

Response to Document No. C1

Native American Heritage Commission (Dave Singleton)

Dated December 28, 2010

C1-1 This comment explains the role of the Native American Heritage Commission (NAHC) in reviewing the Draft EIR/EIS and the authority of that state commission. The comment does not raise specific issues related to the adequacy of the environmental analysis in the EIR/EIS; therefore, no additional response is provided or required.

C1-2 As discussed within EIR/EIS Section D.7.1, Cultural and Paleontological Resources, record searches and intensive pedestrian surveys were completed for the Area of Potential Effect (APE) for each proposed project. The background research identified previously recorded archaeological sites and surveys recorded additional sites. Additionally, requests for searches of the Native American Heritage Commission (NAHC) Sacred Lands File for the ECO Substation Project were requested in 2008, and for the Tule Wind and ESJ Gen-Tie projects in 2009. For each project, the NAHC provided a list of culturally affiliated tribes and interested Native American individuals, who were contacted for early consultation regarding the Proposed PROJECT and the APE. The BLM has been conducting government-to-government consultation with federal tribes as part of the National Historic Preservation Act (NHPA) Section 106 process. That consultation is ongoing. The cultural resources mitigation measures listed in Table D.7-13, Mitigation Monitoring, Compliance, and Reporting–ECO Substation, Tule Wind, and ESJ Gen-Tie Projects–Cultural and Paleontological Resources, would ensure that impacts to significant archaeological resources are minimized, including unanticipated discoveries during construction.

C1-3 The cultural resources section of the EIR/EIS, Section D.7.1, under Methodology and Assumptions, describes the data collection methods used in the evaluation of impacts to cultural resources for each project, including the ECO Substation, Tule Wind, and ESJ Gen-Tie projects. As described in the EIR/EIS, data collection included consultation with various Native American representatives. Information regarding Native American consultation conducted for each project is outlined below.

ECO Substation: A request for a Sacred Lands File search was sent to the NAHC on July 18, 2008, and subsequent consultation letters were sent to individual tribes on July 29, 2008, seeking additional information regarding cultural resources. A Native American consultation meeting was held on April 19, 2011, at the Highlands Senior Center, Jacumba, CA, organized by the BLM as part of their National

Historic Preservation Act Section 106 compliance. Concerns were identified regarding the potential for the Proposed PROJECT to impact prehistoric archaeological sites containing creations and burials, such as CA-SDI-6776. Native American consultation participants requested that Native American monitors are involved during initial archaeological surveys. The number of archaeological sites recorded in the McCain and Jacumba Valley suggest that the area should be designated a National Register of Historic Places (NRHP)-historical district under the NHPA. Native Americans were involved with many of the Class III intensive field surveys, and consultation has included site visits to recorded sites that would potentially be impacted by project development. Consultation is ongoing.

Tule Wind: A request for a Sacred Lands File search was sent to the NAHC on September 10, 2009. The NAHC responded on September 15, 2009, indicating that Native American cultural resources exist within a one-half-mile radius of the project area. Consultation letters were sent to individual tribes on December 19, 2008, and December 9, 2009, seeking additional information regarding cultural resources. A Native American consultation meeting was held on March 1, 2011, at the Highlands Senior Center, Jacumba, CA, organized by the BLM as part of their National Historic Preservation Act Section 106 compliance. Concerns were expressed relative to the number of archaeological sites recorded in the McCain and Jacumba Valley that suggest that the area should be designated a NRHP-historical district under the NHPA. Native Americans were involved with many of the Class III intensive field surveys, and consultation has included site visits to recorded sites that would potentially be impacted by project development. In addition, during the field survey the Manzanita Tribe requested that a visual analysis be conducted of the landform known as Thumb Rock, which was prepared by the applicant's consultant. Follow-up phone calls to and site visits with tribal representatives were undertaken. Consultation is ongoing.

ESJ Gen-Tie: A request for a Sacred Lands File search was sent to the NAHC on March 19, 2009. A response was received on March 27, 2009, and immediately forwarded to San Diego County to establish government-to-government consultation. Individual tribes were contacted by telephone on April 2, 2009. Two tribal members of the Kumeyaay and Quechan Indian tribes were contacted to solicit their participation in a survey; both declined participation in the survey. Additional contact was made with these two tribal members by telephone on February 3, 2010, to consult regarding the testing program and findings. One member declined participation and, as a result of the discussion with the other member, additional information on the findings, a project description, a location map, and a response form for any additional comments or questions was provided to that member.

As documented in Appendix D of the Final Archaeological and Historical Investigations for the Energia Sierra Juarez U.S. Gen-Tie Line Project found on the CPUC project website, (http://www.cpuc.ca.gov/environment/info/dudek/ECOSUB/TechStudies/ESJ_AltAlign_ArchRpt.pdf), the groups enclosed in the NAHC's letter (March 27, 2009), amongst others, were contacted with regard to the Proposed PROJECT.

In addition, the Department of Energy (DOE), the NEPA lead agency for the ESJ Transmission Line EIS, conducted Native American consultation. Information regarding DOE's consultation can found on DOE's EIS Transmission Line project website, (<http://esjprojecteis.org/consultation.htm>). Based on a meeting summary memo dated September 16, 2009, the Campo Band of Kumeyaay (Mission) Indians was supportive of the project and considered the meeting sufficient for closure of consultation. Further, on November 30, 2009, the Quechan Indian Tribe notified DOE that because "the proposed project lies outside of the traditional land area of the Quechan...the Tribe will defer all comments on this project to the Kumeyaay and will support the Tribe as needed."

As stated in response C1-2, BLM's government-to-government consultation with tribes is ongoing for the ECO Substation and Tule Wind projects and continued meetings are taking place.

C1-4 As illustrated within EIR/EIS Section D.7, Cultural and Paleontological Resources, in addition to multiple searches and surveys for cultural resources, the Class III field surveys of the project APE included record searches of the California Historic Resources Information System, South Central Coastal Archaeological Information Center, San Diego State University. The records searches included a review of the California Register of Historic Resources (CRHR), the National Register of Historic Places (NRHP), and all previous investigations resulting in archaeological site records to identifying cultural resources. Native Americans were involved with many of the Class III intensive field surveys, and consultation has included site visits to recorded sites that would potentially be impacted by project development.

