



IN REPLY REFER TO:

United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Pacific Regional Office
2800 Cottage Way
Sacramento, California 95825

COPY

MAR 21 2002

NOTICE OF DECISION

CERTIFIED MAIL – RETURN RECEIPT REQUESTED – 7001 0320 0004 5948 1565

Mr. Mark Macarro, Chairman
Pechanga Band of Luiseño Mission Indians
P.O. Box 1477
Temecula, California 92593

Dear Mr. Macarro:

This is notice of our decision upon the Pechanga Band of Luiseño Mission Indians application to have the below-described real property accepted by the United States of America in trust for the Pechanga Band of Luiseño Mission Indians:

That certain real property situated in the unincorporated area of the County of Riverside, State of California, described as follows:

DIVISION I:

PARCEL 1:

PARCELS 1 THROUGH 20 INCLUSIVE OF PARCEL MAP 6708-1, IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 36, PAGES 57 THROUGH 62 OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

PARCEL 2:

THE NORTHEAST QUARTER OF SECTION 32, TOWNSHIP 8 SOUTH, RANGE 2 WEST, SAN BERNARDINO MERIDIAN, IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF, EXCEPT THAT PORTION LYING WITHIN PARCEL MAP 6708-1.

PARCEL 3:

GOVERNMENT LOT 3 AND THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 29, TOWNSHIP 8 SOUTH, RANGE 2 WEST, SAN BERNARDINO MERIDIAN, IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF, EXCEPT THAT PORTION LYING WITHIN PARCEL MAP 6708-1.

PARCEL 4:

THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 33, TOWNSHIP 8 SOUTH, RANGE 2 WEST, SAN BERNARDINO MERIDIAN, IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF, EXCEPT THAT PORTION LYING WITHIN PARCEL MAP 6708-1.

DIVISION II:

THE SOUTH HALF OF THE SOUTHWEST QUARTER OF SECTION 33, TOWNSHIP 8 SOUTH, RANGE 2 WEST, SAN BERNARDINO BASE AND MERIDIAN, AS SHOWN ON THE OFFICIAL PLAT OF SAID LAND FILED IN THE DISTRICT LAND OFFICE ON JUNE 10, 1914. SAID LAND IS ALSO SHOWN ON RECORD OF SURVEY ON FILE IN BOOK 10, PAGE 53 OF RECORDS OF SURVEY, RIVERSIDE COUNTY RECORDS.

DIVISION III:

THOSE PORTIONS OF THE EAST HALF OF THE EAST HALF OF SECTION 29, AND OF THE WEST HALF OF THE SOUTHWEST QUARTER AND OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 28, TOWNSHIP 8 SOUTH, RANGE 2 WEST, SAN BERNARDINO MERIDIAN, IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, INCLUDED IN TRACT "B" AS SHOWN UPON THE JUDICIAL MAP OF SURVEY OF LANDS OF MACHADO BROTHERS AND WOLF, ON FILE IN THE OFFICE OF THE COUNTY CLERK OF SAN DIEGO COUNTY, CALIFORNIA, DESCRIBED AS A WHOLE, AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE SOUTHEAST LINE OF THE LITTLE TEMECULA RANCHO AND THE SOUTHWEST LINE OF PALA ROAD; THENCE SOUTH 50° 34' 30" EAST, 660.00 FEET ON THE SOUTHWEST LINE OF PALA ROAD; THENCE LEAVING THE SOUTHWESTERLY LINE OF PALA ROAD SOUTH 52° 45' 00" WEST, 1,452.00 FEET; THENCE NORTH 37° 15' 00" WEST, 642.00 FEET TO THE SOUTHEAST LINE OF THE LITTLE TEMECULA RANCHO; THENCE NORTH 52° 45' 00" EAST, 1,300.00 FEET ALONG SAID SOUTHEAST LINE TO THE POINT OF BEGINNING.

