

Communication from Public

Name: Ziggy Kruse Blue
Date Submitted: 02/05/2026 07:00 PM
Council File No: 25-1518
Comments for Public Posting: Public Rebuttal to Alston & Bird Letter Dated - January 20, 2026, Project Site: 11973 San Vicente Boulevard (Barry Building) --- This is related to Tribal Cultural Resources and the improper AB 52 Consultation ...

**Sieglinde Kruse Blue
Los Angeles, CA 90049
ziggykruse2005@yahoo.com**

February 5, 2026

VIA EMAIL ONLY
clerk.plumcommittee@lacity.org

Los Angeles City Planning and
Land Use Committee
City Clerk's Office
Los Angeles City Hall
200 N. Spring Street, Room 340
Los Angeles, CA 90012

City Council File#: **25-1518**
LADBS NO.: BF 250851
CASE NO.: CHC-2007-1585-HCM
RELATED CASE NO.: ENV-2019-6645-EIR
CEQA: SCH#2020110210 (EIR)
Location: 11973-11975 W. San Vicente Boulevard
Applicant: 11973 San Vicente, LLC
Council District: 11 - Park
Community Plan Area: Brentwood - Pacific Palisades

Subject: **Public Rebuttal to Alston & Bird Letter Dated
January 20, 2026, Project Site: 11973 San Vicente
Boulevard (Barry Building)**

Dear Members of the LA City PLUM Committee:

As a member of the public and a concerned stakeholder, I am submitting this formal rebuttal to the letter provided by Edward J. Casey of Alston & Bird, dated January 20, 2026. The Applicant's letter contains significant mischaracterizations regarding the administrative record, the rights of public participants, and the adequacy of the City's Tribal Cultural Resources (TCR) analysis.

I. The Fundamental Right of Public Participation

The Applicant's counsel asserts that the "Appellant has never raised this issue before" regarding TCR and AB 52. This point is moot for the following reasons:

- **Independent Public Advocacy:** This issue was brought forward by members of the public, not the Appellant. CEQA does not restrict the *fair argument* to the Appellant alone; it

requires the lead agency to consider environmental impacts raised by any person.

- **The Right to Petition:** Members of the public have a fundamental right to petition their government. Under CEQA Guidelines § 15201, public participation is not a mere courtesy but an essential part of the CEQA process. The City is legally obligated to include provisions for wide public involvement to receive and evaluate public reactions to environmental issues like Tribal Cultural Resources (TCR).

II. Timing of Evidence and the Agency's Duty to Respond

- **The Applicant's Procedural Objection is Legally Erroneous:** The Applicant's contention that the public is barred from submitting new evidence after the publication of the FEIR directly contradicts Public Resources Code § 21177. California law explicitly protects the exhaustion of administrative remedies so long as the grounds for noncompliance are presented *"orally or in writing by any person during the public comment period provided by this division or prior to the close of the public hearing on the project before the issuance of the notice of determination."* As this evidence is being introduced before the final vote and the close of the public hearing, it is timely, valid, and must be included in the administrative record.
- **The Agency's Mandatory Duty to Evaluate Evidence:** Under Public Resources Code § 21091(d), the Lead Agency has an ongoing obligation to evaluate and consider comments regarding the environmental effects of a project. When substantial evidence is introduced that challenges or refutes the findings in the FEIR, the Agency cannot disregard these facts without risking an abuse of discretion. To ensure that decision-makers are fully informed before a final vote—the fundamental purpose of CEQA—the Lead Agency must evaluate this evidence to determine if the FEIR remains a legally adequate informational document or if the newly presented facts require recirculation under PRC § 21092.1.

III. Newly Discovered Evidence Regarding Tribal Cultural Resources (TCR)

The Applicant's assertion that these issues are untimely ignores the fact that this evidence reveals a fundamental prejudicial abuse

of discretion in the Final EIR (FEIR). The public has the right to bring forward the following critical contradictions before a final decision is made:

