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Submitted On: 9/13/2024  
Docket Number: 17-MISC-01*

**Blue Lake Rancheria - Tribal Partnership, Engagement, &  
Transmission Corridor Evaluation 2024**

*Additional submitted attachment is included below.*

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9/13/2024

California Energy Commission  
Attention: David Hochschild, Chair  
Docket Unit, MS-4  
Docket No. 17-MISC-01  
715 P Street  
Sacramento, CA 95814

Submitted via electronic mail to [doCKET@energy.ca.gov](mailto:doCKET@energy.ca.gov)

Dear Chair Hochschild,

On behalf of the Blue Lake Rancheria Tribe, we appreciate the opportunity to submit the following comments in response to the California Energy Commission's (CEC) publishing of the Aspen Environmental Group's 2-volume Transmission Corridor Evaluation for the Humboldt Wind Energy Area on July 17, 2024 and the addendum Substation Planning Evaluation for the Humboldt Wind Energy Area published on August 8, 2024, both of which are based on the California Independent System Operator's (CAISO) approved 2023-2024 Transmission Plan.

The CAISO-approved 2023-2024 Transmission Plan has opened the process up to competitive solicitation for developing transmission lines necessary to service offshore wind-related energy development on the North Coast.<sup>1</sup> As this process proceeds, however, Tribal consultation requirements seem to remain primarily limited to late-stage permitting, as required by AB 52 through the California Environmental Quality Act (CEQA). This late-stage permitting consultation is insufficient to provide accurate foresight on potential cultural and environmental barriers to project completion. As other large-scale transmission projects have demonstrated, such an approach can result in delayed projects, unnecessary conflict, and increased cost for project implementation.<sup>2</sup> This late-stage method also reinforces the 'decide-announce-defend'

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<sup>1</sup> California ISO. Rep. 2023-2024 Transmission Plan, 2024.

<sup>2</sup> U.S. Department of the Interior, Bureau of Land Management, *Record of Decision for the SunZia Southwest Transmission Project*, May 17, 2023, [https://eplanning.blm.gov/public\\_projects/2011785/200481766/20078613/250084795/20230517%20SunZia%20ROD\\_508.pdf](https://eplanning.blm.gov/public_projects/2011785/200481766/20078613/250084795/20230517%20SunZia%20ROD_508.pdf).

See also., *Tribes taken Biden administration to court over \$4 billion energy project - Indianz.Com*

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infrastructure development framework – a direct contradiction to the notion of free, prior, and informed consent and self-determination over energy infrastructure being advanced in ancestral Tribal lands.

The purpose of this letter is to i) call upon the CEC's leadership in ensuring offshore wind-related development takes place with robust Tribal leadership and partnerships, and ii) inform transmission developers of our Nation's interest in engaging with them prior to their October sponsor submissions and thereafter.

The AB 525 process has highlighted the critical leadership role that the CEC plays in ensuring Tribal sovereignty is considered a central tenant in selecting a transmission-related project sponsor. The California Energy Commission should use its leadership position to enforce the key provisions of AB 525, ensuring equitable involvement of Native American tribes in offshore wind development.

1. **Tribal Consultation:** AB 525 mandates "early, often, and meaningful consultations with California Native American tribes" and collaborative strategies to avoid, minimize, and mitigate impacts to tribal cultural, natural, and economic resources.<sup>3</sup> The CEC should leverage its leadership to ensure these consultations are substantive and ongoing.
2. **Tribal Monitoring Contracts:** AB 525 encourages project proponents to contract with tribes for "cultural and environmental monitoring pre, during, and post construction" of offshore wind projects, including port improvements and transmission infrastructure.<sup>3</sup> The CEC should require developers to engage tribes in these critical roles.
3. **Community Benefit Agreements (CBAs):** AB 525 urges the state to work with BOEM to promote "meaningful CBAs with California Native American tribes" to address tribal concerns and advance tribal priorities.<sup>3</sup> The CEC should use its position to ensure CBAs deliver tangible benefits to tribes.

To advance AB 525's strategic plan for offshore wind<sup>4</sup> the CEC should, **i) emphasize in all relevant forums the need for potential applicants to propose robust, thorough Tribal partnership and engagement models in any preliminary design proposals submitted to the CAISO solicitation process;**<sup>5</sup> **ii) initiate joint agency planning and coordination around the transmission process to ensure the inclusion of robust Tribal decision-making in the**

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<sup>3</sup>California Energy Commission. *Assembly Bill 525 Offshore Wind Energy Strategic Plan*. California Natural Resources Agency, 25 June 2024.

