

**NATIVE AMERICAN HERITAGE COMMISSION**

915 CAPITOL MALL, ROOM 364  
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August 11, 2010

<b>DOCKET</b>	
<b>07-AFC-5</b>	
DAT	<u>AUG 11 2010</u>
RECD	<u>AUG 18 2010</u>

Ms. Dorothy Torres  
**CALIFORNIA ENERGY COMMISSION**  
1516 Ninth Street  
Sacramento, CA 95814

RE: SCH#2010084001; Ivanpah Solar Electric Generation System Project, eastern San Bernardino County, California

Dear Dorothy:

Enclosed for your information, only, are the NAHC comments on the above-referenced renewable energy project located in the Colorado River area of eastern San Bernardino County. The tribal Contacts are wanting for BLM to complete the *consultation process* required by the federal National Historic Preservation Act, Section 106.

Best regards,



Dave Singleton

Enclosures

395-10010

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August 11, 2010

Ms. Sandra McGinnis or Mr. George Meckfessel, Planning and Environmental Coordinators

**UNITED STATES DEPARTMENT OF THE INTERIOR****Bureau of Land Management**

1303 South Highway 95  
Needles, CA 92363

**UNITED STATES DEPARTMENT OF THE INTERIOR****Bureau of Land Management**

Attn: Brenda Williams  
Director (210)  
P.O. Box 66538  
Washington, D.C. 20035

Re: SCH#2010084001; NEPA/CEQA Notice of Completion; Final Environmental Impact Statement (EIS) for the "Proposed California Desert Conservation Area Plan Amendment / Final Environmental Impact Statement, Ivanpah Solar Electric Generating System Project ( Approximately 400MW of Electricity to be generated using Solar Thermal Technolgy, constructed by subsidiaries of BrightSource Energy; Estimated Surface Disturbance on 4,073-acres);" located in the eastern Mojave Desert near the Ivanpah Dry Lake and about ten miles west of Community of Primm, Nevada; located in San Bernardino County, California.

Dear Ms. McGinnis, Mr. Meckfessel and Ms. Williams:

The Native American Heritage Commission (NAHC) is the California state 'trustee agency' pursuant to Public Resources Code §21070 for the protection and preservation of California's Native American Cultural Resources.

The Native American Heritage Commission withholds a determination of opposition or support of this project subject to the completion by the Bureau of Land Management of the Tribal Consultation required by the National Historic Preservation Act, Section 106 process. The NAHC did perform a Sacred Lands File (SLF) search in the NAHC SLF Inventory, established by the Legislature pursuant to Public Resources Code §5097.94(a) and Native American Cultural Resources were not identified within one-half mile of the APE identified for the project. However, Native American cultural resources are in close proximity to the APE.

Early consultation with Native American tribes in your area is the best way to avoid unanticipated discoveries once a project is underway. Enclosed are the names of the culturally affiliated tribes and interested Native American individuals that the NAHC recommends as 'consulting parties,' for this purpose, that may have knowledge of the religious and cultural significance of the historic properties in the project area (e.g. APE). We recommend that you contact persons on the attached list of Native American contacts. A Native American Tribe or Tribal Elder may be the only source of information about a cultural resource.. Also, the NAHC recommends that a Native American Monitor or Native

American culturally knowledgeable person be employed whenever a professional archaeologist is employed during the 'Initial Study' and in other phases of the environmental planning processes.

Furthermore the NAHC recommends that you contact the California Historic Resources Information System (CHRIS) at the Office of Historic Preservation (OHP) Coordinator's office (at (916) 653-7278, for referral to the nearest OHP Information Center of which there are 10.

