

NATIVE AMERICAN HERITAGE COMMISSION

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October 9, 2008

Stakeholder Steering Committee
Renewable Energy Transmission Initiative (RETI)
Attn: David Olsen, Coordinator
Rich Ferguson, Coordinator
3804 Pacific Coast Highway
Ventura, CA 93001

RE: Previously Disturbed Land Issue Considered at the 8-20-2008 Stakeholder Steering Committee: Action to Adopt a Rule on Criteria that Would Consider Ag Land as 'Undisturbed'

Dear Dave and Rich:

Our concern is the manner in which the RETI SSC had to consider this very important issue. The vote came late in the 'August 20th meeting after the EWG apparently was not able to reach a consensus on the criteria for siting proxy renewable energy projects on 'disturbed' as opposed to 'undisturbed' lands. Therefore, without knowing what 'environmental criteria' was being applied to a definition of 'disturbed' land and how the issue was being addressed in the siting of 'proxy' projects, it seemed unfair to the SSC to have to make such an important decision.

Now, generically, the Native American Heritage Commission (NAHC) considers all agricultural land, as 'disturbed' that has required leveling, and/or required 'drain tiles' for the removal of salts or other constituents and has experienced 'cut' and 'fill' ground-breaking activities. The NAHC would prefer that less than productive agricultural land be considered for such projects as solar and geothermal as appropriate subject to the requirements of land enrolled in the Williamson Act, as appropriate. This siting strategy would lessen the pressure to site renewable energy project on public lands, federal and state, that is generally less disturbed and where there is a high likelihood of Native American cultural resources and unmarked burial grounds. In particular, the NAHC would hope that those public lands, where there are known Native American cultural sites, would be avoided as possible siting locations. The NAHC has consulted with southeastern California Native American tribes and they have expressed agreement with the NAHC's position on this issue. The Bureau of Indian Affairs (has indicated it is also of the same position.

The California Native American Heritage Commission (NAHC) is the state's 'trustee agency' (c.f. Public Resources Code 21070; !70 Cal App. 3d 604; *Environmental Protection Information Center v. Johnson* (1985) for the protection and preservation of Native American cultural resources, sacred sites and burial sites.

If you have any questions about our position on this issue, please do not hesitate to contact me.

Sincerely,

Dave Singleton
Program Analyst

Cc: Larry Myers, Executive Secretary
Native American Heritage Commission

James Fletcher, Superintendent, Southern California Agency
Bureau of Indian Affairs
United States Department of the Interior

Carl Zichella
Sierra Club

Chuck Najarian
California Energy Commission

Undisturbed Land.'