Addendum



CITY OF COSTA MESA

77 Fair Drive | P.O. Box 1200, Costa Mesa | California 92628-1200 Phone 714.754.5285 | Fax 714.754.5330 | www.costamesaca.gov | joint.stephens@costamesaca.gov | joint.stephens@costamesaca.gov | stephens@costamesaca.gov | stephens@costamesaca.gov | <a hr

From the Office of the Mayor

April 28, 2022

California State Coastal Conservancy 1515 Clay Street, 10th Floor Oakland, CA 94612-1401

Dear Chairman Bosco and Coastal Conservancy Governing Board,

I write to express support on behalf of the City of Costa Mesa for Agenda Item #8 – as agendized for the May 5,2022 Conservancy Board Meeting – for the application of The Trust for Public Land (TPL) to protect Banning Ranch. On Tuesday, January 18, 2022, the Costa Mesa City Council unanimously adopted a resolution supporting the acquisition of Banning Ranch by TPL to acquire the 401-acre parcel of land, which is the site of a former oil field located west of Newport Beach and south of Costa Mesa, adjacent to the mouth of the Santa Ana River.

The creation of a public open space, park, and coastal nature preserve at Banning Ranch would provide much-needed park space accessible to area residents and address park space deficits in Costa Mesa and other nearby cities. Allowing public access to the Banning Ranch property advances the State of California's goals to provide trails and low coast coastal accommodations as required by AB 250.

In addition, this property is the largest piece of privately owned coastal open space in Southern California and home to many native rare species that migrate and nest in the surrounding natural habitat. As such, Banning Ranch presents an opportunity to provide climate change mitigation and adaptation benefits through nature-based solutions. Banning Ranch will become a refuge to protect wildlife habitat for threatened or endangered fish and birds, including San Diego fairy shrimp, least Bell's vireo, and the California gnatcatcher.

It is important to consider the large role Banning Ranch has in climate change mitigation as the California Coastal Commission has found that the site has extensive Environmentally Sensitive Habitat Areas (ESHA), which is afforded the highest protection under the California Coastal Act. The restoration and reintroduction of tidal flow to the degraded salt marshes of Banning Ranch would address and mitigate anticipated sea-level rise along the Southern California coast.

MAYOR	COUNCIL MEMBER	COUNCIL MEMBER	MAYOR PRO TEM	COUNCIL MEMBER	COUNCIL MEMBER	COUNCIL MEMBER
John B. Stephens	Don Harper	Loren Gameros	Andrea Marr	Manuel Chavez	Arlis Reynolds	Jeffrey Harlan
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Addendum

The city is pleased to see recent commitments by the Mountains Recreation and Conservation Authority to become the future titleholder and steward as they bring exceptional experience with complex coastal and oil properties. Like the Coastal Conservancy, the Authority is firmly committed to social equity.

As the Board considers this action, I urge you support the acquisition of Banning Ranch by The Trust for Public Land that will provide an open, accessible, natural habitat for both wildlife and residents enjoying access to the coast. Thank you for your consideration.

Sincerely,

John B. Stephens

Mayor

City of Costa Mesa



Juaneño Band of Mission Indians

Acjachemen Nation

May 3, 2022

Meghan Cooper California State Coastal Conservancy 1515 Clay St, 10th Floor Oakland, CA 94612

Via Email: megan.cooper@scc.ca.gov; PublicComments@scc.ca.gov

RE: Coastal Conservancy Staff Report, May 5, 2022

I am writing on behalf of the Juaneno Band of Mission Indians, Acjachemen Nation- Belardes regarding the Coastal Conservancy Staff Recommendations dated 5/5/2022. Our tribe has concerns regarding agenda item 8 Banning Ranch.

This report indicated that engagement with the Juaneno Band of Mission Indians, Acjachemen Nation-Belardes began in February of 2022. Please correct this document to reflect that on July 2nd, 2021 your organization sent a letter asking if we would like to initiate government-to-government consultation. Our Cultural Resource Director, Joyce Stanfield Perry, responded in the affirmative and on August 26, 2021, at 10:00 am there was a conference call attended by Joyce Stanfield Perry, as well as Meghan Cooper and Mary Small of the Coastal Conservancy.

It is imperative that our comments be documented in order to prevent the continued erasure of our sovereign people. We ask that you please send us your notes from the August 26th meeting, and that the Staff report is corrected to include all consultation. We look forward to a continued cooperative relationship.