C1-5 Please refer to responses C1-2 and C1-3. As described in response C1-3, although contacts have been made with identified knowledgeable Native American tribes and individuals associated with the BLM Section 106 consultation process, the formal consultation process associated with the ECO Substation and Tule Wind projects dictated by the NHPA Section 106 process is ongoing. Therefore, the scope, nature, extent, and potential significance of any Traditional Cultural Properties (TCPs) associated with the APEs for these two projects are not

presently known. Consequently, the EIR/EIS includes Mitigation Measure CUL-1H that requires the applicant for each project to provide assistance to the lead agency, as requested, to complete required government-to-government consultation with interested Native American tribes and individuals (Executive Memorandum of April 29, 1994, and Section 106 of the NHPA) and other traditional groups to assess the impact of the approved project on TCPs or other resources of Native American concerns. As directed by the lead agency, the applicant will undertake required treatments, studies, or other actions that result from consultation.

- C1-6** EIR/EIS Section D.7.3 evaluates all potential impacts to cultural resources as appropriate under CEQA and NEPA. Table D.7-13 identifies detailed mitigation measures to reduce potential impacts to the greatest extent feasible for each project. Such mitigation includes measures such as CUL-1A, develop and implement a historic properties-cultural resources treatment program; CUL-1B, avoid significant resources; CUL-1C, training for contractor; CUL-1D, construction monitoring; CUL-1E, discovery of unknown resources; CUL-1F, control unauthorized access; CUL-1G, funding of law enforcement patrols; CUL-1H, continue consultation with Native Americans and other traditional groups; and CUL-2, human remains (Native American consultation consistent with NAGPRA (Native American Graves Protection and Repatriation Act) and California Public Resources Codes shall be undertaken if human remains are found). Both the ECO Substation and Tule Wind project alignments have been refined to avoid sensitive cultural resources identified during Native American consultation. The Final EIR/EIS discloses the residual impacts on these resources. A Memorandum of Agreement will address Native American concerns in the treatment of all cultural resources that are not completely avoided, including participation in monitoring construction, as considered necessary.
- C1-7** As required by CEQA and NEPA, the EIR/EIS does not disclose specific information that violates any requirements related to the confidentiality of sacred sites or important archaeological resources.
- C1-8** As discussed within EIR/EIS Section D.7, Cultural and Paleontological Resources, extensive evaluation and review of cultural resources and potential environmental impacts to such resources has been performed. The evaluation has included consultation with the NAHC and appropriate Native Americans and tribes (refer to response C1-3). Further, Mitigation Measures CUL-1H and CUL-2 are in place to ensure additional Native American consultation, including the legal and ethical treatment consistent with NAGPRA and California Public Resources

Codes of any human remains located within the APE, and Native American monitoring during construction. Response C1-6 explains that the ECO Substation and Tule Wind projects have been refined to avoid sensitive cultural resources identified during Native American consultation.

C1-9 Pursuant to EIR/EIS Mitigation Measure CUL-2 (Table D.7-13), all locations of known Native American human remains shall be avoided through project design and designation as ESAs if within 100 feet of project components. During construction, if human remains are encountered on non-federal (state, county, or private) lands, no further disturbance shall occur until the San Diego County Coroner has made the necessary findings as to the origin of the human remains. On federal lands, Native American consultation consistent with NAGPRA shall be undertaken and any remains shall be left in place and protected from disturbance until a final decision as to the treatment and disposition has been made. On non-federal (state, county, or private) lands, if the San Diego County Coroner determines the remains are Native American, the NAHC shall be contacted and shall identify the “most likely descendant.” The most likely descendant shall then make recommendations and engage in required consultation concerning the treatment of the remains as appropriate. Avoidance and protection of inadvertent discoveries which contain human remains shall be the preferred protection strategy with complete avoidance of impacts to such resources protected from direct project impacts by project redesign. The applicant shall follow all state and federal laws, statutes, and regulations that govern the treatment of human remains. The Applicant shall comply with and implement all required actions and studies that result from such consultations, as directed by the agency.

C1-10 Please refer to response C1-3. During scoping for the Draft EIR/EIS, a Notice of Preparation (NOP) was sent to the NAHC as well as 21 Native American tribes and interested Native American individuals. Following receipt of the NAHC comment letter on the NOP, the notice of availability of the Draft EIR/EIS was sent to three additional interested Native American tribes and/or individuals that were not on the original distribution list.

Response to Document No. C2

Ewiiapaayp Band of Kumeyaay Indians (William Micklin)

Dated January 19, 2011

- C2-1** Mitigation Measure HAZ-6 requires that the applicant establish a safety zone or setback for wind turbines and provides an industry standard as basic guidance for establishing that setback. Furthermore, the mitigation measure requires that the lead agency review and approve the plan detailing proposed setbacks and safety zones at least 30 days prior to construction, which provides flexibility for the lead agency to approve appropriate safety zones and setbacks for the project. As a result, Mitigation Measure HAZ-6 has not been revised in the Final EIR/EIS as suggested by the commenter.
- C2-2** Please refer to common response INT2 regarding adequacy of the EIR/EIS. As described in Section A.5.3 of the Draft EIR/EIS, the Ewiiapaayp Band of Kumeyaay Indians may use this EIR/EIS for their permitting/approval processes. As noted in the comment, the Ewiiapaayp Band of Kumeyaay Indians has discretionary authority over the Tule Wind Project on tribal lands. Therefore, the Ewiiapaayp Band of Kumeyaay Indians/BIA would act as the NEPA lead agency in consideration of portions of the Tule within their jurisdiction. As a cooperating agency the Ewiiapaayp Band of Kumeyaay Indians could choose to either rely on the CPUC/BLM environmental document to meet their NEPA requirements or amend, supplement and/or prepare additional documentation to meet the Ewiiapaayp Band of Kumeyaay Indians environmental compliance needs.