Consultation with tribes and interested Native American tribes and interested Native American individuals, as consulting parties, on the NAHC list, should be conducted in compliance with the requirements of federal NEPA (42 U.S.C. 4321-43351) and Section 106 and 4(f) of federal NHPA (16 U.S.C. 470 [f] *et seq.*), 36 CFR Part 800.3, the President's Council on Environmental Quality (CSQ; 42 U.S.C. 4371 *et seq.*) and NAGPRA (25 U.S.C. 3001-3013), as appropriate. The 1992 *Secretary of the Interior's Standards for the Treatment of Historic Properties* were revised so that they could be applied to all historic resource types included in the National Register of Historic Places and including *cultural landscapes*. *This project site is certainly within the 'cultural landscape of the Mojave*. Furthermore, consultation with Native American communities is also a matter of environmental justice as defined by California Government Code §65040.12(e) and the National Environmental Policy Act (42 U.S.C. 4321-43351).

Lead agencies should consider avoidance, as defined in Section 15370 of the California Environmental Quality Act (CEQA) when significant cultural resources could be affected by a project. Also, Public Resources Code Section 5097.98 and Health & Safety Code Section 7050.5 provide for provisions for accidentally discovered archeological resources during construction and mandate the processes to be followed in the event of an accidental discovery of any human remains in a project location other than a 'dedicated cemetery. Discussion of these should be included in your environmental documents, as appropriate.

The authority for the SLF record search of the NAHC Sacred Lands Inventory, established by the California Legislature, is California Public Resources Code §5097.94(a) and is exempt from the CA Public Records Act (c.f. California Government Code §6254.10). The results of the SLF search are confidential. However, Native Americans on the attached contact list are not prohibited from and may wish to reveal the nature of identified cultural resources/historic properties. Confidentiality of "historic properties of religious and cultural significance" may also be protected under Section 304 of the NHPA or at the Secretary of the Interior's discretion if not eligible for listing on the National Register of Historic Places. The Secretary may also be advised by the federal Indian Religious Freedom Act (cf. 42 U.S.C. 1996) in issuing a decision on whether or not to disclose items of religious and/or cultural significance identified in or near the APE and possibly threatened by proposed project activity.

The NHPA, Section 106 and the CEQA Guidelines, Section 15064.5(d) requires the lead agency to work with the Native Americans identified by this Commission if the initial Study identifies the presence or likely presence of Native American human remains within the APE. CEQA Guidelines provide for agreements with Native American, identified by the NAHC, to assure the appropriate and dignified treatment of Native American human remains and any associated grave liens. Although tribal consultation under the California Environmental Quality Act (CEQA; CA Public Resources Code Section 21000 – 21177) is 'advisory' rather than mandated, the NAHC does request 'lead agencies' to work with tribes and interested Native

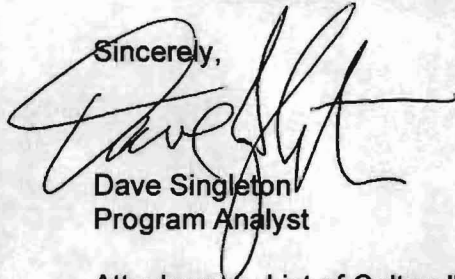
American individuals as 'consulting parties,' on the list provided by the NAHC in order that cultural resources will be protected. However, the 2006 SB 1059 the state enabling legislation to the Federal Energy Policy Act of 2005, does mandate tribal consultation for the 'electric transmission corridors. This is codified in the California Public Resources Code, Chapter 4.3, and §25330 to Division 15, requires consultation with California Native American tribes, and identifies both federally recognized and non-federally recognized on a list maintained by the NAHC

Health and Safety Code §7050.5, Public Resources Code §5097.98 and Sec. §15064.5 (d) of the California Code of Regulations (CEQA Guidelines) mandate procedures to be followed, including that construction or excavation be stopped in the event of an accidental discovery of any human remains in a location other than a dedicated cemetery until the county coroner or medical examiner (be contacted pursuant to California Government Code §27460, whether on federal or state land) can determine whether the remains are those of a Native American. . Note that §7052 of the Health & Safety Code states that disturbance of Native American cemeteries is a felony.

Again, Lead agencies should consider avoidance when significant cultural resources are discovered during the course of project planning and implementation.

Please feel free to contact me at (916) 653-6251 if you have any questions.

