

STATE OF CALIFORNIA

Edmund G. Brown, Jr., Governor

NATIVE AMERICAN HERITAGE COMMISSION

915 CAPITOL MALL, ROOM 364

SACRAMENTO, CA 95814

(916) 653-8251

Fax (916) 657-5390

Web Site www.nahc.ca.gov

ds_nahc@pacbell.net



June 13, 2012

Mr. Gabriel Roark, M.A., Energy Planner II, Cultural Resources Unit

California Energy Commission

1516 Ninth Street, MS 40

Sacramento, CA 95814-5512

Sent by FAX to: 916-651-8868

No. of Pages: 5

DOCKET 08-AFC-8A
DATE <u>JUN 13 2012</u>
RECD <u>JUN 21 2012</u>

Re: Sacred Lands File Search and Native American Contacts list for the proposed **"Hydrogen Energy California Project (HECA – Power Generating Plan, Transmission and Pipeline Construction);"** located on 453-acres and in other areas nearby in Kern County, California

Dear Mr. Roark:

The Native American Heritage Commission (NAHC) conducted a Sacred Lands File searches of the 'area of potential effect,' (APE) based on the USGS coordinates provided and **Native American cultural resources were not identified** in the project area of potential effect (e.g. APE): you specified. Also, please note; the NAHC Sacred Lands Inventory is not exhaustive and does not preclude the discovery of cultural resources during any project groundbreaking activity.

California Public Resources Code §§5097.94 (a) and 5097.96 authorize the NAHC to establish a Sacred Land Inventory to record Native American sacred sites and burial sites. These records are exempt from the provisions of the California Public Records Act pursuant to California Government Code §6254 (r). The purpose of this code is to protect such sites from vandalism, theft and destruction.

In the 1985 Appellate Court decision (170 Cal App 3rd 604), the court held that the NAHC has jurisdiction and special expertise, as a state agency, over affected Native American resources, impacted by proposed projects including archaeological, places of religious significance to Native Americans and burial sites

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 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 that the NAHC has provided 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.

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. The aforementioned Secretary of the Interior's *Standards* include recommendations for all 'lead agencies' to consider the historic context of proposed projects and to "research" the cultural landscape that might include the 'area of potential effect.'

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 and (k) of the federal NHPA (16 U.S.C. 470 *et seq.*), Section 4(f) of the Department of Transportation Act of 1966 (23 CFR 774); 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. The NAHC remains concerned about the limitations and methods employed for NHPA 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

Native American Contacts

Kern County
June 13, 2012

Santa Rosa Rancheria
Rueben Barrios, Chairperson
P.O. Box 8
Lemoore, CA 93245
(559) 924-1278
(559) 924-3583 Fax

Tache
Tachi
Yokut

Tejon Indian Tribe
Katherine Montes- Morgan, Chairperson
2234 4th Street
Wasco, CA 93280
kmorgan@bak.rr.com
661-758-2303

Yowlumne
Kitanemuk
Kawaiisu

Tule River Indian Tribe
Neil Peyron, Chairperson
P.O. Box 589
Porterville, CA 93258
chairman@tulerivertribe-nsn.
(559) 781-4271
(559) 781-4610 FAX

Yokuts

Kawaiisu Tribe of Tejon Reservation
David Laughinghorse Robinson
PO Box 1547
Kernville, CA 93238
(661) 664-3098 - work
(661) 664-7747 - home
horse.robinson@gmail.com

Ron Wermuth
P.O. Box 168
Kernville, CA 93238
warmoose@earthlink.net
(760) 376-4240 - Home
(916) 717-1176 - Cell

Tubatulabal
Kawaiisu
Koso
Yokuts

Kern Valley Indian Council
Julie Turner, Secretary
P.O. Box 1010
Lake Isabella, CA 93240
(661) 366-0497
(661) 340-0032 - cell

Southern Paiute
Kawaiisu
Tubatulabal
Koso
Yokuts

Kitanemuk & Yowlumne Tejon Indians
Delia Dominguez, Chairperson
115 Radio Street
Bakersfield, CA 93305
deedominguez@juno.com
(626) 339-6785

Yowlumne
Kitanemuk

Kern Valley Indian Council
Robert Robinson, Co-Chairperson
P.O. Box 401
Weldon, CA 93283
brobinson@iwvisp.com
(760) 378-4575 (Home)
(760) 549-2131 (Work)

Tubatulabal
Kawaiisu
Koso
Yokuts

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 applicable for contacting local Native Americans with regard to cultural resources for the proposed Telecommunications Facility, Hydrogen Energy California Project (HECA) located in Kern County, California for which a Sacred Lands File search and Native American Contacts were requested.