Response to Document No. C3

Manzanita Band of the Kumeyaay Nation (Leroy Elliott) Dated March 2, 2011

- C3-1** The comment is noted and will be included in the administrative record. This comment indicates the Manzanita Band of the Kumeyaay Nation's general support for renewable projects. Further, the comment does not raise specific issues related to the adequacy of the environmental analysis in the EIR/EIS; therefore, no additional response is provided or required.
- C3-2** In response to this comment, Tables ES-1, A-1, and D.4-1, Agency Jurisdiction of Project Components, in the Final EIR/EIS have been modified to reflect that the Bureau of Indian Affairs has jurisdiction over the Manzanita Wind Project proposed on tribal lands, in accordance with 40 CFR 1502.9(b). These changes and additions to the EIR/EIS do not raise important new issues about significant effects on the environment. Such changes are insignificant as the term is used in Section 15088.5(b) of the CEQA Guidelines, and under NEPA do not result in new significant circumstances or information relevant to environmental concerns, or require analysis of a new alternative (40 CFR 1502.9(c)(1)(ii)).
- C3-3** The commenter's opposition to the project is noted and will be included in the project record for consideration during project deliberation. Please refer to common response CUL1 and response C3-4 for a discussion with regard to the measures included to avoid and protect significant cultural resources. Potential project impacts on golden eagles, including loss of potential foraging habitat, would be fully mitigated by the restoration and preservation of comparable habitat in the project vicinity.
- C3-4** The BLM has been conducting government-to-government consultation with federal tribes as part of the NHPA Section 106 process, including the Manzanita Band of the Kumeyaay Nation. That consultation is ongoing. Please refer to comment response CUL1 with regards to Native American consultation. The cultural resources mitigation measures listed in EIR/EIS Table D.7-13 (Mitigation Monitoring, Compliance, and Reporting—ECO Substation, Tule Wind, and ESJ Gen-Tie Projects—Cultural and Paleontological Resources) would ensure that impacts to significant cultural resources are minimized, including unanticipated discoveries during construction. EIR/EIS Table D.7-13 identifies detailed mitigation measures to reduce potential impacts to the greatest extent feasible for each project. Such mitigation includes Mitigation Measures CUL-1A, develop and implement a historic properties-cultural resources treatment program; CUL-

1B, avoid significant resources; CUL-1C, training for contractor, CUL-1D; construction monitoring; CUL-1E, discovery of unknown resources; CUL-1F, control unauthorized access; CUL-1G, funding of law enforcement patrols; CUL-1H, continue consultation with Native Americans and other traditional groups; and CUL-2, human remains (Native American consultation consistent with NAGPRA (Native American Graves Protection and Repatriation Act) shall be undertaken if human remains are found). Both the ECO Substation and Tule Wind project alignments have been refined to avoid sensitive cultural resources identified during Native American consultation. The Final EIR/EIS discloses the residual impacts on these resources. A Memorandum of Agreement will address Native American concerns relative to the treatment of all cultural resources that are not completely avoided, including participation in monitoring construction, as considered necessary (see Appendix 10 of the Final EIR/EIS for copies of the Tule Wind and ECO Substation Section 106 Memorandum of Agreements). Please also see common response CUL1.

C3-5 Please refer to responses C3-3 and C3-4. The commenter's opposition to the project is noted and will be included in the administrative record.

Response to Document No. C4

Campo Band of Mission Indians (Monique LaChappa)

Dated March 3, 2011

- C4-1** This comment is an introduction to comments that follow and indicates the Campo Band of the Mission Indians' support for the approach used to address the Campo Wind Project at a programmatic level.
- C4-2** In response to this comment, EIR/EIS Figure D.2-9 in Section D.2, Biological Resources, has been modified in the Final EIR/EIS to account for redesignation of Quino checkerspot habitat by the U.S. Fish and Wildlife Service (USFWS) in accordance with 40 CFR 1502.9(b). While Final EIR/EIS Figure D.2-9A depicts USFWS proposed critical habitat for the Quino checkerspot butterfly in the project area, Figure D.2-9B depicts final revised critical habitat as designated by the USFWS and published in Volume 74, Number 115 of the Federal Register. The final revised designation (which reflects new information received by USFWS regarding subspecies description, life history, ecology, habitat, and range) resulted in the reduction of approximately 109,479 acres (as compared to the proposed designation) of USFWS critical habitat for the Quino checkerspot butterfly in San Diego and Riverside counties.
- These changes and additions to the EIR/EIS do not raise important new issues about significant effects on the environment. Such changes are insignificant as the term is used in Section 15088.5(b) of the CEQA Guidelines, and under NEPA do not result in new significant circumstances or information relevant to environmental concerns, or require analysis of a new alternative (40 CFR 1502.9(c)(1)(ii)).
- C4-3** The comment does not contain new information that significantly changes the intent of the referenced discussion, namely, that the proposed Campo Wind Energy Project would be regulated under statutes and regulations of the Campo Band EPA as well as applicable BIA regulations, policies, and guidance. Therefore, no revisions have been incorporated into the Final EIR/EIS as a result of this comment.
- C4-4** Please refer to response C3-2 regarding revisions to EIR/EIS Table A-1 in the Final EIR/EIS with regard to CPUC's jurisdiction.
- C4-5** Please refer to common responses CUL1 through CUL3 regarding Native American consultation and assessment of regional cumulative impacts on cultural sites.

Response to Document No. C5

Ewiiapaayp Band of Kumeyaay Indians (Robert Pinto, Sr., and William Micklin) **Dated March 3, 2011**

- C5-1** The comment is an introduction to the comments that follow. This comment indicates Ewiiapaayp Band of Kumeyaay Indian's support for renewable projects; however, outlines areas where they disagree with the EIR/EIS analysis. The comment also states that the Tribe is not subject to the California Environmental Quality Act (CEQA). The comment is acknowledged and will be included in the project record. Please refer to common response INT2 for discussion on purpose of the EIR/EIS.
- C5-2** The comment is noted and will be included in the administrative record.
- C5-3** The comment is noted that the Tribe's opinion is that the project should be approved as proposed and that they disagree with BLMs preferred alternative as proposed in the Draft EIR/EIS. The comment is noted and will be included in the administrative record.
- C5-4** The comment is noted that the Tribe's opinion is that the Tule Wind Alternative 5, Reduction in Turbines should be eliminated from the EIR/EIS as it threatens the financial viability of the Tule Wind Project. Please refer to comment C5-3 regarding comments on BLMs preferred alternative. The comment is noted and will be included in the administrative record.

As described in the Executive Summary of the EIR/EIS under Section ES.1, Introduction, the document has been prepared as a joint CEQA and NEPA document. Section D.1.2, CEQA vs. NEPA Criteria, of the EIR/EIS describes that a joint EIR/EIS must comply with both federal NEPA and state CEQA Guidelines. Therefore, throughout the EIR/EIS, references to significant impacts are made to fulfill the requirements of CEQA pursuant to the standards of California law. Under NEPA, impacts, whether significant or not, were disclosed and analyzed.

