



December 20, 2022

VIA CERTIFIED MAIL-RETURN RECEIPT REQUESTED AND EMAIL

Mr. Mark Roberts
Senior Planner
City of Clearlake
Community Development Department
14050 Olympic Drive
Clearlake, CA 95422
MRoberts@Clearlake.ca.us

Re: Request for Project Notices and Project Status Update

Dear City of Clearlake:

The Koi Nation of Northern California (Koi Nation) hereby requests written notice via certified mail of the current project status and advance written notice for any future change in project status, public hearings, votes, environmental document considerations, certifications or adoptions, or actions taken by the City of Clearlake (City) or any City Council, Board, or Commission on the following Projects:

- Airport Property Commercial Center Project/Airport Hotel and 18th Avenue Extension Project;
- 18th Ave. Road Improvement Project, HP-202210216-02;
- Austin Park Splash Pad Project, HP-2022016-03;
- Burns Valley Development Project, HP-20220218-0;
- Dam Road Extension & South Center Drive Improvement Project, HP-202220220217-01;
- Dam Rd. Roundabout & Dam Rd. Extension Project, HP-20220216-01

This letter is also a formal request to receive written notice via Certified Mail of all conditional use permit activity for these projects, pursuant to the City's Municipal Code section 18-28.030(c)(2). We also hereby request, as we have previously, that all AB 52 notices to the Koi Nation be provided via Certified Mail.

Please respond to this letter in writing to confirm that the City will send the Koi Nation the requested status update and notices for this list of projects moving forward, via Certified Mail.

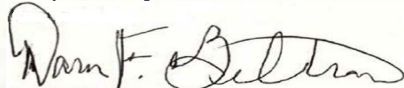
For clarity, the above list consists of projects for which the Koi Nation has responded to a notice from the City by submitting a government to government consultation request pursuant to AB 52 (Gatto, 2014) and the California Environmental Quality Act (CEQA). We consider consultation for each of these projects to be ongoing. If the City does not have consultation records for each of these projects, please let us know and we will provide the City with the appropriate documentation.

The Koi Nation also remains available to offer the City, members of the City Council, City Planning Commission, and City staff free training on tribal cultural resources, CEQA and AB 52 consultation. We sincerely hope that this training will help the City to save time and money and reduce legal risk by avoiding CEQA procedural violations and improve the City's understanding of how to identify, avoid, and protect tribal cultural resources, which the City is required to do by law whether or not there is AB 52 consultation on a project.

Tribal cultural resources are extremely important and culturally significant to the Koi People. Destruction of tribal cultural resources is very harmful to the Koi People, who are strong, resilient, and focused on cultural and spiritual preservation and healing after generations of government sponsored genocide and trauma. The Koi Nation stands ready to work with the City to follow the law and to help the City develop in a sustainable way that is respectful of tribal cultural resources and the uniquely rich tribal cultural heritage of the area, which will benefit all people of Clearlake.

Please provide the project status update list and send future project related notices via registered mail to the Koi Nation Tribal Council at kn@koination.com and P.O. Box 3162 Santa Rosa, California, 95402, and to Mr. Robert Geary, who is the Cultural Director and Tribal Historic Preservation Officer for the Koi Nation and the Habematolel Pomo of Upper Lake at: rgeary@hpultribe-nsn.gov and P.O. Box 516 Upper Lake, CA 95485. You can also contact Mr. Geary via email to schedule a training.

Respectfully,



Chairman Darin Beltran
Koi Nation of Northern California

cc: Hon. Dirk Sooten, Mayor, City of Clearlake
Hon. Russel Perdock, Vice-Mayor, City of Clearlake
City of Clearlake Planning Commission, Planning & Development Director
Ryan Jones, City Attorney
Alan Flora, City Manager
Ms. Adeline Brown
Lisa Westwood, City Consultant



**HABEMATOLEL POMO
CULTURAL RESOURCES**

February 16, 2022

City of Clearlake
14050 Olympic Drive
Clearlake, CA 95423

Re: California Environmental Quality Act Public Resources Code section 21080.3, subd. (b)
Request for Formal Notification of Proposed Projects Within the Habematolel Pomo of
Upper Lake Tribe's Geographic Area of Traditional and Cultural Affiliation

Dear: City of Clearlake:

As of the date of this letter, in accordance with Public Resources Code Section 21080.3.1, subd. (b), the Habematolel Pomo of Upper Lake, which is traditionally and culturally affiliated with a geographic area within your agency's geographic area of jurisdiction, requests formal notice of and information on proposed projects for which your agency will serve as a lead agency under the California Environmental Quality Act (CEQA), Public Resources Code section 21000 et seq.

