

Hidden Hills Solar Electric Generating System, 11-AFC-2

Preliminary Staff Assessment

General Comments

by: the Pahrump Paiute Tribe

California Energy Commission

DOCKETED

11-AFC-2

TN # 66323

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In the history told by the dominant culture in the United States, Europeans “discovered” a vast, unexplored continent unknown to any before them and “claimed” it in the name of their countries. They went on to “civilize” the land and the ignorant peoples they encountered, eventually creating a venerable democratic government that provided for “freedom” in religion, speech, and other personal rights. They created a military to protect the civilized people from invaders, and now, as in most governmental systems, people are taught to honor and revere both the government and the military.

In Native history, in the reality that is *our* past and *our* present, Europeans were the invaders. They took over lands that were already occupied by established functioning governments. They blatantly stole land that was already tended by peoples who co-existed with the land. The Europeans eventually killed between 80 to 95 percent of the Native peoples on the continent, primarily from intentionally introduced diseases to which the Native Americans had no resistance. With the goal of either eliminating or suppressing resistance achieved, the Europeans then began possessing, bargaining with, and using the land for monetary gain rather than sustenance and survival. The European advance into what is now the United States stripped away virtually all rights of the Native Americans, and continued to do so throughout history through broken treaties and empty promises. And now, as American citizens, we are expected to proudly honor and revere both the dominant government and military installations.

The problem with this expectation is that the dominant culture and the government associated with the dominant culture have never stopped in their attempts to “civilize” the Native Americans. They have never stopped stripping away the rights of peoples who have a government and a culture and a lifestyle that is different from theirs. They have never stopped believing that their claims to the land override the responsibility that the Creator gave Native Americans to watch over the land and all that is in it, and that their plans and uses for the land override our historical and current use of the land. This has been proven to our tribe time and again as the town of Pahrump and the surrounding areas have been settled and have grown far past the point of balance with nature. Large areas of our ancestral lands have been taken over, physical evidence of our history has been stolen and placed in facilities for the dominant culture to enjoy, our tribal encampments have been stolen, our tribal members have been forcibly removed from their homes, and our burial grounds have been taken over by those who moved here and have since been turned into an all-purpose graveyard.

The dominant government has put into place a number of legal “safeguards” that are supposed to provide for the protection of Native artifacts and other objects or areas of spiritual or religious

significance. In most cases, however, these safeguards are interpreted based solely on physical manifestations of Native American presence, such as artifacts or burials. The fact that the religious and spiritual existence of the Native Americans is both intertwined and inseparable from the land and its resources is largely ignored by the dominant culture in favor of personal wishes and monetary pursuits. The language used in the Cultural Resources Policy of Inyo County's General Plan is evidence of this: "Preserve and protect key resources that have contributed to the social...history and prehistory of the area, *unless overriding circumstances are warranted.*"

Our tribe is once again in a position in which perceived "overriding circumstances" may be a factor. The California Energy Commission will have before them a decision whereby they determine whether the greater good achieved by a solar facility is more important than the spiritual and natural relevance of Pahrump Paiute ancestral territory. We disagree with the concept that this "greater good" is more important. First, it is not the responsibility of the Pahrump Paiute to shoulder the burden of those that moved into our territory and did not pay attention to the teachings about resource management that are automatically embedded in Native life. Instead, they have chosen to overpopulate, requiring more food, more oil, more land, more energy – more, more, more. The solution to this need for more resources is simple: control the growth of the population enough so that the available resources become sufficient. Second, if the need for energy were the sole factor driving the potential construction of this facility, other alternatives could be devised whereby current urban development could be utilized. It is not solely the need for energy driving the project, however; it is primarily the desire for profit. Thus, other alternatives are counterproductive. So, as illustrated before, the approval of this project would simply become one more way in which tribal ancestral lands have been acquired and developed in the name of the dollar.

Obviously, we support the denial of the project. We concur with the finding on page 61 of the PSA that there is no action that would "directly avoid or substantially minimize the significant effects that the proposed project would have on the three ethnographic landscapes and associated Native American practices." Since we are ultimately not the deciding vote, however, our tribe has reviewed the proposed compensatory mitigation in the event that the project is approved. Specific comments regarding PSA mitigations will follow in a separate document.

