

ORIGINAL

April 19, 2019

Attn: Secretary,
 Federal Energy Regulatory Commission,
 888 First Street N.E., Washington, D.C. 20426.



FILED
 SECRETARY OF THE
 COMMISSION

2019 APR 29 P 3:00

RE: **Lake Elsinore Advance Pumped Storage (LEAPS) Project, FERC No. 14227,
 Project No. 14227-003- California, Lake Elsinore Advance Pumped Storage
 Project, The Nevada Hydro Company, Inc.**

FEDERAL ENERGY
 REGULATORY COMMISSION

This memo contains formal response from the Soboba Band of Luiseno Indians, regarding the Nevada Hydro Company, Inc. filed an application with the Commission for an original license for its proposed 500-megawatt (MW) Lake Elsinore Advance Pumped Storage (LEAPS) Project, FERC No. 14227, which would be located principally on Lake Elsinore and San Juan Creek, in the town of Lake Elsinore, Riverside County, California. The Federal Energy Regulatory Commission (Commission) invited the Soboba Band of Luiseno Indians

Recent consultation under Section 106 for the LEAPS Project consisted of a conference call on April 4, 2018, between the Soboba band of Luiseno Indian and Rachael Nixon, Senior Cultural Resources Manager for Garcia and Associates (GANDA). In consultation, the Soboba Band disclosed that the project alignment falls within what the Soboba Band considers to be a Traditional Cultural landscape (TCL), and is a Traditional Cultural Property (TCP) by definition, that is of cultural significance to the people of Soboba. The Soboba Band was later provided maps detailing specific alignment alternatives. After the review of all proposed alternatives, the Soboba Band of Luiseno Indians is advising the Federally Energy Regulatory Commission that every proposed alternative would result in an adverse effect to a TCP already determined eligible for nomination to the National Register of Historic Places (NRHP). As a result of the potential adverse effects, the Soboba Band of Luiseno Indians is in full opposition of the Lake Elsinore Advance Pumped Storage (LEAPS) Project.

At the request of Rachael Nixon, Senior Cultural Resources Manager for Garcia and Associates (GANDA), this letter has been generated and provided to FERC and Nevada Hydro, to better illustrate the adverse effects to a property already identified as significant to the Soboba Band, to remind FERC of specific guidance recommended by the Advisory Council on Historic Preservation when considering effects to properties that the Soboba Band attach, "*Religious and Cultural Significance*", to advise and assist the FERC in the evaluation process, and to participate in the resolution of adverse effects.

The Soboba Band of Luiseno Indians is formally informing the The Federal Energy Regulatory Commission, that every proposed alternative would result in an adverse effect to the Paa'o TCP already determined eligible for nomination to the National Register of Historic Places (NRHP). As a result of the potential adverse effects, the Soboba Band of Luiseno Indians is in full opposition of the Lake Elsinore Advance Pumped Storage Project (LEAPS).

The Soboba Band of Luiseno Indians is formally stating that the alignment is located within a property that is eligible for listing to the National Register of Historic Places, as it meets the criteria set forth in 36 CFR Part 60.4. under criteria A. The property is located within a landscape that the Soboba Band attaches a "*Religious and Cultural Significance*".

For a property to qualify for inclusion in the NRHP it must meet the criteria for evaluation set forth in 36 CFR Part 60.4, as follows:

The quality of significance in American history, architecture, archaeology, engineering, and culture is present in districts, sites, buildings, structures, and objects that possess integrity of design, setting, materials, workmanship, feeling, and association and:

- A. that are associated with events that have made a significant contribution to the broad patterns of our history; or
- B. that are associated with the lives of persons significant in our past; or
- C. that embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
- D. that have yielded, or may be likely to yield, information important in prehistory or history.