- **Expert Deferral Ignored:** The Applicant's own archaeological expert, SWCA Environmental Consultants, formally deferred the assessment of TCR impacts to the expertise of the Tribe(s). By ignoring the very experts they hired, the City has failed to establish a substantial evidence basis for a "No Impact" finding.
- **Technical Contradictions in Soil Excavation:** The FEIR claims "no impact" to TCRs based on the premise that native soils will not be disturbed. However, the project's own specifications for a 5-foot excavation depth will penetrate 3 feet into native, undisturbed soils. This is a physical impossibility that the FEIR fails to resolve, and the public is entitled to point out this fatal flaw under PRC § 21177.
- **Failure of Meaningful Consultation (Koi Nation Precedent):** As established in *Koi Nation of Northern California v. City of Clearlake* (2025), the lead agency has a mandatory duty to engage in "meaningful consultation." The City's breach of confidentiality regarding sensitive tribal archives and the failure to reconcile the Kizh Nation's concerns constitutes a failure of the AB 52 process.
- **The "Discovery" Rule:** Because this technical contradiction (the 5-foot vs. 3-foot soil discrepancy) only became clear upon the release of the FEIR and subsequent public records review, the public is legally permitted—and encouraged—to present this new evidence to the PLUM Committee to prevent a decision based on an inaccurate record.

IV. Contradictions Regarding Subsurface Soil and Tribal Evidence

The Applicant argues that subsurface work will be limited to two to five feet in "previously disturbed" soil, rendering the discovery of resources "unlikely." However, this ignores the specific expert concerns raised by the Gabrielino Band of Mission Indians - Kizh Nation and, crucially, contradicts the City's own internal admissions:

- **The City's Admission of Undisturbed Soil:** On November 20, 2020, the City admitted in writing that while the top two feet may be fill, the soil from two to five feet below ground is undisturbed.

Since the project involves excavation to exactly that five-foot depth, the City has already conceded that ***the project will penetrate native, undisturbed earth.***

- **The Paper Trail Requirement:** In response to the City's claims, the Tribe explicitly challenged the *artificial fill* label. They raised a critical evidentiary necessity: verifying whether the site's native soils were actually hauled away and replaced with imported material, or if the original earth was simply moved and backfilled.
- **Unresolved Contingency:** The Tribe's position was clear: unless the City can produce a definitive paper trail (such as grading permits or soil import logs) proving the project footprint is entirely devoid of original native soils, the potential for encountering cultural resources remains high.
- **Failure of Proof:** The City has failed to produce such documentation. Consequently, the Applicant's reliance on the 2020 Initial Study's "artificial fill" description does not satisfy the specific evidentiary threshold requested by the Tribe. By the City's own admission, 60% of the excavation depth (the 2-5 foot range) occurs in the very *undisturbed* soil the Tribe identified as high-risk.

V. Addressing the Inadequate Consultation (Koi Nation Decision)

The Applicant attempts to distinguish this case from *Koi Nation v. City of Clearlake* by citing the quantity of letters sent. However, CEQA compliance is measured by the substance of the engagement, not the volume of the correspondence.

- **Process vs. Substance:** While the Applicant claims the City sent Pre-Closure and Closing letters, the City failed to address the Tribe's substantive concerns regarding the origin of the subsurface soils. Sending a letter to announce the end of a conversation is not the same as participating in one.
- **Evidence of Non-Response:** On August 30, 2022, the Gabrieleno Administration explicitly requested a formal response and "substantial findings" on why their information was deemed insufficient to protect tribal resources. (**Attachment A**)
As of **February 5, 2026**, the City's Custodian of Records has confirmed that no further communication exists between City Staff and the Tribe following that request. The email states, in part "To confirm - no further communication was found between City Staff and the Tribe." (**Attachment B**)

The only subsequent emails found were determined to be internal "attorney-client privileged" communications, confirming that the Tribe's inquiries were ignored rather than answered.

- **Inadequate Closure:** Just as in *Koi Nation*, a lead agency cannot conclude consultation simply by sending a notice if it has failed to engage with the logical, evidence-based requirements provided by the Tribe. By failing to provide the requested response and instead issuing a boilerplate statement in the DEIR, the City rendered the AB 52 consultation a hollow, empty exercise.

VI. Quantifiable Impact to Native Soils (0-5 Foot Depth)

The Applicant's reliance on the previously disturbed narrative is factually undermined by the project's own geotechnical and administrative record. A precise analysis of the excavation depth versus the soil profile reveals a significant, unmitigated impact:

