

**RESOLUTION NO. ???**

**A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF INYO,  
STATE OF CALIFORNIA, CERTIFYING AND ADOPTING THE MITIGATED  
NEGATIVE DECLARATION OF ENVIRONMENTAL IMPACT AND MAKING CERTAIN  
FINDINGS WITH RESPECT TO AND APPROVING, GENERAL PLAN AMENDMENT  
NO. 2010-03/INYO COUNTY (SOLAR AND WIND RENEWABLE ENERGY)**

WHEREAS, California Government Code Section 65300 et seq. indicates that the legislative body of each county shall adopt a comprehensive, long-term general plan for its physical development, including the following seven required elements: (1) land use, (2) circulation, (3) housing, (4) conservation, (5) open space, (6) noise, and (7) safety; and

WHEREAS, the County adopted a comprehensive update to its General Plan in 2001, but the General Plan does not adequately address renewable wind and solar energy development, and the County wishes to update the General Plan to adequately address renewable wind and solar energy development; and

WHEREAS, Inyo County supports and encourages the responsible utilization of its natural resources, including the development of its solar and wind resources for the generation and transmission of clean, renewable electric energy; and

WHEREAS, Inyo County encourages the increased use of solar radiation and wind to generate and transmit clean, renewable electric energy as a benefit not only to the citizens of Inyo County, but also to citizens of California and the United States; and

WHEREAS, GOAL GOV-10 (Energy Resources) and Policy Gov-10.1 (Development) indicate that development of energy resources on both public and private lands be encouraged with the policies of the County to develop these energy resources within the bounds of economic reason and sound environmental health, and therefore, the Board supports the following policies: (a) The sound development of any and all energy resources, including, but not limited to geothermal, wind, biomass, and solar, (b) The use of peer-reviewed science in the assessment of impacts related to energy resource development, (c) The development of adequate utility corridors necessary for the transmission of newly generated energy, (d) Maintain energy opportunities on state and federal lands maintaining and expanding access, (e) Treat renewable energy sources as natural resources, subject to County planning and environmental jurisdiction; (f) Consider, account for, and mitigate ecological, cultural, economic, and social impacts, as well as benefits, from development of renewable energy resources; (g) Consider developing environmental and zoning permitting processes to ensure efficient permitting of renewable energy projects while mitigating negative impacts to county services and citizens, with a goal to ensuring that citizens of the County benefit from renewable energy development in the County; and

WHEREAS, the County has been participating in a variety of renewable energy planning efforts, including but not limited to the Renewable Energy Transmission Initiative (RETI), the Bureau of Land Management's (BLM) Transmission Corridor, Wind, Geothermal, and Solar Environmental Impact Statements, the Desert Renewable Energy Transmission Plan (DRECP), the California Transmission Planning Group, a variety of renewable energy initiatives in the neighboring State of Nevada; and the Board of Supervisors and staff have transmitted correspondence regarding these and other efforts on June 24, 2009, July 1, 2009, July 28, 2009, October 20, 2009, November 4, 2009, November 16, 2009, January 27, 2010, March 2, 2010, March 31, 2010, April 20, 2010, April 21, 2010, April 23, 2010, August 17, 2010, and March 29, 2011; and County representatives have participated in meetings for the RETI on June 18, 2009, September 9, 2009, September 16, 2009, September 24, 2009, November 2, 2009, November 3, 2009, November 9, 2009, November 12, 2009, November 19, 2009, December 3, 2009, December 10, 2009, January 7, 2010, January 19, 2010, February 18, 2010, February 26, 2010, March 4, 2010, March 11, 2010, March 18, 2010, April 13, 2010, May 3, 2010, June 10, 2010, June 28, 2010, July 15, 2010, and August 11, 2010, the DRECP on June 18, 2009, August 24, 2009, October 13, 2009, March 23, 2010, April 22, 2010, April 27, 2010, May 27, 2010, July 14, 2010, June 9,

2010, September 8, 2010, September 27, 2010, October 13, 2010, November 12, 2010, November 17, 2010, December 20, 2010, January 7, 2011, January 12, 2011, January 13, 2011, January 25, 2011, February 14, 2011, February 16, 2011, March 9, 2011, and April 13, 2011, and the Solar PEIS on May 13, 2010, May 26, 2010, September 1, 2010, February 10, 2011, and February 23, 2011, and the County intends to continue its participation in these and other renewable energy planning efforts; and

