

NATIVE AMERICAN HERITAGE COMMISSION

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July 97, 2010

Mr. Paul Murphey

Hearing and Special Projects

CALIFORNIA STATE WATER RESOURCES CONTROL BOARD

1001 "I" Street, 14th Floor
 Sacramento, CA 95814

Re: SCH#2009011010; CEQA Notice of Completion: draft Environmental Impact Report (DEIR) for the "EAGLE MOUNTAIN PUMPED STORAGE PROJECT, FERC PROJECT NO. 13123;" located near the town of Desert Center in the Chuckwalla Mountains of eastern Riverside County, California.

Dear Mr. Murphey :

The Native American Heritage Commission (NAHC) is the state 'trustee agency' pursuant to Public Resources Code §21070 for the protection and preservation of California's Native American Cultural Resources.. (Also see *Environmental Protection Information Center v. Johnson* (1985) 170 Cal App. 3rd 604). The California Environmental Quality Act (CEQA - CA Public Resources Code §21000-21177, amended in 2009) requires that any project that causes a substantial adverse change in the significance of an historical resource, that includes archaeological resources, is a 'significant effect' requiring the preparation of an Environmental Impact Report (EIR) per the California Code of Regulations §15064.5(b)(c)(f) CEQA guidelines). Section 15382 of the CEQA Guidelines defines a significant impact on the environment as "a substantial, or potentially substantial, adverse change in any of physical conditions within an area affected by the proposed project, including ... objects of historic or aesthetic significance." In order to comply with this provision, the lead agency is required to assess whether the project will have an adverse impact on these resources within the 'area of potential effect (APE), and if so, to mitigate that effect. To adequately assess the project-related impacts on historical resources, the Commission recommends the following.

The Native American Heritage Commission did perform a Sacred Lands File (SLF) search in the NAHC SLF Inventory, established by the Legislature pursuant to Public Resources Code §5097.94(a) and Native American Cultural Resources were not identified within the APE identified for the project. Early consultation with Native American tribes in your area is the best way to avoid unanticipated discoveries once a project is underway. Enclosed are the names of the nearest tribes and interested Native American individuals that the NAHC recommends as 'consulting parties,' for this purpose, that may have knowledge of the religious and cultural significance of the historic properties in the project area (e.g. APE). We recommend that you contact persons on the attached list of Native American contacts. A Native American Tribe or Tribal Elder may be the only source of information about a cultural resource.. Also, the NAHC recommends that a Native American Monitor or Native American culturally knowledgeable person be employed whenever a professional archaeologist is employed during the 'Initial Study' and in other phases of the environmental planning processes.. Furthermore we suggest that you contact the California Historic Resources Information System (CHRIS) at the Office of



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FERC 13123

Historic Preservation (OHP) Coordinator's office (at (916) 653-7278, for referral to the nearest OHP Information Center of which there are 10.

Consultation with tribes and interested Native American tribes and interested Native American individuals, as consulting parties, on the NAHC list, should be conducted in compliance with the requirements of federal NEPA (42 U.S.C. 4321-43351) and Section 106 and 4(f) of federal NHPA (16 U.S.C. 470 [f] *et seq.*), 36 CFR Part 800.3, the President's Council on Environmental Quality (CSQ; 42 U.S.C. 4371 *et seq.*) and NAGPRA (25 U.S.C. 3001-3013), as appropriate. The 1992 *Secretary of the Interior's Standards for the Treatment of Historic Properties* were revised so that they could be applied to all historic resource types included in the National Register of Historic Places and including *cultural landscapes*.

Lead agencies should consider avoidance, as defined in Section 15370 of the California Environmental Quality Act (CEQA) when significant cultural resources could be affected by a project. Also, Public Resources Code Section 5097.98 and Health & Safety Code Section 7050.5 provide for provisions for accidentally discovered archeological resources during construction and mandate the processes to be followed in the event of an accidental discovery of any human remains in a project location other than a 'dedicated cemetery. Discussion of these should be included in your environmental documents, as appropriate.