- **The 3-Foot Native Soil Penetration:** The Final EIR (FEIR) and City records admit that artificial fill only exists to a depth of 2 feet. However, the LADBS Letter of Determination confirms that utility removal and foundation demolition will reach 5 feet.
 - **The Reality:** The project will penetrate 3 feet directly into undisturbed Alluvial fan deposits (native soils). Under AB 52, these native layers are identified by the Kizh Nation as high-sensitivity zones for Tribal Cultural Resources (TCR).
- **The Furuya Admission (October 7, 2020):** During the consultation, City Planner Bradley Furuya acknowledged the Tribe's specific interest in the 0-5 foot depth. Despite this recognition, the City failed to reconcile the contradiction between their "no impact" conclusion and the admitted 3-foot penetration into native soil.
- **Failure of Substantial Evidence:** The City's dismissal of the Tribe's expertise as perfunctory ignores the legal requirement to treat tribal knowledge as *substantial evidence*. The Applicant cannot point to a "disturbed" surface and claim the entire 5-foot vertical column is sterile when their own reports confirm that 60% of that column is native, undisturbed earth.
- **The "Cage Effect" Conclusion:** By failing to investigate the origin of the top 2 feet of fill (as requested by the Tribe on November 23, 2020) and ignoring the 3 feet of native soil being excavated below that, the City has effectively bypassed the EIR process for the very impacts the Tribe warned about most.

CF 25-1518
Public Comment Letter
Rebuttal of 01/20/2026
Alston & Bird Letter
02-05-2026

Conclusion

Because the City has failed to provide the Tribe with documentation proving the removal of native soils, the FEIR is *inadequate and fatally flawed*. It is a conclusion based on incomplete data, rendering the entire environmental review process legally indefensible.

I urge the PLUM Committee to **grant the appeal** and deny the certification of the EIR.

I further move that the Committee **rescind all associated actions** taken by the Los Angeles Board of Building and Safety Commissioners (BBSC) on November 18, 2025, and described in the November 19, 2025 Final Action Letter, –specifically the certification of the EIR, the Mitigation and Monitoring Program, and the Statement of Overriding Considerations.

Any finding that preservation is "infeasible" under LAMC Section 91.106.4.5 is invalid when the underlying environmental data is this demonstrably deficient.

Sincerely,

Sieglinde Kruse Blue

Sieglinde Kruse Blue

CC: Hydee Feldstein Soto, LA City Attorney,
hydee.feldsteinsoto@lacity.org
Kenneth Fong, LA Deputy City Attorney,
Kenneth.fong@lacity.org
Bob Blumenfield, councilmember.blumenfield@lacity.org
Heather Hutt, cd10@lacity.org
Adrin Nazarian, councilmember.nazarian@lacity.org
John S. Lee, councilmember.lee@lacity.org
Nithya Raman, contactCD4@lacity.org
Candy Rosales, Candy.rosales@lacity.org

Los Angeles City Clerk (via City's website portal)

Attachment A: 07-21-2022 Email communication between City Planner Harris and Native Tribe

Attachment B: 02-05-2026 Email communication from Custodian of Records for City Planning of Los Angeles

Attachment A

07-21-2022 Email communication between
City Planner Harris and Native Tribe



James Harris <james.harris@lacity.org>

Barry Building ENV-2019-6645-EIR

1 message

James Harris <james.harris@lacity.org>

To: Gabrieleño Administration <admin@gabrielenoindians.org>

Thu, Jul 21, 2022 at 9:59 AM

Chairman Salas:

Thank you for the opportunity to discuss the Barry Building Project located at 11973 San Vicente Blvd (Case No. ENV-2019-6645-EIR) on October 7, 2020, and for providing follow up information. We recognize that the AB 52 consultation process requires on-going collaboration between the City and sovereign Tribal governments, including the Gabrieleño Band of Mission Indians – Kizh Nation, and very much appreciate the Tribe's dedication to continued conversations and collaboration with the City regarding this Project.

As indicated in the AB 52 Pre-Closure of Consultation letter sent to you on July 6, 2022, the City's tribal cultural resources analysis for the Project is set forth in the Draft EIR Tribal Cultural Resources Section and associated Appendix. Although no evidence was found identifying any tribal cultural resources on the Project Site, and the analysis in the Project's Draft EIR concludes that there would not be a potential significant impact on tribal cultural resources, we recognize the Tribe's concerns noted in your November 2, 2020, email. As discussed and analyzed in the Tribal Cultural Resources Section of the Draft EIR, the City's *Condition of Approval – Tribal Cultural Resource Inadvertent Discovery* would be imposed under the City's police powers to protect any potential inadvertent discovery of tribal cultural resources during construction activities.

The Tribe may submit written comments on the adequacy of the Draft EIR, to be made public and incorporated in the Final EIR.