Please refer to common response INT2 regarding the adequacy of the EIR/EIS analysis in accordance with both NEPA and CEQA. Please also refer to common response FIRE5, which addresses receipt of the Tule Wind, LLC Fire Protection Plan (FPP) as well as Development Agreements with San Diego Rural Fire Protection District (SDRFPD) and San Diego County Fire Authority (SDCFA).

C5-5 The comment is noted. Please refer to common response INT2 regarding the adequacy of the document and significance determinations. Also, refer to common response BIO1 regarding impacts to golden eagle. The Tribe's opinion regarding the change of significance determination for golden eagle is noted and will be included in the project record.

The comment is noted that the Tribe's opinion is that the Tule Wind Alternative 5, Reduction in Turbines should be eliminated from the EIR/EIS as it threatens the financial viability of the Tule Wind Project. Please refer to comment C5-3 regarding comments on BLMs preferred alternative. The comment is noted and will be included in the administrative record.

C5-6 The comment regarding the Tribe's opinion regarding the project objectives is noted and will be included in the administrative record. Please refer to common response INT2 regarding the adequacy of the EIR/EIS as well as the purpose of the EIR/EIS. CPUC, as CEQA lead agency will use the Final EIR/EIS, in conjunction with other information developed in the CPUC's formal record, to act only on SDG&E's application for a PTC to construct and operate the proposed ECO Substation. The BLM, as NEPA lead agency, will issue a ROD, one for the ECO Substation Project and one for the Tule Wind Project. As described in common response INT2, the Bureau of Indian Affairs (BIA) and the Tribe have discretionary authority over portions of the Tule Wind Project on Tribal lands and therefore would act as the NEPA lead agency for consideration of portions of the Tule Wind Project within their jurisdiction. As cooperating agencies, the BIA and Tribe could choose to either rely on the CPUC/BLM environmental document to meet their NEPA requirements or amend, supplement and/or prepare additional documentation to meet their environmental compliance needs.

C5-7 The comments regarding the Tribe's opinion regarding the alternative screening requirements, project objectives, and Tule Wind alternatives, notably the Tule Wind Alternative 5, Reduction in Turbines, is noted and will be included in the administrative record.

Please refer to common responses ALT1 regarding the adequacy of the alternatives analyzed in the EIR/EIS. In accordance with NEPA (40 CFR 1502.14), Section C of the EIR/EIS rigorously explored 12 alternatives to the Tule Wind Project, including seven alternative location/configures and five design alternatives. Please also refer to common response INT2 and response C5-6 regarding that the Tribe may use the EIR/EIS for their permitting/approval process or amend, supplement and/or prepare additional documentation to meet their environmental compliance needs.

- C5-8** The comments and referenced studies indicating that the probability of golden eagle collision avoidance with turbines is “very high” as well as the Tribe’s disagreement with the EIR/EIS significance determination are noted and will be included in the administrative record. However, the rationale for the conclusions regarding potential impacts to eagles are stated in the EIR/EIS and in common response BIO1. Given the documented disagreement among experts on golden eagle behavior and collision risk (see also common response INT2 regarding disagreement among experts) and the lack of more specific data on the nesting golden eagles in the vicinity, the conclusions on potential risk to golden eagles and the significance determination for BIO-10 for the Tule Wind Project was based on the compilation of the information available, including species ecology, bird use data, encounter rate index, nest survey information, and the species’ population and regulatory status. Due to disagreement among experts and lack of specific data on the foraging behavior of the golden eagles in the nearest active nest, the EIR/EIS determined that there was risk of collision with turbines in the northern portion of the Tule Project area for golden eagle individuals occupying this active nest. Based on the regulatory status of this species and the documented population decline of the species in the region, the loss of a single bird and/or breeding pair as a result of collision was considered significant because it would contribute to the decline of the population in the region.
- C5-9** The comments regarding the mitigation measures for impacts from collisions are noted and will be included in the administrative record. Please refer to common response BIO1 which provides a more detailed response regarding golden eagle.
- The Tribe’s comments regarding permitting of golden eagle are noted; however, the EIR/EIS is a CEQA and NEPA compliance document and does not permit take of species.
- C5-10** Please refer to response C2-1 regarding Mitigation Measure HAZ-6 and setback requirements.
- C5-11** The comment is noted that the Tribe’s opinion is that the approved Tule Wind, LLC FPP and mitigation measures justify a conclusion that impacts should be categorized as Class II, not Class I. Based on final details of the approved Tule Wind, LLC FPP and Development Agreements with SDRFPD and SDCFA, impact classifications are reclassified as Class II impacts in Section D.15.3.3 in the Final EIR/EIS (see also Section D.15.5 and Tables D.15-4, D.15-6, and D.15-8 in the Final EIR/EIS). Please refer to common response FIRE5. The Final EIR/EIS in accordance with 40 CFR 1502.9(b) has been modified. These changes and additions to the EIR/EIS do not raise important new issues about significant

effects on the environment. Such changes are insignificant as the term is used in Section 15088.5(b) of the CEQA Guidelines and under NEPA, do not result in new significant circumstances or information relevant to environmental concerns, or require analysis of a new alternative (40 CFR 1502.9(c)(1)(ii)).

C5-12 The commenter provides opinions regarding the Tule Wind Project serving purposes of a Fire Break. Further, the comment indicates that presence of the Tule Wind project will reduce risk to fire suppression personnel. The commenter generalizes the term wind break, fire line, fire roads, etc., and how they are applicable to the project, and where each would be located if implemented. The comment indicates that if the project is approved, it will serve to reduce the fire threat and if the project is not approved, the fire break will not be possible. The project will provide fuel reduction within the delineated project footprint. However, it will not be consistent with a fire break with removal of vegetation to bare soil. Fuels will be reduced around wind turbine pads, along roads, and at other yards and vehicle use areas. Most of the disturbed area will be revegetated and the fuel reduction areas will not be contiguous. Therefore, it is inaccurate to consider the Tule Wind project a fire break. Further, Santa Ana wind driven fires have proven on numerous occasions, including the 2003 Cedar and 2007 Witch Creek Fires that burning embers can blow miles in front of a fire and are not affected by fire breaks.