Native American Contacts

Kern County
June 13, 2012

Tubatulabals of Kern Valley
Dr. Donna Begay, Tribal Chairwoman
P.O. Box 226 Tubatulabal
Lake Isabella, CA 93240
drbegay@aol.com
(760) 379-4590
(760) 379-4592 FAX

Santa Rosa Tachi Rancheria
Lalo Franco, Cultural Coordinator
P.O. Box 8 Tachi
Lemoore, CA 93245 Tache
(559) 924-1278 - Ext. 5 Yokut
(559) 924-3583 - FAX

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CALIFORNIA ENERGY COMMISSION

1516 NINTH STREET
SACRAMENTO, CA 95814-5512
www.energy.ca.gov



June 21, 2012

Kern Valley Indian Council
Robert Robinson, Co-Chairperson
P.O. Box 401
Weldon, CA 93283

RE: PROPOSED NEW POWER PLANT IN KERN COUNTY
HYDROGEN ENERGY CALIFORNIA PROJECT

Dear Mr. Robinson,

Your name was provided to the California Energy Commission (Energy Commission) by the Native American Heritage Commission (NAHC) in a letter dated June 15, 2012, as a representative of a Native American community who might be interested in the proposed construction and operation of a power plant and related facilities in Kern County. The proposed project is located near the community of Buttonwillow (see attached area and alternatives maps). Energy Commission staff understands that cultural resource consultants have contacted you on a number of occasions since 2008 concerning the proposed Hydrogen Energy California Project (HECA). As a result, you may have seen numerous project designs. This letter addresses the current project design and the attached exhibits depict the project location as well as project alternatives.

The Energy Commission has jurisdiction over the proposed project and has received an amended application for certification to build and operate the power plant and related facilities. HECA is being proposed for development by HECA LLC, a subsidiary of SCS Energy LLC. The Energy Commission will be analyzing this project in coordination with the U.S. Department of Energy, which is providing funding assistance to HECA under the Clean Coal Power Initiative Round 3. The State of California Department of Conservation, Division of Oil, Gas, and Geothermal Resources, also has permitting authority over the injection and production wells used for the enhanced oil recovery (EOR) component of the proposed project.

HECA is an Integrated Gasification Combined Cycle (IGCC) electrical power plant with an integrated manufacturing complex that will produce fertilizer and other low-carbon nitrogen-based products. HECA uses solid feedstock—coal and petroleum coke—to produce clean hydrogen fuel. The hydrogen fuel is then used to generate electricity and produce other useful products. Because it produces multiple products, HECA is sometimes referred to as a “polygeneration” project. HECA consists of:

- An IGCC electrical power plant on a 453-acre (ac) Project Site with a 653-ac control area surrounding the Project Site.
- As a possible alternative to truck transport, HECA may build a 5-mile (mi)-long railroad spur between the Project Site and State Route 58.
- A 3.5-mi-long electrical transmission line that will extend east from the Project Site to a new Pacific Gas and Electric Company (PG&E) switching station.

- An 11-mi-long natural gas pipeline and interconnection with an existing PG&E line north of the Project Site.
- Water supply pipelines, including a process water line that originates 14.4 mi northwest of the Project Site.
- A carbon dioxide (CO₂) pipeline that would move captured CO₂ from the Project Site south to the Elk Hills Oil Field (EHOF or oil field) for processing.
- Use of the captured CO₂ for storage and EOR in the oil field. The operation would require new roads, buried and above-ground pipelines, and injection wells.
- Additionally, HECA's application for certification presented four alternative project sites that staff will consider in its alternatives analysis for the project required under CEQA, as well as intersection improvements intended to alleviate traffic impacts.

These project components and alternatives are depicted on the two attached figures.

Over the coming months, the Energy Commission will be holding a number of public workshops and hearings on the proposal to determine whether the proposed project should be approved for construction and operation and under what set of conditions. These workshops and hearings will provide the public and tribal organizations, as well as local, state and federal agencies, the opportunity to ask questions about, and provide input on, the proposed project. The Energy Commission will issue notices for these workshops and hearings at least 10 days prior to the meeting.