Sincerely,

Matias Belardes, Chairman

CC:

Geneva.Thompson@resources.ca.gov Jasen.Yee@wildlife.ca.gov

From: Angela Mooney DArcy

To: SCC Public Comment; Thompson, Geneva@CNRA; Cooper, Megan@SCC; Fris, Rebecca@Wildlife

Cc: Gerwein, Joel@SCC; L. Frank; Wallace Cleaves; Antonette Cordero

Subject: SPI Substantive Comments on Agenda Item 8 Coastal Conservancy 050522 Meeting

Date: Wednesday, May 4, 2022 4:00:11 PM

Attachments: SPI Comments on CCC 050522 Agenda Item 8 Gena-submitted on 050422.pdf

SPI Abridged Comments on CCC 050522 Agenda Item 8 Gena.pdf

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Hi Everyone,

I hope this email finds you all well. Please see attached for SPI's substantive comments regarding the recently released staff report for Agenda Item 8--Genga/Banning Ranch.

Please note, I've also attached a copy of the letter we submitted last Friday, April 29, as we discovered a discrepancy between the information provided to tribal attendees at the April 2022 site visit and the information listed on the Coastal Conservancy website regarding the deadline for comments on upcoming agenda items.

The discrepancy was that attendees were informed by Coastal Conservancy staff via email on April 26, 2022, that comments would be accepted until 5:00 p.m. the day before the meeting, i.e. 5:00 p.m. today, May 4. However information on the Conservancy's website indicated that comments needed to be submitted by the Friday before the meeting in order to be considered.

SPI sincerely hopes that, given the information that was provided to us and elected tribal leaders and community members on April 26, any and all tribal comments on this agenda item will be accepted and included in the record so long as they are submitted by 5:00 p.m. today.

SPI staff and board members are happy to schedule a meeting with you all to discuss our comments in greater detail if this is of interest to the agencies you represent.

Thank you and take care, Angela

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Angela Mooney D'Arcy Executive Director Sacred Places Institute for Indigenous Peoples



April 29, 2022

California Coastal Conservancy

Email: PublicComments@scc.ca.gov

Re: Agenda Item 8. Consideration and possible authorization to disburse up to \$6,000,000 to the

Trust for Public Land to acquire 384 acres of the Kena Gena Banning Ranch property in Newport

Beach and unincorporated Orange County.

Dear Commissioners:

Sacred Places Institute for Indigenous Peoples is a California Indigenous-led, grassroots environmental justice organization based in the unceded ancestral homelands of the Tongva people. Our mission is to build the capacity of Native Nations and Indigenous Peoples to protect sacred lands, waters and cultures. We worked with the Tongva and Acjachemen Nations and tribal community members in 2016 to prevent a proposed luxury home development project on our ancestral village site. We continue to work with these tribal nations and community members to advocate for tribal land rematriation, access, and use of this critical site at the confluence of the Santa Ana River and the Pacific Ocean in tribal ancestral homelands.

Sacred Places Institute (SPI) has several recommendations regarding the language of the proposed resolution and findings as articulated in the Staff Recommendation report prepared for the upcoming May 5, 2022 meeting on Agenda Item 8. Banning Ranch Acquisition Project No. 21-046-01. On April 26, 2022, SPI staff and board members, along with multiple elected tribal leaders and community members, received an email from Coastal Conservancy staff indicating that our comments would be accepted until until 5 PM on May 4, the day before the board meeting, by emailing publiccomments@scc.ca.gov. We will provide more substantive comments by that deadline.

Our general comments are that we support the acquisition of the Keŋa Geŋa Banning Ranch property for the purposes of protecting this site in perpetuity for conservation purposes so long as the Tongva and Acjachemen Nations and tribal community members have equal representation on any and all decision making bodies for the land and so long as tribal rights to access and use these tribal lands for cultural purposes are also protected in perpetuity.

Sincerely,

Angela Mooney D'Arcy

Angela R Namey D'Chay

Executive Director

Sacred Places Institute for Indigenous Peoples



May 4, 2022

California Coastal Conservancy

Email: PublicComments@scc.ca.gov

Re: Agenda Item 8. Consideration and possible authorization to disburse up to \$6,000,000 to the

Trust for Public Land to acquire 384 acres of the Gena Banning Ranch property in Newport Beach

and unincorporated Orange County.

