



**CALIFORNIA
ENERGY COMMISSION**



**California Energy Commission
March 17, 2025 Business Meeting
Backup Materials for Order Instituting Informational Proceeding (OIIP) – Tribal
Affairs and Tribal Energy Sovereignty**

The following backup materials for the above-referenced agenda item are available as described below:

1. Proposed Order Instituting Informational Proceeding

STATE OF CALIFORNIA
STATE ENERGY RESOURCES
CONSERVATION AND DEVELOPMENT COMMISSION

IN THE MATTER OF:

**Order Instituting an Informational
Proceeding on Tribal Affairs and
Tribal Energy Sovereignty**

Docket No.: YY-XXX-##

**Order Instituting an Informational
Proceeding on Tribal Affairs and
Tribal Energy Sovereignty**

I. INTRODUCTION AND BACKGROUND

On September 19, 2011, Governor Edmund G. Brown issued Executive Order B-10-11, which “recognizes and reaffirms the inherent right” of California Native American tribes “to exercise sovereign authority over their members and territory” and states that, “the State and Tribes are better able to adopt and implement mutually-beneficial policies when they cooperate and engage in meaningful consultation.”¹ In response to B-10-11, the California Energy Commission (CEC) established its tribal program and consultation policy,² emphasizing tribal engagement and consultation early, often, and meaningfully.

In 2019, Governor Gavin Newsom reaffirmed executive order B-10-11 and, through executive order N-15-19, issued an apology to California Native American tribes (tribes) for the violence against tribes committed by the state and established the Truth and Healing Council.³ In 2020, he issued a Statement of Administrative Policy establishing that the purpose of partnering with California tribes in regard to lands was “to support tribal self-determination and self-government” and “provide opportunities for... renewable energy[...].”⁴

¹ California Executive Order No. B-10-11 (Sep. 19, 2011).

² California Energy Commission. 2024. *Tribal Consultation Policy*. February. CEC-700-2002-001-REV. <https://www.energy.ca.gov/sites/default/files/2022-02/CEC-700-2022-001.pdf>

³ California Executive Order No. N-15-19 (June 18, 2019).

⁴ California Office of the Governor. 2020. Statement of Administrative Policy: Native American Ancestral Lands. Sept 25.

On March 2, 2023, the CEC adopted Resolution No 23-0303-09 Committing to Support California Tribal Energy Sovereignty.⁵ This resolution synthesized over a decade's worth of California tribal affairs state policy successively acknowledging the inherent sovereignty of California Native American tribes.

In accordance with the above, the CEC has consulted on a variety of programs and policies, ranging from strategic plans, to siting projects, to funding programs and more. The CEC has embraced the values of early, often, and meaningful consultation with California Native American tribes, and implemented significant steps reflecting tribal priorities, most notably by investing over 100 million dollars into tribal clean energy projects.

II. ASSIGNMENT OF LEAD COMMISSIONER AND SCOPE

Through this Order Instituting an Informational Proceeding (OIIP), the CEC establishes a proceeding to inform the CEC's tribal affairs work, including work supporting tribal energy sovereignty. This proceeding will solicit information from California Native American tribes and others throughout the state and will create a formal record, including a docket.

The OIIP will support gathering information, including for the following:

- Tribal consultation
- Tribal energy sovereignty
- Tribal cultural resource considerations regarding clean energy development
- Best practices for tribal energy grants, tribal energy equity indicators, and engaging with tribes on energy projects
- Tribal energy economy including tribal enterprise and workforce development.

This OIIP will inform CEC's tribal affairs program, including revisions to CEC's Tribal Consultation Policy, development of a CEC tribal energy sovereignty policy, best practices, and more.

Chair David Hochschild shall be the Lead Commissioner, and Commissioner Noemí Otilia Osuna Gallardo shall be the Associate Commissioner. Under their leadership, the scope of this proceeding can be further defined with information from the participating California Native American tribes.