<sup>4</sup>California Energy Commission. *Assembly Bill 525 Offshore Wind Energy Strategic Plan*. California Natural Resources Agency, 25 June 2024.

<sup>5</sup> CAISO's solicitation ends on October 7 and 28.

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**earliest stages of project development; and iii) be consistently present on the North Coast during transmission planning and development and encourage partner agencies to do the same.** While we are providing comments specific to the North Coast Transmission Projects solicitations, creating a strong framework around all components of the offshore wind cluster is necessary in any project development.

## I. Recommendations

The following recommendations offer expectations for project sponsor and state engagement on transmission-related work. This does not constitute a complete list of *expectations*, nor should it be considered a substitute for formal, government-to-government consultation efforts.<sup>6</sup>

### 1) Analysis around project development must accurately estimate potential impacts on Tribal lands.

The term “Tribal lands” should not be conflated with designated trust lands currently maintained by Tribal governments. The recently released report from Aspen Environmental Group—which explored high-level analysis around transmission siting—utilizes a framework in which proposed transmission lines sited within 5 miles of rancheria or reservation boundaries are considered more sensitive.<sup>7</sup> Tribal lands are, however, lands that share ancestral ties with a given people. These lands have been, and continue to be, stewarded by Tribal people. As a result, the report may not have adequately assessed potential impacts across all ancestral Tribal lands. Please see the attached map for a more complete picture of where Tribal people have lived since time immemorial, and general areas of cultural, environmental, and historical significance.

It is important to note that most existing transmission infrastructure corridors on the North Coast were built between 1945 and 1965. At this time, government-to-government relationships were severely strained by policies that diminished Tribal sovereignties and drastically curbed the land base of many Tribal Nations. As a result, existing rights-of-way and impacts associated with transmission upgrades do not adequately consider ancestral lands that can carry equal cultural significance.

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<sup>6</sup> It is also important to note, that on April 23, 2024, a group of North Coast Community Benefit Network partners sent a letter to CAISO regarding the 2023-2024 Transmission Plan, which also outlined solicitation expectations to be included in the transmission planning processes.

<sup>7</sup> Rep. *Transmission Corridor Evaluation*, Volume 1. Aspen Environmental Group, July, 2024.  
<https://efiling.energy.ca.gov/GetDocument.aspx?tn=257784&DocumentContentId=93688>.

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## **2) Project Applicants should strive to practice early and meaningful engagement and partnership with Tribal Nations throughout all project stages, including before the preliminary design submission.**

For reasons laid out above, the Aspen report may have underestimated risks associated with potential ground disturbances from utilizing and expanding upon existing rights of ways for transmission corridors. Waiting for permitting review to assess risks associated with proposed transmission projects may result in costly, delayed, and inefficient projects.<sup>8</sup> To better understand the impacts of siting, project applicants should consult with Tribal Nations and provide just compensation for their expertise. Deploying Tribal monitors when land disturbance activities commence is not a sufficient standard of engagement.

## **3) Project Applicants should commit to building partnerships, exploring co-ownership models, and growing benefits within the region.**

Project Applicants, with the support of the State of California, should explore and propose partnership models with Tribal Nations to ensure transmission development occurs with orientation to community, environment, and cultural responsibility. The recent partnership between the Morongo Band of Mission Indians and the Southern California Edison, offers a prime example of what transmission partnerships can look like.<sup>9</sup> Working towards such agreements showcases not only a commitment toward righting past wrongs but brings critical knowledge to the forefront of project development.

## **4) State agencies involved in transmission development should jointly coordinate to develop a robust framework to uphold Tribal sovereignty in related processes.**

In 2021, the Council on Environmental Quality held Tribal consultations to better understand the needs and interests of Tribal Nations and the best ways to work together on a federal initiative.<sup>10</sup> The direction from Tribal Nations was that co-management meant Tribal decision-making authority is equal to the agency's authority with a focus on long-term management, not single

<sup>8</sup> See e.g., Evans, Hayleigh. "Federal judge denies a request by two Arizona tribes to block work on Sunzia Power Line", Arizona Republic, April 17, 2024. <https://www.azcentral.com/story/news/local/arizona-environment/2024/04/17/federal-judge-denies-bid-by-two-arizona-tribes-to-block-sunzia-project/73350969007/>.

<sup>9</sup> "Morongo becomes First Native American Tribe to be approved as Participating Transmission Owner in Nation." Morongo Nation, Press Release, July 19, 2021. <https://morongonation.org/news/morongo-becomes-first-native-american-tribe-to-be-approved-as-a-participating-transmission-owner-in-nation/>.

