

STATE OF CALIFORNIA

Edmund G. Brown, Jr., Governor

NATIVE AMERICAN HERITAGE COMMISSION

915 CAPITOL MALL, ROOM 364
 SACRAMENTO, CA 95814
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 ds_nahc@pacbell.net

**DOCKET****11-AFC-1**

DATE Aug 02 2011

RECD. Aug 04 2011

August 2, 2011

Ms. Sarah M. Allred, Planner II – Cultural Resources

California Energy Commission**Siting Transmission & Environmental Protection Division**

1516 Ninth Street
 Sacramento, CA 95814-5512

Sent by FAX to: 916-651-8868

No. of Pages: 5

Re: Sacred Lands File Search and Native American Contacts list for the "Proposed Pio Pico Energy Center Project comprised of a Power Plant and electric and gas transmission lines of one-half mile to two miles in length; Located in the Otay Mesa are of southern San Diego County, California

Dear Ms. Aallred:

The Native American Heritage Commission (NAHC) conducted a Sacred Lands File search of the 'area of potential effect,' (APE) based on the USGS coordinates provided and found **Native American cultural resources were not identified** in the USGS coordinates you specified. Also, please note; the NAHC Sacred Lands Inventory is not exhaustive. This area is known to the NAHC to be very culturally sensitive. Native American cultural resources may be inadvertently discovered during groundbreaking activity.

The California Environmental Quality Act (CEQA – CA Public Resources Code §§ 21000-21177, amendments effective 3/18/2010) requires that any project that causes a substantial adverse change in the significance of an historical resource, that includes archaeological resources, is a 'significant effect' requiring the preparation of an Environmental Impact Report (EIR) per the CEQA Guidelines defines a significant impact on the environment as 'a substantial, or potentially substantial, adverse change in any of physical conditions within an area affected by the proposed project, including ... objects of historic or aesthetic significance.' In order to comply with this provision, the lead agency is required to assess whether the project will have an adverse impact on these resources within the 'area of potential effect (APE), and if so, to mitigate that effect. CA Government Code §65040.12(e) defines "environmental justice" provisions and is applicable to the environmental review processes.

Early consultation, even during Initial Study or First Phase surveys with Native American tribes in your area is the best way to avoid unanticipated discoveries once a project is underway. Local Native Americans may have knowledge of the religious and cultural significance of the historic properties of the proposed project for the area (e.g. APE). Consultation with Native American communities is also a matter of environmental justice as defined by California Government Code §65040.12(e). We urge consultation with those tribes and interested Native Americans on the list of Native American Contacts we attach to this letter in order to see if your proposed project might impact Native American cultural resources. Lead agencies should consider avoidance as defined in §15370 of the CEQA Guidelines when

significant cultural resources as defined by the CEQA Guidelines §15064.5 (b)(c)(f) may be affected by a proposed project. If so, Section 15382 of the CEQA Guidelines defines a significant impact on the environment as "substantial," and Section 2183.2 which requires documentation, data recovery of cultural resources.

Partnering with local tribes and interested Native American 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 4(f), Section 110 (f)(k) of federal NHPA (16 U.S.C. 470 *et seq*), 36 CFR Part 800.3 (f) (2) & .5, 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 Interiors 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. Also, federal Executive Orders Nos. 11593 (preservation of cultural environment), 13175 (coordination & consultation) and 13007 (Sacred Sites) are helpful, supportive guides for Section 106 consultation.

Also, California Public Resources Code Section 5097.98, California Government Code §27491 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', another important reason to have Native American Monitors on board with the project.

To be effective, consultation on specific projects must be the result of an ongoing relationship between Native American tribes and lead agencies, project proponents and their contractors, in the opinion of the NAHC. An excellent way to reinforce the relationship between a project and local tribes is to employ Native American Monitors in all phases of proposed projects including the planning phases.

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 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 possibility threatened by proposed project activity.

If you have any questions about this response to your request, please do not hesitate to contact me at (916) 653-6251.

Sincerely,


Dave Singleton

Attachment: Native American Contact List

California Native American Contact List
San Diego County
August 2, 2011

Barona Group of the Capitan Grande
 Edwin Romero, Chairperson
 1095 Barona Road Diegueno
 Lakeside , CA 92040
 sue@barona-nsn.gov
 (619) 443-6612
 619-443-0681

Sycuan Band of the Kumeyaay Nation
 Danny Tucker, Chairperson
 5459 Sycuan Road Diegueno/Kumeyaay
 El Cajon , CA 92021
 sslva@sycuan-nsn.gov
 619 445-2613
 619 445-1927 Fax

La Posta Band of Mission Indians
 Gwendolyn Parada, Chairperson
 PO Box 1120 Diegueno/Kumeyaay
 Boulevard , CA 91905
 gparada@lapostacasino.
 (619) 478-2113
 619-478-2125