Pursuant to Public Resources Code section 21080.3.1, subd. (b), and until further notice, we hereby designate the Tribal Historic Preservation Officer as the tribe's lead contact person for purposes of receiving notices of proposed projects from your agency:

Robert Geary: Tribal Historic Preservation Officer (THPO)
PO Box 516
Upper Lake, CA 95485
Office: (707) 900-6923, Email: Rgeary@hpultribe-nsn.gov

We request that all notices be sent via certified U.S. Mail with return receipt. Following receipt and review of the information your agency provides, within the 30-day period proscribed by Public Resources Code section 21080.3.1, subd. (d), the Habematolel Pomo of Upper Lake may request consultation, as defined by Public Resources Code section 21080.3.1, subd. (b), pursuant to Public Resources Code section 21080.3.2 to mitigate any project impacts a specific project may cause to tribal cultural resources.

HABEMATOLEL POMO OF UPPER LAKE

P: 707.900.6923 F: 707.275.0757 P.O. Box 516 Upper Lake, CA 95485



**HABEMATOLEL POMO
CULTURAL RESOURCES**

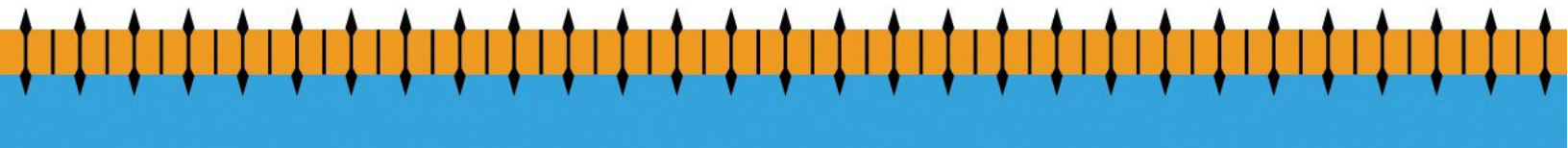
If you have any questions or need additional information, please contact our lead contact person listed above.

Sincerely,

A handwritten signature in blue ink that reads "Robert Geary". The signature is fluid and cursive, with the first name "Robert" and last name "Geary" clearly legible.

Robert Geary
Cultural Resources Director/Tribal Historic Preservation Officer

CC: Native American Heritage Commission
1550 Harbor Boulevard, Suite 100
West Sacramento, California 95691





**HABEMATOLEL POMO
CULTURAL RESOURCES**

March 9, 2022

City of Clearlake: Engineering Department
Attn: Adeline Brown, Engineer Tech/Construction Manager
14050 Olympic Drive,
Clearlake, CA 95422

RE: 18th Ave. Road Improvement Project HP-20220216-02

Dear Ms. Adeline Brown:

Thank you for your project consultation dated, March 9, 2022, regarding cultural information on or near the proposed 18th Ave. Between SR53 and Old Hwy. 53, Clearlake, Lake County. We appreciate your effort to contact us and consult with our department.

The Habematolel Pomo Cultural Resources Department has reviewed the project with your agency and concluded that it is within the aboriginal territories of the Koi Nation and Habematolel Pomo of Upper Lake. Therefore, we have a cultural interest and authority in the proposed project area.

Based on the information provided at the above scheduled consultation, the Tribe has concerns that the project could impact known cultural resources. We request including cultural monitors during development and all ground disturbance activities. Additionally, we request that you incorporate Habematolel Pomo of Upper Lake's Treatment Protocol into the mitigation measures for this project and recommend cultural sensitivity training for any pre-project personnel on the first day of construction activities.