Dear Commissioners:

Thank you for the opportunity to share our comments on the proposed funding allocations for the purchase of the Acjachemen and Tongva ancestral site Geŋa, more recently known as Banning Ranch. Sacred Places Institute for Indigenous Peoples (SPI) is a California Indigenous-led, grassroots environmental justice organization based in the unceded ancestral homelands of the Tongva people also known as Los Angeles, California. Our mission is to build the capacity of Native Nations and Indigenous Peoples to protect sacred lands, waters and cultures. SPI is particularly invested in supporting Indigenous land rematriation. As we enter the time of the Land Back movement, we acknowledge that land rematriation is a necessary step in healing the damage done to the land and the Indigenous communities affected by colonial invasion and greed.

Draft Resolution

SPI recommends amending Section 3 of the proposed resolution as follows:

"The property acquired under this authorization shall be managed and operated for cultural resource protection and Acjachemen and Tongva access and use of their ancestral homelands, open space protection; wildlife habitat; environmental restoration and conservation; potential lower-cost coastal accommodations, so long as proposed lower-cost coastal accommodations do not conflict with or impair tribal access and use; and public access, with a special focus on access for local California Native American tribes the Tongva Gabrielino, Gabrielino Shoshone, and Acjachemen-Juaneno Tribal Nations and tribal community members from these nations, (collectively, the "Acquisition Purposes"). The property shall be permanently dedicated to those purposes by an appropriate instrument approved by the Executive Officer."

Staff Recommendations/Project Summary

Tribal community members have repeatedly expressed a desire for the site to be identified by its Indigenous place name in addition to the name designated to the site via its purchase by white

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landholders in 1874. Acknowledging and uplifting Indigenous names for places is a critical step in the work of decolonization and ending structural and institutional racism. Therefore, and especially in light of the Coastal Conservancy's commitment to JEDI practices, any and all materials developed by state agencies, including this staff report and the proposed resolution should always also include the Indigenous names of places whenever possible.

"[R]epeating colonizers' names keeps the trauma of dispossession fresh. The loss of homelands and hunting grounds — and, especially, sacred sites — results in the fragmentation of a holistic world view....It's fairly common, and it is a part of the unwillingness of the colonial structure and history to change in recognition of these tragedies and traumas and injustices." ¹

This section also needs to acknowledge the long relationship the Tongva and Acjachemen tribes have with this place. While non-Native organizations and individuals may have been working to protect this site for decades, tribal communities have been fighting to protect this site and all other sites of significance in our ancestral homelands since we were first dispossessed of these lands through the settler colonial process which spans several hundred years rather than a few decades.

This section should be amended as follows: "The acquisition of Banning Ranch has been sought after by conservation groups for decades as community groups, indigenous tribes, Tongva Gabrielino and Acjachemen Tribes, and residents fought off development to protect the site's unique coastal habitats. Banning Ranch spans 401 acres of undeveloped land between the urban and densely populated cities of Newport Beach and Costa Mesa in Orange County, where the Santa Ana River meets the Pacific"

Project Benefits

The following section is problematic on several grounds and should be amended.

"The project will also protect significant cultural resources and important indigenous lands. Documented evidence shows that indigenous people inhabited Banning Ranch for at least 3,000 years. The Banning Ranch site, in addition to the adjacent Fairview Park and other bluff areas near the Santa Ana River, is believed to have been part of the native village site known as Genga (or Gengaa). The indigenous community, represented by members of the Acjachemen and Gabrielino/Tongva/Kizh tribes, see the Banning Ranch site as an important site for their people and would like to participate in the management of the land once it is purchased, and pursue future acquisition of a portion of the site. TPL, MRCA, and the funding agencies are engaging with the tribal community to plan for tribal access to and involve the tribes in the management of the site. Acquisition of Banning Ranch will enable California Native American people and tribes to access and use the property for traditional cultural purposes."

¹ Brian Oaster, How place names impact the way we see landscape, High Country News, May 1, 2022.





