



Allyson Brooks Ph.D., Director
State Historic Preservation Officer

March 30, 2017

Mr. Jesse Waknitz
Port of Port Angeles
338 W. First Street
Port Angeles, WA98362

In future correspondence please refer to:

Project Tracking Code: 2017-03-02268

Property: Port of Port Angeles DNS for Terminal 7 & Site Redevelopment and Stormwater Conveyance Improvements

Re: Archaeology – Professional Archaeological Monitor and archaeological Monitoring and Inadvertent Discovery Plan (MIDP) Requested

Dear Mr. Waknitz:

Thank you for contacting the Washington State Historic Preservation Officer (SHPO) and Department of Archaeology and Historic Preservation (DAHP) and providing documentation regarding the above referenced project. The project area is adjacent to archaeological site 45CA523Tse-whit-zen Village Site and archaeological resources associated with this site may extend into the project area. Depths of fill vary across the project area and it is likely that precontact archaeological resource will be discovered during ground disturbing activities. Please be aware that archaeological sites are protected from knowing disturbance on both public and private lands in Washington States. Both RCW 27.44 and RCW 27.53.060 require that a person obtain a permit from our Department before excavating, removing, or altering Native American human remains or archaeological resources in Washington. Failure to obtain a permit is punishable by civil fines and other penalties under RCW 27.53.095, and by criminal prosecution under RCW 27.53.090.

Chapter 27.53.095 RCW allows the Department of Archaeology and Historic Preservation to issue civil penalties for the violation of this statute in an amount up to five thousand dollars, in addition to site restoration costs and investigative costs. Also, these remedies do not prevent concerned tribes from undertaking civil action in state or federal court, or law enforcement agencies from undertaking criminal investigation or prosecution. Chapter 27.44.050 RCW allows the affected Indian Tribe to undertake civil action apart from any criminal prosecution if burials are disturbed.

Identification of archaeological resources during construction is not a recommended detection method because inadvertent discoveries often result in costly construction delays and damage to the resource. We request that a professional archaeologist be onsite to monitor ground disturbing activities including those for outfalls, lift stations, pressure mains and grading. An MIDP should be prepared and submitted to DAHP and the interested Tribes for review prior to ground disturbance.



Thank you for the opportunity to comment on this project and we look forward to receiving the MIDP for review. Should you have any questions, please feel free to contact me.

Sincerely,

A handwritten signature in blue ink that reads "Gretchen Kaehler". The signature is written in a cursive style and is followed by a long horizontal flourish.

Gretchen Kaehler
Assistant State Archaeologist, Local Governments
(360) 586-3088
gretchen.kaehler@dahp.wa.gov

cc. William White, Archaeologist, LEKT

from one to 4 feet. The Port will also be installing 1,100 feet of force main at a depth of 4 feet below the ground surface, as well as a lift station, valve vault and settling vault at a depth between 12 and 18 feet below the ground surface.

The ground disturbing work proposed by the Port for this Project is likely to have a probable significant adverse impact on the environment, primarily to archeological resources and human remains associated with the Tribe. The Port has made an effort to decrease the overall scope of the regrading that will be done for the project. However, the entire area will still need to be monitored for archeological resources during this regrading. In addition, the force main, lift station, valve vault and settling vault have a very high potential to impact archeological resources and human remains given the density in which those features were found at the adjacent Tsewhitzen site, which is assumed to extend both east and west of the Tribe's property.

Consistent with Section 9.6.3 of the August 14, 2006 Settlement Agreement among the State of Washington, Lower Elwha Klallam Tribe, City of Port Angeles and Port of Port Angeles (the "2006 Settlement Agreement"), the Tribe will expect to have its archeologist and Tribal member monitors on site to monitor all ground disturbing work during the project. The Tribe's archeologist and Tribal member monitors must also have the authority to direct the Port's contractor to stop work or modify excavations to expose suspected cultural resources. The Port's Cultural Resources Monitoring and Discovery Plan for the Terminal 7 Site Redevelopment and Stormwater Conveyance Improvements Project dated June 27, 2017, must be amended to reflect this requirement.