The Soboba Band of Luiseno Indians is informing FERC that criteria A applies The LEAPS Project, as the project construction will have an adverse effect on an already identified, larger ethnographic landscape, but more specifically a Traditional Cultural Property (TCP), that contains the recorded material remains of long term habitation, utilization, subsistence and later acculturation of Native Americans, and that contains heritage resources related to subsistence as defined in National Preservation Brief 36.

The ACHP guidance states that "... frequently the only entities aware of these landscapes are either an Indian tribe or a Native Hawaiian organization. Since such places are often comprised of related locations across some distance and for which the connections may not be obvious to those outside of the culture that holds them significant, it stands to reason that the most appropriate entity to inform such identifications and evaluations are either Indian tribes or Native Hawaiian organizations."

The Soboba Band identifies this TCP as Paa'oo. This TCP described the TCL/TCP as encompassing the area from the top of the mountains to the east and west of Dos Lagos, California to just south of Lake Elsinore, California. Based on our oral traditions, the TCL extends south to include Tomkav, where Wuyóot was poisoned and the hot springs where Wuyóot was taken to be healed. Tomkav also part of the Luiseño Origin Story traditional cultural property (TCP). For the purposes of your analysis the exact boundary of the larger TCL is not needed since the proposed LEAPS project is clearly located within its boundaries.

For many decades the regulatory community has struggled to find ways to apply NRHP criteria as well as National Park Service (NPS) and Advisory Council on Historic Preservation (ACHP) guidance to Native American Traditional Cultural Landscapes. Complicating matters, access to many of these landscapes were taken away from Native Americans many generations ago, tribes and people were relocated, or components of these landscapes have been drastically altered by modern development, exploitation or removal of natural resources such as water, all of which are obvious on the property and area surrounding The LEAPS Project.

The TCL derives its significance from the area's association with the Luiseño's Origin story, specifically the story of the death of Wuyóot. The area also contains several locations that are named in their traditional songs. The Valley contains some of the densest concentrations of

Luisefño settlement within their larger territory. The current Pala and Pechanga Reservations are located within 16 miles of the currently defined TCL and constitute a continual connection to the Valley. As currently defined, the TCL follows portions of the prehistoric trail system that traversed the Temescal Valley and connected the communities of *Náqwu* in Corona (on the northwest corner of the intersection of I-15 and State Route 91), *Tuu'uv* which is located near Dos Lagos to *Paxánxa* near present day Tom's Farms and Glen Ivy Hotsprings, and south onto *'Éxva Teméku* (modern day Temecula), where for the Luisefño, the universe was created and the first people, the *Káamalam*, were brought forth.

While an ethnographic record of the exact trail system is not known, it is safe to assume that many of the documented historic trails would have followed the "Indian Trails". Routes such as the El Camino Real (1769-1821), the Sonora Road (1848-1854), the Southern Emigrant Road (1849-1851), the Butterfield Overland Mail Route (1858-1861), the Los Angeles-Fort Yuma Road, (circa 1861-1880s), Temescal Canyon Road, Pomona and Elsinore Railroad, Santa Fe Railroad, State Route 71, and Interstate 15 roughly follow the previously established prehistoric trails.

As described by the Luisefño, the I-15 corridor TCL, derives its significance from its connection to the story of *Wuyóot*. A summary of the story is provided here. The story is summarized mostly from Constance Goddard DuBois's account, *The Mythology of the Mission Indians* (1906).

Because, *Wuyóot* discovered death in this Valley, the Luisefño people were drawn to the area because it was their sacred space. Important individuals and loved ones would be buried near where *Wuyóot* passed away in acknowledgment of their importance and as a consistent link with the past. The songs about *Wuyóot's* death are still sung when someone dies. Consequently, the period of significance for the TCL would extend from the creation story to the modern era. It is believed that living near or engaging in religious ceremonies at a sacred location gives it a deeper meaning because of the place's religious connections.

