

Section 2: Responses to Comments

2.1 Introduction

This section presents responses to the comments received during the public review period (November 14, 2012 through December 14, 2012) for the Draft Initial Study/Environmental Assessment (IS/EA) and Mitigated Negative Declaration (MND).

The Notice of Intent (NOI) to Adopt a Mitigation Negative Declaration was released on November 14, 2012. A newspaper notice was published in The Santa Barbara Independent for four days (November 21, November 28, December 5, and December 12) and appeared as an online classified advertisement on the Santa Barbara Independent from November 21 to December 19, 2012. The newspaper notices and the NOI included information on the availability of the environmental document, the project website address, and the schedule for the public review period (see Appendix A for a copy of these public noticing materials).

Seven comment letters were received during the public review period, as listed in Table 2.1-1. Comments within each letter are numbered (e.g., A-1, A-2), and responses immediately follow each comment letter. These comments were considered only in the context of the California Environmental Quality Act (CEQA) and the Draft IS and MND. The National Park Service (NPS) will prepare a separate final National Environmental Policy Act (NEPA) document. The NPS will determine whether to prepare a Finding of No Significant Impact (FONSI) or to file a Notice of Intent to prepare an Environmental Impact Statement.

Table 2.1-1: Comments Received on the Draft IS/MND

Letter	Commenter	Title and Agency
A	Carly Wilburton	Air Quality Specialist, Technology and Environmental Assessment Division, Santa Barbara County Air Pollution Control District
B	Fred Collins	Tribal Administrator, Northern Chumash Tribal Council
C	Fred Collins	Tribal Administrator, Northern Chumash Tribal Council
D	Freddie Romero	Cultural Preservation Consultant, Santa Ynez Chumash Tribal Elders Council
E	Joe Talaugon	Chairman, Santa Ynez Chumash Tribal Elders Council
F	Julie Tumamait-Stenslie	Tribal Chair, Barbareno/Ventureno Band of Mission Indians
G	Julie Tumamait-Stenslie	Tribal Chair, Barbareno/Ventureno Band of Mission Indians
H	Mona Olivas Tucker	Tribal Chair, yak tityu tityu – Northern Chumash Tribe
I	Frank Arredondo	Chumash MLD, Ksen-Sku-Mu

2.2 Comments and Responses to Comments

2.2.1 LETTER A

Comment



Letter A

Our Vision  Clean Air

December 4, 2012

Jeffrey Smith
Project Manager, Panorama Environmental, Inc.
One Embarcadero Center, Suite 740
San Francisco, CA 94111

Re: APCD Comments on the Initial Study/Environmental Assessment for the Channel Islands Telecommunication Project

Dear Mr. Smith:

A-1 I The Air Pollution Control District (APCD) has reviewed the Initial Study/Environmental Assessment (IS/EA) for the referenced project, which consists of the installation of telecommunication facilities at up to 15 locations within the Channel Islands National Park. The new telecommunication facilities would serve to improve the currently limited telecommunication capabilities on the five islands and would allow for private and government cellular phone and internet service between the five islands and the mainland. The projects will be located on four of the five islands including San Miguel, Santa Barbara, Santa Cruz, and Santa Rosa islands. All proposed telecommunication facilities would be installed on or near existing structures and with previously disturbed areas.

Project installation would involve the use of hand tools, including battery-powered hand tools, and would not involve the use of any diesel-powered equipment; therefore, there would be no combustion-related emissions, including air toxics, from installation equipment. The project would involve limited ground disturbance where hand tools would be used for digging. Therefore, no fugitive dust emissions would be expected from installation of the project.

A-2 I The APCD has no comment on the IS/EA for the proposed project and no suggested conditions.

If you or the project applicant have any questions, please feel free to contact me at (805) 961-8890 or via email at cw@sbcapcd.org.

Sincerely,

A handwritten signature in blue ink that reads "Carly Wilburton".

Carly Wilburton,
Air Quality Specialist
Technology and Environmental Assessment Division

cc: TEA Chron File

Louis D. Van Mullem, Jr. • Air Pollution Control Officer
260 North San Antonio Road, Suite A • Santa Barbara, CA • 93110 • www.sbcapcd.org • 805.961.8800 • 805.961.8801 (fax)

Responses

- A-1 The CPUC agrees with the commenter's description of the project.
- A-2 The CPUC notes that the Santa Barbara County Air Pollution Control District has no comment on the Draft IS/EA and no suggested conditions.

2.2.2 LETTER B

Comment

Letter B



Northern Chumash Tribal Council

A Native American Corporation - NorthernChumash.org
67 South Street, San Luis Obispo, CA 93401 805-801-0347

Russell E. Galipeau, Jr.
Superintendent
Channel Islands National Park
1901 Spinnaker Dr.
Ventura, CA 93001

November 21, 2012

RE: Channel Islands Telephone Company Application No. A.07-08-014

Dear Mr. Galipeau:

It has been some time since we have sat down and talked, we hope this letter finds you and your family well.

B-1 **I As you know the issue of cell towers proposed to be place on any of our Sacred Islands will meet with great resistance. I am personally surprised that you have not sat down and talked with the Chumash Community before this project was moved forward. From our last encounter with the last cell tower issue should have been an indication of how NCTC and other Chumash feel about this issue.**

B-2 **I Meaningful consultation has not occurred.**

Excerpts from MND application and NCTC's comments:

Rare, Threatened, and Endangered Species

Mitigation Measure RTE Species-1: (Location 1): Installation at Location 1 (Santa Barbara Island Ranger Station) shall be limited to months outside the breeding periods of the brown pelican (November 1 through September 30), burrowing owl (March 1 through August 30) and Xantus's murrelet (February 1 through July 25). An NPS ranger or qualified biologist shall conduct a pre-installation survey to determine the proximity of brown pelican, burrowing owl, or Xantus's murrelet if installation at this location must occur within the nesting season of these species. The biologist shall determine the appropriate survey radius from the work area depending on site conditions and anticipated noise generated by the installation activities. If nests are found, the biologist shall establish a no-work buffer as appropriate for the site conditions. No work shall be allowed within the buffer until nestlings have fledged, as determined by the biologist.

B-3 **I The above mitigation measure is in violation of Migratory Bird Treaty Act 1918, USFWS regulation, Coastal Act, Army Corp of Engineers, and the UN Declaration of the Rights of Indigenous Peoples.**

Mitigation Measure RTE Species-2: A member of the construction crew shall check for any active bird nests on the areas of installation (within 10 feet of installation areas) prior to commencing installation activities at all locations. If no active nests are found, work can

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commence. If nests are found work shall be delayed and the NPS biologist contacted. Work shall commence when the NPS biologist or a qualified biologist deems that nestlings have fledged.

B-4 | **The above mitigation measure is in violation of Migratory Bird Treaty Act 1918, USFWS regulation, Coastal Act, Army Corp of Engineers, and the UN Declaration of the Rights of Indigenous Peoples.**

Cultural Resources

Mitigation Measure CR-1: To minimize the potential for significant impacts on previously known or as of yet undiscovered historic properties and/or features during any ground disturbing activities, the following measures shall be required:

a. Prior to installation, if deemed appropriate by the NPS Park Archaeologist, sensitivity training of all contractors and construction workers in the project area shall be conducted. Workers shall be educated in the recognition of archaeological resources (e.g., historic and prehistoric artifacts typical of the general area), procedures to report such discoveries, NPS no-collection policies, and CITC construction protocols to ensure that installation activities avoid impacts to potentially significant cultural resources. The NPS Park Archaeologist shall have the authority to halt or redirect the installation activity if potentially significant archaeological features or materials are uncovered. Evidence of compliance with NPS sensitivity training requirements must be submitted to the CPUC prior to installation activities.

b. During installation activities and if deemed necessary by the NPS Park Archaeologist, an NPS-approved archaeological monitor shall be present during ground disturbing activities to ensure that archaeological artifacts, cultural deposits, and human remains are not disturbed.

c. In the event that as of yet undiscovered archaeological artifacts, cultural deposits, or human remains are encountered during installation, all work shall stop in the immediate vicinity of the find and the NPS Park Archaeologist shall be notified at the earliest opportunity. As appropriate, additional cultural resources surveys shall be conducted to inventory the cultural resources within areas disturbed during installation. Installation activities shall not resume until the NPS Park Archaeologist deems the cultural resource has been appropriately documented and protected. At the NPS Park Archaeologist's discretion, the location of ground disturbing activities may be relocated elsewhere on the project site to avoid cultural resources.

