has been reviewed and considered by this Council in connection with the approval of Sewer and Water Group 733.

BE IT FURTHER RESOLVED, that the City Council finds that project revisions now mitigate potentially significant effects on the environment previously identified in the Initial Study and therefore, that the Mitigated Negative Declaration, a copy of which is on file in the office of the City Clerk and incorporated by reference, is approved.

BE IT FURTHER RESOLVED, that pursuant to California Public Resources Code section 21081.6, the City Council adopts the Mitigation Monitoring and Reporting Program, or alterations to implement the changes to the project as required by this body in order to mitigate or avoid significant effects on the environment, a copy of which is attached hereto and incorporated herein by reference.

BE IT FURTHER RESOLVED, that the City Clerk is directed to file a Notice of Determination [NOD] with the Clerk of the Board of Supervisors for the County of San Diego regarding the above project.

APPROVED: CASEY GWINN, City Attorney

By Eric A. Swenson
Eric Swenson
Deputy City Attorney

ES:jc
1/27/2004
Or.Dept: E&CP
R-2004-153

EXHIBIT A

MITIGATION MONITORING AND REPORTING PROGRAM

CITY COUNCIL APPROVAL

LDR NO. 42-0714

PTS No. 4903

This Mitigation Monitoring and Reporting Program is designed to ensure compliance with Public Resources Code Section 21081.6 during implementation of mitigation measures. This program identifies at a minimum: the department responsible for the monitoring, what is to be monitored, how the monitoring shall be accomplished, the monitoring and reporting schedule, and completion requirements. A record of the Mitigation Monitoring and Reporting Program will be maintained at the offices of the Land Development Review Division, 1222 First Avenue, Fifth Floor, San Diego, CA 92101. All mitigation measures contained in the Mitigated Negative Declaration (Project No. 4903/LDR No. 42-0714) shall be made conditions of City Council Approval as may be further described below.

Historical Resources (Archaeology)

Prior to the Preconstruction (Precon) Meeting:

1. Land Development Review (LDR) Plan Check
 - a. Prior to the first Precon Meeting, the Environmental Review Manager (ERM) of LDR shall verify that the requirements for Archaeological Monitoring and Native American monitoring, if applicable, have been noted on the appropriate construction documents.
2. Letters of Qualification have been Submitted to ERM
 - a. Prior to the first Precon Meeting, the applicant shall provide a letter of verification to the ERM of LDR stating that a qualified Archaeologist, as defined in the City of San Diego Historical Resources Guidelines (HRG), has been retained to implement the monitoring program.
3. Second Letter Containing Names of Monitors has been sent to MMC.
 - a. At least thirty days prior to the Precon Meeting, a second letter shall be submitted to Mitigation Monitoring Coordination (MMC) which shall include the name of the Principal Investigator (PI) and the names of all persons involved in the Archaeological Monitoring of the project.
 - b. MMC will provide Plan Check with a copy of both the first and second letter.
4. Records Search Prior to Precon Meeting

At least thirty days prior to the Precon Meeting the qualified Archaeologist shall verify that a records search has been completed and updated as necessary and be prepared to introduce any pertinent information concerning expectations and probabilities of discovery during trenching and/or grading activities. Verification includes, but is not limited to, a copy of a confirmation letter from South Coast

R- 298869

Information Center, or, if the search was in-house, a letter of verification from the PI stating that the search was completed.

Precon Meeting

1. Monitor Shall Attend Precon Meetings
 - a. Prior to beginning any work that requires monitoring, the Applicant shall arrange a Precon Meeting that shall include the Archaeologist, Construction Manager and/or Grading Contractor, Resident Engineer (RE), Building Inspector (BI), if appropriate, and MMC. The qualified Archaeologist shall attend any grading related Precon Meetings to make comments and/or suggestions concerning the Archaeological Monitoring program with the Construction Manager and/or Grading Contractor.
 - b. If the Monitor is not able to attend the Precon Meeting, the RE or BI, if appropriate, will schedule a focused Precon Meeting for MMC, EAS staff, as appropriate, Monitors, Construction Manager and appropriate Contractor's representatives to meet and review the job on-site prior to start of any work that requires monitoring.
2. Units of Measure and Cost of Curation for CIP or Other Public Projects
Units of measure and cost of curation will be discussed and resolved at the Precon Meeting prior to start of any work that requires monitoring.