How to identify, evaluate and incorporate these landscapes into Section 106 is still a work in progress. The ACHP summed up the situation: The consideration of Native American traditional cultural landscapes in Section 106 reviews has challenged federal agencies, Indian tribes, and Native Hawaiian organizations for some time. There has been confusion regarding what makes a place a traditional cultural landscape, whether they can be considered historic properties, and whether the size of such places influences their consideration under the National Historic Preservation Act.

The California SHPO recognizes the need to better understand and evaluate landscapes and has identified several themes that need additional research. Identification of significant themes form the basis for landscape specific contexts. For the pre-1769 period the SHPO has identified deficiencies in pre-contact Settlement and Subsistence Patterns; Special Adaptations and Environmental Management; Trade and Movement (e.g., trails; trade networks and nodes on trails; seasonal migration areas); and, Ideology (which includes sacred sites, petroglyphs, pictographs and intaglios).

Post-1769 themes identified by the SHPO needing further research includes Ethnic History for under-represented ethnic groups. Native Americans certainly qualify as an under-represented ethnic group, and their historic (post contact) and modern ethnic identity is often overlooked and overshadowed by their pre-contact legacy.

Although the term “traditional cultural landscape” is still not formally defined in National Park Service (NPS) guidance (the NPS is the responsible agency for defining and managing the NRHP) work continues toward developing guidelines to help determine which Native American landscapes qualify as historically significant Traditional Cultural Properties (TCPs) and/or Native American landscapes. Traditional cultural landscapes are considered by the NRHP to be a type of significance that a TCP can have rather than a property type of its own. Property types are limited to those specified in the National Historic Preservation Act (NHPA) and the NRHP regulations (districts, buildings, structures, sites, and objects). Traditional cultural landscapes often encompass one or more of these property types and they are identified in the same manner in the Section 106 process as other types of historic properties of religious and cultural significance to Indian tribes or Native Hawaiian organizations.

Determining significance of Traditional Cultural Properties (TCP)s is described in National Register Bulletin 38 which provides a framework for application of criteria established for the National Register of Historic Places (NRHP) codified in 36 CFR 60.4. NPS Bulletin 38 states that NRHP properties can “...reflect many kinds of significance in architecture, history, archeology, engineering, and culture.”

In NPS Bulletin 28, the National Park Service defines culture as “... a system of behaviors, values, ideologies, and social arrangements. These features, in addition to tools and expressive elements such as graphic arts, help humans interpret their universe as well as deal with features of their environments, natural and social. Culture is learned, transmitted in a social context, and modifiable. Synonyms for culture include lifeways,' customs,' traditions;' social practices;' and folkways.' The terms folk culture' and folk life' might be used to describe aspects of the system that are unwritten, learned without formal instruction, and deal with expressive elements such as dance, song, music and graphic arts as well as storytelling.”

Traditional cultural significance refers to “those beliefs, customs, and practices of a living community of people that have been passed down through the generations, usually orally or through practice. The traditional cultural significance of a historic property, then, is significance derived from the role the property plays in a community's historically rooted beliefs, customs, and practices.”

Although not yet an official change, the term Traditional Cultural Property is being replaced with Traditional Cultural Place which better describes the type of resource rather than reflect the legal definition of historic properties.

National Preservation Brief 36: Protecting Cultural Landscapes: Planning, Treatment and Management of Historic Landscapes defines a cultural landscape as “a geographic area, including both cultural and natural resources and the wildlife or domestic animals therein, associated with a historic event, activity, or person or exhibiting other cultural or aesthetic values.” There are four general types of cultural landscapes, not mutually exclusive: historic sites, historic designed landscapes, historic vernacular landscapes, and ethnographic landscapes. The guidance in Brief 36 defines an Ethnographic Landscape as a landscape containing a variety of natural and cultural resources that associated people define as heritage resources. Examples are contemporary settlements, religious sacred sites and massive geological structures. Small plant communities, animals, subsistence and ceremonial grounds are often components.