C5-13 The comment refers to the updated Tule Wind Project FPP dated November 2010 and revised February 2011 and approved by the San Diego Rural Fire Protection District Board of Directors. The comment requests revisions to the EIR/EIS based on that FPP. This comment is noted and certain clarifying edits have been made to Section D.15.3.3 of the Final EIR/EIS (also Section D.15.5 and Tables D.15-4, D.15-6, and D.15-8) based on the updated, approved FPP and Development Agreements with SDRFPD and San Diego County Fire Authority. The items that are clarified in the Final EIR/EIS are addressed in the following responses to specific requested updates (responses C5-14 to C5-39). The Final EIR/EIS in accordance with 40 CFR 1502.9(b) has been modified. These changes and additions to the EIR/EIS do not raise important new issues about significant effects on the environment. Such changes are insignificant as the term is used in Section 15088.5(b) of the CEQA Guidelines and under NEPA, do not result in new significant circumstances or information relevant to environmental concerns, or require analysis of a new alternative (40 CFR 1502.9(c)(1)(ii)).

C5-14 The comment is noted but would not affect the analysis or conclusion of the EIR/EIS.

- C5-15** The comment refers to terminology related to equipment resulting in ignitions and requests clarification of composting vs. debris piles. The language provided in the EIR/EIS is appropriate and the suggested edit will not affect the analysis or conclusions of Section D.15.3.3. The term “compost piles” refers to any piling of organic materials that may result in organisms that breakdown the organic matter and generate heat. Changing the term compost to debris does not accurately portray the intended action that is being restricted.
- C5-16** The comment requests clarifying language regarding transformers, wind turbine heights, and capacitors. The clarifying language suggested would further define the use of these components at the site, but does not affect the analysis or conclusions in Section D.15.3.3. Therefore, no edits were made in the EIR/EIS.
- C5-17** The comment requests insertion of General Order 95 into text in Section D.15.1 in the EIR/EIS to suggest that it prevents vegetation ignitions. Even though GO 95 requires specific clearances between conductors and vegetation, a variety of factors may hinder efforts to comply, as was seen in the 2007 wildfires in San Diego County. Discussion of General Order 95 occurs in EIR/EIS Section D.15.1 and again in Section D.15.2. Inserting it where requested by the commenter would not alter the intent, analysis, or conclusions in Section D.15.3.3; therefore, no edits were made as a result of this comment in the Final EIR/EIS.
- C5-18** The comment requests changing the section titles of “Fires Caused by Wind Turbines” and “Fires Caused by Transformers” and insertion of language indicating the number of wind turbine fires each year caused by wind turbines and transformers in Section D.15.1 of the EIR/EIS. The section titles accurately portray the intent of the sections, which is to identify that wildfires can be caused by wind turbines and transformers that themselves catch fire from internal malfunctions. Also, the insertion of independently verified fire statistics in this section is not appropriate. The language is more suitable in Section D.15.3 (see Impact FF-2 for the Tule Wind Project) of the EIR/EIS to counter International Association of Electrical Inspectors (IAEI) provided information indicating up to 35 turbine fires per year. In response to this comment, Section D.15.3.3 has been modified in the Final EIR/EIS in accordance with 40 CFR 1502.9(b). These changes and additions to the EIR/EIS do not raise important new issues about significant effects on the environment. Such changes are insignificant as the term is used in Section 15088.5(b) of the CEQA Guidelines and under NEPA, do not result in new significant circumstances or information relevant to environmental concerns, or require analysis of a new alternative (40 CFR 1502.9(c)(1)(ii)).

- C5-19** This comment repeats information provided in comment C5-43. Please refer to that response.
- C5-20** The comment requests insertion of a discussion of the San Diego Rural Fire Protection District as first responder. The EIR/EIS includes several discussions of SDRFPD in Section D.15.1 and in Table D.15-8. The SDRFPD is sufficiently covered and identified as having jurisdiction in the area. Further discussion would not affect the analysis or conclusions presented in Section D.15.3.3.
- C5-21** The comment indicates that additional information should be provided to clarify the potential ignition sources and the additional measures that wind turbines will be provided to reduce the potential for ignition. The requested information is appropriately provided in Section D.15.3.3 (see Impact FF-2 for the Tule Wind Project) of the EIR/EIS. Inserting duplicative language as requested would have no effect on the analysis or conclusions provided in Section D.15.3.3.
- C5-22** The comment requests insertion of language in Section D.15.1 specifying that CAL FIRE contains 90% to 95% of all wildfires in its jurisdiction to 10 acres or less in an effort to provide perspective for the risk to regional assets. CAL FIRE's efficiency containing wildfire to 10 acres or less is not debated. Regardless of the efficiency containing 90% to 95% of wildfires to 10 acres, there is potential for 5% to 10% of all fires to escape containment. Historically, 90% of the acreage burned by wildfires occurs during extreme wind events, when CAL FIRE and other fire agencies, at best, have difficulty containing fires and more commonly, can only wait until winds subside. For perspective, CAL FIRE responds to an average of 5,700 wildfires per year in California burning hundreds of thousands or millions of acres (CAL FIRE 2010). Even though they may contain 90% to 95% of those fires to 10 acres or less, wind-driven fires often result in much larger, uncontrolled wildfires, especially in southern California, and repeatedly in San Diego County. The Cedar Fire alone burned 273,000 acres and four years later, the Witch Creek Fire burned nearly 200,000 acres, 40% of which had burned in 2003. Therefore, introduction of new ignition sources into this San Diego County designated Wildfire Corridor may have an effect on the regions' assets and insertion of the CAL FIRE efficiency information does not lessen that risk or have an effect on the analysis or conclusions in Section D.15.3.3.
- C5-23** The comment requests clarification language indicating that the International Fire Code (IFC) is not a federal regulation. The suggested language does clarify the IFC and its role and has been updated as requested in the Final EIR/EIS (in Section D.15.2.1). Additionally, this comment requests clarification to the section on the California Fire Code indicating that wind turbines are not addressed in the

Fire Code. Clarification has been made in Section D.15.2.2 of the Final EIR/EIS to specify the lack of fire codes regarding wind turbines. In response to this comment, Section D.15 has been modified in the Final EIR/EIS in accordance with 40 CFR 1502.9(b). These changes and additions to the EIR/EIS do not raise important new issues about significant effects on the environment. Such changes are insignificant as the term is used in Section 15088.5(b) of the CEQA Guidelines and under NEPA, do not result in new significant circumstances or information relevant to environmental concerns, or require analysis of a new alternative (40 CFR 1502.9(c)(1)(ii)).