<sup>10</sup> Council on Environmental Quality, *Executive Summary: Tribal Comments Received During Council on Environmental Quality Consultations on the President's America the Beautiful Initiative, September 27th - November 23rd, 2021*, The White House Council on Environmental Quality, 2021. <https://www.whitehouse.gov/wp-content/uploads/2022/03/Atb-Tribal-Consultation-Summary.pdf>.

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issues.<sup>11</sup> In recent years, both state and federal agencies have begun to explore models that recognize the need for this new approach. For example, in Northern California, the National Park Service entered into a co-management agreement with the Yurok Tribe to maintain and manage a 125-acre parcel in Redwood National Park.<sup>12</sup> State agencies should apply similar methods when considering the transmission planning process to enable Tribal partners to share decision-making authority regarding transmission lines crossing ancestral lands.<sup>13</sup> Additionally the AB 525 Strategic Plan outlines a coordinated REAT approach that incorporates Tribal perspectives in permitting, which state agencies should build upon and operationalize in the transmission permitting process.

Complementary to this cooperative agreements framework, State agencies should commit to:

## ***a) Early Consultation***

In 2019, the Advisory Council on Historic Preservation (“ACHP”) published recommendations for early consultation with Tribes by federal project applicants, including pre-application consultation with Tribes to better identify and protect Tribal historical and cultural sites in the development process.<sup>14</sup> Applicants who describe substantive pre-application Tribal consultation are more likely to continue meaningful discussions throughout the project. Similarly, early and on-going agency consultation in the transmission process will better protect Tribal historical areas, resulting in less potential disruption during the construction phase.

## ***b) Sufficient and Timely Information Sharing***

Part of early and meaningful consultation is to keep Tribes informed of decision points throughout the project prior to those decisions being made, and to provide Tribes with the information, assistance, and compensation they need to participate in decision-making.

## ***c) Understand and Respect the Tribal Decision-Making Process***

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<sup>11</sup> Ibid.

<sup>12</sup> “Yurok Tribe will be first in the country to co-manage a National Park.” *Think Out Loud*. Oregon Public Broadcasting, March 28, 2024 updated April 5, 2024.

Note: The U.S. Forest Service has also entered into numerous government-to-government agreements with Tribal Partners to manage forest service lands.

<sup>13</sup> See e.g., Jones et. al., *AB 525 Offshore Wind Strategic Plan*, California Energy Commission, 2024, <https://efiling.energy.ca.gov/GetDocument.aspx?tn=257405>.

<sup>14</sup> Advisory Council on Historic Preservation, *Early Coordination with Indian Tribes During Pre-Application Processes: A Handbook*, 2019. [https://www.achp.gov/sites/default/files/documents/2019-10/EarlyCoordinationHandbook\\_102819\\_highRes.pdf](https://www.achp.gov/sites/default/files/documents/2019-10/EarlyCoordinationHandbook_102819_highRes.pdf).

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Meaningful Tribal engagement requires the state to ensure that project developers will take the time to learn about the Tribal decision-making process and work within that process rather than trying to find ways to go around it.

#### *d) Indigenous Knowledge or Tribal Ecological Knowledge*

State agencies should encourage project developers to act on Indigenous Knowledge/Tribal Ecological Knowledge if it is offered but not assume entitlement to this knowledge. Tribes are sovereign nations possessing the rights to control their own knowledge and data.

#### **Conclusion**

California recognizes the historical wrongs that led to land being unjustly taken from Tribal peoples and has committed to transferring 38,000 acres back to Tribes.<sup>15</sup> California also recognizes the effectiveness of Tribal management of land and resources and has provided more than \$100 million total to Tribal nature-based solution projects in the 2022-2024 budget years.<sup>16</sup> Transmission line development for climate-related investments, such as offshore wind, can either be a continuation of the historical practices of disregarding Tribal peoples, their rights, and interests or an opportunity to break with those harmful practices. We ask that transmission infrastructure build-outs are done in ways that recognize Tribal sovereignty by acknowledging our connection to our ancestral lands and engaging Tribal governments as equal partners.

Thank you for the opportunity to provide comments. We look forward to working with the CEC, CAISO, developers, and other interested parties to ensure this transmission process is carried out responsibly.

Sincerely,

Kind Regards

A handwritten signature in black ink, appearing to read "Jason Ramos".

Jason Ramos, Acting Chair

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<sup>15</sup> "A Step towards Healing and Restoration: California to Support the Return of Ancestral Tribal Lands and Lands Management Projects." Governor of Gavin Newsome, June 17, 2024. <https://www.gov.ca.gov/2024/04/26/a-step-towards-healing-and-restoration-california-to-support-the-return-of-ancestral-tribal-lands-and-lands-management-projects/>.

<sup>16</sup>Ibid.