To setup a monitoring agreement, please contact the following individual:

Robert Geary, Tribal Historic Preservation Officer (THPO)
Habematolel Pomo of Upper Lake
Office: (707) 900-6923
Email: Rgeary@hpultribe-nsn.gov

Please refer to identification number HP -20220216-02 in any correspondence concerning this project.

Thank you for providing us the opportunity to comment.

Sincerely,

Robert Geary
Director of Cultural Resources/Tribal Historic Preservation Officer

HABEMATOLEL POMO OF UPPER LAKE

P: 707.900.6923 F: 707.275.0757 P.O. Box 516 Upper Lake, CA 95485





HABEMATOLEL POMO CULTURAL RESOURCES

Treatment Protocol for Handling Human Remains and Cultural Items Affiliated with the Habematolel Pomo of Upper Lake

The purpose of this Protocol is to formalize procedures for the treatment of Native American human remains, grave goods, ceremonial items, and items of cultural patrimony, in the event that any are found in conjunction with development, including archaeological studies, excavation, geotechnical investigations, grading, and any ground disturbing activity. This Protocol also formalizes procedures for Tribal monitoring during archaeological studies, grading, and ground-disturbing activities.

I. Cultural Affiliation

The Habematolel Pomo of Upper Lake (“Tribe”) traditionally occupied lands in Lake and Mendocino Counties. The Tribe has designated its Tribal Historic Preservation Officer (“THPO”) to act on the Tribe's behalf with respect to the provisions of this Protocol. Any human remains which are found in conjunction with Projects on lands culturally affiliated with the Tribe shall be treated in accordance with Section III of this Protocol. Any other cultural resources shall be treated in accordance with Section V of this Protocol.

II. Inadvertent Discovery of Native American Human Remains

Whenever Native American human remains are found during the course of a Project, the determination of Most Likely Descendant (“MLD”) under California Public Resources Code Section 5097.98 will be made by the Native American Heritage Commission (“NAHC”) upon notification to the NAHC of the discovery of said remains at a Project site. If the location of the site and the history and prehistory of the area is culturally-affiliated with the Tribe, the NAHC will contact the Tribe’s identified Most Likely Descendant; the MLD will coordinate with the Tribe’s Executive Council to designate an individual to represent the Tribe in consultations with the landowner and/or project proponents.

Should the NAHC determine that a member of an Indian tribe other than Habematolel Pomo of Upper Lake is the MLD, and the Tribe is in agreement with this determination, the terms of this Protocol relating to the treatment of such Native American human remains shall not be applicable; however, that situation is very unlikely.





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III. Treatment of Native American Remains

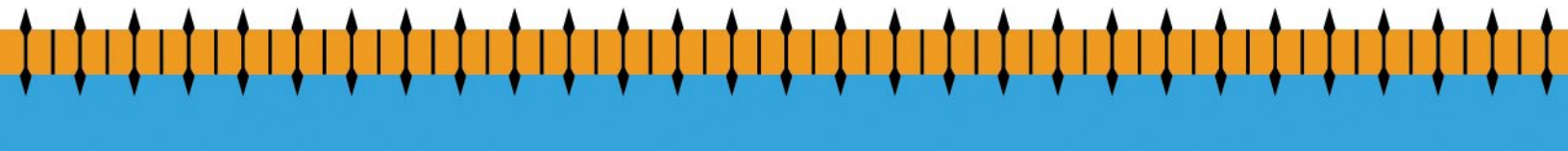
In the event that Native American human remains are found during development of a Project and the Tribe, or a member of the Tribe is determined to be MLD pursuant to Section II of this Protocol, the following provisions shall apply. The Medical Examiner shall immediately be notified, ground disturbing activities in that location shall cease and the Tribe shall be allowed, pursuant to California Public Resources Code Section 5097.98(a), to (1) inspect the site of the discovery and (2) make determinations as to how the human remains and grave goods should be treated and disposed of with appropriate dignity.

The Tribe shall complete its inspection and make its MLD recommendation within forty-eight (48) hours of getting access to the site. The Tribe shall have the final determination as to the disposition and treatment of human remains and grave goods. Said determination may include avoidance of the human remains, reburial on-site, or reburial on tribal or other lands that will not be disturbed in the future.

