

Freeman, Emma

From: Anna Hoover <ahoover@pechanga-nsn.gov>
Sent: Friday, July 15, 2016 6:47 PM
To: VIG/ASP
Cc: Ebru Ozdil; Andrea Fernandez
Subject: Pechanga Tribe Comments on the DEIR for Valley-Ivyglen Substation
Attachments: Pechanga Cmnts NOP Ivyglen-Fogarty Substation DEIR 7.15.16.pdf

To Whom It May Concern;

Electronically attached are the Pechanga Tribe's comments regarding the above named project. Please respond to this e-mail for confirmation of receipt. A hard copy will also follow via USPS.

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Please do not hesitate to contact me at 951-770-8104 or ahoover@pechanga-nsn.gov should the attachment not open or if you have any questions or comments.

Respectfully,

Anna M. Hoover
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Pechanga Band of Luiseno Indians
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PECHANGA CULTURAL RESOURCES
Temecula Band of Luiseño Mission Indians

Post Office, Box 2183 • Temecula, CA 92593
Telephone (951) 308-9295 • Fax (951) 506-9491

July 15, 2016

VIA E-MAIL and USPS

California Public Utilities Commission
RE: VIG/ASP
c/o Ecology and Environment, Inc.
505 Sansome Street, Suite #300
San Francisco, CA 94111

Re: Pechanga Tribe Comments on the Draft Environmental Impact Report for the Valley-Ivyglen Subtransmission Line Project and Alberhill System Project Draft EIR

To Whom It May Concern:

This comment letter is written on behalf of the Pechanga Band of Luiseño Indians (hereinafter, "the Tribe"), a federally recognized Indian tribe and sovereign government. The Tribe formally requests, pursuant to Public Resources Code §21092.2, to be notified and involved in the entire CEQA environmental review process for the duration of the above referenced project (the "Project"). If you have not done so already, please add the Tribe to your distribution list(s) for public notices and circulation of all documents, including environmental review documents, archeological reports, and all documents pertaining to this Project. The Tribe further requests to be directly notified of all public hearings and scheduled approvals concerning this Project. Please also incorporate these comments into the record of approval for this Project.

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The Tribe submits these comments concerning the Project's potential impacts to cultural resources in conjunction with the environmental review of the Project. The Tribe has previously submitted multiple comments and consulted directly with the California Public Utilities Commission (CPUC) on the sensitivity of the Project and the Traditional Cultural Properties (TCPs) that the Project will be affecting, as documented in the Draft Environmental Impact Report (DEIR). After review of the proposed mitigation measures, Pechanga is disappointed in the lack of Tribal involvement in almost all aspects of the proposed mitigation, including preparation of the Cultural Resources Monitoring and Treatment Plan (CRMTP) and associated documents, participation in Project Commitment B: Worker Environmental Awareness Plan (WEAP) program and in the evaluation/eligibility-determination of the cultural sites. Additionally, although the DEIR acknowledges that there are TCPs within the Project boundaries, there is no mitigation proposed to reduce the level of significance. Finally, the Pechanga Cultural Resources Department, including the monitoring program, has been formally organized since 1999, with tribal monitoring occurring for several decades before then. Our

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Chairperson:
Neal Ibanez

Vice Chairperson:
Bridgett Barcello

Committee Members:
Mary Bear Magee
Evie Gerber
Darlene Miranda
Richard B. Scearce, III
Michael Vasquez

Director:
Gary DuBois

Coordinator:
Paul Macarro

Planning Specialist:
Tuba Ebru Ozdil

Cultural Analyst:
Anna Hoover

tribal monitors are professionally trained and conduct a necessary service as they are responsible for identifying and trying to preserve as much of People, including their places and things, that once lived in this area. While the Tribe appreciates the opportunity to monitor projects within its ancestral territory, compensation should be offered for the professional service provided. Given the sensitivity of the Project area, it is the position of the Pechanga Tribe that Pechanga tribal monitors should be required to be present during all ground-disturbing activities conducted in connection with the Project, including any additional archeological excavations performed.

109-3 Cont.

THE CPUC MUST INCLUDE INVOLVEMENT OF AND CONSULTATION WITH THE PECHANGA TRIBE IN ITS ENVIRONMENTAL REVIEW PROCESS

It has been the intent of the Federal Government¹ and the State of California² that Indian tribes be consulted with regard to issues which impact cultural and spiritual resources, as well as other governmental concerns. The responsibility to consult with Indian tribes stems from the unique government-to-government relationship between the United States and Indian tribes. This arises when tribal interests are affected by the actions of governmental agencies and departments. In this case, it is undisputed that the project lies within the Pechanga Tribe's traditional territory. Therefore, in order to comply with CEQA and other applicable Federal and California law, it is imperative that the California Public Resources Commission consult with the Tribe in order to guarantee an adequate knowledge base for an appropriate evaluation of the Project effects, as well as generating adequate mitigation measures.

109-4

Additionally, the DEIR does not mention AB 52 in Section 4.5.2 Regulatory Setting and Subsection 4.5.2.2 State. As you know, effective July 1, 2015, CEQA was amended to include an entirely new category of resources, "Tribal Cultural Resources." The report only cites to the CEQA Guidelines provisions regarding the significance of impacts to archaeological and historical resources, while failing to mention this new category of resources. In order to accurately reflect the regulatory framework, the DEIR should be updated to include reference to these changes in the law.

