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Imperial Irrigation District's Comments on the Proposed Cultural District

Additional submitted attachment is included below.

January 15, 2025

California Energy Commission
Docket Unit, MS-4
Dockets No. 23-AFC-01; 23-AFC-02; 23-AFC-03
715 P Street
Sacramento, CA 95814-6408

SUBMITTED VIA CEC'S E-COMMENT SYSTEM

Re: Written Comments of the Imperial Irrigation District to Revised Joint Scheduling Order and Request for Information Regarding Cultural and Tribal Cultural Resources

Dear CEC Commissioners:

The Commission's December 4, 2024 Revised Joint Scheduling Order and Request for Information Regarding Cultural and Tribal Cultural Resources invites interested parties to file comments addressing CEC Staff's analyses related to the nomination of a Cultural District and Staff's December 18, 2024 Response ("Staff's Response") related to same. As such, the Imperial Irrigation District ("IID") respectfully submits the following comments.

IID strives to be a good steward of its lands, water, and power resources within the Imperial Valley and greater service area. As a public agency, water purveyor, and consumer-owned utility, IID aims to provide the highest level of service to its customers while also preserving the surrounding ecosystem and respecting the many tribal cultural resources in the region.

IID is also a longtime proponent of renewable energy, and foresees its renewable resources evolving over time, including further expansion into geothermal resources that help advance the State's renewable energy goals. The future development of additional renewable resources, particularly in the Imperial Valley, is integral to creating jobs and supporting economic development in a region that would greatly benefit from both.

As stated in our December 6, 2024 letter (Docket TN #260520), IID is the fee title owner of Obsidian Butte and has committed to additional discussions with BHER, the Indigenous peoples of Imperial Valley, and the CEC to explore a potential Obsidian Butte

conservation easement. While these discussions are still in early stages, IID believes a collaborative stakeholder forum will result in a more thoughtful and balanced approach to tribal cultural resource protection than CEC Staff's proposed mitigation measure CUL/TRI-8, which calls for the registration of the Southeast Lake Cahuilla Active Volcanic Cultural District ("Cultural District").

Staff's Response provides little justification for, or analysis of, the proposed Cultural District and instead defers details to the forthcoming FSAs. However, as an initial matter, the proposed mitigation measure only requires that the Cultural District be *nominated* to the National and/or State Historic Registers. Notably, under both federal and state law, a nominated district will not be listed if the majority of landowners within the proposed boundary object to the listing. *See* 36 CFR § 60.6(g); Cal. Code Regs. tit. 14 § 4854. Staff's Response does not confirm whether landowners within the proposed Cultural District are amenable to such a listing.

Even assuming the proposed Cultural District is successfully registered, the primary effect would be the addition of a cumbersome federal review process under the National Historic Preservation Act for future projects involving federal assistance, funding, or licensing, with no guarantee of improved outcomes for the protection of tribal cultural resources. Further, creation of a formal historic district—federal or state—would require additional analysis under the California Environmental Quality Act ("CEQA") but *not* necessarily result in further tribal cultural protections because, as Staff's Response acknowledged, "listing does not prohibit discretionary agencies from exercising their authority under CEQA to approve a project despite the existence of any significant and unavoidable impact of a project on the [Cultural] District." (Staff's Response, p. 7.) Thus, a formal register listing will subject future projects located within or near the Cultural District boundaries to costly and time-consuming review processes without any guarantee that additional tribal cultural resource protections will result.

Although IID recognizes that future development should be undertaken with a focus on protecting natural, cultural, and tribal cultural resources, IID does not believe that additional regulation via the formation of a formal Cultural District is prudent, as it will likely only add lengthy and cost prohibitive procedural impediments and further contribute to delays in realizing future renewable energy development in the region.

IID reserves further comment on this issue until Staff's analysis regarding nomination of the Cultural District has been fully set forth in the FSA.

Very truly yours,

Jamie Asbury
General Manager