B-5 | **The above described mitigation measures for California Native American Cultural Resources is not acceptable and is in direct violation of Chumash Cultural Resource Management, the meaning of meaningful consultation and UN Declaration of the Rights of Indigenous Peoples, we**
B-6 | **have not ceded the rights of ownership or stewardship to anyone, NCTC does not give anyone permission to place any tower on our Sacred Home Land.**

B-7 | **NCTC is dedicated to the preservation of our Ancestors and our Sacred Sits/Places, we are experts on the preservation of Native American Cultural Resources, we disagree with your experts findings, NCTC disagrees with NPS Park Archaeologist and their findings, and as experts we find the MND to deficient and we are stating that there should be “no project”.**

FINDINGS

The Initial Study was prepared to identify the potential effects on the environment from the construction of the Channel Islands Telecommunication Project and to evaluate the significance of

these effects. Based on the Initial Study and the Findings listed below, the CPUC has determined that the proposed project would not have a significant effect on the environment. With the implementation of the above mitigation measures, the proposed project would not significantly degrade the quality of the environment.

With the implementation of the above mitigation measures, both short-term and longterm environmental effects associated with the proposed project would be less than significant.

When potential impacts associated with implementing the proposed project are considered cumulatively, the incremental contribution of the project-related impacts are insignificant.

Based on the Initial Study, there is no evidence that implementing the proposed project would have any adverse impacts on people.

B-8 **Because there is a conflict of expert’s testimony and no meaningful consultation with the Chumash Community this MND must not be allow to move forward and must be deemed “NO PROJECT”**

Sincerely,

Fred Collins
Tribal Administrator
Northern Chumash Tribal Council

Responses

B-1 The CPUC notes the opposition to the placement of cellular towers on the Channel Islands. This project would not involve the installation of cellular towers, but does involve the installation of other cellular telecommunications equipment.

B-2 Mr. Collins clarified his comment in a subsequent telephone call, stating that meaningful consultation means that the parties sit down together to look at the project, and the comments are then incorporated into the project before the project reaches the point of public review of the draft document.

The CPUC requested a list of interested tribes from the Native American Heritage Commission (NAHC). The CPUC also consulted with the NPS to identify entities that have shown interest in activities on the Channel Islands. The NPS added several tribes to the scoping list, in addition to those from the Native American Contacts List provided by the NAHC. The CPUC distributed scoping letters on December 1, 2009 to all of the tribes, per the CPUC's standard practice. The CPUC did not receive a request for meetings or additional consultation prior to the public comment period on the Draft IS/EA. The CPUC is amenable to conducting additional consultation with interested tribal entities, and intends to further consult with interested tribes regarding their concerns about the proposed project.

B-3 Migratory Bird Treaty Act of 1918

The commenter clarified his comment in a subsequent telephone call, stating that the process/methodology imposed in the mitigation measure is insufficient under the MBTA to clear migratory birds from the project area prior to the placement of infrastructure.

The USFWS, which has management authority for migratory birds under the MBTA, recommended a measure in a letter submitted during the project scoping process (provided in Appendix E of the Draft IS/EA). The measure is designed to avoid harming nests of migratory birds and killing migratory birds (which would be in violation of the MBTA) during land clearing and surface disturbing activities. The USFWS recommended conducting these types of activities outside of the nesting season. If activities would occur during nesting season, then the USFWS recommended that a qualified biologist should survey the area prior to clearing and then establish a protective buffer around a nest or evidence of nesting. The no-activity buffer would prevent disturbance of nests while they are active.

Mitigation Measure RTE Species-1 closely parallels the USFWS recommendations for brown pelican, burrowing owl, and Xantus's murrelet, even though the project would not involve land clearing activities and there would be very minimal ground disturbance. The commenter did not suggest changes to the mitigation measure. The CPUC is satisfied that Mitigation Measure RTE Species-1 is adequate to protect migratory birds from harm. The CPUC has thus not revised Mitigation Measure RTE Species-1.

Endangered Species Act

The commenter clarified his comment in a subsequent telephone call, stating that “USFWS regulation” in his comment letter refers to the Endangered Species Act. The commenter stated that he has a different perspective of what it means to “harass” a protected species, and that he believes in no disturbance at all. He stated the mitigation measure has no consideration of biological surveys and implementation of the Mitigation Measure RTE Species-1 in areas that may be occupied by endangered species. He stated the Draft IS/EA does not consider that there are other endangered species that fly through the area. The commenter did not provide names of additional endangered species that he believes may be found in the area.

As discussed on page 3-28 of the Draft IS/EA, a database and literature review resulted in the identification of special status species, including federally endangered species that could occur in the project area. Table D-2 in Appendix D and text in the Draft IS/EA have been revised to reflect the federal delisting of the brown pelican in 2009 (FWS 2012) and that the brown pelican is a fully protected species in California (CDFG 2011). These text edits are shown below with text added to the Draft IS/EA underlined and deleted text ~~stricken~~. No endangered species were determined to have the possibility to occur at the 15 proposed project locations based on the existing habitat and as a result of a database and literature review.

*Section 3, Affected Environment and Environmental Consequences, Page 3-24,
Paragraph 1*

The shoreline, cliffs, and beaches of Santa Barbara Island are closed to landing and public access except at the landing cove below the ranger station. The shoreline of Santa Barbara Island serves as a rookery and haul-out for seals and sea lions. Public access could cause disturbance, abandonment, and mortality. Sections of trail may be temporarily closed on a seasonal basis to protect nesting seabirds. California brown pelicans nest in areas near some sections of trail. This bird is delisted from the federal endangered species list and is fully protected in California ~~on the endangered species list~~. To assure nesting success, some trail sections must be closed seasonally.

*Section 3, Affected Environment and Environmental Consequences, Page 3-29,
Paragraph 1*

Brown Pelican. The ~~FESA listed endangered~~ California fully-protected brown pelican (*Pelecanus occidentalis*) is found on Santa Cruz, San Miguel, and Santa Barbara Islands. Brown pelicans live in oceanic or brackish water habitats and prefer nesting in undisturbed areas. On Santa Barbara Island, brown pelicans are prolific and nest across the island except in areas frequented by people. They are not currently nesting at location 1, but have been known to nest within 500 feet of the site. Brown pelicans may nest from the beginning of November to the end of September depending on the availability of food and the success of early season broods.

Appendix D, Page D-6, Table D-2, Row 8

Table D-2 (Continued): Sensitive Animals, Plants, and Habitats Identified as Having the Potential to Occur in the Project Area

Common Name (Scientific Name) or Habitat Name	Federal/State/Other Status	Island Location(s) and Preferred Habitat	Potential to Occur and Habitat at Various Project Locations
Brown pelican (<i>Pelecanus occidentalis</i>)	Nesting Colony and Communal Roosts FE , <u>Delisted</u> , MBTA/ Delisted <u>FP</u> /None	Santa Cruz and Santa Barbara Oceanic or brackish water habitats; nests in undisturbed areas.	May occur within 500 feet of location no. 1; on an unnamed islet 3,000 feet east of location no. 6; and on Prince Island, 1 mile northeast of San Miguel Island.

California Coastal Act

The commenter clarified his comment in a subsequent telephone call, stating that he believes the mitigation measure violates the California Coastal Act because the Coastal Act considers the cultural resources of Native Americans, and birds are part of the cosmology of the Chumash people and are therefore considered cultural resources by the Chumash people.

The mitigation measure is intended to protect the three birds named in the mitigation measure. The measure closely parallels the recommendations of the USFWS, as described above. The CPUC believes the mitigation measure would be protective of these bird species, and therefore protective of the birds as cultural resources, as the commenter implies. The commenter did not suggest changes to the mitigation measure. No changes were made to the mitigation measure.