III. ENGAGEMENT AND CONSULTATION FORUMS

⁵ State Energy Resources Conservation and Development Commission. *Resolution Committing to Support California Tribal Energy Sovereignty*. Resolution No 23-0303-09

This proceeding will include statewide and regional engagement, including public meetings, roundtable discussions and other forums, and outreach, engagement, and consultation with California Native American tribes.

Participation forums will be designed to uplift participation and perspectives of California Native American tribes. Under the direction of Chair Hochschild, the CEC will notice all public events a minimum of 10 days before the event.

In addition to these public notices, the Office of the Public Advisor, Energy Equity and Tribal Affairs will invite California Native American tribes to participate in government-to-government consultation in accordance with the CEC Tribal Consultation Policy.⁶

There will be an opportunity for public comment in this proceeding through the established forums for verbal comments and through the OIIP docket for written comments.

IV. AUTHORITY

Pursuant to Public Resources Code section 25210 and California Code of Regulations, Title 20, section 1220(b), informational proceedings allow the CEC to hold hearings and take other actions to gather and assess information needed to assist it in formulating policies. Information gathering under this OIIP will explicitly include engagement and consultation with California Native American tribes.

This OIIP will draw upon the following authorities:

1. 2023 CEC Resolution Committing to Support Tribal Energy Sovereignty, which states, "... the Commission hereby commits to support California Tribal energy sovereignty and commits to, among other things, works to accomplish... increase[d] tribal access to federal and state energy funding opportunities." The resolution also "... directs the Tribal Liaison and/or their designee to consult with California tribes to develop a Tribal Energy Sovereignty Policy, which shall develop and include policies related to Tribal energy sovereignty, Tribal lands, and Tribal consultations, and present it to the Commission for consideration and potential adoption."⁷
2. The 2024 California Energy Commission Tribal Consultation Policy which states, "It is the CEC's policy that its consultations with Tribes will occur early and often and be meaningful, respectful, and inclusive."⁶
3. Assembly Bill 923 (Ramos. 2022, ch. 475), Government-to-Government Consultation Act, which states, "This bill would encourage the state and its

⁶ California Energy Commission. 2024. *Tribal Consultation Policy*. February. CEC-700-2002-001-REV. <https://www.energy.ca.gov/sites/default/files/2022-02/CEC-700-2022-001.pdf>

⁷ State Energy Resources Conservation and Development Commission. *Resolution Committing to Support California Tribal Energy Sovereignty*. Resolution No 23-0303-09.

agencies to consult on a government-to-government basis with federally recognized and, as specified, with nonfederally recognized tribes.”⁸

4. The 2024 California Natural Resources Agency Draft Tribal Consultation Policy, which states, “CNRA departments, commissions, boards, and conservancies may adopt additional tribal consultation policies building on this policy and to support their specific missions.”⁹
5. 2022 Integrated Energy Policy Report which called for, “revisiting the CEC’s Energy Equity Indicators to obtain input and conduct a literature review to determine the future of the tool” and noted that “Tribes and communities are best situated to determine their needs and wants.”¹⁰
6. The 2023 Justice Access Equity Diversity Inclusion (JAEDI) Framework which states “...engagement with Tribes should include seeking insight, guidance, direction, and feedback on policies, programs, operations, and projects before plans are moving forward. Meaningful engagement means ensuring decisions and actions are informed by, and when possible, led by Tribes.”¹¹
7. The 2022 Report of the Blue Ribbon Commission on Lithium Extraction in California, Recommendation 15, which states, “Develop best practice guidance for CEQA lead agencies when initiating communications and consultation with Tribes (e.g., making multiple attempts through different methods, such as mail, email, telephone); providing reasonable time for Tribal governments to evaluate written materials; and recognizing the specific cultural, historical, public health, and ecological context of the Salton Sea region.”¹²
8. Senate Bill 605 (Padilla. 2023, ch. 405) regarding wave and tidal energy, which states: CEC “shall work with...California Native American tribes... to identify suitable sea space for offshore wave energy and tidal energy projects in state and federal waters.” While identifying suitable sea space, the commission “shall consider... [p]rotection of cultural and biological resources with the goal of prioritizing ocean areas that pose the least conflict to those resources.” Regarding mitigating environmental and ecosystem impacts, CEC in coordination