3. Identify Areas to be Monitored

At the Precon Meeting, the Archaeologist shall submit to MMC a copy of the site/grading plan (reduced to 11x17) that identifies areas to be monitored as well as areas that may require delineation of grading limits.

4. When Monitoring Will Occur

Prior to the start of work, the Archaeologist shall also submit a construction schedule to MMC through the RE or BI, as appropriate, indicating when and where monitoring is to begin and shall notify MMC of the start date for monitoring.

During Construction

1. Monitor Shall be Present During Grading/Excavation
The qualified Archaeologist shall be present full-time during grading/excavation of native soils and shall document activity via the Consultant Site Visit Record. This record shall be sent to the RE or BI, as appropriate, each month. The RE, or BI as appropriate, will forward copies to MMC.
2. Monitoring
Trenches Will Include Mainline, Laterals, and all Appurtenances
For all projects: Monitoring of trenches is required for the mainline, laterals, services and all other appurtenances that impact native soils one foot deeper than existing as detailed on the plans or in the contract documents identified by drawing number or

plan file number. *It is the Construction Manager's responsibility to keep the monitors up-to-date with current plans.*

3. Discoveries

a. Discovery Process

In the event of a discovery, and when requested by the Archaeologist, or the PI if the Monitor is not qualified as a PI, the RE or BI, as appropriate, shall be contacted and shall divert, direct or temporarily halt ground disturbing activities in the area of discovery to allow for preliminary evaluation of potentially significant archaeological resources. The PI shall also immediately notify MMC of such findings at the time of discovery. MMC will coordinate with appropriate LDR staff.

b. Determination of Significance

The significance of the discovered resources shall be determined by the PI in consultation with LDR and the Native American Community, if applicable. LDR must concur with the evaluation before grading activities will be allowed to resume. For significant archaeological resources, a Research Design and Data Recovery Program shall be prepared, approved by Development Services Department and carried out to mitigate impacts before ground disturbing activities in the area of discovery will be allowed to resume.

c. Minor Discovery Process for Pipeline Projects

The following is a summary of the criteria and procedures related to the evaluation of **small historic deposits** during excavation for pipelines.

(1) Coordination and Notification

- (a) Archaeological Monitor shall notify RE, or BI, as appropriate, PI, if monitor is not qualified as a PI, and MMC.
- (b) MMC shall notify the Senior Planner in the Environmental Analysis Section (EAS) of DSD..
- (c) MMC shall coordinate all historic discoveries with the applicable Senior Planner, PI and the RE, to determine the appropriate level of evaluation that should occur.

(2) Criteria used to Determine if it is a Small Historic Deposit

- (a) The deposit is limited in size both in length and depth; and,
- (b) The information value is limited and is not associated with any other resources.; and,
- (c) There are no unique features/artifacts associated with the deposit.

- (d) A preliminary description and photographs, if available, shall be transmitted to MMC.
 - (e) MMC will forward the information to EAS for consultation and verification that it is a small historic deposit.
- (3) Procedures for documentation, curation and reporting

The following constitutes adequate mitigation of a small historic deposit to reduce impacts due to excavation activities to below a level of significance.

- (a) 100% of the artifacts within the trench alignment and width shall be documented in-situ, to include photographic records, plan view of the trench and profiles of side walls, recovered, photographed after cleaning and analyzed and curated.
- (b) The remainder of the deposit within the limits of excavation (trench walls shall be left intact.
- (c) If site significance can not be determined, the Final Results Report and Site Record (DPR Form 523A/B) shall identify the deposit as "potentially significant".
- (d) The Final Results Report shall include a requirement for monitoring of any future work in the vicinity.