- 1. "Indigenous" and "Native" should be capitalized throughout this section.
- 2. These are sovereign Tribal Nations with whom state agencies have a duty to consult, not a monolithic "indigenous community." The staff report should be amended so as to reflect the proper deference that should be accorded to sovereign nations.
- 3. Using the language "see the site as an important site and would like to participate in the management of the land once it is purchased" is highly problematic. The site IS an important site to these Tribal Nations and the state is well aware of the significance of the site to multiple Tribes. Stating that the tribes "see the site as important" implies that this is merely a perspective and not a consistently and well-documented fact. Language is critical and the current language undermines the position of Tribal Nations because it allows for the questioning of the position that the site is a site of significance to tribes.
- 4. Tribal representatives and tribal community members have been very clear about having an equal or greater role in all management and decision making structures related to this ancestral site. The language "would like to participate in the management of this land" does not adequately reflect tribal perspectives on the matter.
- 5. Tribal access and use of this site should not be limited to "traditional cultural purposes." Doing so locks tribes and tribal members into the past, erases us in the present, presumes tribal cultures are static and relegated to a previous time in history, and forecloses on the possibility of contemporary and future tribal uses of the site as yet to be determined by tribal youth and the generations of tribal community members yet to come.
- 6. For all of the above reasons, this section should be amended as follows:

"So long as appropriate measures are taken to safeguard and empower Tribal Nations and tribal community members to have equal representation on all decision making bodies for the land, the project will also protect significant cultural resources and important Indigenous lands. Documented evidence shows that Geŋa is within the ancestral homelands of the Tongva and Acjachemen people and that Indigenous people inhabited Banning Ranch lived at Geŋa for at least 3,000 years. The Banning Ranch site, Geŋa in addition to the adjacent Fairview Park and other bluff areas near the Santa Ana River, are all part of a well-documented cultural corridor of significant villages, cultural spaces, and sacred sites in the region. The Geŋa site is also well documented as a significant site to the California Native American Tribes within whose ancestral homelands the site is located. Tribal leaders and community members have consistently expressed a desire for the land to be rematriated. Tribal leaders and community members have also consistently expressed the need for state agencies and future land holders to acknowledge that tribes are not stakeholders but rather sovereign nations with whom these



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agencies have a duty to consult. Additionally, tribal leaders and community members have demanded full, fair, and equitable representation on any and all decision-making bodies formed now or in the future regarding the long-term management of this site. Finally, tribal leaders and community members have consistently expressed the importance of tribal involvement and final decision-making authority for any and all educational materials, interpretive signs, and other educational programming related to or representing these tribes in any manner on the property.

Acquisition of the site, coupled with a guarantee that all tribes for whom the site is significant will have equal representation on any and all decision making bodies, will support tribal access and use of the property now and in the future.. is believed to have been part of the native village site known as Genga (or Gengaa). The indigenous community, represented by members of the Acjachemen and Gabrielino/Tongva/Kizh tribes, see the Banning Ranch site as an important site for their people and would like to participate in the management of the land once it is purchased, and pursue future acquisition of a portion of the site. TPL, MRCA, and the funding agencies are engaging with the tribal community to plan for tribal access to and involve the tribes in the management of the site. Acquisition of Banning Ranch will enable California Native American people and tribes to access and use the property for traditional cultural purposes."

Project History

It is inappropriate and factually inaccurate to begin this section with the purchase of this land by settlers in 1874. This section should acknowledge that the land has been continuously occupied by tribal communities since time immemorial according to tribal world views and for at least 6,000 years according to archaeological evidence.

<u>Acquisition Process Site Description</u>

The site description section should be amended to reflect the significance of this site as a cultural landscape containing multiple archaeological sites.

Selection Criteria

Erasure of Prior, Documented, Government-to-Government Consultation is Unacceptable

The following section of the staff report must be amended as it is factually inaccurate and perpetuates the erasure of the role of sovereign tribal nations in advocating for the protection of their sacred sites.

"3. Project includes a serious effort to engage tribes. Examples of tribal engagement include good faith, documented efforts to work with tribes traditionally and culturally affiliated to the project area.

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The project includes the development of a Tribal Access and Management Plan ("Tribal Plan") for the property. The Tribal Plan will be one component of the Property Management Plan, and will be prepared by MRCA and representatives of the Acjachemen and Gabrieleno/Tongva/Kizh Nations within two years of close of escrow. TPL, MRCA, and the funding agencies initiated discussions with the tribal community about the property in February 2022 and conducted a site visit for tribal members in April 2022."