Sincerely and respectfully,

Jim Harris



Jim Harris
Major Projects
Los Angeles City Planning
221 N. Figueroa St., Room 1350
Los Angeles, CA 90012
T: (213) 978-1241 | Planning4L.A.org





James Harris <james.harris@lacity.org>

Barry Building ENV-2019-6645-EIR

Gabrieleno Administration <admin@gabrielenoindians.org>

Tue, Aug 30, 2022 at 10:06 AM

To: James Harris <JAMES.HARRIS@lacity.org>, Jane Choi <jane.choi@lacity.org>

Cc: "Dr. Christina Swindall Martinez" <christinaswindall@yahoo.com>, ICRM <indigenous.crm@gmail.com>, Kara Grant <kara@grant-law.net>, Lauren Arenson <ljarenson@gmail.com>, Mari Pritchard Parker <mapp@pacbell.net>, "Matt Teutimez.Kizh Gabrieleno" <matt.teutimez@gmail.com>, Silvia El Sereno <aljcruzmoreno@gmail.com>

Hello James

Thank you for your email . Could you please provide how you or your agency evaluated or analyzed our information that "No "evidence was found identifying any tribal cultural resources on the Project Site" . Please note that our free information that we continuously provide to your agency during AB52 consultation " and that we know your consultants will eventually utilize" is in connection to the "traditionally" and "culturally affiliated" "geographic" area of where the project location is proposed. Consultation is also in regards to the current state law that provides a limited measure of protection for sites, features , places , objects , and " Landscapes with cultural value to California Native American Tribes such as ours . With that said we ask that you please provide a formal response along with your substantial findings on your final determination on how our oral and documented information was not substantial enough to protect our last remaining tribal cultural resources . Thank you for your time

Handbook of North American Indians

WILLIAM C. STURTEVANT

General Editor

VOLUME 8

California

ROBERT F. HEIZER

Volume Editor



SMITHSONIAN INSTITUTION

WASHINGTON

1978

Gabrielino

LOWELL JOHN BEAN AND CHARLES R. SMITH

The Gabrielino (gábré'léño) are, in many ways, one of the most interesting—yet least known—of native California peoples. At the time of Spanish contact in 1769 they occupied the "most richly endowed coastal section in southern California" (Blackburn 1962-1963:6), which is most of present-day Los Angeles and Orange counties, plus several offshore islands (San Clemente, Santa Catalina, San Nicolas). With the possible exception of the Chumash, the Gabrielino were the wealthiest, most populous, and most powerful ethnic nationality in aboriginal southern California, their influence spreading as far north as the San Joaquin valley Yokuts, as far east as the Colorado River, and south into Baja California. Unfortunately, most if not all Gabrielinos were dead long before systematic ethnographic studies were instituted; and, as a result, knowledge of them and their lifeways is meager.

Language, Territory, and Environment

Gabrielino was one of the Cupan languages in the Uto family, which is part of the Uto-Aztec language stock (Bright 1975).¹ Internal linguistic differences caused Harrington (1962:vi) to suggest four dialects and Kroeber (1925, see Harrington's four-part division includes Gabrielino proper, spoken mainly in the Los Angeles basin area, Fernandeño, spoken by people north of the Los Angeles basin, mainly in the San Fernando Valley region; Santa Catalina Island dialect; and San Nicolas Island dialect—although according to Bright (1975) insufficient data exist to be sure of the Cupan affiliation of the San Nicolas speech. There were probably dialectical differences also between many mainland villages as a result not only of geographical separation but also of social, cultural, and linguistic mixing with neighboring non-Gabrielino speakers.

The names Gabrielino and Fernandeño (fernáñéño) refer to the two major Spanish missions established in Gabrielino territory—San Gabriel and San Fernando.

¹ Italicized Gabrielino words have been written in a phonemic alphabet by Kenneth Hill on the basis of John Peabody Harrington's unpublished transcripts. The consonants are: stops and affricates p, t, k, k'; fricatives s, ch, h, (nasalism), n, m (approximants), ʃ, ʒ, y, w. Stressed vowels are e, ε, i, ɛ, o, ɔ, u, which may occur long or short; in unstressed syllables the vowels are only i, ɛ, a, and u.

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It was to these two missions that the majority of the Indians living on the coastal plains and valleys of southern California were removed.