4. Human Remains

If human remains are discovered, work shall halt in that area and procedures set forth in the California Public Resources Code (Sec. 5097.98) and State Health and Safety Code (Sec. 7050.5) as follows:

a. Notification

- (1) Archaeological Monitor shall notify the RE or BI as appropriate, PI, if the Monitor is not qualified as a PI, and Mitigation Monitoring Coordination (MMC). MCC will notify the appropriate Senior Planner in the Environmental Analysis Section (EAS).
- (2) The PI shall notify the County Coroner after consultation with the RE, either in person or via telephone.

b. Stop work and isolate discovery site

- (1) RE or BI, as appropriate, shall stop work immediately in the location of the discovery and any nearby area reasonably suspected to overlay adjacent human remains until a determination can be made by the County Coroner in consultation with the PI concerning the origin of the remains and the cause of death.
- (2) The County Coroner, in consultation with the PI, shall determine the need for a field investigation to examine the remains and establish a cause of death.

- (3) If a field investigation is not warranted, the PI, in consultation with the County Coroner, shall determine if the remains are of Native American origin.

c. If Human Remains are Native American

- (1) The Coroner shall notify the Native American Historic Commission (NAHC). (By law, **ONLY** the Coroner can make this call.)
- (2) NAHC will identify the person or persons it believes to be the Most Likely Descendent (MLD).
- (3) The MLD may make recommendations to the land owner or PI responsible for the excavation work to determine the treatment, with appropriate dignity, of the human remains and any associated grave goods (PRC 5097.98).

d. If Human Remains are not Native American

- (1) The PI shall contact the NAHC and notify them of the historical context of the burial.
- (2) NAHC will identify the person or persons it believes to be the MLD.
- (3) The MLD may make recommendations to the land owner or PI responsible for the excavation work to determine the treatment of the human remains (PRC 5097.98).
- (4) If the remains are of historic origin, they shall be appropriately removed and conveyed to the Museum of Man for analysis. The decision for reinterment of the human remains shall be made in consultation with MMC, EAS, the land owner, the NAHC and the Museum of Man.

e. Disposition of Human Remains

The land owner, or his authorized representative, shall reinter the Native American human remains and any associated grave goods, with appropriate dignity, on the property in a location not subject to further subsurface disturbance, IF:

- (1) The NAHC is unable to identify the MLD, OR the MLD failed to make a recommendation within 24 hours after being notified by the Commission; OR;
- (2) The landowner or authorized representative rejects the recommendation of the MLD and mediation in accordance with PRC 5097.94 (k) by the NAHC fails to provide measures acceptable to the landowner.

5. Night Work

a. If night work is included in the contract

- (1) When night work is included in the contract package, the extent and timing shall be presented and discussed at the precon meeting.
- (2) The following procedures shall be followed.

- (a) No Discoveries

R- 298869

In the event that nothing was found during the night work, The PI will record the information on the Site Visit Record Form.

(b) Minor Discoveries

All Minor Discoveries will be processed and documented using the existing procedures under **During Construction; 3.,c.**, for Small Historic Discoveries, with the exception in **During Construction; 3.,c.,(a)**, that the PI will contact MMC by 9A.M. the following morning.

(c) Potentially Significant Discoveries

If the PI determines that a potentially significant discovery has been made, the procedures under **During Construction; 3.,a. & b.**, will be followed, with the exception in **During Construction; 3.,a.**, that the PI will contact MMC by 9AM the following morning to report and discuss the findings.

b. If night work becomes necessary during the course of construction

(1) The Construction Manager shall notify the RE, or BI, as appropriate, a minimum of 24 hours before the work is to begin.

(2) The RE, or BI, as appropriate, will notify MMC immediately.

c. All other procedures described above will apply, as appropriate.

6. Notification of Completion

The Archaeologist shall notify MMC and the RE or the BI, as appropriate, in writing of the end date of monitoring.

Post Construction

1. Handling and Curation of Artifacts and Letter of Acceptance

a. The Archaeologist shall be responsible for ensuring that all cultural remains collected are cleaned, catalogued, and permanently curated with an appropriate institution; that a letter of acceptance from the curation institution has been submitted to MMC; that all artifacts are analyzed to identify function and chronology as they relate to the history of the area; that faunal material is identified as to species; and that specialty studies are completed, as appropriate.

b. Curation of artifacts associated with the survey, testing and/or data recovery for this project shall be completed in consultation with LDR and the Native American representative, as applicable.