DIVISION IV:**PARCEL 1:**

THE EAST 660 FEET OF THE WEST 1,320 FEET OF THE SOUTH HALF OF THE SOUTHEAST QUARTER OF SECTION 32, TOWNSHIP 8 SOUTH, RANGE 2 WEST, SAN BERNARDINO BASE AND MERIDIAN, ACCORDING TO UNITED STATES GOVERNMENT SURVEY APPROVED APRIL 10, 1886. SAID DISTANCES BEING MEASURED ALONG THE NORTH AND SOUTH LINES OF SAID SOUTH HALF OF THE SOUTHEAST QUARTER OF SAID SECTION.

PARCEL 1A:

A NON-EXCLUSIVE EASEMENT FOR INGRESS, EGRESS AND PUBLIC UTILITIES OVER AND ACROSS THE EAST 60 FEET OF THE SOUTH 750 FEET OF THE WEST 660 FEET OF THE SOUTH HALF OF THE SOUTHEAST QUARTER OF SECTION 32, TOWNSHIP 8 SOUTH, RANGE 2 WEST, SAN BERNARDINO BASE AND MERIDIAN, ACCORDING TO UNITED STATES GOVERNMENT SURVEY APPROVED APRIL 10, 1886, WHICH EASEMENT IS FOR THE BENEFIT OF AND APPURTENANT TO THE SOUTH HALF OF THE SOUTHEAST QUARTER OF SAID SECTION 32.

PARCEL 2:

THE SOUTH HALF OF THE SOUTHEAST QUARTER OF SECTION 32, TOWNSHIP 8 SOUTH, RANGE 2 WEST, SAN BERNARDINO BASE AND MERIDIAN ACCORDING TO UNITED STATES GOVERNMENT SURVEY APPROVED APRIL 10, 1886; EXCEPTING THEREFROM THE NORTH 660 FEET; ALSO EXCEPTING THEREFROM THE WEST 1320 FEET; SAID DISTANCES BEING MEASURED ALONG THE NORTH AND SOUTH LINES OF SAID SOUTH HALF OF THE SOUTHEAST QUARTER OF SAID SECTION 32.

PARCEL 2A:

A NON-EXCLUSIVE EASEMENT FOR INGRESS, EGRESS AND PUBLIC UTILITIES OVER AND ACROSS THE EAST 60 FEET OF THE SOUTH 750 FEET OF THE WEST 660 FEET OF THE SOUTH HALF OF THE SOUTHEAST QUARTER OF SECTION 32, TOWNSHIP 8 SOUTH, RANGE 2 WEST, SAN BERNARDINO BASE AND MERIDIAN, ACCORDING TO UNITED STATES GOVERNMENT SURVEY APPROVED APRIL 10, 1886, WHICH EASEMENT IS FOR THE BENEFIT OF AND APPURTENANT TO THE SOUTH HALF OF THE SOUTHEAST QUARTER OF SAID SECTION 32.

PARCEL 2B:

A NON-EXCLUSIVE EASEMENT FOR INGRESS, EGRESS AND PUBLIC UTILITIES OVER AND ACROSS THE SOUTH 60 FEET OF THE NORTH 690 FEET OF THE WEST 1,350 FEET OF THE EAST 1,980 FEET OF THE SOUTH HALF OF THE SOUTHEAST QUARTER OF SECTION 32, TOWNSHIP 8 SOUTH, RANGE 2 WEST, SAN BERNARDINO BASE AND MERIDIAN, ACCORDING TO UNITED STATES GOVERNMENT SURVEY APPROVED APRIL 10, 1886, WHICH EASEMENT IS FOR THE BENEFIT OF AND APPURTENANT TO THE EAST 1,980 FEET OF THE SOUTH HALF OF THE SOUTHEAST QUARTER OF SAID SECTION 32, AND TO EACH AND EVERY PARCEL INTO WHICH THE SAME MAY BE SUBSEQUENTLY DIVIDED; EXCEPTING THEREFROM THAT PORTION LYING WITHIN PARCEL 2.