Although the major outlines of Gabrielino territorial occupation are known, the fixing of definitive boundaries is difficult. Generally, Gabrielino territory included the watersheds of the Los Angeles, San Gabriel, and Santa Ana rivers, several smaller intermittent streams in the Santa Monica and Santa Ana mountains, all of the Los Angeles basin, the coast from Aliso Creek in the south to Topanga Creek in the north, and the islands of San Clemente, San Nicolas, and Santa Catalina (fig. 1). The area thus bounded encompassed several biotic zones (such as Coast-Marsh, Coastal Strand, Prairie, Chaparral, Oak Woodland, Pine) and, following Hudson's (1971) studies, can be divided into four macro-environmental zones (excluding the islands): Interior Mountains/Adjacent Foothills, Prairie, Exposed Coast, and Sheltered Coast. Each area is characterized by a particular faunal-geographical relationship that allows delineation of subsistence-settlement patterns "according to the macro-environmental setting." The interior mountains and foothills, according to Hudson, comprise an area of numerous resources including "many small animals, deer, acorns, sage, piñon nuts, and a variety of other plants and animal foods." Settlement-pattern studies

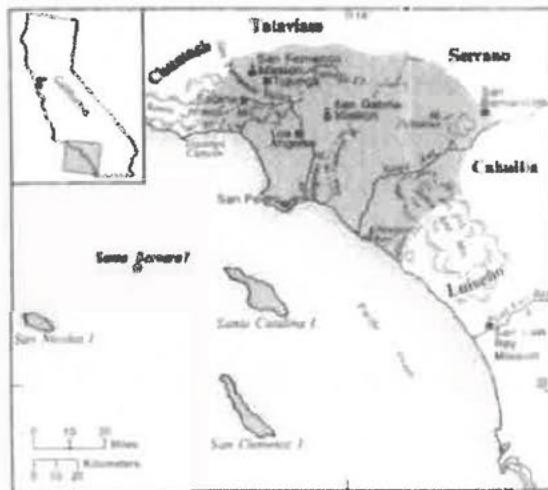


Fig. 1. Tribal territory.

Admin Specialist**Gabrieleno Band of Mission Indians - Kizh Nation****PO Box393****Covina, CA 91723****Office:844-390-0787****website: www.gabrielenoindians.org**

The region where Gabrieleño culture thrived for more than eight centuries encompassed most of Los Angeles County, more than half of Orange County and portions of Riverside and San Bernardino counties. It was the labor of the Gabrieleño who built the missions, ranchos and the pueblos of Los Angeles. They were trained in the trades, and they did the construction and maintenance, as well as the farming and managing of herds of livestock. "The Gabrieleño are the ones who did all this work, and they really are the foundation of the early economy of the Los Angeles area ". "That's a contribution that Los Angeles has not recognized—the fact that in its early decades, without the Gabrieleño, the community simply would not have survived."

[Quoted text hidden]

Admin Specialist**Gabrieleno Band of Mission Indians - Kizh Nation****PO Box393****Covina, CA 91723****Office: 844-390-0787****website: www.gabrielenoindians.org**

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Attachment B

02-05-2026 Email communication from
Custodian of Records for
City Planning of Los Angeles

Fwd: Barry Building Follow Up, TCR and Final Action Letter, Action No. 5

From: Beatrice Pacheco (beatrice.pacheco@lacity.org)
To: bob.blue@live.com
Cc: ziggykruse2005@yahoo.com; planning.custodianofrecords@lacity.org
Date: Thursday, February 5, 2026 at 08:14 AM PST

Good morning, Bob:

Your email was forwarded to me as I am the Custodian of Records for City Planning of Los Angeles.

Please be advised that the City Planning staff reviewed all previous potential records for subsequent email communication after the Close of Consultation between the Department of City Planning and the Tribe. The only subsequent emails from Jim Harris regarding the consultation process have been determined to be attorney-client privileged and therefore would not be provided pursuant to the California Public Records Act, as attorney-client privileged communications are generally exempt from disclosure. To confirm - no further communication was found between City Staff and the Tribe.

If we can assist you any further, please let us know.

Thank you.



**Beatrice Pacheco, Chief Clerk
Department of City Planning**
T: (213) 847-3732
221 N. Figueroa St., Room 1450
Los Angeles, CA 90012



----- Forwarded message -----

From: Milena Zasadzien <milena.zasadzien@lacity.org>
Date: Wed, Feb 4, 2026 at 8:00 AM
Subject: Re: Barry Building Follow Up, TCR and Final Action Letter, Action No. 5
To: Bob Blue <bob.blue@live.com>
Cc: Ziggy Kruse <ziggykruse2005@yahoo.com>

Hi Bob,

I'm looking into whether James or anyone else responded regarding the TCR concerns from 8/30/2022, and regarding the Final Action Letter and the statute of limitations, we should likely have a response to you later today or tomorrow. Appreciate your patience.

Thanks,
Milena



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