

Comment Set A0021
25 California Legislators

CALIFORNIA LEGISLATURE

STATE CAPITOL
SACRAMENTO, CALIFORNIA
95814

March 6, 2008

Commissioner Dian Grueneich
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

Dear Commissioner Grueneich:

We write to express our opposition to the proposed path of the Sunrise Powerlink Transmission Project through 22 miles of the heart of Anza-Borrego Desert State Park.

Although additional electrical transmission may be necessary for this region, we cannot support the addition of any path which goes through the Anza-Borrego Desert State Park. We recognize that there is a decades-old existing transmission through this area with some degree of easement for San Diego Gas & Electric. However, the proposed Sunrise Powerlink line would dramatically increase the scope of the easement and size of the transmission towers with significant and adverse impacts on the park – its wilderness, habitat, historic resources and millions of yearly visitors.

This park is not just recreational. Twelve areas of this pristine desert environment were long ago legally designated as “state wilderness” but Sunrise would require more than 50 acres of designated wilderness to be “de-designated.” The wilderness designation carries with it the mandate that it be “untrammelled by man and where man himself is a visitor who does not remain.” (Public Resources Code Section 5019.68) With this designation goes the mandate to the State Park and Recreation Commission that the park be “maintained and used in a manner compatible with the preservation of the wilderness environment.” Transmission, and its permanent structures, can never be consistent with this mandate.

Anza-Borrego Desert State Park is also the site of unique Native American cultural and sacred sites, including areas with Native American human remains including at least one large prehistoric site complex that is of extremely high value.

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Too often, state parks have been considered to be the path of least resistance when it comes to major infrastructure projects. We're saying, not this time. Not through Anza-Borrego Desert State Park.

A0021-1 cont.

Thank you for your critical work on this issue.

Sincerely,

Senator Christine Kehoe
Senator Don Perata
Senator Denise Ducheny
Senator Sheila Kuehl
Senator Alan Lowenthal
Senator Alex Padilla
Senator Darrell Steinberg
Senator Joe Simitian
Senator Patricia Wiggins

Assemblymember Fabian Núñez
Assemblymember Jim Beall Jr.
Assemblymember Patty Berg
Assemblymember Julia Brownley
Assemblymember Hector De La Torre
Assemblymember Mark DeSaulnier
Assemblymember Mervyn Dymally
Assemblymember Noreen Evans
Assemblymember Warren Furutani
Assemblymember Loni Hancock
Assemblymember John Laird
Assemblymember Mark Leno
Assemblymember Fiona Ma
Assemblymember Gene Mullins
Assemblymember Lori Saldaña
Assemblymember Lois Wolk

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A0021-1 The commenters' opposition to the route through ABDSP is acknowledged. Significant impacts to State-designated Wilderness are discussed in Section D.5 (Impact WR-4) and impacts to cultural resources within the Park are discussed in Section D.7 of the Draft EIR/EIS.

Comment Set A0022
Native American Heritage Commission

STATE OF CALIFORNIA

Arnold Schwarzenegger, Governor

NATIVE AMERICAN HERITAGE COMMISSION

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March 28, 2008

Ms. Billie C. Blanchard
CALIFORNIA PUBLIC UTILITIES COMMISSION
505 Van Ness Avenue
San Francisco, CA 94102

Re: SCH#2006091071: CEQA Notice of Completion: draft Environmental Impact Report (DEIR) for the Sunrise Powerlink Project, Imperial & San Diego counties, California

Dear Ms. Blanchard:

Please find the comment letter of the Native American Heritage Commission for the above-referenced project. The letter, dated January 24, 2008, was mis-addressed to the site of the Public Hearing in Oceanside instead to your agency's office.. This is a very important project and one of concern to the Native American tribes in Imperial and San Diego counties. We ask that the NAHC comment letter be included in the Final EIR. Thank you for your consideration.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Dave Singleton".

Dave Singleton
Program Analyst

Cc: State Clearinghouse

Comment Set A0022, cont.
Native American Heritage Commission

STATE OF CALIFORNIA

Arnold Schwarzenegger, Governor

NATIVE AMERICAN HERITAGE COMMISSION

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January 24, 2008

Ms. Billie C. Blanchard
CALIFORNIA PUBLIC UTILITIES COMMISSION
235 Montgomery Street, Suite 935
Oceanside, CA 92054

Re: SCH#2006091071: CEQA Notice of Completion; draft Environmental Impact Report (DEIR) for the Sunrise Powerlink Project; Imperial and San Diego Counties, California

Dear Ms. Blanchard:

The Native American Heritage Commission is the state agency designated to protect California's Native American Cultural Resources. The California Environmental Quality Act (CEQA) 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) (CEQA guidelines). Section 15382 of the 2007 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. This is project with significant Native American cultural sensitivity in the opinion of many of the local Native American tribes. Therefore, to adequately assess the project-related impacts on historical resources, the Commission recommends the following action:

