California Energy Commission
DOCKETED
09-RENEW EO-1
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Tübatulabal Tribe

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Samantha Riding-Red-Horse, Tribal Council Member

July 12, 2012

Tribal Comment

Docket No. 09-Renew EO-01

To: Chairman Robert Weisenmiller,, Commissioner Karen Douglas, Commission, and Members of the California Energy Commission

Subject: Recommendation to host Tribal Forum – "Desert Renewable Energy Conservation Plan" and Tribal Perspectives of experiences and lessons learn of Alternative Energy Projects in California.

Our Tübatulabal Tribe is located in Kern River, Kelso Valley, Walker Ridge, and Southern slope of Mt. Whitney. Our Tribal Office is located in Mountain Mesa, CA. Currently, we are working with both federal and state agencies in developing programmatic agreement with U.S. Army Corps of Engineers and U.S. Forest Service regarding the Lake Isabella Dam Repair Project, conducting pre-scoping and EIS on-site culture surveys, employed by AECOM to provide Cultural Native American Monitoring (CNAM) services for North Sky Wind Energy and Jaw Bone Wind Energy project for NextEra, Edwards Air Force Base – Solar Project Review, and U.S. BLM and U.S. Naval Air Force – China Lake review of proposed Haiwee Geothermal Project. Our Tribe has been extremely busy in addressing timely consultation, developing CNAM skills and knowledge workforce, and on-site cultural resource surveys.

Next week – I will be meeting with CA Energy Commission Representatives regarding Kern County located HECA – Hydrogen Energy California Project (to be located in Tubman, CA – South West area of Kern County). This HECA project is located near Elk Hills – which is a very culturally rich and traditional gathering place of the Chumash, Yokuts, and TejonTribes. We appreciate the timely notification and meaningful outreach and consultation meeting with the CA Energy Commission staff. Our Tribe had advance GIS Cultural Resource Mapping information for this area – protection of Traditional Ecological Knowledge (TEK) and Cultural Ethnography Intellectual properties need to be establish with all public agencies.

By attending this all-day workshop, we hope to learn more about the CA Energy Commission processes and business of renewable energy. We also want to recommend to CA Energy Commission that a similar workshop focus on ""Desert Renewable Energy Conservation Plan and Tribal Perspectives of experiences and lessons learn of Alternative Energy Projects in California" be offered to CA Native American Tribes. This workshop will be also assist the CA Energy Commission to comply with Executive Order B-10-11 "Consultation and Communication with California Tribes and Tribal Communities" (see attached).

Also, on the CA Energy Commission web site, it is not clear who are the members of the "Desert Renewable Energy Tribal Coalition" and how are they selected.

One major lesson that our Tribe has recently learned, the initial EIS Cultural Resource Surveys, *if not* assisted by local Tribes will not be very successful in identifying the numerous

[illegible] Tribal Summit

[illegible]

[illegible]

[illegible]

cultural sites, meaning, and cultural landscapes interpretation. Many of the cultural sites we discovered during construction phase of North Sky Wind Energy are eligible to be listed under the National Historic Preservation Act (NHP A). Attached is recent summary of cultural resources of the North Sky Wind Energy – we appreciate AECOM and NextERA in their wiliness to timely provide our Tribe with Cultural Resource and Monitoring updates. These projects do bring jobs to our Tribal community – but also, long-term and non-reversible removal and scaring of cultural landscapes. We highly recommend that alternative energy project investors develop communication and outreach to local Tribes to help keep their project moving forward, avoid lawsuits, and obtain a more accurate view of the cultural resources and landscapes perspectives from the Tribes.

Appreciate the opportunity to comment and provide this recommendation. Feel free to contact, anytime at our Tribal Office (760) 379-4590.

Sincerely,

Donna Miranda-Begay
"timiwal" Tribal Chairwoman

cc: Tübatulabal Tribal Council and Cultural Preservation Office
Native American Heritage Commission
Cynthia Gomez, CA Tribal Advisor to the Governor Brown
Inter-Tribal Council of California
Mojave Desert – Tribes of California (both federally and non-federally recognized)

EXECUTIVE ORDER B-10-11

WHEREAS California is home to many Native American Tribes with whom the State of California has an important relationship, as set forth and affirmed in state and federal law; and

WHEREAS the State of California recognizes and reaffirms the inherent right of these Tribes to exercise sovereign authority over their members and territory; and

WHEREAS the State and the Tribes are better able to adopt and implement mutually-beneficial policies when they cooperate and engage in meaningful consultation; and

WHEREAS the State is committed to strengthening and sustaining effective government-to-government relationships between the State and the Tribes by identifying areas of mutual concern and working to develop partnerships and consensus; and

WHEREAS tribal people, as both citizens of California and their respective sovereign nations, have a shared interest in creating increased opportunities for all California citizens.