Evaluating landscapes using NPS guidelines requires a multi-disciplinary approach that includes historic research, ethnography (input from tribes), archaeology, biology and hydrology. The analysis looks at landscape changes over time, and integrity which requires that character

defining qualities contributing to the landscape's significance are still present. The seven qualities of integrity for all property types required for the NRHP are location, setting, feeling, association, design, workmanship and materials.

Two significant issues are at odds with the Native American view of a landscape. The first relates to the need to define a specific geographic area or boundary. Defining landscape boundaries is difficult from a tribal perspective, however it is needed from a management perspective. Landscapes from a Native perspective are better described as traditional territories which usually encompass large regions that contain mountains, valleys, deserts, water sources, and the trails connecting them. This is especially true for groups that would move from one area to another as the seasons changed. From a regulatory and management perspective, if the Native view was used to define boundaries of traditional cultural landscapes, it would mean that entire regions would have to be treated as significant. There can be some flexibility for regulators navigating the Section 106 process. In 2010, for example, it was determined through Section 106 consultation that the Nantucket Sound was a TCP with a defined boundary, however, it was also determined to be a contributing feature of a larger culturally significant landscape which still needed further research to define its extent.

The second problematic issue is the integrity requirement. The Soboba Band does not feel that their traditional homelands, ancestral resource gathering areas, traditional or religious areas are no longer significant, sacred or important because of unwanted development built upon them. It affects tribes to see any development, land alteration or destruction of an area that was used by their ancestors for resource procurement, associated with a traditional event, or ancestral being etc., however, these landscape scars do not reduce or remove the feeling or association that living people have with the past events or ancestral people in these geographic locations. The other integrity criteria: location, design, workmanship and materials simply do not apply.

As discussed above, there are limitations when using criteria and guidelines not specifically designed to address the way Native Americans feel about their traditional and culturally important landscapes. The Cultural Landscape Approach is a significant step forward because determining significance of Traditional Cultural Places (TCPs) usually relies on analysis and evaluation by people outside of the native community while determination of the significance of Tribal Cultural Landscapes is determined by the indigenous communities themselves, rather than by exterior criteria.

The definition of a Tribal Cultural Landscape is stated as: Any place in which a relationship, past or present, exists between a spatial area, resource, and an associated group of indigenous people whose cultural practices, beliefs, or identity connects them to that place. A tribal cultural landscape is determined by and known to a culturally related group of indigenous people with relationships to that place.

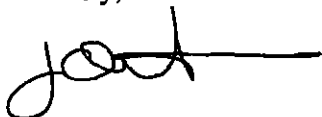
Of important note is the emphasis on a tribal group's connections to the landscape. A landscape "...connection is important for, and often inseparable from, a community's cultural identity. Connection to place is a nearly universal concept held by indigenous groups throughout the United States and its territories, and is embodied in the tribal cultural landscape (TCL) definition."

This approach fits well for the Paa'ö TCP/TCL. This corridor has been home to Luiseno people for thousands of years and present tribal members maintain a deep connection to the area. These resources constitutes a big part of tribal cultural identity both in pre-contact times and throughout the historic period.

The Soboba Band is requesting formal section 106 consultation with FERC. Please provide proposed dates for your earliest availability. Based on the sensitivity of this reject, I will adjust my schedule to accommodate the dates provided by FERC.

I look forward to future discussions with the FERC in regard to the Lake Elsinore Advance Pumped Storage Project (LEAPS).

Sincerely,

A handwritten signature in black ink, appearing to read 'JOE', with a long horizontal line extending to the right.

Joseph Ontiveros
Tribal Historic Preservation Officer
Soboba Cultural Resource Department
P.O. Box 487
San Jacinto, CA 92581
Phone (951) 654-5544 ext. 4137
Cell (951) 663-5279
jontiveros@soboba-nsn.gov

Document Content(s)

15231860.tif.....1-6