The above-described property is referred to as Riverside County Assessor's Parcel Numbers: 918-210-008, 918-210-010, 918-210-012, 918-220-006, 918-220-007, 918-220-008, 918-220-009, 918-220-011, 918-220-012, 918-230-001, 918-230-019, 918-230-020, 918-230-021, 918-230-022, 918-230-023, 918-230-020, 918-250-006, 918-250-008, 918-250-010, 918-250-011, 918-250-012, 918-250-013, 918-250-014, 918-250-015, 918-250-016, 918-250-017, 918-250-018, 918-250-019, 918-260-015, 918-260-016, 918-260-017 and, 918-260-018 and comprises 697.35 acres, more or less. The subject property is contiguous to the eastern boundary of the Pechanga Indian Reservation.

The regulations specify that it is the Secretary's policy to accept lands "in trust" for the benefit of tribes when such acquisition is authorized by an Act of Congress and, (1) when such lands are within the exterior boundaries of the tribe's reservation, or adjacent thereto, or within a tribal consolidation area, or (2) when the tribe already owns an interest in the land, or (3) when the Secretary determines that the land is necessary to facilitate tribal self-determination, economic development, or tribal housing.

In this particular instance, the authorizing Act of Congress is the Indian Land Consolidation Act of 1983 (25 U.S.C. §2202 et seq). The applicable regulations are set forth in the Code of Federal Regulations, Title 25, INDIANS, Part 151, as amended. The proposed acquisition of land contiguous to the exterior boundaries of the Pechanga Indian Reservation is necessary for the Band to protect important cultural resources to help facilitate tribal self-determination. This acquisition falls within the land acquisition policy as set forth by the Secretary of Interior.

On April 13, 2001, by certified mail, return receipt requested, we issued notice of, and sought comments regarding the proposed fee-to-trust application from the California State Clearinghouse, Office of Planning and Research; Ms. Sara J. Drake, Deputy Attorney General, State of California; D. Robert Shuman, Deputy Legal Affairs Secretary, Office of the Governor of California; Office of the Assessor, Riverside County; Riverside County Building Services; Ms. Mary Ann Martin, Chairperson Augustine Band of Mission Indians; Mr. Antonio Heredia, Jr., Spokesperson, Cahuilla Band of Mission Indians; Mr. Dean Mike, Chairman, Twenty-Nine Palms of Mission

Indians; Mr. John A. James, Chairperson, Cabazon Band of Mission Indians; Ms. Mary Belardo, Chairperson, Torres-Martinez Desert Cahuilla Indians; Ms. Mary Ann Martin-Andreas, Chairperson, Morongo Band of Mission Indians; County of Riverside Planning Department; Mr. Manuel Hamilton, Representative, Ramona Band of Mission Indians; Ms. Vivian Scribner, Pro Tem Spokesperson, Santa Rosa Band of Mission Indians; Mr. Robert Salgado, Sr., Spokesman, Soboba Band of Mission Indians; Riverside County Sheriff's Department; County of Riverside Board of Supervisors; Riverside County Treasurer and Tax Collector; Honorable Barbara Boxer; Honorable Gray Davis; Honorable Diane Feinstein; Honorable Mary Bono; and Mr. Patrick Webb, Webb and Carey. **The April 16, 2001 Notice of Application also included Riverside County Assessor's Parcel Number 913-220-010, which is not included in this decision.**

Sempra Energy, responded with a letter dated May 24, 2001, stating in relevant part: *"The Pechanga's application for trust status for its recently acquired Boseker (Great Oak) Ranch property may adversely impact SDG&E's application before the California Public Utilities Commission ("CPUC") in that a proposed route traverses that property."* The Metropolitan Water District of Southern California, responded with a letter dated June 4, 2001, stating in relevant part: *"Metropolitan currently has a proposed pipeline and tunnel project which would utilize a small portion of the Boseker (Great Oak) Ranch property recently purchased by the Pechanga Indian Reservation. Please add Metropolitan to the list for notification for copies of notices and other materials regarding this application."* The Pechanga Cultural Resources (PCR) Department, responded with a letter dated June 15, 2001, stating in relevant part: *"The PCR has had an opportunity to review the cultural resource survey for the Great Oak Ranch which was completed and submitted by CRM Tech. The survey located and identified a total of eight historical/archaeological resources within the Great Oak Ranch. The Pechanga Band is committed to protecting and preserving the invaluable and irreplaceable cultural resources of the Luiseño people."*

In addition, we have received over 2,500 letters of support from the local community including: individuals, local businesses, local and state governments, members of the State of California Legislature, U.S. Senators, and members of Congress, for the transfer of the Great Oak Ranch "into trust" status for the Pechanga Band.