The mission of the California Coastal Management Program administered by the California Coastal Commission (CCC) is based on the mandates of the California Coastal Act of 1976. This mission is to:

Protect, conserve, restore, and enhance environmental and human-based resources of the California coast and ocean for environmentally sustainable and prudent use by current and future generations.

The CPUC believes that the proposed project's potentially significant environmental effects have all been identified in the Draft IS/EA, and that the mitigation measures included in the Draft IS/EA would reduce any potentially significant impacts to a less than significant level. The CPUC therefore believes that the project would be consistent with the mission and intent of the California Coastal Act.

The Coastal Zone Management Act of 1972 requires a determination of whether projects on Federal lands are consistent with state coastal management programs. The Federal agency responsible for issuing discretionary approvals for the project must submit a consistency

determination to the appropriate state agency prior to making a decision on the discretionary approval. In the case of the proposed project, the NPS is the Federal agency, and the CCC is the appropriate state coastal management agency. The NPS will therefore be required to submit a consistency determination to the CCC prior to issuing a right-of-way permit for the project. The CCC will make a determination of whether the proposed project is consistent with the 1977 California Coastal Management Program, and will also determine whether a coastal development permit is required for the project.

U.S. Army Corps of Engineers

The commenter clarified his comment in a subsequent telephone call, stating that he believes that the ACOE has jurisdiction over navigable waters and the birds in those waters, but did not provide a specific reason why he thought the project violated the ACOE as an agency.

The ACOE asserts jurisdiction over dredge and fill of Waters of the U.S. The project would not affect Waters of the U.S. Therefore, the ACOE would not have jurisdiction over the project and the mitigation measure is not in conflict with the ACOE. The CPUC believes the measure addresses the project's potential impacts on the three birds named in the measure. The commenter did not suggest changes to the mitigation measure. No changes were made to the mitigation measure.

U.N. Declaration of the Rights of Indigenous Peoples

The commenter clarified his comment in a subsequent telephone call, stating that he believes the mitigation measure violates the U.N. Declaration because the NCTC has not given "free, prior and informed consent" under Article 19 of the U.N. Declaration.

Scoping letters were sent on December 1, 2009 to all of the tribes on the Native American Contacts List provided by the NAHC and additional tribes identified by the NPS, per the CPUC's standard practice. The CPUC did not receive a request for meetings or additional consultation prior to the public comment period on the Draft IS/EA. The CPUC is amenable to conducting additional consultation with interested tribal entities, and intends to further consult with interested tribes regarding their concerns about the proposed project. See the response to comment B-2 for additional discussion regarding tribal consultation.

B-4 Migratory Bird Treaty Act of 1918

The commenter clarified his comment in a subsequent telephone call, stating that the process/methodology imposed in the mitigation measures is insufficient under the MBTA to clear migratory birds from the project area prior to the placement of infrastructure. Please see the response to Comment B-3.

Mitigation Measure RTE Species-2 has been revised, as shown below, to require pre-installation checking for active nests by a qualified biologist, rather than a member of the construction crew, in order to more closely follow the USFWS recommendation and better address the concern presented in the comment. The mitigation measure does not allow work within 10 feet of an active nest and prohibits active work until a qualified biologist has determined that nestlings have fledged. This requirement generally follows the suggestions

of the USFWS by preventing disturbances near active nests. The commenter had no suggestion for changes to the mitigation measure. The USFWS and the CPUC believes the measure is protective of migratory birds.

MND, Applicant Proposed Measures and Mitigation Measures, Page MND-3, Mitigation Measure RTE Species-2

Mitigation Measure RTE Species-2: ~~A member of the construction crew~~ qualified biologist shall check for any active bird nests on the areas of installation (within 10 feet of installation areas) prior to commencing installation activities at all locations. If no active nests are found, work can commence. If nests are found work shall be delayed and the NPS biologist contacted. Work shall commence when the NPS biologist or a qualified biologist deems that nestlings have fledged.

Section 3, Affected Environment and Environmental Consequences, Page 3-38, Paragraph 1

Mitigation Measure RTE Species-2: ~~A member of the construction crew~~ qualified biologist shall check for any active bird nests on the areas of installation (within 10 feet of installation areas) prior to commencing installation activities at all locations. If no active nests are found, work can commence. If nests are found work shall be delayed and the NPS biologist contacted. Work shall commence when the NPS biologist deems that nestlings have fledged.

Endangered Species Act

The commenter clarified his comment in a subsequent telephone call, stating that “USFWS regulation” in his comment letter refers to the Endangered Species Act. The commenter stated that he has a different perspective of what it means to “harass” a protected species, and that he believes in no disturbance at all. He stated the mitigation measure has no consideration of biological surveys and implementation of Mitigation Measure RTE Species-1 in areas that may be occupied by endangered species. He stated the Draft IS/EA does not consider that there are other endangered species that fly through the area. The commenter did not provide names of additional endangered species that he believed may be found in the area.

As discussed on page 3-28 of the Draft IS/EA, a database and literature review resulted in the identification of special status species, including federally endangered species, that could occur in the project area. Table D-2 in Appendix D of the Draft IS/EA has been revised to reflect the federal delisting of the brown pelican in 2009 (FWS 2012) and that the brown pelican is a fully protected species in California (CDFG 2011), as shown in response to comment B-3. Mitigation Measure RTE Species-2 is protective of all bird species. No endangered species were determined to have the possibility to occur at the 15 proposed project locations as a result of a database and literature review, and the commenter did not provide names of additional endangered species that he believed could occur in the project area; thus, the CPUC did not revise the mitigation measure.

California Coastal Act

The commenter clarified his comment in a subsequent telephone call, stating that he believes the mitigation measure violates the California Coastal Act because the Coastal Act considers the cultural resources of Native Americans, and birds are part of the cosmology of the Chumash people and are therefore considered cultural resources by the Chumash people. Please see the response to comment B-3, above.

U.S. Army Corps of Engineers

The commenter clarified his comment in a subsequent telephone call, stating that he believes that the ACOE has jurisdiction over navigable waters and the birds in those waters, but did not provide a specific reason why he thought the project violated the ACOE as an agency. Please see the response to comment B-3 above.

U.N. Declaration of the Rights of Indigenous Peoples

The commenter clarified his comment in a subsequent telephone call, stating that he believes the mitigation measure violates the U.N. Declaration because the NCTC has not given “free, prior and informed consent” under Article 19 of the U.N. Declaration. Please see the response to comment B-3 above.

B-5 Chumash Cultural Resource Management

The commenter clarified his comment in a subsequent telephone call, stating that the Chumash Cultural Resource Management plan is not a published document but is kept among the Northern Chumash Tribal Council. He stated that all cultural resources should be avoided, and that only in cases of important public safety issues would digging or destroying of cultural resources be allowed by the Northern Chumash Tribal Council. The commenter believes that the monitoring proposed in the mitigation measure is insufficient to address cultural resource impacts.

Pacific Legacy, the CPUC’s cultural resources consultant, conducted record searches for the project area at the Central Coast Information Center and the South Central Coast Information Center of the California Historical Resources Information System. The searches covered the 15 proposed project locations as indicated on page 3-55 the Draft IS/EA. Installation at some locations would involve shallow ground disturbance using hand tools, which could result in impacts to previously undiscovered or already known cultural resources, as discussed beginning on page 3-60 of the Draft IS/EA. Mitigation Measure CR-1 would be implemented for ground disturbing activities to minimize the potential impacts to such resources. The mitigation measure includes provisions for avoidance if resources are found. All ground disturbance would be relatively shallow, and discovery of previously unknown cultural resources or human remains is considered unlikely because of the previously disturbed nature of each of the 15 proposed project locations. The CPUC believes Mitigation Measure CR-1 would minimize impacts to cultural resources to less than significant levels and thus has not revised the mitigation measure.

Section 106 of the National Historic Preservation Act of 1966 (NHPA) requires Federal agencies to take into account the effects of their undertakings on historic properties, and

afford the Advisory Council on Historic Preservation (ACHP) a reasonable opportunity to comment. The NPS is required to consult with the State Historic Preservation Officer (SHPO) under Section 106 in order to determine whether the proposed project could affect historic properties.

