

**Sent:** Wednesday, June 10, 2015 2:15 PM

**To:** Holly Roberson

**Cc:** [scohen@santaynezchumash.org](mailto:scohen@santaynezchumash.org)

**Subject:** AB 52 Draft Technical Advisory/CEQA Guidelines revisions - Santa Ynez comments

Sent on behalf of Sam Cohen, Government and Legal Specialist, Santa Ynez Band of Chumash Indians

Dear Ms. Roberson:

The CEQA Guidelines under the rules for historical resources need updating and the OPR draft Technical Advisory on AB 52 should specifically reference Traditional Cultural Properties (TCPs). This is consistent with OHP guidance applying TCPs as well as state law, including the *Madera Oversight Coalition* case abstracted below.

Also, the CEQA Guidelines and the AB 52 Technical Advisory would benefit from additional detail regarding cultural landscapes to help implement the new sections to the Public Resources Code related to AB 52.

We propose:

- Amendment to CEQA Guidelines § 15126.4 (b) (3):

“Public agencies should, whenever feasible, seek to avoid damaging effects on any historical resource of an archeological nature (which shall include, without limitation, Traditional Cultural Properties as defined in National Register Bulletin No. 38 and elsewhere). The following factors shall be considered and discussed in an EIR for a project involving such an archeological site”:

However, it is also worth acknowledging that some TCPs may not have archaeology associated with them. Others may be cultural landscapes as defined by the National Park Service (a cultural landscape is a geographic area, including both cultural and natural resources and the wildlife or domestic animals therein, associated with an historic event, activity, or person, exhibiting other cultural or aesthetic values) and elsewhere. Thus, there may be other locations within the CEQA Guidelines and the AB 52 Technical Advisory related to Tribal Cultural Resources to insert the reference to TCPs and detail regarding Cultural Landscapes.

According to the NPS, cultural resources are tangible items of historic or cultural significance, including cultural landscapes, buildings, structures, and objects, but also intangible items, such as traditional knowledge, practices and life-ways.

Cultural Landscapes have been recognized by the NPS as cultural resources since 1983, and the NPS's responsibilities for their preservation are equal to other resources, regardless of the landscape type or level of significance.

The NPS website displays the NPS approach to the preservation of cultural landscapes, through the processes of "research", "planning" and "stewardship".

Please keep Santa Ynez informed about revisions to the CEQA Guidelines and the AB 52 Technical Advisory.

Sincerely,

Sam Cohen  
Government and Legal Specialist  
Santa Ynez Band of Chumash Indians  
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**MADERA OVERSIGHT COALITION CASE CITATION AND ABSTRACT:**

[http://www.narf.org/nill/bulletins/state/documents/madera\\_oversight\\_v\\_madera.html](http://www.narf.org/nill/bulletins/state/documents/madera_oversight_v_madera.html)

Court of Appeal, Fifth District, California.

**MADERA OVERSIGHT COALITION, INC., et al., Plaintiffs and Appellants,  
v.**

**COUNTY OF MADERA, Defendant and Appellant;**

**Tesoro Viejo, Inc., et al., Real Parties in Interest and Appellants.**

No. F059153.Sept. 13, 2011.

\* \* \*

CEQA requires consideration of project impacts on either archaeological sites or historical sites deemed to be historical resources. If the project will cause a substantial adverse change to the characteristics of an historical resource that conveys its significance or justifies its eligibility for inclusion in the California Register, the project is judged to have a significant effect upon the environment, according to Section 15064.5 of the CEQA guidelines. Five of the seven resources in the Project Area are considered historical resources: CA-MAD-295/827, 826, 2392, 2394 and P-20-002308. In addition, there are areas that are of special religious or social significance to the Native Americans (e.g., Traditional Cultural Properties) in the Project Area. [¶] Based on the current project design, all historical resources and the sites of special religious or social significance within the Project Site may be impacted by the proposed development, either directly or indirectly.

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