The Tribe may wish to rebury said human remains and grave goods or ceremonial and cultural items on or near the site of their discovery, in an area which will not be subject to future disturbances over a prolonged period of time. Reburial of human remains shall be accomplished in compliance with the California Public Resources Code Sections 5097.98(a) and (b).

The term "human remains" encompasses more than human bones because the Tribe's traditions call for the burial of associated cultural items with the deceased (funerary objects), and/or the ceremonial burning of Native American human remains, funerary objects, grave goods and animals. Ashes, soils and other remnants of these burning ceremonies, as well as associated funerary objects and unassociated funerary objects buried with or found near the Native American remains are to be treated in the same manner as bones or bone fragments that remain intact.

IV. Non-Disclosure of Location of Reburials





HABEMATOLEL POMO CULTURAL RESOURCES

Unless otherwise required by law, the site of any reburial of Native American human remains shall not be disclosed and will not be governed by public disclosure requirements of the California Public Records Act, Cal. Govt. Code § 6250 *et seq.* The Medical Examiner shall withhold public disclosure of information related to such reburial pursuant to the specific exemption set forth in California Government Code Section 6254(r). The Tribe will require that the location for reburial is recorded with the California Historic Resources Inventory System (“CHRIS”) on a form that is acceptable to the CHRIS center. The Tribe may also suggest that the landowner enter into an agreement regarding the confidentiality of site information that will run with title on the property.

V. Treatment of Cultural Resources

Treatment of all cultural items, including ceremonial items and archeological items will reflect the religious beliefs, customs, and practices of the Tribe. All cultural items, including ceremonial items and archeological items, which may be found at a Project site should be turned over to the Tribe for appropriate treatment, unless otherwise ordered by a court or agency of competent jurisdiction. The Project Proponent should waive any and all claims to ownership of Tribal ceremonial and cultural items, including archeological items, which may be found on a Project site in favor of the Tribe. If any intermediary, (for example, an archaeologist retained by the Project Proponent) is necessary, said entity or individual shall not possess those items for longer than is reasonably necessary, as determined solely by the Tribe.

VI. Inadvertent Discoveries

If additional significant site or sites not identified as significant in a Project environmental review process, but later determined to be significant, are located within a Project impact area, such sites will be subjected to further archeological and cultural significance evaluation by the Project Proponent, the Lead Agency, and the Tribe to determine if additional mitigation measures are necessary to treat sites in a culturally appropriate manner consistent with CEQA requirements for mitigation of impacts to cultural resources. If there are human remains present that have been identified as Native American, all work will cease for a period of up to 30 days in accordance with Federal Law.

VIII. Work Statement for Tribal Monitors

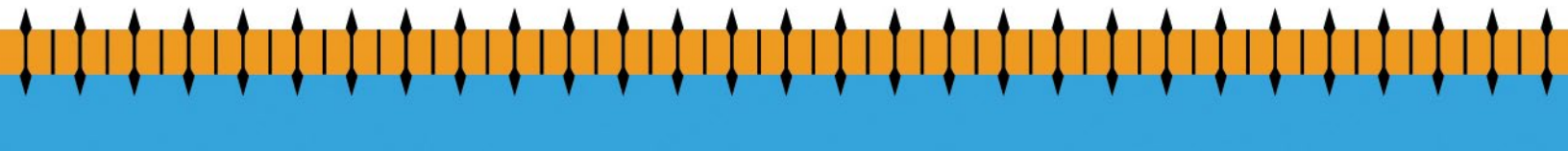




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CULTURAL RESOURCES**

The description of work for Tribal monitors of the grading and ground disturbing operations at the development site is attached hereto as Addendum I and incorporated herein by reference.

ADDENDUM I





HABEMATOLEL POMO CULTURAL RESOURCES

Habematolel Pomo of Upper Lake Tribal Monitors Description of Work and Treatment Protocol

I. Preferred Treatment

The preferred protocol upon the discovery of Native American human remains is to (1) secure the area, (2) cover any exposed human remains or other cultural items, and (3) avoid further disturbances in the area.