The NPS determined the scope of identification efforts and participated in identifying the historic properties in the area of potential effects. The NPS considered the effects on cultural resources, as presented in the IS/EA. Districts, sites, buildings, structures, and objects listed in the National Register are considered; unlisted properties are evaluated against the NPS's published criteria, in consultation with the SHPO; and any Indian tribe or organization that may attach religious or cultural importance to them is considered. The NPS, in consultation with the SHPO, will make an assessment of any potential adverse effects on the identified historic properties based on criteria found in ACHP's regulations and works with the SHPO to seek ways to avoid, minimize, or mitigate the adverse effects. As identified in the IS/EA, the project is not likely to affect cultural resources with the implementation of mitigation measure CR-1.

Section 106 consultation may result in a Memorandum of Agreement (MOA), which outlines agreed-upon measures that the agency will take to avoid, minimize, or mitigate the adverse effects. In some cases, the consulting parties may agree that no such measures are possible, but that the adverse effects must be accepted in the public interest.

The NPS is required to complete the Section 106 process, conduct the Nation-to-Nation consultation with the tribes, and obtain concurrence from the SHPO prior to the NPS issuing a Finding of No Significant Impact (FONSI) under NEPA and prior to rendering a decision regarding whether to approve the proposed project. The NPS has indicated that it will finish the Section 106 process once the CPUC has completed the CEQA environmental review process for this project.

Refer to response to comment B-2 regarding the commenter's assertion that the mitigation measure violates the meaning of meaningful consultation.

U.N. Declaration of the Rights of Indigenous Peoples

The commenter clarified his comment in a subsequent telephone call, stating that he believes the mitigation measure violates the U.N. Declaration because the NCTC has not given "free, prior and informed consent" under Article 19 of the U.N. Declaration.

Please see the response to comment B-3.

- B-6 Comment noted. The NPS is the agency that manages the Channel Islands National Park, on which the project would be implemented. No cell towers would be constructed as part of the project.
- B-7 The commenter clarified his comment in a subsequent telephone call, stating that he has felt that the NPS archaeologists' findings have lacked in substance and accuracy for many years. He thus disagrees with the findings in the Draft IS/EA based on the lack of information provided in the Draft IS/EA and the past work performed by NPS archaeologists. He thinks

the NPS archaeologists' work should be peer reviewed.

The CPUC archaeologist conducted a record search for the 15 proposed project locations at the Central Coast Information Center and the South Central Coast Information Center of the California Historical Resources Information System, as stated on page 3-55 the Draft IS/EA. Installation at some locations would involve shallow ground disturbance using hand tools, which could result in impacts to previously undiscovered or already known cultural resources, as discussed beginning on page 3-60 of the Draft IS/EA. Mitigation Measure CR-1 would be implemented for ground disturbing activities to minimize the potential impacts to such resources. All ground disturbance would be relatively shallow, and discovery of previously unknown cultural resources or human remains is considered unlikely because of the previously disturbed nature of each of the 15 proposed project locations. Mitigation Measure CR-1 would minimize impacts to cultural resources to less than significant levels and thus the CPUC has not revised the findings. Please see the response to comment B-5 for a discussion of additional cultural resource review and analysis that will be performed by the NPS as part of the Section 106 consultation process.

- B-8 The comment that there is disagreement among experts and that there has not been adequate consultation is noted. The commenter's opposition to the proposed project is noted and will be relayed to the decision makers for the project, the California Public Utilities Commission.

2.2.3 LETTER C

Comment

Letter C



Northern Chumash Tribal Council

A Native American Corporation - NorthernChumash.org
67 South Street, San Luis Obispo, CA 93401 805-801-0347

California Public Utilities Commission
Mr. Jeffrey Smith
Project Manager, Panorama Environmental, Inc.
One Embarcadero Center, Suite 740
San Francisco, CA 94111

November 21, 2012

RE: Channel Islands Telephone Company Application No. A.07-08-014

Dear Mr. Smith:

The Northern Chumash Tribal Council (NCTC) was formed under the guidelines of Senate Bill 18 April 26, 2006 as a State Recognized Tribal Government by the Native American Heritage Commission, organized and dedicated to preservation of the Chumash Culture, and Sacred Sites. NCTC is dedicated to meaningful consulting with local governments and agencies, consulting with the development community, and supporting tribal community well-being. NCTC members have been actively involved in government and projects to protect our culture for over 40 years in San Luis Obispo County.

State Recognized Tribal Government Qualifications:

1. The Northern Chumash Tribal Council (NCTC) a non-profit State and Federal tax exempt corporation meeting all the qualifications to be placed on the State of California Native American Heritage Commissions (NAHC) California Environmental Quality Act list for local government consultation concerning Cultural Resources issues in San Luis Obispo County.
2. The NCTC has met all the qualifications to be placed on the NAHC Senate Bill 18 list for General Plan Amendments with local Cities and Counties.
3. The NCTC is a Chumash Senate Bill 18 compliant Chumash governing tribal council located in San Luis Obispo County.
4. The NCTC is recognized as a Native American tribal by the surrounding community, including other tribes and local governments.
5. The NCTC consulting teams are engaged in consultation with local and state government agencies and every City in San Luis Obispo County and the County itself regarding land uses issues, environmental issues and cultural resources issues.

NCTC Project Development Consulting and Cultural Educational Awareness:

1. The NCTC project development consulting team offers:
 - a. advising on how projects can be planned and approved in accordance with Chumash values.
 - b. advises and participates in theme/design workshops
 - c. advising and assisting in the final approval of the project through the Board of Supervisors, California Coastal Commission and all other governmental, judicial or regulatory bodies.

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FARMING**

- C-1 **2. The NCTC Educational Projects team is dedicated to the education of our culture to the local community through:**
- a. children’s classes
 - b. adult lectures
 - c. lecturing at local colleges and universities
 - d. Native American Awareness Training for government and development projects.
 - e. educational community events
 - f. Chumash outdoor learning Parks
 - g. Chumash lead tours
 - h. development of Chumash Cultural Center (see www.northernchumsh.org for list of all projects)

C-2 **NCTC is opposed to the issue of cell towers being proposed to be place on any of our Sacred Chumash Channel Islands. These Islands are the birth place of the Chumash Peoples, we are not interested in the commercialization of the Islands. The Sacred Chumash Islands need to be preserved in there pristine nature. At one time the Chumash lived and took care of the Islands, now today we have no island land to use for ourselves or live on, but we still care for the Islands, it is our home land.**

C-3 **I Meaningful consultation has not occurred.**

Excerpts from MND application and NCTC’s comments:

Rare, Threatened, and Endangered Species

Mitigation Measure RTE Species-1: (Location 1): Installation at Location 1 (Santa Barbara Island Ranger Station) shall be limited to months outside the breeding periods of the brown pelican (November 1 through September 30), burrowing owl (March 1 through August 30) and Xantus’s murrelet (February 1 through July 25). An NPS ranger or qualified biologist shall conduct a pre-installation survey to determine the proximity of brown pelican, burrowing owl, or Xantus’s murrelet if installation at this location must occur within the nesting season of these species. The biologist shall determine the appropriate survey radius from the work area depending on site conditions and anticipated noise generated by the installation activities. If nests are found, the biologist shall establish a no-work buffer as appropriate for the site conditions. No work shall be allowed within the buffer until nestlings have fledged, as determined by the biologist.

C-4 **I** *The above mitigation measure is in violation of Migratory Bird Treaty Act 1918, USFWS regulation, Coastal Act, Army Corp of Engineers, and the UN Declaration of the Rights of Indigenous Peoples.*

Mitigation Measure RTE Species-2: A member of the construction crew shall check for any active bird nests on the areas of installation (within 10 feet of installation areas) prior to commencing installation activities at all locations. If no active nests are found, work can commence. If nests are found work shall be delayed and the NPS biologist contacted. Work shall commence when the NPS biologist or a qualified biologist deems that nestlings have fledged.