Pursuant to 25 CFR 151.10, the following factors were considered in formulating our decision: (1) need of the tribe for additional land; (2) the purpose for which the land will be used; (3) impact on the State and its political subdivisions resulting from removal of the land from the tax rolls; (4) jurisdictional problems and potential conflict of land use which may arise; (5) whether the Bureau of Indian Affairs is equipped to discharge the additional responsibilities resulting from the acquisition of the land in trust status, and (6) whether or not contaminants or hazardous substances may be present on the property. Accordingly, the following analysis of the application is provided:

Factor 1 – Need for Additional Land

The Pechanga Indian Reservation was established by Executive Order on June 27, 1882 and now contains 4,396.44 acres. The Great Oak Ranch is located between the Kelsey Tract of the Pechanga Indian Reservation, and the Pechanga Indian Reservation. The Great Oak Ranch shares common boundaries with both portions of the Pechanga Reservation. The acquisition of the 697.35 acres of land into trust for the Pechanga Band will connect both portions of the Reservation, which has been a long-term goal of the Pechanga Band for many years.

As stated above, the Pechanga Band is very committed to the protection of the Luiseño people's cultural resources. The Tribe proposes to take the 697.35 acres of land into trust to maintain the existing cultural and natural resources of high sacred value that are present throughout the project site. The tribe has identified numerous historical/archaeological sites within the Great Oak Ranch. In addition to the cultural resources located on the subject property, the Great Oak Ranch is also home for the largest natural growing indigenous live oak tree in the United States, estimated at over 1,500 years old, which has served as a spiritual place used for Tribal ceremonies for generations.

The cultural resources that exist within the 'Great Oak Property' are of high value and traditional importance to the Pechanga Band of Luiseño Mission Indians. The seven archaeological sites and the 'Great Oak' traditional cultural property are being treated as eligible for inclusion to the National Register of Historic Places. By bringing the land parcels into federal trust status these resources will be afforded an additional level of protection that would not be available if the land were to remain in fee status.

It is our determination that the Pechanga Band of Luiseño Mission Indians has established a need for additional land, for the purposes of exercising governmental jurisdiction and assuring the long-term protection of the Luiseño people's natural and cultural resources, thus further enhancing tribal self-determination.

Factor 2 - Proposed land Use

The proposed project involves the acquisition of land that is contiguous to the exterior boundaries of the Pechanga Indian Reservation. The sole purpose of the acquisition is the preservation and the protection of Luiseño people's natural and cultural resources. The Pechanga Band is committed to protecting and preserving the invaluable and irreplaceable cultural resources of the Pechanga and Luiseño people. The cultural resources located within the Great Oak Ranch provide the Pechanga Band with unique opportunity to protect and preserve such resources on property owned by the Band itself. The Band has identified the following measures to preserve and maintain the identified cultural resources on the Great Oak project site:

- Create a buffer around each of the resources identified to prevent any impacts to the resources

- Protect in perpetuity, the resources identified;
- Set aside the resources and their respective buffers as a "cultural preserve";
- Devise a plan, in conjunction with an archaeologist and other qualified professions, for the long term protection and preservation of the resources; and
- Install a security gate with a guard building to control access into the project site.

In addition, the site also contains vegetation that has significant cultural value to the Tribe. The project site contains many plants important to the Tribe including elderberry bushes, buckwheat, sage and oak trees. This vegetation plays an important role in their tribal rituals and diet. It is the goal of the Tribal Council to preserve and maintain this important vegetation.

Factor 3 – Impact on State and Local Government's Tax Base

Tax-exempt status is not the reason for the acquisition of land in trust for the Pechanga Band of Luiseño Mission Indians. The Band has established a need for governmental jurisdiction over the subject property in order for the Band to help facilitate self-determination.