109-5

PECHANGA CULTURAL AFFILIATION TO PROJECT AREA

The Pechanga Tribe asserts that the Project area is part of Luiseño, and therefore the Tribe's, aboriginal territory as evidenced by the existence of named places, *tóota yixélval* (rock art, pictographs, petroglyphs), Traditional Cultural Properties and landscapes, village complexes, and an extensive Luiseño artifact record in the vicinity of the Project. This culturally sensitive area is affiliated with the Pechanga Band of Luiseño Indians because of the Tribe's cultural ties to this area as well as extensive history with both this Project and other projects within the area.

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¹See e.g., Executive Memorandum of April 29, 1994 on Government-to-Government Relations with Native American Tribal Governments, Executive Order of November 6, 2000 on Consultation and Coordination with Indian Tribal Governments, Executive Memorandum of September 23, 2004 on Government-to-Government Relationships with Tribal Governments, and Executive Memorandum of November 5, 2009 on Tribal Consultation.

² See California Public Resource Code §5097.9 et seq.; California Government Code §§65351, 65352.3 and 65352.4

109-6 Cont.

The Pechanga Tribe has a specific legal and cultural interest in this Project as the Tribe is culturally affiliated with the geographic area that comprises the Project property and is the closest affiliated tribe to the Property. The Tribe has been named the Most Likely Descendent (Cal. Pub. Res. C. §5097.98) on Projects in the nearby vicinity of the proposed Project and has specific knowledge of cultural resources and sacred places near the proposed Project which we have shared with the CPUC on previous occasions on this and other projects.

109-6 Cont.

The Tribe welcomes the opportunity to meet with the CPUC to further explain and provide documentation concerning our specific cultural affiliation to lands within your jurisdiction, if so desired.

PROJECT MITIGATION MEASURES

The proposed Project is on land that is within the traditional territory of the Pechanga Band of Luiseño Indians. The Pechanga Band is not opposed to this Project; however, we are opposed to any direct, indirect and cumulative impacts this Project may have to tribal cultural resources, including TCPs. The Tribe's primary concerns stem from the Project's proposed impacts on Native American cultural resources. The Tribe is concerned about both the protection of unique and irreplaceable cultural resources, such as Luiseño village sites, sacred sites and archaeological items which would be displaced by ground disturbing work on the Project, and on the proper and lawful treatment of cultural items, Native American human remains and sacred items likely to be discovered in the course of the work.

109-7

After review of the DEIR, the Pechanga Tribe suggests revisions to the Project Commitment B: Worker Environmental Awareness Plan to include Tribal participation as one of the goals of the plan is to make workers on the Project aware of the potential to impact the Tribe's ancestors and their belongings. It only makes sense to include the contemporary descendants of the indigenous people who once lived in this area in an Awareness Plan. Pechanga knows that Southern California Edison (SCE) has involved other tribes in these trainings and Pechanga requests the same inclusion.

109-8

Further, inclusion in the survey required in **MM CR-1a** by a Tribal monitor should be required. As we have participated in various other surveys conducted for the Project, we should also be included in any required under this mitigation measure. Line 7 on page 4.5-24 should read: "archaeologist or cultural resources specialist and Native American tribal monitor(s) and reviewed and approved by the CPUC. If a resource is."

109-9

Line 17 of **MM CR-1b** must also include participation by the Pechanga Tribe and should be revised to read: "Retain a qualified archaeologist, who shall prepare the CRMTP in consultation with the Native American Tribe(s), to oversee archaeological and." The required Evaluation Plan, Data Recovery Plan, Data Recovery Memo and the Data Recovery Report must also be prepared in consultation with the Native American Tribe(s).

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As stated above, the Pechanga Tribal monitors provide a professional service, one which is taken very seriously, as the monitoring process is oftentimes the last anyone will observe of the

109-11

Ancestors. While the Tribe appreciates the opportunity to monitor projects within its ancestral territory, compensation should be offered for the professional service provided. Just as the CPUC requires retention of the project archaeologist, construction operators, biologists and other technical advisors, Tribes must be afforded the same respect and be retained and offered compensation for their services. Thus, **MM CR-2** Line 18 of page 4.5-26 should be revised to read: "Retain one Native American monitor from each tribe that has requested involvement (Pechanga and Soboba) to observe ground-disturbing activities and all work at P33-00714,."

109-11 Cont.

Finally, the Pechanga Tribe requests that the CPUC provide appropriate mitigation to address the impacts to the Traditional Cultural Properties that were acknowledged in the DEIR but not afforded proper mitigation. This mitigation could include but is not limited to: ethnographic and landscape studies, climate change studies, rock art studies, TCP analysis, visual studies and associated mitigation to lessen pole impacts, joint publications and/or presentations at professional meetings, interpretative signage (if appropriate), traditional ecological knowledge experiments and studies, and/or others as appropriate. Additional consultation with the CPUC and the Pechanga Tribe should occur in order to determine the best mitigation type for the Project.

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The Tribe reserves the right to fully participate in the environmental review process, as well as to provide further comment on the Project's impacts to cultural resources and potential mitigation for such impacts.

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The Pechanga Tribe looks forward to working together with the CPUC in protecting the invaluable Pechanga cultural resources found in the Project area. Please contact me at 951-770-8104 or at ahoover@pechanga-nsn.gov once you have had a chance to review these comments so that we might address any outstanding issues concerning the mitigation language. Thank you.

109-14

Sincerely,



Anna Hoover
Cultural Analyst/Assistant THPO

Cc Pechanga Office of the General Counsel