C-5 **I** **The above mitigation measure is in violation of Migratory Bird Treaty Act 1918, USFWS regulation, Coastal Act, Army Corp of Engineers, and the UN Declaration of the Rights of Indigenous Peoples.**

Cultural Resources

Mitigation Measure CR-1: To minimize the potential for significant impacts on previously known or as of yet undiscovered historic properties and/or features during any ground disturbing activities, the following measures shall be required:

- a. Prior to installation, if deemed appropriate by the NPS Park Archaeologist, sensitivity training of all contractors and construction workers in the project area shall be conducted. Workers shall be educated in the recognition of archaeological resources (e.g., historic and prehistoric artifacts typical of the general area), procedures to report such discoveries, NPS no-collection policies, and CITC construction protocols to ensure that installation activities avoid impacts to potentially significant cultural resources. The NPS Park Archaeologist shall have the authority to halt or redirect the installation activity if potentially significant archaeological features or materials are uncovered. Evidence of compliance with NPS sensitivity training requirements must be submitted to the CPUC prior to installation activities.*
- b. During installation activities and if deemed necessary by the NPS Park Archaeologist, an NPS-approved archaeological monitor shall be present during ground disturbing activities to ensure that archaeological artifacts, cultural deposits, and human remains are not disturbed.*
- c. In the event that as of yet undiscovered archaeological artifacts, cultural deposits, or human remains are encountered during installation, all work shall stop in the immediate vicinity of the find and the NPS Park Archaeologist shall be notified at the earliest opportunity. As appropriate, additional cultural resources surveys shall be conducted to inventory the cultural resources within areas disturbed during installation. Installation activities shall not resume until the NPS Park Archaeologist deems the cultural resource has been appropriately documented and protected. At the NPS Park Archaeologist's discretion, the location of ground disturbing activities may be relocated elsewhere on the project site to avoid cultural resources.*

- C-6** | **The above described mitigation measures for California Native American Cultural Resources is not acceptable and is in direct violation of Chumash Cultural Resource Management, the meaning of meaningful consultation and UN Declaration of the Rights of Indigenous Peoples, we**
- C-7** | **have not ceded the rights of ownership or stewardship to anyone, NCTC does not give anyone permission to place any tower on our Sacred Home Land.**
- C-8** | **NCTC is dedicated to the preservation of our Ancestors and our Sacred Sits/Places, we are experts on the preservation of Native American Cultural Resources, we disagree with your experts findings, NCTC disagrees with NPS Park Archaeologist and their findings, and as experts we find the MND to deficient and we are stating that there should be “no project”.**

FINDINGS

The Initial Study was prepared to identify the potential effects on the environment from the construction of the Channel Islands Telecommunication Project and to evaluate the significance of these effects. Based on the Initial Study and the Findings listed below, the CPUC has determined that the proposed project would not have a significant effect on the environment. With the implementation of the above mitigation measures, the proposed project would not significantly degrade the quality of the environment.

With the implementation of the above mitigation measures, both short-term and longterm environmental effects associated with the proposed project would be less

than significant.

When potential impacts associated with implementing the proposed project are considered cumulatively, the incremental contribution of the project-related impacts are insignificant.

Based on the Initial Study, there is no evidence that implementing the proposed project would have any adverse impacts on people.

C-9] **Because there is a conflict of expert's testimony and no meaningful consultation with the Chumash Community this MND must not be allow to move forward and must be deemed "NO PROJECT"**

Sincerely,

Fred Collins
Tribal Administrator
Northern Chumash Tribal Council

Responses

- C-1 The CPUC notes the description of qualifications, consulting, and educational efforts of the Northern Chumash Tribal Council (NCTC) provided by the commenter.
- C-2 The CPUC notes the opposition to the placement of cellular towers on the Channel Islands. This project would not involve the installation of cellular towers.
- C-3 See response to comment B-2.
- C-4 See response to comment B-3.
- C-5 See response to comment B-4.
- C-6 See response to comment B-5.
- C-7 See response to comment B-6.
- C-8 See response to comment B-7.
- C-9 See response to comment B-8.

2.2.4 LETTER D

Comment

Letter D

From: [Freddie Romero](#)
To: jeff.smith@panoramaenv.com; [Russell Galipeau@nps.gov](mailto:Russell_Galipeau@nps.gov); calshpo@parks.ca.gov
Cc: [William Wyatt](#); [Joe Talauoon](#); [Sam Cohen](#)
Subject: Comment extension request CI Telecom EA
Date: Monday, November 26, 2012 2:49:15 PM

Mr. Smith,

I have recieved a copy of the EA for the proposed channel island project and after reviewing this document, the Santa Ynez Band of Chumash Indians Elders Council believe that thirty days is not adequate enough time for research and comment on such a project that could have such a tremendous impact on our cultural heritage.

D-1 I Therefore I am requesting on behalf of the SYBCI Elders Council an extension for comment. The SYBCI Elders Council request extension of 90 days for comment.

The SYBCI Elders Council seek your understanding with this issue and our sensitivity of the islands and the role that it plays in our culture.

Should you have any questions feel free to contact me.

Freddie Romero
Cultural Preservation Consultant
SYBCI Elders Council
805-688-7997 X37

Responses

- D-1 Scoping letters were sent to all tribal representatives on the NAHC Native American contact list on December 1, 2009, and copies of the Draft IS/EA were supplied to each of these tribal entities on November 14, 2012. The CPUC was not able to extend the comment period on the Draft IS/MND (the CEQA portion of the Draft IS/EA), and the comment period closed on December 14, 2012 as originally scheduled. The NPS is considering extending the comment period on the Draft EA (the NEPA portion of the Draft IS/EA) and may continue to receive comments after December 14, 2012. Any additional comments submitted after December 14, 2012 may be incorporated into the CPUC decision document.

2.2.5 LETTER E

Comment

Letter E



**SANTA YNEZ CHUMASH
TRIBAL ELDERS COUNCIL**
TO PROTECT AND PRESERVE TRIBAL ANCESTRY,
TRADITIONS AND CULTURE

January 11, 2012

California Public Utilities Commission
Mr. Jeffery Smith
One Embarcadero Center, Suite 740
San Francisco, Calif. 94111

Re: CITC Project

Mr. Smith,

The Santa Ynez Band of Chumash Indians Elders Council has received and reviewed the IS/EA for this project and would like to forward the following comments and position.

E-1

As you may or may not know, the Elder Council, as well as many other indigenous people of this area holds the Channel Islands in extreme reverence to their heritage and culture. We as a people believe that Santa Cruz Island is our place of origin and that we occupied the others, as well as believe that all the islands were at one time connected to each other.

Our story of the rainbow bridge talks about how the island of Santa Cruz became so populated by our people, that our creator made a rainbow bridge for us to cross to the mainland many millenniums ago.

As time went on we were removed from these islands and brought to the mainland during the mission period and were forbid to return. It has not been until of late, with the renewing of our tomol (plank canoe) that we have been able to return and gather together to carry on ceremony and honor our ancestors who once occupied these islands.

As a result of our forced removal from the islands, they have been put in the possession of NPS, who are now the stewards of them. And although we are not in control of them, we are still responsible to look after them. This is a mandate given to us by the creator, past down by our ancestors.

Tribal Elders Council | PO Box 345 Santa Ynez | Ca | 93460
Phone: 805.688.8446 | Fax: 805.686.9578 | Email: elders@santaynezchumash.org



**SANTA YNEZ CHUMASH
TRIBAL ELDER'S COUNCIL**

**TO PROTECT AND PRESERVE TRIBAL ANCESTRY,
TRADITIONS AND CULTURE**

E-2 It is for the stated reasons that we, the SYBCI Elders Council must oppose your project or any other that would add to the destruction of the spirit of the islands, its environment and result in the possible future development of these islands, that would destroy them, not only for the generations of indigenous people to come, but for the generations to come period.

Should you have any questions or need to talk with us, feel free to contact Freddie Romero by phone @ 805-688-7997 or by e-mail freddyromero1959@yahoo.com.

Sincerely,

Joe Talaugon, Chairman
SYBCI Elders Council

Cc: Russell Galipeau, NPS
Anne Marie Wypijewski, Senior Attorney FCC
Steve Del Sordo, FPO, FCC

Tribal Elders Council | PO Box 1074 | Santa Ynez | Ca | 93460
Phone: 805.688.8446 | Fax: 805.686.9578 | Email: elders@santaynezchumash.org

Responses

- E-1 The CPUC notes the comments regarding the creation story of the Santa Ynez Band of Chumash Indians (SYBCI) and the desire of the Elders Council to protect the Channel Islands.
- E-2 The CPUC notes the SYBCI Elders Council's opposition to the project.