Viejas Band of Kumeyaay Indians
 Anthony R. Pico, Chairperson
 PO Box 908 Diegueno/Kumeyaay
 Alpine , CA 91903
 jrothau@viejas-nsn.gov
 (619) 445-3810
 (619) 445-5337 Fax

San Pasqual Band of Mission Indians
 Allen E. Lawson, Chairperson
 PO Box 365 Diegueno
 Valley Center, CA 92082
 allenl@sanpasqualband.com
 (760) 749-3200
 (760) 749-3876 Fax

Kumeyaay Cultural Historic Committee
 Ron Christman
 56 Viejas Grade Road Diegueno/Kumeyaay
 Alpine , CA 92001
 (619) 445-0385

Tipay Nation of Santa Ysabel
 Virgil Perez, Spokesman
 PO Box 130 Diegueno
 Santa Ysabel, CA 92070
 brandietaylor@yahoo.com
 (760) 765-0845
 (760) 765-0320 Fax

Campo Kumeyaay Nation
 Monique LaChappa, Chairperson
 36190 Church Road, Suite 1 Diegueno/Kumeyaay
 Campo , CA 91906
 (619) 478-9046
 miachappa@campo-nsn.gov
 (619) 478-5818 Fax

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

Distribution of this list does not relieve any person of the 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.

This list is only applicable for contacting local Native Americans with regard to cultural resources for the proposed Power Plant and one-half to two miles of electrical and gas lines; located in the Otay Mesa area of southern San Diego County, California which a Sacred Lands File search and Native American Contacts were requested.

California Native American Contact List
San Diego County
August 2, 2011

Jamul Indian Village
 Kenneth Meza, Chairperson
 P.O. Box 612
 Jamul, CA 91935
jamulrez@sctdv.net
 (619) 669-4785
 (619) 669-48178 - Fax

Diegueno/Kumeyaay

Inaja Band of Mission Indians
 Rebecca Osuna, Spokesperson
 2005 S. Escondido Blvd.
 Escondido, CA 92025
 (760) 737-7628
 (760) 747-8568 Fax

Mesa Grande Band of Mission Indians
 Mark Romero, Chairperson
 P.O. Box 270
 Santa Ysabel, CA 92070
mesagrandeband@msn.com
 (760) 782-3818
 (760) 782-9092 Fax

Diegueno

Kumeyaay Cultural Repatriation Committee
 Steve Banegas, Spokesperson
 1095 Barona Road
 Lakeside, CA 92040
 (619) 742-5587 - cell
 (619) 742-5587
 (619) 443-0681 FAX

Kumeyaay Cultural Heritage Preservation
 Paul Cuero
 36190 Church Road, Suite 5
 Campo, CA 91906
 (619) 478-9046
 (619) 478-9505
 (619) 478-5818 Fax

Diegueno/ Kumeyaay

Ewiiapaayp Tribal Office
 Will Micklin, Executive Director
 4054 Willows Road
 Alpine, CA 91901
wmicklin@leaningrock.net
 (619) 445-6315 - voice
 (619) 445-9126 - fax

Kwaaymii Laguna Band of Mission Indians
 Carmen Lucas
 P.O. Box 775
 Pine Valley, CA 91962
 (619) 709-4207

Diegueno -

Ewiiapaayp Tribal Office
 Michael Garcia, Vice Chairperson
 4054 Willows Road
 Alpine, CA 91901
michaelg@leaningrock.net
 (619) 445-6315 - voice
 (619) 445-9126 - fax

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California Native American Contact List
San Diego County
August 2, 2011

Ipai Nation of Santa Ysabel
 Clint Linton, Director of Cultural Resources
 P.O. Box 507 Diegueno/Kumeyaay
 Santa Ysabel, CA 92070
 cjlinton73@aol.com
 (760) 803-5694
 cjlinton73@aol.com

Kumeyaay Cultural Repatriation Committee
 Bernice Paipa, Vice Spokesperson
 P.O. Box 1120 Diegueno/Kumeyaay
 Boulevard, CA 91905
 (619) 478-2113

Manzanita Band of the Kumeyaay Nation
 Leroy J. Elliott, Chairperson
 P.O. Box 1302 Diegueno/Kumeyaay
 Boulevard, CA 91905
 (619) 766-4930
 (619) 766-4957 - FAX

Kumeyaay Diegueno Land Conservancy
 M. Louis Guassac, Executive Director
 P.O. Box 1992 Diegueno/Kumeyaay
 Alpine, CA 91903
 guassacl@onebox.com
 (619) 952-8430

Viejas Kumeyaay Indian Reservation
 Frank Brown
 240 Brown Road Diegueno/Kumeyaay
 Alpine, CA 91901
 FIREFIGHTER69TFF@AOL.
 619) 884-6437

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