The authority for the SLF record search of the NAHC Sacred Lands Inventory, established by the California Legislature, is California Public Resources Code §5097.94(a) and is exempt from the CA Public Records Act (c.f. California Government Code §6254.10). The results of the SLF search are confidential. However, Native Americans on the attached contact list are not prohibited from and may wish to reveal the nature of identified cultural resources/historic properties. Confidentiality of 'historic properties of religious and cultural significance' may also be protected under Section 304 of the NHPA or at the Secretary of the Interior's discretion if not eligible for listing on the National Register of Historic Places. The Secretary may also be advised by the federal Indian Religious Freedom Act (cf. 42 U.S.C. 1996) in issuing a decision on whether or not to disclose items of religious and/or cultural significance identified in or near the APE and possibly threatened by proposed project activity.

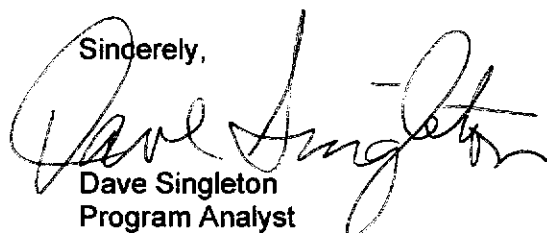
CEQA Guidelines, Section 15064.5(d) requires the lead agency to work with the Native Americans identified by this Commission if the initial Study identifies the presence or likely presence of Native American human remains within the APE. CEQA Guidelines provide for agreements with Native American, identified by the NAHC, to assure the appropriate and dignified treatment of Native American human remains and any associated grave liens. Although tribal consultation under the California Environmental Quality Act (CEQA; CA Public Resources Code Section 21000 – 21177) is 'advisory' rather than mandated, the NAHC does request 'lead agencies' to work with tribes and interested Native American individuals as 'consulting parties,' on the list provided by the NAHC in order that cultural resources will be protected. However, the 2006 SB 1059 the state enabling legislation to the Federal Energy Policy Act of 2005, does mandate tribal consultation for the 'electric transmission corridors. This is codified in the California Public Resources Code, Chapter 4.3, and §25330 to Division 15, requires consultation with California Native American tribes, and identifies both federally recognized and non-federally recognized on a list maintained by the NAHC

Health and Safety Code §7050.5, Public Resources Code §5097.98 and Sec. §15064.5 (d) of the California Code of Regulations (CEQA Guidelines) mandate procedures to be followed, including that construction or excavation be stopped in the event of an accidental discovery of any human remains in a location other than a dedicated cemetery until the county coroner or medical examiner can determine whether the remains are those of a Native American. . Note that §7052 of the Health & Safety Code states that disturbance of Native American cemeteries is a felony.

Again, Lead agencies should consider avoidance, as defined in §15370 of the California Code of Regulations (CEQA Guidelines), when significant cultural resources are discovered during the course of project planning and implementation.

Please feel free to contact me at (916) 653-6251 if you have any questions.

Sincerely,

A handwritten signature in cursive script, appearing to read "Dave Singleton".

Dave Singleton
Program Analyst

Attachment: List of Native American Contacts

Cc: State Clearinghouse

Native American Contacts
Riverside County
July 29 2010

Cabazon Band of Mission Indians
David Roosevelt, Chairperson
84-245 Indio Springs Cahuilla
Indio , CA 92203-3499
(760) 342-2593
(760) 347-7880 Fax

Joseph R. Benitez (Mike)
P.O. Box 1829 Chemehuevi
Indio , CA 92201
(760) 408-4089 - cell
(760) 347-0488

Pauma & Yuima
Christobal C. Devers, Chairperson
P.O. Box 369 Luiseno
Pauma Valley CA 92061
paumareservation@aol.com
(760) 742-1289
(760) 742-3422 Fax

Chemehuevi Reservation
Charles Wood, Chairperson
P.O. Box 1976 Chemehuevi
Chemehuevi Valley CA 92363
chair1cit@yahoo.com
(760) 858-4301
(760) 858-5400 Fax

Ramona Band of Cahuilla Mission Indians
Joseph Hamilton, Chairman
P.O. Box 391670 Cahuilla
Anza , CA 92539
admin@ramonatribe.com
(951) 763-4105
(951) 763-4325 Fax

Fort Mojave Indian Tribe
Tim Williams, Chairperson
500 Merriman Ave Mojave
Needles , CA 92363
(760) 629-4591
(760) 629-5767 Fax

Twenty-Nine Palms Band of Mission Indians
Darrell Mike, Chairperson
46-200 Harrison Place Chemehuevi
Coachella , CA 92236
tribal-epa@worldnet.att.net
(760) 775-5566
(760) 775-4639 Fax

Chemehuevi Reservation
Charles Wood, Chairperson
P.O. Box 1976 Chemehuevi
Chemehuevi Valley CA 92363
chair1cit@yahoo.com
(760) 858-4301
(760) 858-5400 Fax

This list is current only as of the date of this document.