The annual Riverside County property taxes on the subject property for the tax year 2001 were \$32,129.42, which is .0000321% of the County's tax base. The County does not currently collect sales tax from any business on the subject property. As such, the County is not losing any sales tax from the transfer of the subject property in trust for the benefit of the Pechanga Band of Luiseño Mission Indians. The Pechanga Band of Luiseño Mission Indians has responded by stating the following contributions to off-set impacts:

1. The Pechanga Band and the Pechanga Entertainment Center employs approximately 1,700 people. Most of the employees reside in northern San Diego County and Riverside County and contribute to the local economy.
2. The total employee wages, benefits, and taxes paid by the Pechanga Band through its tribal enterprises totaled just over \$50,000,000 for the 2001 fiscal year. A great deal of this money was spent within the Temecula Valley and Riverside County, which help to spur the growth and sustainability of the local economy.
3. The Pechanga Band has assisted the City of Temecula in capturing funds to address infrastructure concerns. Specifically, the Pechanga Band helped to secure over \$2 million to build and expand the Pala Road Bridge. Additionally, the Pechanga Band has pledged \$4.4 million towards the improvement and expansion of Pala Road, which is scheduled to begin in March of 2002.

4. The Pechanga Tribal Government and the Pechanga Entertainment Center have contributed over \$500,000 to local and regional organizations over the fiscal year 2000/2001. Donations were made to the area high schools, legal aid organizations, health and welfare organizations, and many other local organizations that serve the community.
5. The Pechanga Band has entered into a Memorandum of Understanding (MOU) with the County of Riverside to provide "automatic aid" in the form of firefighting and paramedic services. This is important for it cuts down on the amount of time it takes for County residents to receive fire services. The Pechanga Band's Fire Department will assist the County with coverage of those areas that are rural, easier, and served quicker by the Pechanga Band Fire Department. Response time is shortened, and lives may possibly be saved as a result of this MOU.

We conclude that removal from the tax rolls will not incur an adverse impact on the County's financial situation.

Factor 4 - Jurisdictional Problems/Potential Conflicts

Indian lands in California are subject to P.L. 83-280; therefore, there will be no change in criminal jurisdiction. The Band Pechanga Band of Luiseño Mission Indians will assert civil/regulatory jurisdiction.

On April 13, 2001 we notified the California State Clearinghouse, Office of Planning and Research; Office of the Governor State of California; Office of the Assessor, Riverside County; Riverside County Building Services; County of Riverside Planning Department; Riverside County Sheriff's Department; County of Riverside Board of Supervisors; and the Riverside County Treasurer and Tax Collector. None of the aforementioned local government's have expressed concerns or identified potential jurisdictional issues.

On March 23, 2001, Sempra Energy ("Sempra") and its subsidiary, San Diego Gas & Electric Company ("SDG&E") notified the BIA that SDG&E had recently submitted an application for a proposed route for the Valley Rainbow Interconnect to the California Public Utilities Commission (CPUC). Sempra and its subsidiary, SDG&E, oppose the acquisition because the subject property is a "possible" route for a new 500,000-volt power line.

On May 1, 2001, the BIA responded to the March 23, 2001 letter from Sempra and its subsidiary, SDG&E; we provided guidance to Sempra regarding the process for a right of way across Indian land. Our May 1, 2001 letter included a copy of Part 169 of Title 25, INDIANS, of the Code of Federal Regulations (25 CFR 169). The BIA also advised Sempra to contact Mr. Mark A. Macarro, Chairman for the Pechanga Band of Luiseño Mission Indians.

On June 4, 2001, the Metropolitan Water District of Southern California responded with a letter to the BIA that the Metropolitan Water District of Southern California currently has a proposed pipeline and tunnel project, which would utilize a small portion of the Boseker (Great Oak) Ranch property recently purchased by the Pechanga Indian Reservation.