To view a copy of the Amended Application for Certification and find more information about the project and proceedings, please visit the project website: http://www.energy.ca.gov/sitingcases/hydrogen_energy/index.html. If you want to be notified by e-mail whenever a public meeting is scheduled or a document is posted to the project website, you can sign up for the project list server on the main web page. Public notices can also be sent to you by mail at your request. Should the Council request, Energy Commission staff will arrange for a separate meeting to discuss issues that the Council may wish to hold in confidence from the general public.

The Energy Commission staff welcomes your comments or questions. If you have concerns regarding impacts of the HECA project on resources of concern to the Council, please contact Thomas Gates at (916) 654-5008; Fax: (916) 651-8868; or thomas.gates@energy.ca.gov.

Sincerely,



Eric Knight, Manager
Environmental Protection Office

Enclosures: Area Map
Alternatives Map

cc: Energy Commission Dockets
Thomas Gates, Cultural Resources
Bob Worl, Project Manager

CALIFORNIA ENERGY COMMISSION

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www.energy.ca.gov



June 21, 2012

Tule River Indian Tribe
Chairperson Neil Peyron
P.O. Box 589
Porterville, CA 93258

RE: PROPOSED NEW POWER PLANT IN KERN COUNTY
HYDROGEN ENERGY CALIFORNIA PROJECT

Dear Honorable Chairperson Peyron,

Your name was provided to the California Energy Commission (Energy Commission) by the Native American Heritage Commission (NAHC) in a letter dated June 15, 2012, as a representative of a Native American community who might be interested in the proposed construction and operation of a power plant and related facilities in Kern County. The proposed project is located near the community of Buttonwillow (see attached area and alternatives maps). Energy Commission staff understands that cultural resource consultants have contacted you on a number of occasions since 2008 concerning the proposed Hydrogen Energy California Project (HECA). As a result, you may have seen numerous project designs. This letter addresses the current project design and the attached exhibits depict the project location as well as project alternatives.

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Sincerely,



 Eric Knight, Manager
Environmental Protection Office

Enclosures: Area Map
Alternatives Map

cc: Energy Commission Dockets
Thomas Gates, Cultural Resources
Bob Worl, Project Manager

CALIFORNIA ENERGY COMMISSION

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June 21, 2012

The Tachi Yokut Tribe, Santa Rosa Rancheria
Lalo Franco, Director of Cultural & Historic Preservation
P.O. Box 8
Lemoore, CA 93245

RE: PROPOSED NEW POWER PLANT IN KERN COUNTY
HYDROGEN ENERGY CALIFORNIA PROJECT

Dear Mr. Franco,

Your name was provided to the California Energy Commission (Energy Commission) by the Native American Heritage Commission (NAHC) in a letter dated June 15, 2012, as a representative of a Native American community who might be interested in the proposed construction and operation of a power plant and related facilities in Kern County. The proposed project is located near the community of Buttonwillow (see attached area and alternatives maps). Energy Commission staff understands that cultural resource consultants have contacted you on a number of occasions since 2008 concerning the proposed Hydrogen Energy California Project (HECA). As a result, you may have seen numerous project designs. This letter addresses the current project design and the attached exhibits depict the project location as well as project alternatives.

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Sincerely,



for Eric Knight, Manager
Environmental Protection Office

Enclosures: Area Map
Alternatives Map

cc: Energy Commission Dockets
Thomas Gates, Cultural Resources
Bob Worl, Project Manager

CALIFORNIA ENERGY COMMISSION

1516 NINTH STREET
SACRAMENTO, CA 95814-5512
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June 21, 2012

Tejon Indian Tribe
Chairperson Katherine Montes-Morgan
2234 4th Street
Wasco, CA 93280

RE: PROPOSED NEW POWER PLANT IN KERN COUNTY
HYDROGEN ENERGY CALIFORNIA PROJECT

Dear Honorable Chairperson Montes-Morgan,

Your name was provided to the California Energy Commission (Energy Commission) by the Native American Heritage Commission (NAHC) in a letter dated June 15, 2012, as a representative of a Native American community who might be interested in the proposed construction and operation of a power plant and related facilities in Kern County. The proposed project is located near the community of Buttonwillow (see attached area and alternatives maps). Energy Commission staff understands that cultural resource consultants have contacted you on a number of occasions since 2008 concerning the proposed Hydrogen Energy California Project (HECA). As a result, you may have seen numerous project designs. This letter addresses the current project design and the attached exhibits depict the project location as well as project alternatives.