Distribution of this list does not relieve any person of statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5097.94 of the Public Resources Code and Section 5097.98 of the Public Resources Code. Also, federal National Environmental Policy Act (NEPA), National Historic Preservation Act, Section 106 and federal NAGPRA. And 36 CFR Part 800.3.

This list is only applicable for contacting local Native Americans with regard to cultural resources for the proposed SCH#2009011010; CEQA Notice of Completion; draft Environmental Impact Report (DEIR) for the Eagle Mountain Pumped Storage Project EIR; located near the town of desert Center in eastern Riverside County, California.

Native American Contacts
Riverside County
July 29 2010

Colorado River Reservation
Ginger Scott, Acting Cultural Contact
Route 1, Box 23-B Mojave
Parker, AZ 85344 Chemehuevi
symi@rraz.net
(928) 669-9211
(928) 669-5675 Fax

Augustine Band of Cahuilla Mission Indians
Mary Ann Green, Chairperson
P.O. Box 846 Cahuilla
Coachella, CA 92236
(760) 369-7171
760-369-7161

Torres-Martinez Desert Cahuilla Indians
Ernest Morreo
PO Box 1160 Cahuilla
Thermal, CA 92274
maxtm@aol.com
(760) 397-0300
(760) 397-8146 Fax

Morongo Band of Mission Indians
Michael Contreras, Cultural Heritage Prog.
12700 Pumarra Road Cahuilla
Banning, CA 92220 Serrano
mcontreras@monongo-nsn.
(951) 755-5025
(951) 201-1866 - cell
(951) 922-0105 Fax

AhaMaKav Cultural Society, Fort Mojave Indian
Linda Otero, Director
P.O. Box 5990 Mojave
Mohave Valley AZ 86440
lindaotero@fortmojave.com
(928) 768-4475
(928) 768-7996 Fax

Torres-Martinez Desert Cahuilla Indians
Diana L. Chihuahua, Cultural Resources
P.O. Box 1160 Cahuilla
Thermal, CA 92274
dianac@torresmartinez.org
(760) 397-0300, Ext. 1209
(760) 272-9039 - cell (Lisa)
(760) 397-8146 Fax

Santa Rosa Band of Mission Indians
John Marcus, Chairman
P.O. Box 609 Cahuilla
Hemet, CA 92546
srtribaloffice@aol.com
(951) 658-5311
(951) 658-6733 Fax

Fort Mojave Indian Tribe
Nora McDowell, Cultural Resources Coordinator
500 Merriman Ave Mojave
Needles, CA 92363
g.goforth@fortmojave.com
(760) 629-4591
(760) 629-5767 Fax

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Native American Contacts
Riverside County
July 29 2010

Agua Caliente Band of Cahuilla Indians THPO
Patricia Tuck, Tribal Historic Preservation Officer
5401 Dinah Shore Drive Cahuilla
Palm Springs, CA 92264
ptuck@aguacaliente-nsn.gov

(760) 699-6907
(760) 699-6924- Fax

Quechan Indian Nation
Bridget Nash-Chrabascz, THPO
P.O. Box 1899 Quechan
Yuma, AZ 85366
b.nash@quechantribe.com
(928) 920-6068 - CELL
(760) 572-2423

Ah-Mut-Pipa Foundation
Preston J. Arrow-weed
P.O. Box 160 Quechan
Bard, CA 92222 Kumeyaay
(928) 388-9456

ahmut@earthlink.net

Cahuilla Band of Indians
Luther Salgado, Sr., , Chairperson
PO Box 391760 Cahuilla
Anza, CA 92539
tribalcouncil@cahuilla.net
915-763-5549

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