

Corridor EIS Archives

From: corridoreiswebmaster@anl.gov
Sent: Monday, July 10, 2006 7:19 PM
To: Corridor EIS Archives
Subject: Preliminary Draft Corridor Map Comment M0129

Attachments: Julia_Souder_Ltr_M0129.pdf



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Thank you for your comment, Donald Clary.

The comment tracking number that has been assigned to your comment is M0129. Once the comment response document has been published, please refer to the comment tracking number to locate the response.

Comment Date: July 10, 2006 07:18:27PM CDT

Preliminary Draft Corridor Map Comment: M0129

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Attachment: C:\Documents and Settings\dclary\My Documents\Julia Souder Ltr.pdf

Questions about submitting comments over the Web? Contact us at:
corridoreiswebmaster@anl.gov or call the Preliminary Draft Corridor Map Webmaster at
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July 10, 2006

Julia Souder
DOE Project Manager
West-wide Corridor Study
Office of Electricity Delivery and Energy Reliability
U.S. Department of Energy
1000 Independence Avenue SW.
Washington, DC 20585

Re: West-Wide Energy Corridor Programmatic Environmental Impact Statement
Preliminary Draft Corridor Map Comments

The Pechanga Band of Luiseño Mission Indians ("Tribe") provides the following comments upon the Draft Corridor Map ("Draft Map") that has been issued for the West-Wide Energy Corridor Programmatic Environmental Impact Statement (PEIS) as well as the process that has been utilized to develop that map. The Tribe previously provided comments to the Department at the tribal meeting on this topic that occurred in Sacramento, California on May 12, 2006.

The Tribe appreciates this opportunity to comment upon the Draft Map and notes that as consumers, developers of electricity projects, and, increasingly, operators of utilities, tribes have an important interest in confirming that the development of the Nation's transmission system is successful. The Tribe looks forward to cooperation with the all other parties to assure this success.

However, the Tribe believes that the PEIS process and, accordingly, the Draft Map, have not adequately considered tribal concerns regarding the development of the western transmission system. In this regard, the Tribe was particularly troubled by statements by the staff present at the Sacramento tribal meeting indicating that no government-to-government consultations had taken place during the drafting process. Moreover, staff stated that they had been specifically directed to make sure that any of the contemplated transmission paths avoided reservations. The Tribe believes that failure on the part of those completing the PEIS to consider both the needs and concerns of Native Americans in this process will potentially lead to unnecessary conflict and difficulties in the maintaining of existing transmission facilities and the construction of future facilities.

The Tribe notes that its reservation is not shown as being directly impacted by the paths outlined in the current Draft Map. However, the Tribe also notes that its reservation has been consistently identified by a Southern California utility, San Diego Gas & Electric Company ("SDG&E") as a potential location for future electric transmission lines. As a matter of fact, the Tribe was recently involved in a long and costly dispute with SDG&E over the construction of a transmission line over its reservation.

During that line approval process, SDG&E failed to consider the significant impacts that the transmission line would have had upon the historical and cultural resources of the Tribe. When these resources were threatened, the Tribe took the necessary steps to protect those resources. Although the line was ultimately determined by the California Public Utilities Commission to be unneeded, this lack of consideration of the Tribe's concerns unduly complicated the approval process.

Moreover, it is apparent to the Tribe that the proposed corridors expressly contemplated in the Draft Map are proximate to (but do not expressly include) many transmission paths that may be currently contemplated by local utilities and that may impact many reservations. Upon completion of the PEIS (as contemplated in the Draft Map), these adjacent paths will then become arguably more justifiable. Therefore, it is only fair and appropriate to consider the potential impact that these additional lines will have when contemplating the Draft Map.

It is the Tribe's concern that, if these concerns and the other concerns of Native Americans are not expressly incorporated and addressed in the PEIS and Draft Map, and the participation of all potentially impacted tribes in the transmission planning process is not assured, substantial problems and delays will be encountered in future projects. It is our sincere hope that this will not be the case.

The primary concerns that the Tribe has for this process are as follows:

- Tribal sovereignty over reservation lands has not been adequately considered. This has been demonstrated by an evident failure to seek and incorporate Tribal input in the location of the planned corridors. The PEIS must provide assurance that tribal sovereignty over tribal lands will be respected and maintained. However, as tribes are also responsible for their development and economies, reservations should not be categorically excluded from consideration during this process. Tribes should be consulted concerning their willingness and desire to have corridors located on their reservations, and their positions on these matters must be accepted.
- To the extent it is anticipated that tribal lands may be designated as part of such corridors, it must be determined (before such designation) that the economic terms of such designation are acceptable to the potentially impacted Tribe.

- Over the years, Native Americans' 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. By avoiding reservations and not engaging in consultations with tribes during this process, the DOE has perpetuated this deprivation in the context of the PEIS, and the Draft Map.
- Tribal concerns related to the impact transmission projects will have on historical and cultural resources, particularly sacred sites, have not been sought and certainly have not been recognized during this process. 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 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.

In order to respond to these concerns, the Tribe believes that the PEIS process must be broadened to include the following considerations:

- The Final PEIS and Map must be developed through an inclusive process, a process that provides government-to-government consultation and specific assurance to Indian Tribes and others that their reasonable concerns will be addressed in this process. This particularly includes the consideration of historic and cultural resources in the Final PEIS and Map.
- The process needs to be remedied 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 PEIS and the actual plans for each project must accommodate energy needs on reservations, as well as the providing of transmission on reservations for energy projects to be developed there.
- The PEIS 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 PEIS and construction of transmission lines. This should include the retention of Native American contractors that have approved by the tribe to undertake such work.
- The PEIS needs to recognize the important role that the development of renewable energy on reservations will play in the nation's energy future and needs to provide for necessary transmission for these projects.
- The PEIS must recognize that, although important, transmission is only one of the many planning considerations that communities face. 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 PEIS 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.
- Many tribes have either formed, or are considering the possible formation of tribal utilities. It can be expected that this trend will continue in the future. The formation of these tribal utilities raises many questions with regard to how they will be integrated into the existing transmission system. The PEIS needs to expressly note this potential, and to provide for the accommodation and participation of these tribal utilities in the transmission planning process.
- The PEIS and Final Map must take into account that the proposed corridors expressly contemplated in the Draft Map are proximate to (but do not expressly include) many transmission paths that may be currently contemplated by local utilities. The PEIS and Final Map must address these contemplated connecting paths and consider the significant impact that these additional lines will have on tribes and the environment.

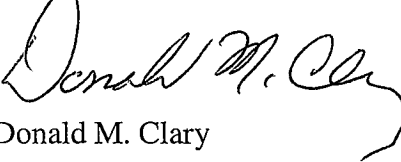
Finally, the Tribe requests consultation with the Department of Energy concerning the PEIS and the Final Map in order that these significant concerns can be addressed. Moreover, in order to assure that the PEIS process is successful and can withstand legal scrutiny, we encourage the Department to seek such consultation with other Tribes as well.

Julia Souder
July 10, 2006
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We thank you for the opportunity to provide these comments to you.

Sincerely yours,

HOLLAND & KNIGHT LLP

A handwritten signature in black ink, appearing to read "Donald M. Clary", with a long, sweeping flourish extending to the right.

Donald M. Clary

cc: Mark Macarro
John Macarro

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