Sincerely,



Dave Singleton  
Program Analyst

Attachment: List of Culturally Affiliated Native American Contacts

Cc: State Clearinghouse  
California Energy Commission

Native American Contacts  
San Bernardino County  
August 11, 2010

San Manuel Band of Mission Indians  
James Ramos, Chairperson  
26569 Community Center Drive Serrano  
Highland , CA 92346  
(909) 864-8933  
(909) 864-3724 - FAX  
(909) 864-3370 Fax

Chemehuevi Reservation  
Charles Wood, Chairperson  
P.O. Box 1976 Chemehuevi  
Chemehuevi Valley CA 92363  
**chair1cit@yahoo.com**  
(760) 858-4301  
(760) 858-5400 Fax

Fort Mojave Indian Tribe  
Tim Williams, Chairperson  
500 Merriman Ave Mojave  
Needles , CA 92363  
(760) 629-4591  
(760) 629-5767 Fax

Colorado River Reservation  
Ginger Scott, Acting Cultural Contact  
Route 1, Box 23-B Mojave  
Parker , AZ 85344 Chemehuevi  
**symi@rraz.net**  
(928) 669-9211  
(928) 669-5675 Fax

AhaMaKav Cultural Society, Fort Mojave Indian  
Linda Otero, Director  
P.O. Box 5990 Mojave  
Mohave Valley AZ 86440  
**lindaotero@fortmojave,**  
(928) 768-4475  
(928) 768-7996 Fax

San Manuel Band of Mission Indians  
Ann Brierty, Policy/Cultural Resources Department  
26569 Community Center Drive Serrano  
Highland , CA 92346  
**abrierty@sanmanuel-nsn.**  
(909) 864-8933 EXT-3250  
(909) 649-1585 - cell  
(909) 862-5152 Fax

Fort Mojave Indian Tribe  
Nora McDowell, Cultural Resources Coordinator  
500 Merriman Ave Mojave  
Needles , CA 92363  
**g.goforth@fortmojave.com**  
(760) 629-4591  
(760) 629-5767 Fax

Serrano Nation of Indians  
Goldie Walker  
6588 Valaria Drive Serrano  
Highland , CA 92346  
(909) 862-9883

This list is current only as of the date of this document.

Distribution of this list does not relieve any person of statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5097.94 of the Public Resources Code and Section 5097.98 of the Public Resources Code. Also, federal National Environmental Policy Act (NEPA), National Historic Preservation Act, Section 106 and federal NAGPRA. And 36 CFR Part 800.3.

This list is only applicable for contacting local Native Americans for consultation purposes with regard to cultural resources impact by the proposed SCH#2010084001; NEPA Notice of Completion; Final Environmental Impact Statement (FEIS) for the Proposed California Desert Conservation Area Plan Amendment / Final Environmental Impact Statement (FEIS) for the IVANPAH SOLAR ELECTRIC GENERATING SYSTEM Project; in eastern San Bernard



Native American Contacts  
San Bernardino County  
August 11, 2010

Fort Mojave Indian Tribe  
Esadora Evanston, Environmental Coordinator  
500 Merriman Ave Mojave  
Needles , CA 92363  
region9epa@ftmojave.com  
(760) 326-1112  
(760) 629-4591  
(760) 629-5767 Fax

Las Vegas Paiute Tribe  
Attn: Cultural Resources Department  
1 Paiute Drive Paiute  
Las Vegas , NV 89106  
(702) 386-3926  
(702) 383-4019 - FAX

Quenchan Indian Nation  
Bridget Nash-Chrabasz, THPO  
P.O. Box 1899 Quechan  
Yuma , AZ 85366  
b.nash@quechantribe.com  
(928) 920-6068 - CELL  
(760) 572-2423

Ah-Mut-Pipa Foundation  
Preston J. Arrow-weed  
P.O. Box 160 Quechan  
Bard , CA 92222 Kumeyaay  
(928) 388-9456

ahmut@earthlink.net

MOAPA Paiute Band of the Moapa Reservation  
Attn: Cultural Resources Department  
P.O. Box 56 Paiute  
Moapa , NV 89025  
(702) 865-2787  
(702) 865-2875 - FAX

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