C5-24 The Tule Wind Project applicant's name change from Pacific Wind Development to Tule Wind, LLC has been modified in Section D.15 and globally throughout the Final EIR/EIS in accordance with 40 CFR 1502.9(b). These changes and additions to the EIR/EIS do not raise important new issues about significant effects on the environment. Such changes are insignificant as the term is used in Section 15088.5(b) of the CEQA Guidelines and under NEPA, do not result in new significant circumstances or information relevant to environmental concerns, or require analysis of a new alternative (40 CFR 1502.9(c)(1)(ii)).

C5-25 In response to this comment, references to the County FPP content requirements website have been updated in Section D.15 of the Final EIR/EIS in accordance with 40 CFR 1502.9(b).

These changes and additions to the EIR/EIS do not raise important new issues about significant effects on the environment. Such changes are insignificant as the term is used in Section 15088.5(b) of the CEQA Guidelines and under NEPA, do not result in new significant circumstances or information relevant to environmental concerns, or require analysis of a new alternative (40 CFR 1502.9(c)(1)(ii)).

C5-26 The comment indicates updated information regarding the occurrence of fires in wind turbines. Comment provides evidence that previously stated fire statistics in the EIR/EIS are not accurate. Based on the updated information and the effect that the data has on the analysis and conclusions provided in Section D.15.3.3, the information has been added to Section D.15.3.3 (see Impact FF-2) of the Final EIR/EIS under the Tule Wind Project. In response to this comment, Section D.15.3.3 has been modified in the Final EIR/EIS in accordance with 40 CFR 1502.9(b). These changes and additions to the EIR/EIS do not raise important new issues about significant effects on the environment. Such changes are insignificant as the term is used in Section 15088.5(b) of the CEQA Guidelines and under NEPA, do not result in new significant circumstances or information relevant to

environmental concerns, or require analysis of a new alternative (40 CFR 1502.9(c)(1)(ii)).

C5-27 The comment requests clarification in the text that APMs and mitigation measures would be applicable during decommissioning. As described in Section B.4.3 of the EIR/EIS, Tule Wind, LLC is requesting a minimum 30-year ROW grant to construct and operate the Tule Wind Project and a final decommissioning plan would be developed in compliance with the standards and requirements for closing the site at that time, which would include APMs and mitigation measures.

C5-28 The comment requests clarification to the wildfire risk analysis based on the post-Draft EIR/EIS approved FPP submitted for Tule Wind Project. Based on the importance of the fire detection, suppression, and notifying systems in the wind turbine nacelles, clarifying language has been added to Section D.15.3.3 of the Final EIR/EIS. Please refer to common response FIRE5.

In response to this comment, Section D.15.3.3 has been modified in the Final EIR/EIS in accordance with 40 CFR 1502.9(b). These changes and additions to the EIR/EIS do not raise important new issues about significant effects on the environment. Such changes are insignificant as the term is used in Section 15088.5(b) of the CEQA Guidelines and under NEPA, do not result in new significant circumstances or information relevant to environmental concerns, or require analysis of a new alternative (40 CFR 1502.9(c)(1)(ii)).

C5-29 The suggested correction has been made to Section D.15.3.3 (under the heading “Wildfire Risk Analysis”) in the Final EIR/EIS. These changes and additions to the EIR/EIS do not raise important new issues about significant effects on the environment. Such changes are insignificant as the term is used in Section 15088.5(b) of the CEQA Guidelines and under NEPA, do not result in new significant circumstances or information relevant to environmental concerns, or require analysis of a new alternative (40 CFR 1502.9(c)(1)(ii)).

C5-30 The comment requests clarifying language be inserted to further indicate the readiness level of on-site employees and correctly updates number of full-time employees to 12. Additionally, the commenter asks if the 2,000 assets at risk number can be disputed. The clarifying language requested for insertion regarding the pre-planning and personnel fire awareness will not affect the analysis and conclusions in Section D.15.3.3 and therefore has not be included in the Final EIR/EIS. The number of employees has been corrected to state 12 permanent employees in Section D.15.3.3 of the Final EIR/EIS. Changes to the EIR/EIS do not raise important new issues about significant effects on the environment. Such changes are insignificant as

the term is used in Section 15088.5(b) of the CEQA Guidelines and under NEPA, do not result in new significant circumstances or information relevant to environmental concerns, or require analysis of a new alternative (40 CFR 1502.9(c)(1)(ii)).

San Diego County (comment letter B-8) clarified that the assets at risk are in excess of 16,000 assets. Disputing the number of assets at risk is highly subjective in nature, and therefore, is not be included in the Final EIR/EIS.

C5-31 The comment requests insertion of clarifying language consistent with the approved FPP for Tule Wind Project. The language provides updated technical information and a concise summary of the layered fire protection system available to provide mitigation for the fire risk presented by the project. The technical language has been updated in Sections D.15.3.3 and D.15.5 of the Final EIR/EIS. Impact classification updates are addressed in common response FIRE5. The commenter further requests deletion of Draft EIR/EIS language indicating that ignition sources can be managed but not controlled. The statement regards presence of PROJECT transmission lines. The comment provides no evidence contradicting the statement. The statement is a statement of fact and will remain in the Final EIR/EIS.

C5-32 Please refer to common response FIRE1. The comment requests clarification of discussion of potential interference of aerial firefighting by the Tule Wind Project's aerial infrastructure. In response to this comment and based on the post-Draft EIR/EIS information provided by CAL FIRE, the primary agency tasked with providing aerial firefighting in the area and the minimal impact CAL FIRE anticipates from the project's presence, Sections D.15.3.3 and D.15.5 and Tables D.15.4, D.15.6, and D.15.8 have been modified in the Final EIR/EIS in accordance with 40 CFR 1502.9(b). These changes and additions to the EIR/EIS do not raise important new issues about significant effects on the environment. Such changes are insignificant as the term is used in Section 15088.5(b) of the CEQA Guidelines and under NEPA, do not result in new significant circumstances or information relevant to environmental concerns, or require analysis of a new alternative (40 CFR 1502.9(c)(1)(ii)).