2. Final Results Reports (Monitoring and Research Design And Data Recovery Program)

a. Within three months following the completion of monitoring, two copies of the Final Results Report (even if negative) and/or evaluation report, if applicable, which describes the results, analysis, and conclusions of the Archaeological Monitoring Program (with appropriate graphics) shall be submitted to MMC for approval by the ERM of LDR.

- b. For significant archaeological resources encountered during monitoring, the Research Design And Data Recovery Program shall be included as part of the Final Results Report.
- c. MMC shall notify the RE or BI, as appropriate, of receipt of the Final Results Report.

3. Recording Sites with State of California Department of Park and Recreation

The Archaeologist shall be responsible for recording (on the appropriate State of California Department of Park and Recreation forms-DPR 523 A/B) any significant or potentially significant resources encountered during the Archaeological Monitoring Program in accordance with the City's Historical Resources Guidelines, and submittal of such forms to the South Coastal Information Center with the Final Results Report.

Paleontological Resources

Prior to the preconstruction (precon) meeting:

1. Land Development Review (LDR) Plan Check

- a. Prior to the first Precon Meeting, the Environmental Review Manager (ERM) of LDR shall verify that the requirements for Paleontological Monitoring have been noted on the appropriate construction documents.

2. Letters of Qualification have been Submitted to ERM

- a. Prior to the first Precon Meeting, the applicant shall provide a letter of verification to the ERM of LDR stating that a qualified Paleontologist, as defined in the City of San Diego Paleontological Guidelines, has been retained to implement the monitoring program.

3. Second Letter Containing Names of Monitors has been sent to MMC

- a. At least thirty days prior to the Precon Meeting, a second letter shall be submitted to Mitigation Monitoring Coordination (MMC) which shall include the name of the Principal Investigator (PI) and the names of all persons involved in the Paleontological Monitoring of the project.
- b. MMC will provide Plan Check with a copy of both the first and second letter.

4. Records Search Prior to Precon Meeting

At least thirty days prior to the Precon meeting, the qualified Paleontologist shall verify that a records search has been completed, and updated as necessary, and be prepared to introduce any pertinent information concerning expectations and probabilities of discovery during trenching and/or grading activities. Verification includes, but is not limited to, a copy of a confirmation letter from the San Diego Natural History Museum, other institution, or, if the record search was in-house, a letter of verification from the PI stating that the search was completed.

Precon Meeting

1. Monitor Shall Attend Precon Meetings

R- 298869

Prior to beginning of any work that requires monitoring, the Applicant shall arrange a Precon Meeting that shall include the Paleontologist, Construction Manager and/or Grading Contractor, Resident Engineer (RE), Building inspector (BI), and MMC. The qualified Paleontologist shall attend any grading related Precon Meetings to make comments and/or suggestions concerning the Paleontological Monitoring Program with the Construction Manager and/or Grading Contractor.

- a. If the Monitor is not able to attend the Precon Meeting, the RE, or BI as appropriate, will schedule a focused Precon Meeting for MMC, Monitors, Construction Manager and appropriate Contractor's representatives to meet and review the job on-site prior to start of any work that requires monitoring.

2. Identify Areas to be Monitored

At the Precon Meeting, the Paleontologist shall submit to MMC a copy of the site/grading plan (reduced to 11x17) that identifies areas to be monitored.

3. When Monitoring Will Occur

Prior to the start of work, the Paleontologist also shall submit a construction schedule to MMC through the RE, or BI, as appropriate, indicating when and where monitoring is to begin and shall notify MMC of the start date for monitoring.

During Construction

1. Monitor Shall be Present During Grading/Excavation

- a. The qualified Paleontologist shall be present full-time during the initial cutting of previously undisturbed formations with high and moderate resource sensitivity, and shall document activity via the Consultant Site Visit Record (form). This record shall be faxed to the RE, or BI as appropriate, and MMC each month.
- b. The qualified Paleontologist shall be present full-time during the initial cutting of previously undisturbed formations with high and moderate resource sensitivity at depths of 10 feet or more, and shall document activity via the Consultant Site Visit Record (form). This form shall be sent to the RE, or BI as appropriate, each month. The RE, or BI as appropriate, will forward copies to MMC.