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Sincerely,



for
Eric Knight, Manager
Environmental Protection Office

Enclosures: Area Map
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CALIFORNIA ENERGY COMMISSION

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June 21, 2012

The Tachi Yokut Tribe, Santa Rosa Rancheria
Chairperson Ruben Barrios
P.O. Box 8
Lemoore, CA 93245

RE: PROPOSED NEW POWER PLANT IN KERN COUNTY
HYDROGEN ENERGY CALIFORNIA PROJECT

Dear Honorable Chairperson Barrios,

Your name was provided to the California Energy Commission (Energy Commission) by the Native American Heritage Commission (NAHC) in a letter dated June 15, 2012, as a representative of a Native American community who might be interested in the proposed construction and operation of a power plant and related facilities in Kern County. The proposed project is located near the community of Buttonwillow (see attached area and alternatives maps). Energy Commission staff understands that cultural resource consultants have contacted you on a number of occasions since 2008 concerning the proposed Hydrogen Energy California Project (HECA). As a result, you may have seen numerous project designs. This letter addresses the current project design and the attached exhibits depict the project location as well as project alternatives.

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Sincerely,



for
Eric Knight, Manager
Environmental Protection Office

Enclosures: Area Map
Alternatives Map

cc: Energy Commission Dockets
Thomas Gates, Cultural Resources
Bob Worl, Project Manager

CALIFORNIA ENERGY COMMISSION

1516 NINTH STREET
SACRAMENTO, CA 95814-5512
www.energy.ca.gov



June 21, 2012

Kern Valley Indian Council
Julie Turner, Secretary
P.O. Box 1010
Lake Isabella, CA 93240

RE: PROPOSED NEW POWER PLANT IN KERN COUNTY
HYDROGEN ENERGY CALIFORNIA PROJECT

Dear Ms. Turner,

Your name was provided to the California Energy Commission (Energy Commission) by the Native American Heritage Commission (NAHC) in a letter dated June 15, 2012, as a representative of a Native American community who might be interested in the proposed construction and operation of a power plant and related facilities in Kern County. The proposed project is located near the community of Buttonwillow (see attached area and alternatives maps). Energy Commission staff understands that cultural resource consultants have contacted you on a number of occasions since 2008 concerning the proposed Hydrogen Energy California Project (HECA). As a result, you may have seen numerous project designs. This letter addresses the current project design and the attached exhibits depict the project location as well as project alternatives.

The Energy Commission has jurisdiction over the proposed project and has received an amended application for certification to build and operate the power plant and related facilities. HECA is being proposed for development by HECA LLC, a subsidiary of SCS Energy LLC. The Energy Commission will be analyzing this project in coordination with the U.S. Department of Energy, which is providing funding assistance to HECA under the Clean Coal Power Initiative Round 3. The State of California Department of Conservation, Division of Oil, Gas, and Geothermal Resources, also has permitting authority over the injection and production wells used for the enhanced oil recovery (EOR) component of the proposed project.

HECA is an Integrated Gasification Combined Cycle (IGCC) electrical power plant with an integrated manufacturing complex that will produce fertilizer and other low-carbon nitrogen-based products. HECA uses solid feedstock—coal and petroleum coke—to produce clean hydrogen fuel. The hydrogen fuel is then used to generate electricity and produce other useful products. Because it produces multiple products, HECA is sometimes referred to as a “polygeneration” project. HECA consists of:

- An IGCC electrical power plant on a 453-acre (ac) Project Site with a 653-ac control area surrounding the Project Site.
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Sincerely,



for Eric Knight, Manager
Environmental Protection Office

Enclosures: Area Map
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Bob Worl, Project Manager

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June 21, 2012

Kawaiisu Tribe of the Tejon Indian Reservation
Chairman David Laughing Horse Robinson
P.O. Box 1547
Kernville, CA 93238

RE: PROPOSED NEW POWER PLANT IN KERN COUNTY
HYDROGEN ENERGY CALIFORNIA PROJECT

Dear Honorable Chairman Robinson,

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Sincerely,



for Eric Knight, Manager
Environmental Protection Office

Enclosures: Area Map
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June 21, 2012

Kitanemuk & Yowlumne Tejon Indians
Chairperson Delia Dominguez
115 Radio Street
Bakersfield, CA 93305

RE: PROPOSED NEW POWER PLANT IN KERN COUNTY
HYDROGEN ENERGY CALIFORNIA PROJECT

Dear Honorable Chairperson Dominguez,

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Environmental Protection Office

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June 21, 2012

Tubatulabals of Kern Valley
Tribal Chairwoman Dr. Donna Miranda-Begay
P.O. Box 226
Lake Isabella, CA 93240