II. Comportment

All parties to the action are strongly advised to treat the remains with appropriate dignity, as provided in Public Resource Code Section 5097.98. We further recommend that all parties to the action treat tribal representatives and the event itself with appropriate respect. For example, jokes and antics pertaining to the remains or other inappropriate behavior are ill advised.

III. Excavation Methods

If, after the Habematolel Pomo of Upper Lake Tribal representative has been granted access to the site and it is determined that avoidance is not feasible, an examination of the human remains will be conducted to confirm they are human and to determine the position, posture, and orientation of the remains. At this point, we recommend the following procedures:

(A) Tools. *All excavation in the vicinity of the human remains will be conducted using fine hand tools and fine brushes to sweep loose dirt free from the exposure.*

(B) Extent of Exposure. *In order to determine the nature and extent of the grave and its contents, controlled excavation should extend to a full buffer zone around the perimeter of the remains.*

(C) Perimeter Balk. *To initiate the exposure, a perimeter balk (especially, a shallow trench) should be excavated, representing a reasonable buffer a minimum of 10 cm around the maximum extent of the known skeletal remains, with attention to counter-intuitive discoveries or unanticipated finds relating to this or other remains. The dirt from the perimeter balk should be bucketed, distinctly labeled, and screened for cultural materials.*

(D) Exposure Methods. *Excavation should then proceed inward from the walls of the balk as well as downward from the surface of the exposure. Loose dirt should be scooped out and*





HABEMATOLEL POMO CULTURAL RESOURCES

brushed off into a dustpan or other collective device. Considerable care should be given to ensure that human remains are not further impacted by the process of excavation.

*(E) Provenience. Buckets, collection bags, notes, and tags should be fully labeled per provenience, and a distinction should be made between samples collected from: (1) **Perimeter Balk** (described above), (2) **Exposure** (dirt removed in exposing the exterior/burial plan and associations, and (3) **Matrix** (dirt from the interstices between bones or associations). Thus, each burial may have three bags, “Burial 1 Perimeter Balk,” “Burial 1 Exposure Balk,” “Burial 1 Matrix.”*

Please note the provisions below with respect to handling and conveyance of records and samples.

(F) Records. The following records should be compiled in the field: (1) a detailed scale drawing of the burial, including the full provenience for all human remains, associated artifacts, and the configuration of all associated phenomena such as burial pits, evidence for pre-interment grave pit burning, soil variability, and intrusive disturbance, (2) complete a formal burial record using the consultants proprietary form or other standard form providing information on site #, unit or other proveniences, level depth, depth and location of the burial from a fixed datum, workers, date(s), artifact list, skeletal inventory, and other pertinent observations, (3) crew chief and worker field notes that may supplement or supercede information contained in the burial recording form, and (4) photographs, including either or standard photography or high-quality (400-500 DPI or 10 MP recommended) digital imaging.

(G) Stipulations for Acquisition and Use of Imagery. Photographs and images may be used only for showing location or configuration of questionable formation or for the position of the skeleton. They are not to be duplicated for publication unless a written release is obtained from the Tribe.

(H) Association. Association between the remains and other cultural materials should be determined in the field in consultation with an authorized Tribal representative and may be amended per laboratory findings. Records of provenience and sample labels should be adequate to determine association or degree of likelihood of association of human remains and other cultural materials.





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(I) Samples. For each burial, all **Perimeter Bulk** soil is to be 1/8"-screened. All **Exposure** soil is to be 1/8"-screened, and a minimum of one 5-gallon bucket of excavated but unscreened Exposure soil is to be collected, placed in a plastic garbage bag in the bucket. All **Matrix** soil is to be carefully excavated, screened as appropriate, and then collected in plastic bags placed in 5-gallon buckets.

(J) Human remains are not to be cleaned in the field.

(K) Blessings. Prior to any physical action related to human remains, a designated tribal representative will conduct prayers and blessings over the remains. The archaeological consultant will be responsible for ensuring that individuals and tools involved in the action are available for traditional blessings and prayers, as necessary.

