

NATIVE AMERICAN HERITAGE COMMISSION

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July 12, 2010

DOCKET**10-CRD-1**

DATE JUL 12 2010

RECD. JUL 12 2010

Ms. Karen Douglas, Chairperson and Presiding Member
Siting Committee

CALIFORNIA ENERGY RESOURCES CONSERVATION & DEVELOPMENT
COMMISSION OF THE STATE OF CALIFORNIA
1516 Ninth Street
Sacramento, CA 95814

RE: PROPOSED DECISION OF THE SITING COMMITTEE; COMMISSION ORDER ON
DATA CONCERNING CULTURAL RESOURCES ON BLM LAND; ALSO REGARDING
APPLICATIONS, AS FOLLOWS:

Applications for Certification for the
Calico Solar (SES Solar One) Project
Genesis Solar Energy Project
Imperial Valley (SES Solar Two) Project
Solar Millennium Blythe Project
Solar Millennium Palen Project
Solar Millennium Ridgecrest Project

Docket Nos.
08-AFC-13
09-AFC-8
08-AFC-5
09-AFC-6
09-AFC—7
09-AFC-9

Consolidated Hearing on Issues
Concerning U.S. Bureau of Land
Management Cultural Resources Date

10-CRD-1

Dear Chairwoman Douglas:

The California Native American Heritage Commission (NAHC) wishes to comment on the issues that will be raised July 14, 2010 at the Siting Committee of the California Energy Resources Conservation & Development Commission of the State of California concerning **cultural resources on BLM land, also regarding the above-referenced applications.**

The Native American Heritage Commission (NAHC) is the state 'trustee agency' pursuant to Public Resources Code §21070 for the protection and preservation of California's Native American Cultural Resources. (Also see Environmental Protection Information Center v. Johnson (1985) 170 Cal App. 3rd 604).

While the United States Department of the Interior is the landowner for Bureau of Land Management (BLM) property, when human remains' discoveries, ancient burial sites, and Native American cultural resources are found on that land, State of California laws also advise. First, the NAHC is very familiar with all of the above-reference projects, represented in the applications. At least one of the projects is also a known Native American burial site with multiple remains having been discovered. California Government Code §27460 gives California county coroners and/or medical examiners jurisdiction over unidentified human remains whether

they are discovered on federal or state land. If those remains are determined to be of Native American origin, county coroners and/or medical examiners are required to report those findings to the Native American Heritage Commission pursuant to CA Health & Safety Code §7050.5.

Burials discovered on federal land, and Native American artifacts and related cultural resources are considered 'traditional cultural properties' by culturally affiliated Native American tribes and elders; Federal law requires federal agencies to consult with culturally affiliated tribes pursuant to the federal Native American Graves Protection and Repatriation Act (25 U.S.C. 3001-3013) which also provides measures to keep the discoveries confidential. The Secretary of the Interior may also maintain confidentiality under the federal Indian religious Freedom Act ((42 U.S.C. 1996); Federal agencies are obligated to consult and work with local Native Americans to comply with these federal requirements. But, California law provides a measure for Native Americans to submit sacred sites, archaeological sites and ancient burial sites to the Native American Heritage Commission for cataloguing and placement in the NAHC Sacred Lands Inventory pursuant to CA Public Resources code §§5097.96 and 5097.94(a). Items placed in the NAHC Sacred Lands Inventory are **confidential and exempt for the California Public Records Act pursuant to CA Government Code 6254.10.**

Therefore, the Native American Heritage Commission joins the federal Bureau of Land Management (BLM) and the applicants in opposing the requests of the 'intervenor, California Unions for Reliable Energy ("CURE") in making public data on Native American ancient burial sites, archaeological sites, and cultural resources that are of religious and cultural significance to California Native Americans.

If you have any questions concerning this, please do not hesitate to contact me.

Sincerely,

Dave Singleton
Program Analyst

Cc: Larry Myers
NAHC Manager