⁸ Assembly Bill 923 (Stats. 2022, ch. 475)

⁹ California Natural Resources Agency. 2024. *Draft California Natural Resources Agency Tribal Consultation Policy Update*. <https://resources.ca.gov/-/media/CNRA-Website/Files/Initiatives/Tribal-Affairs/Tribal-Consultation-Policy.pdf>

¹⁰ Bailey, Stephanie, Jane Berner, David Erne, Noemí Gallardo, Quentin Gee, Akruhi Gupta, Heidi Javanbakht, Hilary Poore, John Reid, and Kristen Widdifield. 2023. *Final 2022 Integrated Energy Policy Report*. California Energy Commission. Publication Number: CEC-100-2022-001-CMF.

¹¹ California Energy Commission. 2023 Justice, Access, Diversity, Inclusion Framework. https://www.energy.ca.gov/sites/default/files/2023-11/CEC-JAEDI-Framework_ada.pdf

¹² Paz, Silvia (Chair), Ryan E. Kelley (Vice Chair), Steve Castaneda, Rod Colwell, Roderic Dolega, Miranda Flores, James C. Hanks, Arthur Lopez, Luis Olmedo, Alice Reynolds, Frank Ruiz, Manfred Scott, Tom Soto, Jonathan Weisgall. 2022. *Report of the Blue Ribbon Commission on Lithium Extraction in California*. California Energy Commission. Publication Number: CEC-300-2022-009-F

and consultation with California Native American tribes, “shall identify measures that would avoid, minimize, and mitigate significant adverse environmental and ecosystem impacts and use conflicts, and for monitoring and adaptive management for offshore wave energy and tidal energy projects, consistent with California’s long-term goals relating to renewable energy, reduction of greenhouse gas emissions, and biodiversity.”¹³

9. Assembly Bill 3 (Zbur. 2023 ch. 314) regarding offshore wind energy, which states that CEC shall “[c]ollaborate with tribal governments to develop appropriate seaport siting criteria that minimize adverse impacts to natural and cultural resources and maximize economic and workforce benefits to the tribal governments.” and “[co]ordinate with tribal governments to develop recommendations for tribal workforce development opportunities.”¹⁴
10. 2015 Resolution Regarding Diversity Policy Statement which states, “...it is the policy of the California Energy Commission, consistent with State and Federal Law, to optimize fair and equal opportunities for... economically disadvantaged and underserved communities, to participate in and benefit from Commission programs.”¹⁵

IV. CONCLUSION AND ORDER

The CEC therefore institutes an informational proceeding to accomplish the purposes specified above regarding tribal engagement and consultation, tribal clean energy development, and tribal energy sovereignty and to support formal engagement processes, including statewide and regional engagement and consultation.

The CEC designates Chair David Hochschild as Lead Commissioner and Commissioner Noemí Otilia Osuna Gallardo as Associate Commissioner for this informational proceeding and directs the Executive Director and CEC staff to open a docket for this proceeding and collect and evaluate the information needed under the guidance of the Lead and Associate Commissioners.

IT IS SO ORDERED.

¹³ Senate Bill 605 (Stats. 2023, ch. 405)

¹⁴ Assembly Bill 3 (Stats. 2023, ch. 314)

¹⁵ State Energy Resources Conservation and Development Department. Resolution Regarding Diversity Policy Statement. Resolution No: 15-0408-3

CERTIFICATION

The undersigned Secretariat to the CEC does hereby certify that the foregoing is a full, true, and correct copy of an order duly and regularly adopted at a meeting of the CEC held on March 17, 2025.

AYE:

NAY:

ABSENT:

ABSTAIN:

Dated:

Kristine Banaag
Secretariat