2.2.6 LETTER F

Comment

Letter F

To Jeffery Smith Senior Planner ,Panorama Enviromental, INC.

Russell Galipeau, Superintendent, Channel Island National Park Service

We are responding to the cell tower Telecom project proposed for the Channel Islands in Ventura County .We ,members of the Barbareno/Ventureno Band of Mission Indians are opposed to the project. The Islands are the home of our relatives ,the artifacts and burials are not to be destroyed by the unrealistic amount of cell towers that are proposed for the Islands. Our Islands are the only area left that remind us of what our land looked like before Spanish contact. The need for personal safety of the visitors to the Islands is important to us and there is a need for emergency aid. What we are not in favor of is projects for profit where our culture is at risk. Also at risk is the animals with known and unknown harmful frequencies that will be transmitted in the atmosphere. These Islands are the oldest and holiest places that is part our culture. There should be another alternative, such as reducing the number of place where installation will placed. And as we know the Islands are not pristine and there has been way too much damage this project just adds to the clutter that is already there. One of our fears is that giving internet access to the Island visitor will increase the amount of pot hunting that could take place .People will be able to immediately be able to identify and communicate with the outside world at a touch of a button, thus creation a larger and wider market than there is. We see a need for NPS park personnel to better educate people coming to the Islands and explain the hazards and dangers and remoteness of them, so that they will be careful. After all isn't that why most people go there. If this project is approved, we want to have your word that there will be a full time archaeologist and a Chumash (Island

F-1

F-2

F-3

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F-9

F-10

F-10 ↑ decendent, with proof of ancestry) monitor who has knowledge in their culture and the field of archaeology and monitoring techniques. Some who will be onsite at all times and not wander around. We want to see that there will be a report from that Monitor at the end of the project. If that person cannot be present an alternate with the same level of knowledge be selected to fill in. Lastly, we the B.V.B.M.I. would like to finish by saying that the wants and needs of our civilization is never ending ,can we keep one area of our land clear of future progress.

F-11 ↓ There is just too much at risk when we keep adding to the stuff and building up the technology to give us humans more comfort.

Thank-you,

Julie Tumamait-Stenslie

Tribal Chair, Barbareno/Ventureno

Band of Mission Indians

365 N. Poli Ave. Ojai Ca.93023

jtumamait@hotmail.com

December 12,2012

Responses

- F-1 The CPUC notes the commenter's opposition to the project.
- F-2 Mitigation Measure CR-1 would be implemented to minimize impacts to cultural resources, including artifacts and burials.
- F-3 The CPUC notes the commenter's statement and opposition to projects that impact culture. Mitigation Measure CR-1 would be implemented to minimize impacts to cultural resources.
- F-4 The CPUC notes the commenter's concern about frequency impacts on animals due to frequencies in the atmosphere. One source indicates that studies on the effects of electromagnetic fields (EMF) on wild birds have found that "exposure of wild birds to EMF can under certain circumstances change their behaviour, reproductive success, growth and development, physiology and endocrinology and/or the parameters of oxidative stress" (SCENIHR 2009). The changes, however, are "neither all in the same direction or consistent" (SCENIHR 2009). Two studies also found that EMF exposure correlates with a reduced house sparrow population in urban areas; yet, it was noted that there are numerous ways to interpret the correlation and additional studies are needed to reach a conclusion (SCENIHR 2009). The CPUC has analyzed impacts to animals and provided mitigation where necessary to reduce impacts to animals to less than significant levels.
- F-5 The CPUC notes the comment regarding the cultural value of the Channel Islands.
- F-6 The applicant, NPS, and CPUC considered a number of alternatives to the proposed project, including alternative technologies, prior to preparation of the Draft IS/EA. The specific locations for the installation of telecommunications facilities were selected to minimize environmental effects. An alternative of a reduced number of phone facilities would not meet the purpose of the project to the extent that the proposed action would meet the purpose. The purpose of the project (stated in full on page 1-3 of the Draft IS/EA) is to provide improved communication for people on the island, provide communication for emergency situations, and improve real time weather reporting. Placing communications infrastructure in fewer locations would not meet the communication-related goals as well as placing communications infrastructure at all 15 locations. Therefore, only the proposed project and the No Project Alternative were analyzed in the Draft IS/EA.
- F-7 The CPUC notes the comment that the proposed project would increase the amount of "clutter" on the Channel Islands. Impacts to visual resources are discussed beginning on page 3-77 the Draft IS/EA. Impacts to visual resources would be less than significant. No changes were made to the document.
- F-8 The proposed project would not increase the frequency or duration of physical access to and from the Channel Islands and thus would not increase the ability of people to "pot hunt." The same physical restrictions on travel on and among the Islands would exist after implementation of the project. The only change in physical transport would be that

fewer attempted trips to and from the Islands would fail due to weather conditions, as the telephone service would allow people to call ahead to verify that weather is favorable for travel. Thus, the number of successful trips and the number of people traveling to and from the Islands would not change, and “pot hunting” is not expected to increase as a result of the proposed project. Mitigation Measure CR-1 requires cultural sensitivity training of workers if deemed appropriate by the NPS Park Archaeologist, and the presence of work crews is therefore not expected to increase “pot hunting” during project construction.

- F-9 The CPUC notes the comment urging the NPS to educate people about the dangers of the Islands. The comment does not appear to pertain to the environmental impacts analysis and thus no changes were made to the document.
- F-10 The CPUC notes the commenter’s request for the presence of a full-time archeologist and a Chumash monitor, and access to monitoring reports. Mitigation Measure CR-1 would be implemented to minimize impacts to cultural resources and would require the NPS to oversee archeological monitoring during ground disturbing activities and to require monitoring if deemed necessary during ground disturbing activities. The NPS may choose to authorize additional monitors during installation activities. The commenter may request construction compliance reports from the CPUC, which would include documentation of any previously undiscovered cultural resources per Mitigation Measure CR-1, as described in the MMRP.
- F-11 The CPUC notes the commenter’s objection to the increased use of technology.

2.2.7 LETTER G

Comment

Letter G

From: [Julie Tumamait-Stenslie](mailto:Julie.Tumamait-Stenslie)
To: jeff.smith@telecom
Cc: russell.galipeau; jensen.uchida@cpuc.ca.gov; kristi.black@panoramaenv.com
Subject: RE: telecom project
Date: Thursday, December 13, 2012 7:41:33 PM
Attachments: image001.png

G-1 | Mr. Smith, Thank-you for your quick response. This is for all cc'd What do you think about having a
 G-2 | meeting with our Native group ,I did not mention that over 1/2 of our membership can trace their
 | Ancestry to the Islands.My family alone can trace our lineage to 4 villages on Santa Cruz and 1 on
 | Santa Rosa. This is a very significant project that is being proposed and I feel a face to face
 | conversation is important.Please consider this and thank-you all for your time.Julie Tumamait

From: jeff.smith@panoramaenv.com
 Date: Thu, 13 Dec 2012 11:23:44 -0800
 Subject: RE: telecom project
 To: jtumamait@hotmail.com
 CC: russell.galipeau@nps.gov; jensen.uchida@cpuc.ca.gov; kristi.black@panoramaenv.com

Thank you for your letter, Ms. Tumamait-Stenslie. We will be incorporating your letter into the Final IS/MND that we are currently preparing for the CPUC.

Best regards—
 --Jeff Smith

Jeffrey Smith, Senior Planner

Panorama Environmental, Inc.

One Embarcadero Center, Suite 740
 San Francisco, CA 94111
 o. 650.373.1200 • d. 650.340.4821 • c. 415.203.4324
www.panoramaenv.com



From: Julie Tumamait-Stenslie [<mailto:jtumamait@hotmail.com>]
Sent: Thursday, December 13, 2012 9:39 AM
To: jeff.smith@panoramaenv.com; russell.galipeau@nps.gov
Subject: telecom project

Good morning Gentlemen, Here is our comment letter regarding the Telecom project for the Channel Islands. Please feel free to contact me at any time regarding our letter. I can also be reached by phone (805)646-6214. Thank-you for your time and I would hope there could be a meeting scheduled for the Native community. Julie Tumamait-Stenslie

Response

- G-1 The CPUC notes the ancestry of the members of the Barbareno/Ventureno Band of Mission Indians.
- G-2 The CPUC is amenable to conducting additional consultation with interested tribal entities, and intends to further consult with interested tribes regarding their concerns about the proposed project. See the response to comment B-2 for additional discussion of tribal consultation.