- ✓ Contact the appropriate California Historic Resources Information Center (CHRIS) for possible 'recorded sites' in locations where the development will or might occur.. Contact information for the Information Center nearest you is available from the State Office of Historic Preservation (916/853-7278) <http://www.ohp.parks.ca.gov>. The record search will determine:
 - If a part or the entire APE has been previously surveyed for cultural resources.
 - If any known cultural resources have already been recorded in or adjacent to the APE.
 - If the probability is low, moderate, or high that cultural resources are located in the APE.
 - If a survey is required to determine whether previously unrecorded cultural resources are present.
- ✓ If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.
 - The final report containing site forms, site significance, and mitigation measures should be submitted immediately to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum, and not be made available for public disclosure.
 - The final written report should be submitted within 3 months after work has been completed to the appropriate regional archaeological Information Center.
- ✓ Contact the Native American Heritage Commission (NAHC) for:
 - * A Sacred Lands File (SLF) search of the project area and information on tribal contacts in the project vicinity that may have additional cultural resource information. Please provide this office with the following citation format to assist with the Sacred Lands File search request: USGS 7.5-minute quadrangle citation with name, township, range and section.
 - The NAHC advises the use of Native American Monitors to ensure proper identification and care given cultural resources that may be discovered. The NAHC recommends that contact be made with Native American Contacts on the attached list to get their input on potential project impact (APE). In some cases, the existence of a Native American cultural resources may be known only to a local tribe(s).
- ✓ Lack of surface evidence of archeological resources does not preclude their subsurface existence.
 - Lead agencies should include in their mitigation plan provisions for the identification and evaluation of accidentally discovered archeological resources, per California Environmental Quality Act (CEQA) §15064.5 (f). In areas of identified archaeological sensitivity, a certified archaeologist and a culturally affiliated Native American, with knowledge in cultural resources, should monitor all ground-disturbing activities.
 - A culturally-affiliated Native American tribe may be the only source of information about a Sacred Site/Native American cultural resource.

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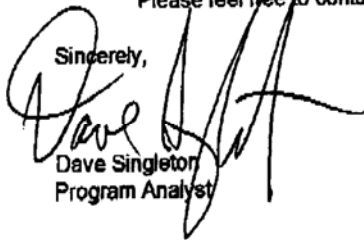
Comment Set A0022, cont.
Native American Heritage Commission

- Lead agencies should include in their mitigation plan provisions for the disposition of recovered artifacts, in consultation with culturally affiliated Native Americans.
- √ Lead agencies should include provisions for discovery of Native American human remains or unmarked cemeteries in their mitigation plans.
 - * 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.
- √ 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.
- √ 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

A0022-1 cont.

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

Sincerely,



Dave Singleton
Program Analyst

Attachment: List of Native American Contacts

Cc: State Clearinghouse

Comment Set A0022, cont.
Native American Heritage Commission

**Native American Contacts
Imperial and San Diego Counties
January 24, 2008**

Ewilaapaayp Tribal Office
Harlan Pinto, Sr., Chairperson
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(619) 445-9126 - fax

Ramona Band of Mission Indians
Joseph Hamilton, vice chairman
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(951) 763-4325 Fax

La Posta Band of Mission Indians
Gwendolyn Parada, Chairperson
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(619) 478-2113
619-478-2125

Torres-Martinez Desert Cahuilla Indians
Raymond Torres, Chairperson
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(760) 397-8146 Fax

Manzanita Band of Kumeyaay Nation
Leroy J. Elliott, Chairperson
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Boulevard, CA 91905
(619) 766-4930
(619) 766-4957 Fax

Kwaaymii Laguna Band of Mission Indians
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Pine Valley, CA 91962
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Campo Kumeyaay Nation
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Kumeyaay Cultural Repatriation Committee
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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.

This list is only applicable for contacting local Native American with regard to cultural resources for the proposed SCH#008091071; CEQA Notice of Completion; draft Environmental Impact Report (DEIR) for the Sunrise PowerLink Project; located in Imperial and San Diego counties, California.

Comment Set A0022, cont.
Native American Heritage Commission

**Native American Contacts
Imperial and San Diego Counties
January 24, 2008**

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Comment Set A0022, cont.
Native American Heritage Commission

**Native American Contacts
Imperial and San Diego Counties
January 24, 2008**

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(619) 766-4957 Fax

Manzanita Band of the Kumeyaay Nation
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(919) 766-4957

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(619) 478-5818 Fax

Preston Arrow-weed
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Bard, CA 92222 Kumeyaay
(760) 353-7349

Cocopah Museum
Jill McCormick, Tribal Archaeologist
County 15th & Ave. G Cocopah
Sommerton, AZ 85350
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(928) 627-2280 - fax

Quechan Indian Nation
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Responses to Comment Set A0022 Native American Heritage Commission

A0022-1 As discussed in Section D.7.7 of the Draft EIR/EIS, the Sunrise Powerlink Project would abide by all applicable regulations, plans, and standards at the federal, State and local levels and in accordance with CEQA and NEPA. The cultural resources mitigation measures listed in Table D.7-41 (Mitigation Monitoring Program – Cultural and Paleontological Resources) would ensure that impacts to cultural resources are minimized.