In addition, Section 9.6.3 of the 2006 Settlement Agreement requires that the Tribe be consulted on the proposed mitigation plan for ground disturbing projects that are to occur in a culturally sensitive area of interest to the Tribe. The area immediately adjacent to the Tribe's Tsewhitzen property, which is listed on the National Register of Historic Places qualifies as such a culturally sensitive area. One of the areas evaluated for the National Register listing is known to extend into the Project area, but the eastern extent of that area is unknown. The Tribe's position is that the consultation on mitigation should occur in advance of an MDNS being issued that relies upon a monitoring and discovery plan before the Tribe has had an opportunity to review or consult on that plan, or the draft SEPA Environmental Checklist, on a government-to-government basis with the Port. A determination of non-significance cannot be made in the absence of consultation with the Tribe that will be most impacted by the decision.

Specifically, the Tribe does not agree that intact cultural deposits and burials are not likely to be encountered at depths of four feet or less. The Tribe's prior experience in the Project area has demonstrated otherwise.

The 2006 Settlement Agreement and state law, RCW 27.53, require an archeological excavation permit from the DAHP prior to the disturbance of any archeological resource. The Tribe requests that the Port conduct an archeological survey of the Project area, particularly the area adjacent to the archeological area that extends onto the Port's property (this area can be more particularly identified in a confidential setting), and the areas around the proposed 1,100 foot trench for the force main, the proposed lift station, valve vault, settling vault, and asphalted roadway. If the results of the testing are positive, then the Port must seek an Archaeological Excavation Permit from the DAHP. Given the very high probability of archeological resources in the Project area, this testing should be completed prior to the initiation of the Project.

Jesse Waknitz
July 21, 2017
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The Tribe looks forward to continued communication on this matter with the Port. Please do not hesitate to contact me at (360) 452-8471, ext. 7436 with any questions or requests for additional information.

Sincerely,



Samuel D. Hough
Associate Tribal Attorney
Lower Elwha Klallam Tribe

CC: Dr. Allyson Brooks, SHPO
Gretchen Kaehler, DAHP
Nathan West, Director of Community and Economic Development

Nathan West
June 26, 2017
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a large number of burials, with 335 human remains recovered on the Tribe's parcel during the SR 104 Hood Canal Bridge East Half Replacement Project in 2004.

The Port did not prepare an adequate archeological site assessment report for its Terminal 7 stormwater project. In Section 9k of its JARPA, the Port listed studies conducted for previous projects. The response mentions the Tse-whit-zen village site as an adjacent property. Had adequate investigation been conducted, the Port's response would have identified the Tse-whit-zen village site as extending throughout Terminal 7. The Tribe requests that the Port be required to hire a consulting archeologist to prepare an archaeological site assessment report for the project. The Tribe further requests the opportunity to consult with the City over the results of the report to determine whether, or to what extent, additional studies should be conducted for the project.

There is a very strong likelihood that archeological resources and human remains will be discovered as a result of the significant ground disturbing activities proposed by the Port. For this reason, the Tribe is requesting that an archaeological monitoring and inadvertent discovery plan be prepared and submitted to the City, the Washington Department of Archaeology and Historic Preservation (DAHP) and the Tribe for review and approval prior to any ground disturbance. The Tribe is also requesting that the Port be required to hire a professional archeologist and a sufficient number of cultural resource monitors from the Tribe to be on site and observe all of the ground disturbing activities. The archaeological monitoring and inadvertent discovery plan and the cultural resource monitoring contract between the Port and the Tribe must provide the professional archeologist and the cultural resource monitors with the authority to immediately halt all ground disturbance if any potential artifacts or human remains are discovered. In the event of such a discovery, the Port must notify the City, and the City will in turn notify the Tribe, the DAHP and the County Coroner as required by the archeological monitoring and inadvertent discovery plan. Ground disturbing activities will not resume until the archeological resources are properly protected. Finally, the professional archeologist should be required to submit a detailed professional report to the City and the Tribe upon completion of the ground disturbing activities.

The Tribe looks forward to continued communication on this matter with the City. Please do not hesitate to contact me at (360) 452-8471, ext 7436 with any questions or requests for additional information.

Sincerely,



Samuel D. Hough
Associate Tribal Attorney
Lower Elwha Klallam Tribe