2. Monitoring of Trenches Will Include Mainline, Laterals, and all Appurtenances
Monitoring is required for the mainline, laterals, services and all other appurtenances that impact formations with high and moderate resource at depths of 10 feet or greater as detailed on the plans or in the contract documents, identified by drawing number or plan file number. *It is the contractors responsibility to keep the monitors up-to-date with current plans.*

3. Discoveries

a. Minor Paleontological Discovery

In the event of a minor Paleontological discovery (small pieces of broken common shell fragments or other scattered common fossils) the Paleontologist shall notify the RE, or BI as appropriate, that a minor discovery has been made. The determination of significance shall be at the discretion of the qualified Paleontologist. The Paleontologist will continue to monitor the area and immediately notify the RE, or BI as appropriate, if a potential significant discovery emerges.

b. Significant Paleontological Discovery

In the event of a significant Paleontological discovery, and when requested by the Paleontologist, the city RE, or BI as appropriate, shall be notified and shall divert, direct, or temporarily halt construction activities in the area of discovery to allow recovery of fossil remains. The determination of significance shall be at the discretion of the qualified Paleontologist. The Paleontologist with Principal Investigator (PI) level evaluation responsibilities shall also immediately notify MMC staff of such finding at the time of discovery. MMC staff will coordinate with appropriate LDR staff.

4. Night Work

a. If night work is included in the contract

(1.) When night work is included in the contract package, the extent and timing shall be presented and discussed at the precon meeting.

(2.) The following procedures shall be followed:

(a) No Discoveries

In the event that nothing was found during the night work, The PI will record the information on the Site Visit Record Form.

b. Minor Discoveries

(1) All Minor Discoveries will be processed and documented using the existing procedures under C.,3.,a., for Small Historic Discoveries, with the exception that the RE will contact MMC by 9 A.M. the following morning.

c. Potentially Significant Discoveries

(1) If the PI determines that a potentially significant discovery has been made, the procedures under C.,3.,a. & b., will be followed, with the exception that the RE will contact MMC by 8 A.M. the following morning to report and discuss the findings.

d. If night work becomes necessary during the course of construction

(1.) The Construction Manager shall notify the RE, or BI, as appropriate, a minimum of 24 hours before the work is to begin.

(2) The RE, or BI, as appropriate, will notify MMC immediately.

e. All other procedures described above will apply, as appropriate.

5. Notification of Completion

The Paleontologist shall notify MMC and the RE, or BI as appropriate, of the end date of monitoring.

R-298869

Post Construction

The Paleontologist shall be responsible for preparation of fossils to a point of curation as defined by the City of San Diego Paleontological Guidelines.

1. Submit Letter of Acceptance from Local Qualified Curation Facility.

The Paleontologist shall be responsible for submittal of a letter of acceptance to ERM of LDR from a local qualified curation facility. A copy of this letter shall be forwarded to MMC.

2. If Fossil Collection is not Accepted, Contact LDR for Alternatives
If the fossil collection is not accepted by a local qualified facility for reasons other than inadequate preparation of specimens, the project Paleontologist shall contact LDR, to suggest an alternative disposition of the collection. MMC shall be notified in writing of the situation and resolution.
3. Recording Sites with San Diego Natural History Museum
The Paleontologist shall be responsible for the recordation of any discovered fossil sites at the San Diego Natural History Museum.
4. Final Results Report
 - a. Within three months following the completion of grading/trenching, two copies of the Final Results Report (even if negative), which describes the results, analysis, and conclusions of the above Paleontological Monitoring Program (with appropriate graphics) shall be submitted to MMC for approval by the ERM of LDR and one additional copy shall be sent to the RE or BI, as appropriate.
 - b. MMC shall notify the RE or BI, as appropriate, of receipt of the Final Results Report.