NOW, THEREFORE, I, EDMUND G. BROWN JR., Governor of the State of California, by virtue of the power vested in me by the Constitution and the statutes of the State of California, do hereby issue the following orders to become effective immediately:

IT IS ORDERED that the position of Governor's Tribal Advisor shall exist within the Office of the Governor;

IT IS FURTHER ORDERED that the Governor's Tribal Advisor shall oversee and implement effective government-to-government consultation between my Administration and Tribes on policies that affect California tribal communities, and shall:

- Serve as a direct link between the Tribes and the Governor of the State of California.
- Facilitate communication and consultations between the Tribes, the Office of the Governor, state agencies, and agency tribal liaisons.
- Review state legislation and regulations affecting Tribes and make recommendations on these proposals.

IT IS FUTHER ORDERED that the Office of the Governor shall meet regularly with the elected officials of California Indian Tribes to discuss state policies that may affect tribal communities.

IT IS FURTHER ORDERED that it is the policy of this Administration that every state agency and department subject to my executive control shall encourage communication and consultation with California Indian Tribes. Agencies and departments shall permit elected officials and other representatives of tribal governments to provide meaningful input into the development of legislation, regulations, rules, and policies on matters that may affect tribal communities.

For purposes of this Order, the terms "Tribe," "California Indian Tribe", and "tribal" include all Federally Recognized Tribes and other California Native Americans.

This Executive Order is not intended to create, and does not create, any rights or benefits, whether substantive or procedural, or enforceable at law or in equity, against the State of California or its agencies, departments, entities, officers, employees, or any other person.

I FURTHER DIRECT that as soon as hereafter possible, this Order shall be filed with the Office of the Secretary of State and that it be given widespread publicity and notice.

IN WITNESS WHEREOF I have hereunto set my
hand and caused the Great Seal of the State of California to be affixed this 19th day of September 2011.

_____
EDMUND G. BROWN JR.
Governor of California

ATTEST:

_____
DEBRA BOWEN
Secretary of State

NEXTera ENERGY RESOURCES

AECOM

North Sky River Wind Energy Project

Cultural Resources Construction Monitoring Program Summary - May 2012

PROJECT FACTS

- The Project involves the construction of up to 100 wind turbines on approximately 12,582 acres in southeastern Kern County, California.
- The majority of the Project site is privately owned. A small portion of the site is on public land.
- The cultural resources monitoring program involves compliance with agency-adopted Mitigation Measures for cultural resources identified during pre-construction cultural surveys, and unanticipated discoveries that occur during monitoring of ground disturbing construction activities.
- Project construction began in early March 2012 and will be completed by the end of December 2012.

PROJECT CULTURAL RESOURCES TEAM

- The Project strategy for protecting cultural resources begins with trying to avoid identified resources (e.g., realigning a Project roadway); where avoidance is not feasible, mitigation involves collecting the cultural materials for scientific analysis, evaluation, documentation, and curation.
- The cultural resources monitoring team includes both professional archaeologists and a cadre of local Native American Monitors (NAMs) from the Kawaiisu (Paiute- Shoshone) and Tubatulabal tribes.
- Over 40 members of the local Native American community have been trained in how to perform cultural resources monitoring.
- The number of cultural monitors working on the site has fluctuated over time, reaching a peak of nearly 30 monitors (including over 20 NAMs); as construction proceeds, the amount of work remaining that requires monitoring is decreasing, and monitor staffing is declining as well.
- The Project has the largest level of direct involvement of Native Americans of any renewable energy project yet undertaken in Kern County.

UNANTICIPATED DISCOVERIES: FROM CONSTRUCTION MOBILIZATION TO APRIL 30, 2012

- As of the end of April 2012, there were 25 unanticipated discoveries within the Project footprint, and there were an additional 10 unanticipated discoveries where the Project was reconfigured (e.g., road alignment modified) to avoid the cultural site.
- Of the 25 unanticipated discoveries, 23 were prehistoric resources and two were historic (since the arrival of EuroAmericans).
- Of these 23 prehistoric unanticipated discoveries, eight were lithic (stone tool) flake scatters, five were milling sites (e.g., bedrock mortars) , five were rock cairns or rock rings, three were habitation sites, and two were " diagnostic" isolates (projectile points whose age can be estimated).
- Two of the three habitation sites involved excavations that identified subsurface resources, including one site that involved a two-week mitigation/data recovery effort.
- Human remains were discovered at one location; reburial will be performed in close coordination with the Native American community.

UNANTICIPATED DISCOVERIES - MAY 2012

- During May, there were 20 unanticipated discoveries within the Project footprint plus one site that was avoided by modifying the Project layout.
- Of the 20 unanticipated discoveries, 18 were prehistoric, and two were historic, including three sites with both prehistoric and historic elements.
- Of the prehistoric sites, nine were lithic scatters, five were milling sites, three were significant isolates (projectile points), one was a habitation site; one of the mixed prehistoric/historic sites included a prehistoric milling element and two included prehistoric flake scatters.
- None of the unanticipated discoveries that occurred in May involved subsurface excavation/data recovery.

LOOKING FORWARD

- As of the end of May approximately 80 percent of the grubbing, grading, and other initial earth disturbance activities have been completed.
- Cultural monitoring activities are expected to continue into the summer of 2012.
- Numerous cultural artifacts have been collected during the monitoring program. As field monitoring declines, the focus of the overall cultural program is beginning to shift to the analysis, evaluation, interpretation, documentation, and curation of these cultural materials.

AECOM POINT OF CONTACT

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