On January 30, 2002, the BIA received letters of support for the Great Oak Fee to Trust application from the following: the Honorable James L. Brulte, Senate Republican Leader, California State Senate; the Honorable John L. Burton, President Pro Tempore, California State Senate; the Honorable Raymond N. Haynes, Senator, California State Senate; the Honorable Dennis Hollingsworth, Assemblyman, California Legislature; the Honorable Herb J. Wesson, Jr., Speaker of the Assembly, California Legislature; the Honorable Abel Maldonado, Assemblyman, California Legislature.

On January 31, 2002, the BIA received letters of support for the Great Oak Fee to Trust application from the following: the Honorable Barbara Boxer, United States Senator; the Honorable Mary Bono, Member of Congress; and the Honorable Tony Strickland, Assemblyman, California Legislature.

On February 1, 2002, the BIA received letters of support for the Great Oak Fee to Trust application from the Honorable Cruz M. Bustamante, Lieutenant Governor, State of California and the Honorable Darrell Issa, Member of Congress.

On February 4, 2002, the BIA received a letters of support for the Great Oak Fee to Trust application from the Honorable Joe Baca, Member of Congress and the Honorable Bill Leonard, Assemblyman, California Legislature.

On February 6, 2002, the BIA received a letter of support for the Great Oak Fee to Trust application from the Honorable Mike Honda, Member of Congress.

Once the Great Oak Ranch is accepted in to trust for the Pechanga Band of Luiseño Mission Indians, Sempra and/or Metropolitan Water District of Southern California will no longer be able to condemn a corridor across the property through eminent domain and the Band will be able to exercise self-determination and jurisdiction over irreplaceable Luiseño people's natural and cultural resources located on the subject property. Conversely, if we do not place the land in trust and Sempra Energy and/or Metropolitan Water District of Southern California condemns a corridor, the First Amendment rights of the Pechanga Band may be severely compromised. Sempra Energy and the Metropolitan Water District of Southern California, can pursue negotiations with the Pechanga Band for rights of way pursuant to 25 CFR Part 169 after the land is accepted "in trust" for the Pechanga Band of Luiseño Mission Indians. However, 25 CFR 169.3 (a) specifies "No right-of-way shall be granted over and across any tribal land, nor shall any permission to survey be issued with respect to any such lands, without prior written consent of the tribe." Furthermore, Sempra Energy's proposed route across the Great Oak Ranch is only one of several possible routes for a new 500,000-volt power line; likewise, the Metropolitan Water District of Southern California's proposed route across the Great

Oak Ranch is only one of many options. Sempra has submitted almost weekly requests for any and all data pertaining to this application under the Freedom of Information Act, and they have had representatives visit our office to review data. Yet, neither Sempra nor the Metropolitan Water District of Southern California have advanced any reasons why these other routes should not be considered or whether or not they have already determined they are not feasible.

Additionally, the overwhelming support the BIA has received from the State of California's Lieutenant Governor, the State's Legislature, U.S. Senators, and members of Congress, for the transfer "in trust" of the Great Oak Ranch, offers more evidence for the need for protecting these sacred Luiseño sites. Based on the aforementioned, we conclude that there will be no jurisdictional problems or potential conflicts after the acquisition of the subject property "in trust" for the Pechanga Band of Luiseño Mission Indians.

Factor 5 – Whether the BIA is equipped to discharge the additional responsibilities

The Bureau of Indian Affairs has a trust responsibility for all lands held in trust by the United States for tribes. This acquisition anticipates no change in land use. Any additional responsibilities resulting from this transaction will be minimal. As such, the Bureau of Indian Affairs is equipped to administer any additional responsibilities resulting from this acquisition.

Factor 6 – Whether or not contaminants or hazardous substances are present

In accordance with Interior Department Policy (602 DM 2), we are charged with the responsibility of conducting a site assessment for the purposes of determining the potential of, and extent of liability for, hazardous substances or other environmental remediation or injury. The record includes a negative Level 1 "Contaminant Survey Checklist" reflecting that there were no hazardous materials or contaminants.