RE: PROPOSED NEW POWER PLANT IN KERN COUNTY
HYDROGEN ENERGY CALIFORNIA PROJECT

Dear Honorable Chairwoman Miranda-Begay,

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Sincerely,


 for Eric Knight, Manager

Environmental Protection Office

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June 21, 2012

Ron Wermuth
P.O. Box 168
Kernville, CA 93238

RE: PROPOSED NEW POWER PLANT IN KERN COUNTY
HYDROGEN ENERGY CALIFORNIA PROJECT

Dear Mr. Wermuth,

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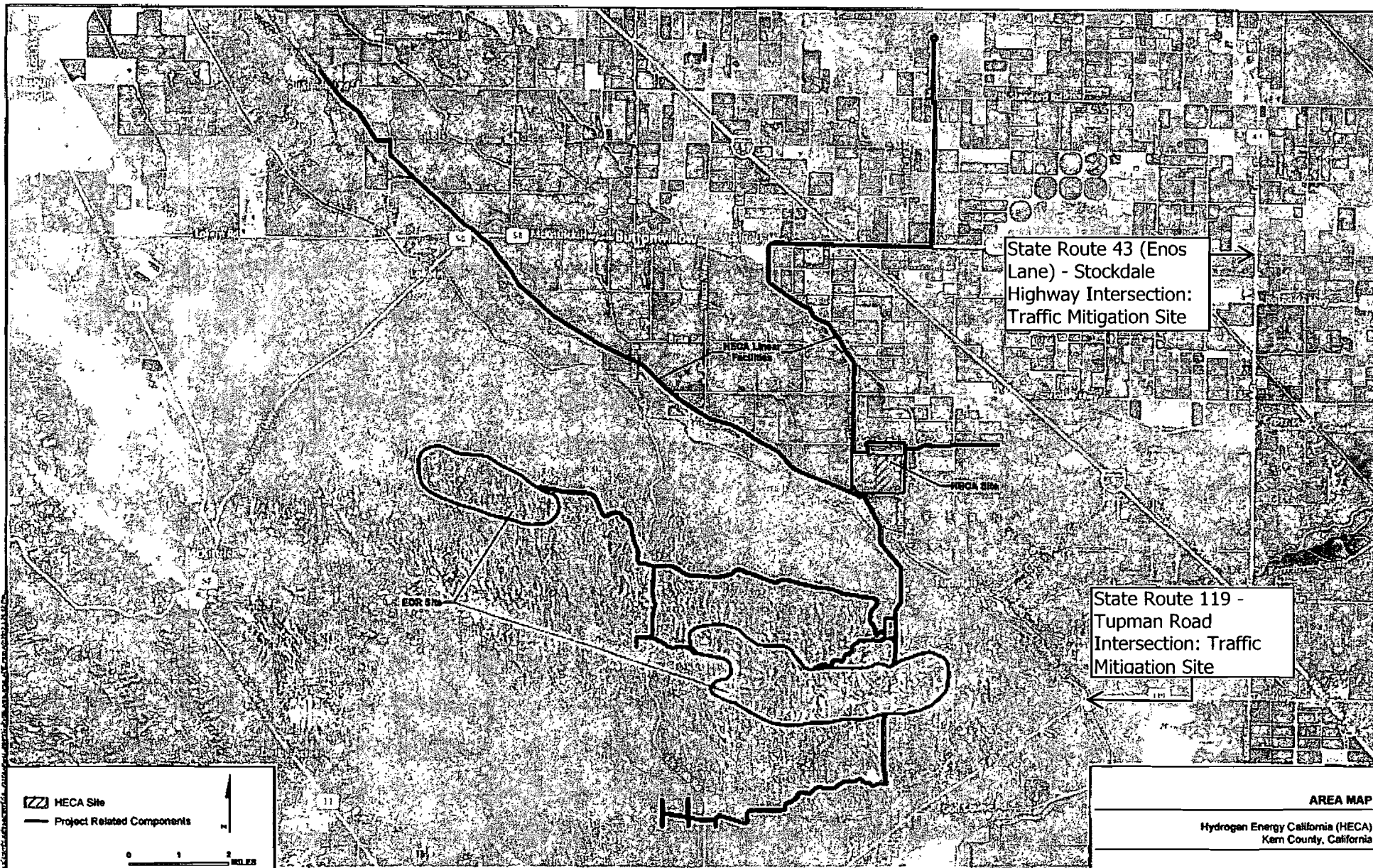
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Source: Aerial Imagery, Bing Maps, 2008

