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May 21, 2004

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VIA EMAIL & OVERNIGHT DELIVERY

California Energy Commission
Dockets Office
Attn: Dockets 03-IEP-01
1516 Ninth Street, MS-4
Sacramento, CA 95814-5512

Re: 2004 Transmission Update - Docket No. 03-IEP-01

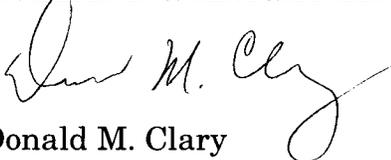
Dear Gentlemen:

Attached (in PDF format) are the comments of the Pechanga Band of Luiseño Mission Indians on the California Energy Commission's Transmission Vision. An additional paper copy is being provided via overnight delivery to the Energy Commission's Dockets Unit.

Please contact me if you have any questions.

Sincerely yours,

HOLLAND & KNIGHT LLP


Donald M. Clary

cc: John Macarro, Esq
Karl F. G. Fuller
Kristy Chew
Jerome L. Levine, Esq.
James K. Kawahara, Esq.

Encs.

**COMMENTS TO THE CALIFORNIA ENERGY
COMMISSION CONCERNING THE TRANSMISSION
VISION DOCUMENT**

Docket No. 03-IEP-01
2004 Transmission Update

The Pechanga Band of Luiseño Mission Indians ("Tribe") thanks the California Energy Commission for this opportunity to contribute to the Commission's Transmission Vision. The Tribe is not only interested in this process as a consumer of utility services. The Tribe is also highly interested in the development of energy resources and the security of these resources. The Tribe agrees that it is very important that a long-term transmission vision be developed for California, and that consistent policies be implemented for the common issues that will be confronted as part of this development. Only in this way will all stakeholders be assured of fair and equitable treatment during this process.

It is important to note that Native Americans will play a very important role in the Nation's (and California's) transmission future. As you are probably already aware, a significant amount of the country's conventional generation facilities, as well as the natural resources required to run them, are located on Native American Lands. It should also be noted that a large percentage of the lands upon which development of the country's renewable resources will occur (particularly wind and solar) are located within the boundaries of reservations. For this reason alone, tribes must be an important part of any transmission planning process, and the Commission's Transmission Vision must expressly address this participation.

Unfortunately, in the past, the participation of Native American peoples in the transmission planning and construction process has not been encouraged. This has frequently resulted in the interests of Native American peoples being ignored in such processes. As a result:

- Native American's energy needs have frequently not been met, even though major generation and transmission projects are often actually located on reservations. On many reservations, power has been unavailable, even though high voltage wires run overhead. This has had an extremely negative impact upon the economic development of many reservations.
- Tribal concerns related to the impact transmission projects will have on historical and cultural resources, particularly sacred sites, have not been recognized or have only been dealt with superficially. The companies and agencies dealing with these issues often delegate them to consultants who are not concerned with the tribe's interests, and who do not make the tribes partners in their assessments. This has led to a reluctance on the part of tribes to permit transmission development on their reservations, and sometimes provided a motivation on the part of the tribes to oppose development off their reservations. As tribes develop the

resources to contest such development, such potential conflicts will become increasingly important.

- Tribes have not received adequate compensation for the use of transmission right-of-ways and easements. This has led to a realization on the part of many Tribes that the granting of such right-of-ways and easements in the traditional manner is no longer economically viable, and that new methods must be developed to adequately compensate tribal governments for such use of tribal lands. The necessity of appropriate compensation should be recognized in the Commission's Transmission Vision.
- Tribal sovereignty over reservation lands has not been adequately considered. This has led to a basic failure to incorporate Tribal input in project construction and operating decisions.

The Tribe is hopeful and believes that it is critical that this process lead to a dialogue where the Commission and Tribal sovereigns can exchange views and can cooperatively develop a transmission planning vision that will be acceptable to all.

In this regard, the Tribe provides the following suggestions that it believes will both facilitate the development of transmission resources and address the needs of Native Americans involved in these processes:

- The Commission's final Transmission Vision document must encourage development through an inclusive process, a process

that provides assurance to Indian Tribes and others that their reasonable concerns will be addressed in the permitting process.

- The Vision Document needs to acknowledge that tribal governments are sovereigns and that tribal leadership needs to be consulted and their approval obtained throughout the planning, construction and operation of transmission projects.
- If Tribal cooperation for Transmission projects is to ever be expected, the Commission Vision and the actual plans for each project must accommodate energy needs on any impacted reservation, as well as the providing of transmission on the reservations for energy projects to be developed on the reservations.
- The Vision needs to recognize the need to provide transmission service off the reservation to tribes, particularly as tribes develop generation projects and form their own utilities to serve their traditionally underserved reservations.
- Tribes should be actively involved in all of the cultural and historical resource work issues relating to the construction of transmission lines. This should include the retention of Native American contractors that have approved by the tribe to undertake such work.

- The Vision needs to recognize the important role that the development of renewable energy on reservations will play in California's energy future and needs to provide necessary transmission for these projects.
- The Vision must recognize that, although important, transmission is only one of the many planning considerations that communities face. The Commission should not lose sight of the fact that, if they are to be constructed at all, transmission projects will need to be consistent with the developmental aspirations of the communities in which they will be located, and not constitute a threat to cultural or historical resources.
- The Vision should recognize that resources will often need to be provided to tribes so that their adequate participation in the transmission planning process can be assured.

The Tribe believes that if such principles are incorporated in the Vision Document, and if they are actually implemented by those constructing transmission projects, a great deal can be accomplished to add transmission capacity for California's needs, and to satisfy the requirements of Native American people. It is our hope that these principles will be adopted by the Commission. Again, we thank the Commission for the opportunity to participate in this process and look forward

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to a meaningful dialogue with the Commission on how these concerns can be incorporated into this vision.

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