National Environmental Policy Act Compliance

An additional requirement that has to be met when considering land acquisition proposals is the impact upon the human environment pursuant to the criteria of the National Environmental Policy Act of 1969 (NEPA). The BIA's guidelines for NEPA compliance are set forth in Part 30 of the Bureau of Indian Affairs Manual (30 BIAM), Supplement 1. Within 30 BIAM Supplement 1, reference is made to actions qualifying as "Categorical Exclusions," which are listed in part 516 of (Interior) Department Manual (516 DM 6, Appendix 4). The actions listed therein have been determined not to individually or cumulatively affect the quality of the human environment, and therefore, do not require the preparation of either an Environmental Assessment (EA) or an Environmental Impact Statement (EIS). A categorical exclusion requires a qualifying action, in this case 516 DM 6, Appendix 4, Part 4.4.I., Land Conveyance and Other Transfers of interests in land where no change in land use is planned.

An Environmental Assessment, dated July 2001, was distributed for public review and comment for the period beginning July 13, 2001, and ending August 13, 2001. Comments on the EA were received from Latham & Watkins, Attorneys at Law, representing Sempra Energy (Sempra) and its subsidiary San Diego Gas & Electric Company (SDG&E); the California Department of Toxic Substances Control; and the Metropolitan Water District of Southern California. A revised EA, dated August 2001, reflecting consideration of comments received during the previous EA public review and comment period, and a Finding of No Significant Impact (FONSI), dated August 31, 2001, were distributed on August 31, 2001.

On October 1, 2001, Latham & Watkins on behalf of Sempra Energy and San Diego Gas & Electric Company filed a Notice of Appeal to the Interior Board of Indian Appeals (IBIA). The decision appealed was the Regional Director's FONSI on the proposed trust acquisition. The Appellants brought the appeal "in order to preserve and protect important local and state-wide interests in electric reliability." The Appellants point to a potential conflict in land use and state that the environmental documents have failed to adequately evaluate the consequences of the proposed action including a failure to evaluate a reasonable range of alternatives, and specifically, an alternative that provides a 500-KV transmission line corridor through the subject property. The Appellants claim "The Revised EA is procedurally flawed, substantively inadequate and does not appropriately evaluate the environmental effects and impacts of the proposed action as required by NEPA, particularly with respect to the proposed Valley Rainbow transmission line." The Appellants point out that considerable time, money, effort and other resources have been expended on the Valley Rainbow project and if the fee-to-trust request is granted, SDG&E's powers of condemnation to obtain a right-of-way may be precluded. According to the Appellants, "Should the BIA determine to take this land into trust based upon this flawed EA and FONSI, SDG&E, which is clearly an interested party in this proceeding, may be required to seek additional immediate relief from the federal courts at significant additional expense. Accordingly, SDG&E is adversely affected by decisions set forth by the BIA's flawed NEPA analysis, and requires review of this matter by the IBIA."

In a letter dated October 19, 2001, the Pacific Regional Office informed the Appellant's attorney that the FONSI might only be appealed in conjunction with the decision to acquire the land in trust. Additionally, on October 23, 2001, the IBIA issued an Order Staying Proceedings, allowing comments from parties, and authorizing the Regional Director to proceed with the trust acquisition decision. The Law Offices of Holland & Knight, on behalf of the Pechanga Band of Luiseño Mission Indians, and Latham & Watkins, on behalf of the Appellants, made comments to the IBIA Order. Both comment letters were dated November 19, 2001. The IBIA reviewed the comments, concluded that a continued stay of proceedings was appropriate, and on November 26, 2001, issued an order continuing the stay of proceedings.

On August 16, 2001, the BIA submitted documentation to the State Historic Preservation Officer, in accordance with Section 106 of the National Historic Preservation Act (NHPA), with our determination of **no adverse effect** resulting from the proposed action.

The State Historic Preservation Officer concurred with this determination in a letter dated October 10, 2001.

Conclusion

Based on the foregoing, we at this time issue notice of our intent to accept the subject real property into trust. Subject acquisition will vest title in the United States of America in trust for the Pechanga Band of Luiseño Mission Indians in accordance with the Indian Land Consolidation Act of 1983 (25 U.S.C. §2202 et seq).