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Specific Comments

by: the Pahrump Paiute Tribe

- 1) CUL-10 to CUL-12: The applicant would like to place a solar plant on over 3,000 acres of Pahrump Paiute ancestral land, which would cause significant impacts to the visual landscape, the wildlife in the area, nearby Native American cultural sites that would likely be disturbed or destroyed through cumulative-impact population growth, and the area's water and water-related biology. This land falls within the path of the Salt Song, a religious trail the deceased of the Southern Paiute (including the Pahrump Paiute) follow to the afterlife. If this path is broken, the spirits of our deceased may not make it to the appropriate place in the afterlife. In exchange for negatively impacting all of the above, the PSA proposes that appropriate compensatory mitigation would be a few panels at an Interpretive Center addressing Native American history and land use, research of an area of historical tribal land use, and restoration of the project site in the event of closure. While our tribe feels these mitigations are proposed in good faith, we do not feel their level of compensation is commensurate with the level of impact this project will have. We ask that Staff consider some of the further comments below.
- 2) Our tribe has made, and is making, our best effort to engage in effective communication with CEC, the lead agency for the project. CEC Staff have made themselves readily available to us in order to assist us in navigating the path to the FSA. However, the reality of our tribe is that we do not have a staff. The majority of us have day jobs that do not allow us to contribute the amount of time necessary to thoroughly and successfully address all the aspects this project encompasses. If this project is approved, the mitigations will take on lives of its own. CEC Staff will move on to new projects and cannot be expected to have the resources to continue helping us on the many points with which we will need assistance. We do not have the knowledge to navigate this process alone, and we do not have the financial resources necessary to hire someone who does know how to navigate the process. The applicant, on the other hand, has ample legal representation. Since we would not otherwise have had need for legal services, we find it appropriate that the applicant pay for a lawyer of our choosing to represent and advise the Pahrump Paiute in all dealings that relate to this project and the mitigations associated with this project for the life of the project so that we are able to meet the applicant on equal ground.
- 3) Salt Song Landscape pgs. 57-59: We agree with the information on page 59 written under this section regarding the inability to substitute or replace the Salt Song Landscape and the inability to modify the process by which we deliver our deceased to the afterlife. We are also, along with CEC Staff, unaware of means by which one could reduce the impact of building in this area to a

less than significant level or even a means by which our tribe, and all the other Southern Paiute whose deceased would be affected by the project, could be compensated. On this basis, we continue to advocate for denial of the project.

- 4) In the event the project is approved, based on cumulative impacts to the three landscapes identified in the PSA (pg 53), we would like to propose that lands, identified in conjunction with the Pahrump Paiute tribe, including, but not limited to, lands having religious, cultural, or spiritual value, and of equal size to the project, be acquired for the Tribe, in perpetuity, as we anticipate this project will be profitable and will extend past the original lease. We propose this on the basis that over 3,000 acres of tribal ancestral land and all associated uses are being eliminated, and on the basis that our rights to watch over and protect the land as the Creator tasked us to do are being violated by the construction of this project. We wish to fulfill our promise to the Creator, and if we fail in this endeavor by being forced to accept the approval of this project, we feel it is appropriate compensation to exchange land that we were not able to watch over for land that we are able to protect by putting it into our hands.
- 5) CUL-10: We have not had the opportunity to review mitigations in other portions of the PSA outside of the Cultural Resources section (see #2 above). As such, we are unaware if this request conflicts with VIS Conditions of Certification. However, if it does not, we would like to request that "Interpretive Center" be adjusted to read "Interpretive Building," or otherwise incorporate the word "building" into the Condition of Certification. As the Condition reads now, it seems as though the Condition could be fulfilled by panels on a stake. In the event of the project's approval, our tribe feels that wayside information panels would not be an appropriate exchange for the loss of land, habitat, gathering grounds, and educational opportunities caused by the project's existence. We also wish to request that the Condition include "interpretive panels and exhibits" in its language. An appropriate educational facility, for Natives and non-Natives alike, will include interactive exhibits. In addition, if the presence of a federal curator would qualify the interpretive facility to curate artifacts according to federal requirements, our tribe would like to request that a federal curator be employed at the interpretive facility for the life of the facility.
- 6) Verifications of some conditions of certification require the applicant to notify particular parties of interest when the verification has been completed (for example, CUL-10). When the PSA references the location of the proposed Interpretive Center, the verifications require notification of Inyo County. We believe it is preliminary to assume the Interpretive Center will be located in Inyo County and still be able to fulfill all conditions of certification. We request this language be replaced with "the county of locale" or equivalent.
- 7) CUL-10, Verification 2: We request that Native American tribal representatives be added (as in Verification 1) to the list of those who shall be notified that the site is ready for inspection.

- 8) Though we have not had the time and resources to read through the conditions of certification for biology or water (see #2 above), we wish to reiterate that the appropriation and development of tribal ancestral lands has occurred repeatedly throughout history. A direct effect of development is the relocation of wildlife from their native territory. When the next development occurs, the wildlife is moved again – then again – then again. This has occurred repeatedly over the course of development in the Pahrump Valley. Animals do not always adjust to new territory and sometimes die. Animals die in the process of development. Another effect to development is water usage, as illustrated by the lack of springs that once existed in the Pahrump Valley. When you eventually consider the cumulative impacts of past, present, and proposed development, the impact is significant. The plants, wildlife, and water are highly important to our culture and our tribe would like to be involved in management plans or mitigations regarding plants, wildlife, and water.
- 9) CUL-6, Paragraph 3: We would like to be part of the decision regarding who serves as Native American monitors. While we currently receive preference as a monitor as the only Native Americans with traditional ties to the area, if no or too few Pahrump Paiute are qualified or available to serve as monitors, we would like input as to what tribe then has preference.