IV. Lab Procedures

No laboratory studies are permitted without consultation with the Tribe. Lab methods are determined on a project-specific basis in consultation with Habematolel Pomo of Upper Lake representatives. The following procedures are recommended:

(A) Responsibility. The primary archaeological consultant will be responsible for ensuring that all lab procedures follow stipulations made by the Tribe.

(B) Blessings. Prior to any laboratory activities related to the remains, a designated Tribal representative will conduct prayers and blessings over the remains. The archaeological consultant will be responsible for ensuring that individuals and tools involved in the action are available for traditional blessings and prayers, as necessary.

(C) Physical Proximity of Associations. To the extent possible, all remains, associations, samples, and original records are to be kept together throughout the laboratory process. In particular, **Matrix** dirt is to be kept in buckets and will accompany the remains to the lab. The primary archaeological consultant will be responsible for copying all field records and images and ensuring that the original notes and records accompany the remains throughout the process.

(E) Additional Lab Finds. Laboratory study shall make every effort to identify unanticipated finds or materials missed in the field, such as objects encased in dirt or human remains misidentified as faunal remains in the field. In the event of discovery of additional remains, materials, and other associations the tribal representatives are to be contacted immediately.





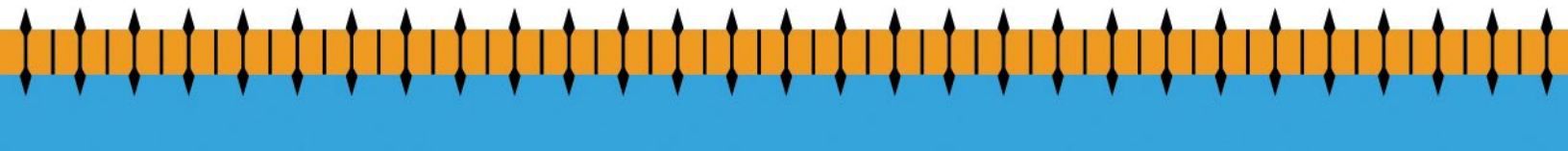
HABEMATOLEL POMO CULTURAL RESOURCES

V. Re-internment without Further Disturbance

No laboratory studies are permitted on human remains and funerary objects. The preferred treatment preference for exhumed Native American human remains is reburial in an area not subject to further disturbance. Any objects associated with remains will be reinterred with the remains. The Tribe shall not bear the cost of re-internment but shall be given full access to rebury the remains in a culturally sensitive manner.

VI. Curation of Recovered Materials

Should all, or a sample, of any archaeological materials collected during the data recovery activities – with the exception of Human Remains – need to be curated, an inventory and location information of the curation facility shall be given to the Tribe for its records.





**HABEMATOLEL POMO
CULTURAL RESOURCES**

February 23, 2022

City of Clearlake
Attn: Engineering Department
14050 Olympic Drive,
Clearlake, CA 95422

RE: 18th Ave. Hotel Project HP-20220216-02

Dear Ms. Adeline Brown:

Thank you for your project notification letter dated February 16, 2022, regarding cultural information on or near the proposed 18th Ave. between SR53 and Old Hwy. 53, Clearlake, in Lake County. We appreciate your effort to contact us and wish to respond.

The Habematolel Pomo Cultural Resources Department has reviewed the project and concluded that it is within the aboriginal territories of the Habematolel Pomo of Upper Lake. Therefore, we have a cultural interest and authority in the proposed project area and would like to initiate a formal consultation with the lead agency. At your earliest convenience, please provide our Cultural Resources Department with a project timeline, detailed ground disturbance plan and the latest cultural resources study for this project.

Please contact the following individual to coordinate a date and time for the consultation meeting:

Robert Geary, Tribal Historic Preservation Officer (THPO)
Habematolel Pomo of Upper Lake
Office: (707) 900-6923
Email: rgeary@hpultribe-nsn.gov

Please refer to identification number HP-20220216-02 in any correspondence concerning this project.

Thank you for providing us the opportunity to comment.

Sincerely,

Robert Geary
Cultural Resources Director/Tribal Historic Preservation Officer

HABEMATOLEL POMO OF UPPER LAKE

P: 707.900.6923 F: 707.275.0757 P.O. Box 516 Upper Lake, CA 95485