Should any of the below-listed known interested parties feel adversely affected by this proposed decision, an appeal may be filed within thirty (30) days of receipt of this notice with the Interior Board of Indian Appeals, U.S. Department of the Interior, 801 N. Quincy St. Suite 300, Arlington, Virginia 22203, in accordance with the regulations in 43 CFR 4.310-4.340 (copy enclosed).

Any notice of appeal to the Board must be signed by the appellant or the appellant's legal counsel, and the notice of the appeal must be mailed within 30 days of the date of receipt of this notice. The notice of appeal should clearly identify the decision being appealed.

If possible, a copy of this decision should be attached. Any appellant must send copies of the notice of appeal to: (1) the Assistant Secretary of Indian Affairs, U.S. Department of Interior, 1849 C Street, N.W., MS-4140-MIB, Washington, D.C. 20240; (2) each interested party known to the appellant; and (3) this office. Any notice of appeal sent to the Board of Indian Appeals must certify that copies have been sent to interested parties. If a notice of appeal is filed, the Board of Indian Appeals will notify appellant of further appeal procedures.

If no appeal is timely filed, further notice of a final agency action will be issued by the undersigned pursuant to 25 CFR 151.12(b).

Sincerely,



Acting Regional Director

Enclosures

43 CFR 4.310-4.340

cc: See attached

cc: BY CERTIFIED MAIL – RETURN RECIEPTS REQUESTED TO:

California State Clearinghouse (ten copies) – 7001 0320 0004 5948 520
Office of Planning and Research
P.O. Box 3044
Sacramento, California 95812-3044

Ms. Sara J. Drake, Deputy Attorney General – 7001 0320 0004 5948 1436
State of California
Department of Justice
P.O. Box 944255
Sacramento, California 94244-2550

Mr. D. Robert Shuman, Deputy Legal Affairs Secretary – 7001 0320 0004 5948 1411
Office of the Governor of California
State Capitol Building
Sacramento, California 95814

Office of the Assessor - 7001 0320 0004 5948 1404
Riverside County Administration Center
41002 County Center Circle #230
Temecula, California 92591-6027

Riverside County Building Services - 7001 0320 0004 5948 1503
3133 Mission Inn Avenue
Riverside, California 92507-14199

County of Riverside - 7001 0320 0004 5948 1497
Planning Department
4080 Lemon Street 9th Floor
Riverside, California 92501

Riverside County Sheriff's Department - 7001 0320 0004 5948 1381
P.O. Box 512
Riverside, California 92502

County of Riverside - 7001 0320 0004 5948 1510
Board of Supervisors
P.O. Box 1527
Riverside, California 92502-1527

Riverside Treasurer and Tax Collector - 7001 0320 0004 5948 1398
4080 Lemon Street 4th floor
Riverside, California 92501

Ms. Mary Ann Martin, Chairperson - 7001 0320 0004 5948 1572
Augustine Band of Mission Indians
P.O. Box 846
Coachella, California 92336

Mr. Antonio Heredia, Jr., Spokesperson - 7001 0320 0004 5948 1350
Cahuilla Band of Mission Indians
P.O. Box 391760
Anza, California 92539-1760

Mr. Dean Mike, Chairman - 7001 0320 0004 5948 1442
Twenty-Nine Palms of Mission Indians
46-200 Harrison Place
Coachella, California 92236

Mr. John A. James, Chairperson - 7001 0320 0004 5948 1480
Cabazon Band of Mission Indians
84-245 Indio Springs Drive
Indio, California 92201

Ms. Mary Belardo, Chairperson - 7001 0320 0004 5948 1374
Torres-Martinez Desert Cahuilla Indians
P.O. Box 1160
Thermal, California 92274

Mr. Manuel Hamilton, Representative - 7001 0320 0004 5948 1466
Ramona Band of Mission Indians
P.O. Box 391372
Anza, California 92539

Ms. Vivian Scribner, Pro Tem Spokesperson - 7001 0320 0004 5948 1558
Santa Rosa Band of Mission Indians
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