C5-33 The comment requests a source for deaths associated with firefighters being killed by electrical transmission lines. The Los Angeles Fire Department Training Bulletin Electrical Hazards (October 2010) indicates that at least 25 fire fighter deaths have occurred over the 20 year period from 1990 to 2010 from electrocution. Further, National Institute for Occupational Safety and Health (NIOSH) lists Line of Duty Deaths (<http://www.cdc.gov/niosh/fire/>). There are numerous documented incidences where at least a dozen firefighters were killed

by down power lines over the last two decades. Additionally, NFPA (2001) indicates 10 firefighter fatalities due to electrical structure contact during wildfire fighting. The comment further requests deletion of language referenced from the draft Boulevard Subregional Plan relating to difficulty fighting fires in wind turbines. The reference to the draft Boulevard Subregional is relevant and incorporates planning issues for the community and the volunteer/reserve fire department that are indicative of firefighting challenges posed by the Tule Wind Project. However, based on the approved FPP, Development Agreements and CAL FIRE's input post-Draft EIR/EIS publication and statements that funding will provide focused training for responding firefighters, indicating the overall risk is mitigated, Sections D.15.3.3 and D.15.5 and Tables D.15-4, D.15-6, and D.15-8 have been modified in the Final EIR/EIS in accordance with 40 CFR 1502.9(b). These changes and additions to the EIR/EIS do not raise important new issues about significant effects on the environment. Such changes are insignificant as the term is used in Section 15088.5(b) of the CEQA Guidelines and under NEPA, do not result in new significant circumstances or information relevant to environmental concerns, or require analysis of a new alternative (40 CFR 1502.9(c)(1)(ii)).

C5-34 The comment includes language indicating a request for insertion of a statement that defines the height of towers, the distance between towers, and the minimum drop height and how air attack helicopters could navigate through or above. However, the comment does not provide the actual heights or distances, only "xx" so the comment is incomplete and does not provide a verifiable argument for adding the language.

C5-35 The comment requests a source for providing a 500-foot buffer when fighting fire near an electrical transmission line. The 500-foot buffer is an arbitrary set back where firefighters would be less likely to contact energized components of a transmission line or other energized structure. In response, this information occurs in the Sunrise Powerlink EIS/EIR and indicates that most fire agencies have an internal policy regarding working near power lines that includes setbacks. Clarification of this issue is provided in the comment through the International Fire Service Safety Training Association guidelines. In response to this comment, Section D.15.3.3 (Impact FF-3/Tule Wind Project/Ground-Based Firefighting), has been modified in the Final EIR/EIS in accordance with 40 CFR 1502.9(b). These changes and additions to the EIR/EIS do not raise important new issues about significant effects on the environment. Such changes are insignificant as the term is used in Section 15088.5(b) of the CEQA Guidelines and under NEPA, do not result in new significant circumstances or information relevant to

environmental concerns, or require analysis of a new alternative (40 CFR 1502.9(c)(1)(ii)).

Additionally, the comment requests insertion of language pertaining to the heights of project related infrastructure compared against drop heights for firefighting helicopters and spacing of towers. In response to this comment, Section D.15.3.3 has been modified in support of the impact reduction to Class II for Impact FF-3 in the Final EIR/EIS in accordance with 40 CFR 1502.9(b). These changes and additions to the EIR/EIS do not raise important new issues about significant effects on the environment. Such changes are insignificant as the term is used in Section 15088.5(b) of the CEQA Guidelines and under NEPA, do not result in new significant circumstances or information relevant to environmental concerns, or require analysis of a new alternative (40 CFR 1502.9(c)(1)(ii)).

Finally, the comment refers to the local fire response agencies and requests more credit for their abilities to respond to fires at the Tule Wind facility. The EIR/EIS provides analysis and conclusion based on existing information. Introduction of a facility in a remote area with tall, energized infrastructure presents a type of firefighting that back-country, volunteer/reserve firefighters do not routinely encounter. Even with training, accidents happen, as evidenced by electrocution deaths that occur in areas where firefighters routinely encounter energized structures. Therefore, no language edits were made to the Final EIR/EIS with regards to providing credit to the local fire agencies for their ability to deal with fires at the site.

C5-36 The comment requests clarification of text regarding establishment of non-native plants in disturbed areas of the project. Based on numerous examples and experience with disturbed soils in San Diego County, it is not a matter of “if” non-native plants become established, but “when” they become established. Therefore, the Draft EIR/EIS language will be retained as it clearly describes the issue and the need for measures to effectively mitigate the potential impacts. The comment further requests confirmation of the anticipated number of acres associated with the project with the modified project layout. Please refer to responses to E1-19 through E1-43, which indicates changes made to the Final EIR/EIS based on the Tule Wind modified project layout.

C5-37 The comment requests that language be deleted regarding the No Project Alternative and statements that significant ignition sources and effects on firefighting effectiveness would no longer be realized. With the reduction of Impacts FF-2 and FF-3 from Class I to Class II for Tule Wind Project, language regarding the impacts on firefighting effectiveness has been revised in Sections

D.15.3.3 and D.15.5 and Tables D.15-4, D.15-6, and D.15-8 of the Final EIR/EIS to reflect the less-than-significant status. Please also refer to common response FIRE5.

C5-38

The comment requests clarification and uniform presentation of mitigation measure text. The Final EIR/EIS includes updates to the mitigation measure language based on the updated FPP and development agreement with SDRFPD and SDCFA (see revisions in Sections D.15.3.3 and D.15.5 and Tables D.15-4, D.15-6, and D.15-8 in the Final EIR/EIS). These changes and additions in the EIR/EIS do not raise important new issues about significant effects on the environment. Such changes are insignificant as the term is used in Section 15088.5(b) of the CEQA Guidelines and under NEPA, do not result in new significant circumstances or information relevant to environmental concerns, or require analysis of a new alternative (40 CFR 1502.9(c)(1)(ii)). Please refer to responses B9-10 through B9-18.

Note that the mitigation measures in the text of the EIR/EIS are written in order to apply to all projects analyzed including ECO Substation, Tule Wind, and ESJ Gen-Tie. The mitigation monitoring table (EIR/EIS Table D.15-8) tailors wording so it applies to each applicant. Therefore, text is not completely uniform between the mitigation measure in the EIR/EIS text versus the mitigation monitoring table.