2.2.8 LETTER H

Comment

Letter H

From: [Mona Tucker](#)
To: Jeff.Smith@panoramaenv.com
Subject: Channel Islands Telecommunications Project - Santa Barbara County, CA.
Date: Friday, December 14, 2012 12:48:49 PM

December 14, 2012

Ca. Public Utilities Commission

c/o Mr. Jeffrey Smith

Jeff.Smith@panoramaenv.com

Mr. Smith:

I'm writing to you regarding a project proposed by the Channel Island Telecommunication Company. This company is proposing to install telecommunications facilities at up to 15 project locations on four of the five islands that comprise the Channel Islands National Park in Santa Barbara County, CA.

H-1 [As you know the Channel Islands are part of the heart and soul of all Chumash and it is our responsibility to speak against this project. The installation of these facilities will have irreversible negative impact on the culture of the Chumash people and for this reason; I feel this project should not go forward.

Thank you,

Mona Olivas Tucker, Tribal Chair

yak tityu tityu - Northern Chumash Tribe

660 Camino Del Rey

Arroyo Grande, CA 93420

olivas.mona@gmail.com

Response

H-1 The CPUC notes the commenter's opposition to the project.

2.2.9 LETTER I

Comment

Letter I

Ksen~Sku~Mu
Frank Arredondo ~Chumash MLD
Po Box 161
Santa Barbara Ca, 93102

December 14th, 2012

California Public Utilities Commission
c/o Mr. Jeffrey Smith, Project Manager
Panorama Environmental, Inc
One Embarcadero Center, Suite 740 San Francisco, CA 94111
Email: Jeff.Smith@panoramaenv.com

National Park Service
Mr. Russell E. Galipeau, Jr., Superintendent
Channel Islands National Park
1901 Spinnaker Drive
Ventura, CA 93001
Email: Russell_Galipeau@nps.gov

RE: Application No. A.07-08-014, Channel Islands Telecommunication Infrastructure Project

I - 1

I thank you in advance for the opportunity to comment on the above referenced project. My name is Frank Arredondo. I am Chumash/Coastanoan. I am recognized within my community as the Former Director of the Board with the Coastal Band of the Chumash Nation. Currently, I am an active member of the Coastal Band of the Chumash Nation, I am listed on the Most Likely Descendant (MLD) list for the Chumash Territory and the Native American Contact list with the Native American Heritage Commission. I am also listed on the Santa Barbara County approved consultants list as a Native American consultant. My comments today are of my own.

Being of Native American descendant, from the Chumash territory, I have a strong vested interest in the project. I currently provide comment on several Planning and Development projects in the surrounding areas that have cultural resources impacts. I have been an advocate for the preservation of those Cultural Resources within my community and for several years now as well as placing an emphasis on local governments adhering to policies and procedures. I thank you for taking the time to review my comments.

Frank Arredondo
Ksen~Sku~Mu
Chumash MLD

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I-2 Channel Islands Telecommunication Infrastructure Project, referred to herein as the proposed project; The Project may not be approved under a Mitigated Negative Declaration, as there is substantial evidence that the impacts to Cultural resources have not met the statutory requirements for formal review and analysis of a project. An EIR must be prepared to comply with CEQA.

I request that the lead agency find that there is substantial evidence supporting a fair argument of significant adverse environmental impacts, and direct the preparation of an EIR and take no action on the merits of the project until such time as the EIR is prepared and certified

I-3 The activities related to the Channel Islands Telecommunications Project would cause a substantial adverse change to historical resources. The incremental advancement of infrastructure to the islands is an impact to the overall surroundings of the Islands. Materially altering the physical characteristics that account for the inclusion in, or eligibility for, inclusion in the California Register of Historic Resources as a cultural landscape with the installation of the telecommunications project is an incrementally advancement of infrastructure that continues to alter the natural physical characteristics of the rural landscape and visual aspect.

I-4 It is understood that reasons for development are solely at the will of the developer. However it should be understood that in this case the reason for the proposed project maintains its emphasis on safety and weather related services thus facilitating the need. A closer look at the actual details of the project reveal that it is more for facilitating ease of use for visitors and recreational use.

The Draft EIR states: “The proposed project is needed because the NPS and NOAA staff currently has limited ability to communicate between the locations within the Channel Islands National Park and with personnel and other contact points on the mainland.” However communication between NPS ranger stations is maintained by “High frequency radio system and handheld radios for communication between radio equipped ranger stations on the five islands.” The Islands also have Satellite internet service at ranger stations that access government internet on mainland. The DEIR leaves several questions unanswered. Like will the radio systems be discontinued?

The only issue that will be addressed by this telecommunications project proposal is personal cell phone use by NPS staff and Island visitors. This use is purely recreational. Currently NPS personnel have personal cell phone access and so do Island visitors in select locations. The installation of the telecommunications project will merely increase the range to 0.5 mile radius of any tower location.

The DEIR suggests the purpose of the improvements will address three issues.

Improved communication between the Islands and mainland is the first issue the project proposes to address. Radio systems at the ranger stations are already in place which allow

Frank Arredondo
Ksen~Sku~Mu
Chumash MLD

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↑ for communication between the Islands and mainland already. Current communications with the mainland are conducted by the ranger stations to promote a streamlined method of order. Why would further need be warranted by any other personal? This leaves recreational use to be the primary reason for the project.

I-4

Emergency response is the second purpose for improvements. This purpose brings about several question left unanswered. The increased emergency response would be with whom? If the ranger station already has communication facilities established with the mainland and other ranger stations then how will the installation of this telecommunication project improve the emergency response aspect? Telecommunication services proposed are to be located in areas that are all remote from the mainland as to make it equally deficient preventing them to make any real measurable difference in response time. How are emergency response measures currently taken care of at these locations where the telecommunication project proposes? How do they specifically address the emergency response issue that is an improvement of the current process? In order to determine if these improvements increase in emergency response time we need to know how the current system works in order to evaluate it properly.

Lastly the DEIR states that the proposed project will improve real-time reporting of weather data to allow for more accurate travel predictions, which will reduce unnecessary and/or aborted boat and aircraft trips to and from the island for both NPS and commercial recreational vehicles. This statement sounds completely false. As stated before, the only increased use of this project is the recreational use of visitors and NPS staff personal use of cell phones. Travel too and from the Islands are directed by staff from the mainland not the from recreational cell phone use on the Islands. The ranger stations already have a radio system to carry out this task. There is no correlation between Islanders recreational cell phone use and unnecessary and/or aborted boat and aircraft trips to and from the islands. The only accurate travel prediction will be to assist recreational users in determining if they need to packing up and head to the docks. Recreational users are not qualified to make weather condition reports to provide to professional travel services.

I-5

↑ “The Chumash Nation is known to have ties to the Channel Islands; however, the inventory and evaluation of cultural resources prepared for the project concluded that none of the telecommunication facilities are located in areas of cultural significance to the local American Indian population (Pacific Legacy, Inc. 2009).”

This statement is true in the emphasis of Chumash having ties to the Channel Islands; they are our homeland, where our ancestors came from. The Islands are considered to be sacred sites as a whole. In numerous archaeological reports the Islands are referred to as the Origin location of the Chumash. Not just a site itself of habitation but the Islands as a whole. The Channel Islands are culturally significant and any additions to the islands are an impact that affects the local Chumash population.

↓ A project like this proposed is understandable for the advancement of infrastructure and assists greatly in the recruitment of visitors for recreational use but as many if not all historical Chumash island descendants would object to. Under CEQA 15064(b),an

Frank Arredondo
Ksen~Sku~Mu
Chumash MLD

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I-5 ↑ activity which may not be significant in an urban area may be significant in a rural area. This is paramount to the overall determination of the CEQA process. Economic and social changes are direct results of this project and cause an adverse affect to the rural nature of the Islands with the physical change of potential increase of visitors to the Islands because of the increased telecommunication facilities designed especially for recreational use in mind. CEQA 15064(e).