The Draft EIR/EIS addresses impacts associated with the discovery of known and unknown human remains under Impacts C-2 and C-3, and known and unknown archaeological resources under Impacts C-3 and C-5. Mitigation Measures currently include data recovery, Mitigation Measure C-1d (Conduct data recovery to reduce adverse effects), and monitoring, Mitigation Measure C-1e (Monitor construction at known ESAs), Mitigation Measure C-3a (Monitor construction in areas of high sensitivity for buried resources). The specific recommendations from the comment letter are addressed below.

The commenter recommends the following action: contact the appropriate California Historic Resources Information Center (CHRIS) for possible 'recorded sites' in locations where the development will or might occur. Archaeological site record forms and a bibliography of cultural resource literature addressing the Proposed Project area were obtained from the South Coastal Information Center (SCIC) at San Diego State University and the Southeastern Information Center (SEIC) at the Imperial Valley College Desert Museum in Ocotillo, California. The San Diego Museum of Man, the Begole Archeological Research Center in Anza-Borrego Desert State Park, and the Bureau of Land Management Desert District Office provided additional information. Lists of national, state, and local registered sites were also consulted. Locations of potential cultural resources were obtained from a variety of historic maps covering the two counties (Imperial County and San Diego County).

The BLM Class I methodology employed for the alternatives analysis essentially mirrored the approach used for the Proposed Project. The EIR/EIS team conducted multiple records searches at various repositories of cultural resources information, including appropriate CHRIS centers for 100 percent of each alternative, including a 0.5-mile radius around each alternative, the standard coverage for BLM Class I inventories.

In addition, the commenter recommends the following action: if an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey. Intensive archaeological pedestrian surveys were conducted for the Proposed Project and for at least 30 percent of each alternative route, as detailed in Section D.7.1 of the DIER/DEIS (pages D.7-3 through D.7-6) Two separate survey reports documenting the archaeological studies and findings are in the final stages of preparation and agency review. One survey report was prepared by SDG&E for its Proposed Project corridors. A second report, prepared for the BLM and CPUC, details the findings of surveys for all of the alternatives considered. These reports will be available following review by the CPUC, BLM, USFS, and ABDSP. The reports, along with confidential site records and site location maps will be made available by October, 2008 to each Band for resources in the vicinity of its reservation.

The commenter recommends the following action: contact the Native American Heritage Commission (NAHC) for a Sacred Lands File (SLF) search of the project area and information on tribal contacts. The NAHC was contacted by Gallegos and Associates for a SLF search of the Proposed Project corridors, while SWCA contacted the NAHC for searches of the SLF for proposed alternative corridors. Following those requests, and using tribal contacts provided by the NAHC, the BLM initiated government-to-government Native American consultation for the project, requesting information on any sacred lands, sites, or issues of cultural concern within the Proposed Project and alternatives area. As documented in Appendix 9C of the Draft EIR/DEIS, the BLM contacted 49 representatives of 22 tribal governments to elicit concerns and comments about the Proposed Project and alternatives. That consultation, which was formally initiated on July 5, 2006 is ongoing, and will continue during the Section 106 process for compliance with the National Historic Preservation Act.

The commenter states that lack of surface evidence of archeological resources does not preclude their subsurface existence. The Draft EIR/EIS (page D.7.36) addresses impacts associated with the discovery of unknown and potentially significant cultural resources under Impact C-3 (Construction of the project would cause an adverse change to unknown significant buried prehistoric and historical archaeological sites or buried Native American human remains), as follows:

...Buried archaeological resources may be encountered during vegetation removal at tower and pull site locations, grading of access roads, or excavation associated with tower construction. CR-APM-3 outlines procedures for the treatment of any such resources discovered during construction. Mitigation Measures C-1c, C-1d, C-1f, C-2a, and C-3a would reduce impacts to unknown significant buried prehistoric and historic archaeological sites. After mitigation, impacts to such sites would be less than significant (Class II), with the exception of sites containing human remains, which would remain significant (Class I).

The commenter also recommends the following action: lead agencies should include provisions for discovery of Native American human remains or unmarked cemeteries in their mitigation plans. The Draft EIR/EIS (page D.7-35) addresses impacts associated with the discovery of Native American human remains under Impact C-2 (Construction of the project would cause an adverse change to sites known to contain human remains), as follows:

Any adverse effect to human remains is considered a significant Class I impact. CR-APM-3 outlines procedures for the treatment of unanticipated discoveries during construction; however, this APM is superseded by Mitigation Measures C-1b, C-1c, C-1d, C-1e, C-1f, C-2a, and C-2b in the Draft EIR/EIS, which would partially compensate for impacts to human remains. However, the impacts would still be considered significant (Class I), in accordance with 36 CFR 800 which considers impacts to human remains an unmitigable adverse effect.

Finally, the commenter states that Health and Safety Code § 7050.5, Public Resources Code § 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. The discussion of impacts associated with the discovery of Native American human remains is addressed within this response above.

Construction would be diverted to other areas of the project until the county coroner or medical examiner can visit the site and determine whether the remains are those of a Native American and provisions of the resources codes are implemented.

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