C5-39

The comment requests clarifying language be added to document body text and Table D.15-8 for Mitigation Measure FF-3. Language refers to the development agreement and its applicability on federal land. Clarifying language is considered unnecessary, but related text has been deleted in Section D.15.3.3 of the Final EIR/EIS to avoid confusion of SDRFPD and other mutual aid responders not responding on lands outside their jurisdiction. In response to this comment, Mitigation Measure FF-3 in Table D.15-8 has been modified in the Final EIR/EIS in accordance with 40 CFR 1502.9(b). This deletion in the EIR/EIS does not raise important new issues about significant effects on the environment. Such changes are insignificant as the term is used in Section 15088.5(b) of the CEQA Guidelines and under NEPA, do not result in new significant circumstances or information relevant to environmental concerns, or require analysis of a new alternative (40 CFR 1502.9(c)(1)(ii)).

The comment also refers to Mitigation Measure FF-6, funding for FireSafe Council, and provides an internal note to obtain additional information from the fire agencies. No additional response is required to this comment.

Response to Document No. C6

Viejas Tribal Government (Anthony Pico)

Dated March 3, 2011

- C6-1** The Section 106 Native American consultation undertaken by the BLM is ongoing. Please refer to common responses CUL1 and CUL2 regarding Native American consultation and CUL3 regarding assessment of cumulative impacts on cultural resources. The Section 106 consultation process for the ECO Substation and Tule Wind projects is still underway. While there is not complete agreement between the Kumeyaay Bands, some have expressed to the BLM during government-to-government consultation the general sensitivity and sacredness of the overall Project area, and that the McCain and the Jacumba Valleys should be viewed as cultural landscapes. One tribe has informed the BLM that they have direct ancestral ties to both McCain Valley and Jacumba. In addition to tribal governments, individual Native Americans have also come forward to the BLM at various Section 106 meetings with information about certain special areas located within the project areas. With regards to the ECO Substation Project, the ethnographic literature documents that there are geographic landforms or features in or near the Jacumba Valley that are considered spiritually significant including sacred springs, a mountain used for ritual and ceremony, and an eagle eyrie. Archaeological sites with known cremation or funerary items are also considered very sensitive by contemporary Native Americans, and this has been expressed clearly to the BLM through the consultation process. Within the Tule Wind Project area specifically, the BLM has heard through its consultations with two tribes that the large granite boulder known as Lost Valley Rock (or its Kumeyaay name, “wekatoekush”), is still today considered an important geological feature that served as a guidepost for the Kumeyaay people traveling between the desert and the coast during prehistoric or ethnographic times. Archaeological sites with known cremation or funerary items are also considered very sensitive by contemporary Native Americans.
- C6-2** BLM is the lead agency for coordination of government-to-government Native American consultation pursuant to Section 106 of the National Historic Preservation Act (NHPA). The BLM encourages the Viejas Tribe to participate in ongoing consultation and meetings. This process is separate but parallel to the CEQA/NEPA environmental assessment effort that is responsible for preparing the EIR/EIS. The comment regarding the Section 106 Native American consultation process will be included in the project record for consideration during project deliberation.

The EIR/EIS characterizes the prehistoric use of the project area and vicinity. The entire project Area of Potential Effect (APE) has been intensively surveyed to identify the extent of any cultural resources, so that project planning can be refined to avoid or minimize potential impacts to the maximum extent feasible. The Final EIR/EIS addresses these refinements in location of transmission lines and access roads to feasibly avoid impacts to prehistoric sites.

Maps of archaeological sites are considered sensitive and confidential to protect their contents from the potential for improper artifact collection and vandalism; site locations are therefore not included in the publically distributed documents. The technical archaeological resource reports prepared in support of the Section 106 compliance process and preparation of the EIR/EIS are available to Native Americans for their confidential review. These data have been shared with Native American tribes during government-to-government consultation meetings. Site visits associated with these meetings have explained the relationship of the Proposed PROJECT to cultural resources identified in the field.

C6-3 Please refer to common responses CUL1 through CUL3 regarding BLM's consultation process with local Native Americans, discussion of how the entire ECO Substation, Tule Wind, and ESJ Gen-Tie Project APEs were systematically surveyed for the presence of any archaeological resources, and how cumulative impacts on cultural resources have been addressed. Native American concerns for Traditional Cultural Properties (TCPs), which are addressed under the eligibility criteria for listing on the National Register of Historic Places (NRHP), are addressed in Impact CUL-2.

EIR/EIS Mitigation Measure CUL-1A (Develop and Implement a Historic Properties Treatment Plan-Cultural Resources Management Plan (HPTP-CRMP)) states, "If potentially NRHP-eligible historic properties and CRHR-eligible historic resources are not avoidable, the HPTP-CRMP shall provide a process for evaluating NRHP and CRHR eligibility, consulting with Native Americans about site treatment, working with engineers to avoid resources."

C6-4 Please refer to response C6-3. Native American consultation is required when developing the HPTP-CRTP.

C6-5 The extent of Native American construction monitoring will be dictated by the results of Section 106 tribal consultation. These comments will be included in the project record for integration in the Section 106 Native American consultation efforts.

- C6-6** The identification of TCPs, including consideration of the cultural landscape, is addressed in EIR/EIS Impact CUL-3: Construction of the project would cause an adverse change to Traditional Cultural Properties. Biological resources within the project APE have been systematically inventoried and addressed in the EIR/EIS. Consideration of the project landscape, including biological resources, is a subject of ongoing Native American consultation efforts led by the BLM. Please refer to common response CUL1 regarding BLM Native American consultation. At this time, potential TCPs within the project area have not been identified such that impacts are conservatively considered potentially unavoidable. The comment is noted and will be included in the project record for consideration during project deliberation.
- C6-7** Please refer to response C6-3, which describes that EIR/EIS Mitigation Measure CUL-1A addresses potential project impacts on cultural resources.
- C6-8** Please refer to common response BIO1 regarding impacts to golden eagle. In addition, Mitigation Measures BIO-10b and 10h discuss the requirements for an Avian and Bat Protection Plan.

Response to Document No. C7

Kumeyaay Cultural Repatriation Committee (Steve Banegas)

Dated March 4, 2011

- C7-1** EIR/EIS Mitigation Measure CUL-2 identifies the process that the BLM, the federal lead agency under NEPA, or CPUC, the state lead agency under CEQA, will follow in the event that human remains are encountered within federal or state/local lands, respectively. This comment will be included in the project record to ensure that the Most Likely Descendant (MLD) representing the 12 Kumeyaay Bands in the project area is notified in regards to repatriation of human remains/artifacts.

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