I-6 ↑ If this project is to move forward it should be done in consultation with living lineal historical descendants to the Channel Islands first. Many of which are not listed on the Native American Heritage Contact list. The current contacts listed for communication with the Chumash community only contains approximately four (4) Historical Island descendants, yet there are dozens still alive and living on the mainland. The NAHC Native American contact list is comprised of individuals that wish to be notified of development projects that may take place on Native American sites. The list contains individuals that were grandfathered in before strict genealogical documentation was required, not all the contacts on the NAHC list descend from the Islands during the historical period. There is a whole collection of individuals that are not listed but as a matter of cultural protocol they should be sought out and asked for comment first and foremost.

As a MLD living within my Chumash community and participating in the inner workings of the community I am privileged to be apart of this community and use my lineage to serve my community in restoring and preserving the integrity of my culture and up holding Chumash protocol when needed.

I-7 ↑ An EIR must be prepared to comply with CEQA.

I thank you for allowing me to comment.

*Best wishes, Frank Arredondo
Ksen~Sku~Mu
Chumash MLD
Po Box 161
Santa Barbara, Ca 93102
Email Ksen_Sku_Mu@yahoo.com*

Frank Arredondo
Ksen~Sku~Mu
Chumash MLD

4

Response

- I-1 The CPUC notes the description of the genealogy and qualifications provided by the commenter.
- I-2 The commenter states that the analysis of cultural resource impacts has not met the statutory requirements for formal review and analysis under CEQA. He also states that the project cannot be approved by the CPUC under a MND and that an Environmental Impact Report (EIR) is required.

The commenter has not provided any additional information that would qualify as substantial evidence of an adverse physical effect to cultural or historic resources, or that the project would cause a substantial adverse or significant effect to resources.

The CPUC believes that the cultural resources analysis provided in the Draft IS/EA does comply with all statutory requirements of CEQA. A literature review and site survey was conducted to identify any known archaeological and historical resources that might be present at any of the 15 proposed project locations. The majority of the work would not include any disturbance of land where cultural resources could occur. JRP, the project historians, evaluated the effects of the project and determined the impacts to be less than significant and minor. A mitigation measure was identified that would reduce impacts on any cultural resources that might be discovered during project construction to a less than significant level. Please see the response to comment B-5 for a discussion of additional cultural resource review and analysis that will be performed by the NPS as part of the Section 106 consultation process and NEPA.

CEQA requires preparation of an EIR whenever a project is determined to have a potentially significant impact on the environment that cannot be mitigated to a less than significant level. The minor modifications to buildings and the installation of the telecommunication equipment were determined to not result in a significant effect. The potential for effects to undiscovered, subsurface resources would be mitigated by implementation of mitigation measure CR-1. This mitigation measure would require cultural resource sensitivity training for all construction workers if deemed appropriate by the NPS Park Archaeologist; the presence of an NPS-approved archaeological monitor during ground disturbing activities if deemed necessary by the NPS Park Archaeologist; and a series of measures to document and protect any as of yet undiscovered archaeological artifacts, cultural deposits, or human remains that may be encountered during project installation. The CPUC has determined that all potentially significant impacts can be reduced to a less than significant level by the mitigation measures identified in the Draft IS/EA. The project therefore does not require the preparation of an EIR and can be approved through the adoption of an MND.

- I-3 The CPUC has determined that the proposed project would have a less than significant impact on historic resources. The literature search and site surveys performed as part of the Draft IS/EA determined that each of the 15 project locations was either not included on or not eligible for inclusion in the National Register of Historic Places (NRHP), or that the project would not have an adverse or significant impact on project locations that are

included or eligible for inclusion in the NRHP. See the response to comments B-5, B-7, and I-2 for additional discussion of cultural resource impacts.

I-4 There are currently several means of communication between the five islands of the Channel Islands National Park and the mainland, including limited radio, satellite Internet, and cellular telephone service. None of these existing communication methods are consistent and reliable, and all of the existing communication methods have limited coverage on the island. The islands have a very high frequency radio system that allows communication among radio-equipped ranger stations on the five islands, as well as from handheld radios. This radio system allows for limited communication between the islands and with the mainland. Satellite Internet service is also available at some ranger stations that allows secure access to government Internet provider addresses on the mainland. The bandwidth of this satellite Internet service is limited and is only available at a limited number of the ranger stations. NPS personnel also possess cellular telephones; however, cellular service is unreliable because the islands are at the outer limit of the cellular service area. The location of the islands makes cellular telephone service unreliable on some parts of the islands and wholly absent on others. Recreational visitors to the islands have no landline telephone access and little to no cellular telephone reception.

The limited and unreliable communication between the Channel Islands and the mainland means that NPS, concessionaire, and approved charter boat and aircraft trips to and from the islands are often unsuccessful due to the difficulty contacting the islands and determining favorable weather conditions prior to making a trip. The limited communication service can also prevent the timely reporting of emergency situations and accidents, thus slowing emergency response from the mainland. The existing emergency response system for the Channel Islands, including police, medical, and fire response services, is described on pages 3-83 and 3-85 of the Draft IS/EA.

The proposed project is intended to improve both the coverage and reliability of communication between the islands and the mainland for NPS and NOAA staff, researchers, NPS residents, and recreational visitors. The project would supplement the existing, limited telecommunications services, but it would be up to the NPS to decide whether to discontinue existing services, such as the very high frequency radio system. The purpose of the proposed project is to provide:

- Improved real-time reporting of weather data, which would reduce the number of unnecessary and/or aborted NPS, concessionaire, and approved charter boat and aircraft trips
- Swifter and more reliable communication with mainland emergency response personnel in the case of an emergency or accident
- Expand the coverage of both Internet and telecommunications services on the islands, expanding services for NPS and NOAA researchers and residents, and providing services that are currently virtually absent for recreational visitors

The NPS manages all recreational visitor travel to the Channel Islands, and the NPS limits how many visitors are allowed to the islands each day. Inclement weather further limits the number of recreational visitors that can reach the islands. The proposed project would increase the coverage and reliability of telecommunications services on the islands, but would not increase the number of recreational visitors that would be allowed to visit the islands each day. The project would not result in an expansion of the number of recreational visitors that the NPS allows to the islands each day, and the project would not change the effects of inclement weather on the number of successful boat and aircraft trips to the islands.

- I-5 The CPUC notes the commenter's statement that the Chumash people have ties to the Channel Islands, and that the islands factor prominently in the creation story of the Chumash. The project would not result in increased recreational use of the Channel Islands, as explained in comment I-4. The commenter does not identify what economic, social, and physical changes he believes would result from the proposed project. The CPUC has determined that all potentially significant impacts would be mitigated to a less than significant level by the mitigation measures identified in the Draft IS/EA.
- I-6 The commenter states that he believes consultation should take place with all living lineal historical descendants of the Channel Islands before the project is allowed to move forward. He states that the NAHC contact list is incomplete, as it excludes dozens of historical island descendants who he feels should be sought out and contacted prior to project approval. The commenter does not identify the additional names of tribal members who should be included on the NAHC contact list.

The CPUC has complied with all CEQA-required scoping, consultation, and noticing requirements for this project. The CPUC requested a list of interested tribes from the NAHC. The CPUC also consulted with the NPS to identify additional entities that have shown interest in activities on the Channel Islands. The NPS added several tribes to the scoping list, in addition to those from the Native American Contacts List provided by the NAHC. The CPUC distributed scoping letters on December 1, 2009 to all of the tribes, per the CPUC's standard practice and all regulatory requirements. The CPUC did not receive a request for meetings or additional consultation from any tribal entities prior to the public comment period on the Draft IS/EA.

The CPUC is amenable to conducting additional consultation with interested tribes, and intends to further consult with interested tribes regarding their concerns about the proposed project.

The NPS will also conduct additional consultation through the Nation-to-Nation consultation process.

- I-7 See response to comment I-2.

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