This section is factually inaccurate and erases the advocacy efforts of the Juaneno Band of Mission Indians, Acjachemen Nation—Belardes. The Coastal Conservancy submitted letters to all elected tribal leaders on the Native American Heritage Commission Contact list inviting government-to-government consultation regarding the proposed purchase of the site by Trust for Public Lands in order to protect the site in perpetuity on July 2, 2021. The Juaneno Band of Mission Indians, Acjachemen Nation-Belardes officially responded to the request for government-to-government consultation and this consultation occurred at 10:00 a.m. on August 26, 2021, nearly six months prior to the February 2022 date egregiously listed as the initiation of discussions with tribes in this staff report.²

Despite the fact that the heading of this subsection is *Project includes a serious effort to engage tribes*. *Examples of tribal engagement include good faith, documented efforts to work with tribes traditionally and culturally affiliated to the project area*, SPI remains concerned about how much of a good faith and documented effort the tribal engagement has been when the staff report fails to acknowledge prior government-to-government consultations that have occurred for this property and does not reflect the statements and requests articulated by the tribe during that consultation. We hope that the Coastal Conservancy will comply with the Juaneno Band of Mission Indians, Acjachemen Nation's request to obtain copies of the state's notes and/or other documentation of their tribal consultation on August 26, 2021.³

"The management plan will describe the restoration, public access, and tribal access opportunities for the site and will describe how sensitive ecological and cultural resources will be balanced with public access."

Again, this section is also problematic because tribal community members and elected officials have repeatedly expressed the desire to be involved as equal partners in decision making for land management, use, planning, and educational interpretive design for this land moving forward. The staff

² Letter from Juaneno Band of Mission Indians Acjachemen Nation–Belardes to the Coastal Conservancy on May 3, 2022.

³ Please note, SPI's support for the Tribe's request to obtain this documentation is in no way, shape, or form a request for our access to this information. SPI fully understands, respects and supports the government-to-government consultation process and would never request access to potentially confidential information provided by this tribe or any tribe during these consultations between sovereign entities. We do however, absolutely support this Tribe and any other tribe's requests to obtain proof that their concerns were documented and heard by the state agencies with whom consultation occurred.



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report repeatedly characterizes tribal interests as being limited to access for traditional cultural uses. Tribes have clearly expressed an interest in being involved beyond the protection of historical cultural resources. These perspectives need to be reflected in the staff report.

In summary, while Sacred Places Institute for Indigenous Peoples is supportive of the purchase of these lands so that they may be conserved in perpetuity, we have serious concerns around some of the language being used in the staff report and the proposed resolution. We strongly urge the Coastal Conservancy to develop language that fully and fairly acknowledges and uplifts the roles of Tribal Nations and Indigenous-led organizations in protecting this site and to do away with language that undermines tribal sovereignty, diminishes tribal articulation of the site as significant, and limits tribal involvement to site access for traditional cultural purposes.

Sincerely,

Angela Mooney D'Arcy

Executive Director & Founder

Angel R Namy D'Unay

Sacred Places Institute for Indigenous Peoples

From: GONZALEZ, ALEXANDER
To: White, Anulika@SCC

Cc: Cooper, Megan@SCC; Gerwein, Joel@SCC

Subject: City of Costa Mesa - SUPPORT LETTER 5/3 Meeting Agenda #8

Date: Tuesday, May 3, 2022 9:59:24 AM

Attachments: <u>image001.png</u>

image002.png image003.png image004.png image005.png

04.29.2022 SUPPORT - Banning Ranch Coastal Conservancy.pdf

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Good morning Ms. White,

My name is Alex Gonzalez and I am the Chief of Staff to the Mayor and City Council of Costa Mesa. I write to submit a letter of support in reference to Agenda Item #8 scheduled for the May 5, 2022 Coastal Conservancy Board Meeting. Please let me know if you have any questions or concerns. Thank you for your consideration.

Warm regards,

Alexander C. Gonzalez

Chief of Staff
City of Costa Mesa
(714) 462-7958

77 Fair Drive | Costa Mesa | CA 92626



City Hall is open to the public. For expedited service, <u>appointments</u> are strongly encouraged.

~ The City of Costa Mesa serves our residents, businesses and visitors while promoting a safe, inclusive and vibrant community ~



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As the Board considers this action, I urge you support the acquisition of Banning Ranch by The Trust for Public Land that will provide an open, accessible, natural habitat for both wildlife and residents enjoying access to the coast. Thank you for your consideration.

Sincerely,

John B. Stephens

Mayor

City of Costa Mesa