WHEREAS, on July 28, 2009, the Board of Supervisors approved correspondence to California Energy Commission (CEC) representatives expressing concern about the RETI; and on August 24, 2009 CEC staff suggested that Inyo County identify areas appropriate for renewable energy development; and on October 6, 2009 and October 20, 2009, the Board of Supervisors reviewed correspondence and graphics identifying areas for appropriate renewable energy development in Inyo County, which were authorized and transmitted to Representative McKeon and Senator Boxer, and representatives the California State Association of Counties (CSAC) and the Regional Council of Rural Counties (RCRC), and the CEC, the Bureau of Land Management (BLM), United States Fish and Wildlife Service (USFWS), the California Department of Fish and Game (CDFG), and the DRECP; and on November 16, 2009, County staff transmitted correspondence with the graphics attached to representatives of the CEC, RCRC, CSAC, BLM, USFWS, and CDFG; and on November 19, 2009, staff presented a paper, including the graphics, to the RETI Phase 2A Update Subgroup describing the renewable energy potential in the County, which was subsequently posted on the CEC website; and on March 2, 2010, staff transmitted correspondence with the graphics attached to Governor Schwarzenegger and representatives of RCRC, CSAC, BLM, CEC, CDFG, USFWS, and BLM; and on June 1, 2010, June 15, 2010 and June 22, 2010, staff transmitted the graphics to representatives of the BLM; and on June 9, 2010, and July 28, 2010 staff transmitted the graphics to representatives of Senator Feinstein; and on June 30, 2010 staff presented the graphics to the Owens Lake Planning Committee; and

WHEREAS, on May 3, 2010 the County transmitted a request to the State of California Native American Heritage Commission (NAHC) requesting a list of appropriate tribal contacts for purposes of consultation pursuant to Government Code Section 65352.3; and

WHEREAS, on May 6, 2010, the NAHC transmitted a list of appropriate tribal contacts for purposes of consultation pursuant to Government Code Section 65352.3 to the County; and

WHEREAS, on May 24, 2010, the County transmitted by certified mail, return receipt requested, correspondence to the list of tribal contacts provided by the NAHC inviting consultation pursuant to Government Code Section 65352.3; and

WHEREAS, on July 23, 2010, and August 13, 2010 staff met with representatives of the Big Pine Tribe for purposes of consultation pursuant to Government Code Section 65352.3; and

WHEREAS, on December 21, 2010 staff met with representatives of the Timbisha Shoshone Tribe for purposes of consultation pursuant to Government Code Section 65352.3; and

WHEREAS, on July 23, staff transmitted courtesy notice regarding an Ordinance to encourage and regulate the development of renewable energy resources within Inyo County to interested parties; and

WHEREAS, the Inyo County Board of Supervisors held a public hearing on August 3, 2010 and a continued public hearing on August 10, 2010 to consider an Ordinance to encourage and regulate the development of renewable energy resources within Inyo County; and

WHEREAS, after considering and responding to public input received on August 3, 2010 and August 10, 2010, on August 17, 2010 the Inyo County Board of Supervisors adopted Ordinance No. 1158-Inyo County Renewable Energy Ordinance, to encourage and regulate the development of renewable energy resources within Inyo County; and

WHEREAS, based upon interest expressed during review of Ordinance No. 1158, the County undertook an extensive outreach effort for GPA No. 2010-03 (Renewable Wind and Solar Energy); and

WHEREAS, on September 8, 2010, the County transmitted correspondence to interested parties providing information regarding GPA No. 2010-03 (Renewable Wind and Solar Energy), requesting input, and discussing upcoming public outreach; and

WHEREAS, preliminary drafts of GPA No. 2010-03 (Renewable Wind and Solar Energy) was made available on several occasions in the fall of 2010 incorporating the map developed in 2009, as updated based on public input since; and interested parties were notified; and

WHEREAS, staff met or held conference calls with interested parties regarding GPA No. 2010-03 (Renewable Wind and Solar Energy) on numerous occasions, including on September 20, 2010, September 22, 2010, October 4, 2010, October 6, 2010, October 15, 2010, October 18, 2010, October 29, 2010, November 5, 2010, November 8, 2010, and December 21, 2010; and

WHEREAS, public meetings were held regarding GPA No. 2010-03 (Renewable Wind and Solar Energy) in Bishop on October 21, 2010, Lone Pine on November 4, 2010, Independence on November 18, 2010, and Tecopa on December 9, 2010; and courtesy notices regarding the meetings were transmitted to interested parties on October 11, 2010, October 25, 2010, November 10, 2010, and December 1, 2010 and published in the Inyo Register on October 16, 2010, October 30, 2010, November 13, 2010, December 4, 2010 and the Pahrump Times on December 3, 2010; and a variety of outreach occurred throughout this period to publicize these meetings and the GPA more generally, including creation of a website with a variety of information regarding renewable energy in general and the GPA specifically, distribution of notices through the website, email, and telephonic means; and

WHEREAS, Inyo County has conducted a thorough public process with stakeholder representatives including but not limited to: renewable energy developers, power companies, federal, state and local agencies, the U.S. Military, environmental groups, local Tribes, property owners and citizens of Inyo County, to influence the development of solar and wind renewable energy General Plan Policy and create mapped overlays that identify areas which may be appropriate for solar and wind renewable energy development; and

WHEREAS, Inyo County has prepared an update to its General Plan that amends the Land Use; Public Services and Facilities; Economic Development; Conservation/Open Space; and Public Safety General Plan Elements with policies directing solar and wind renewable energy development; and

WHEREAS, Inyo County has created General Plan policies for solar and wind renewable energy development that establishes definitions of solar and wind renewable energy facilities and mapped overlay areas that may be appropriate for solar and wind renewable energy facilities; and

WHEREAS, Inyo County has created General Plan policies for solar and wind renewable energy development that establishes guidance to: minimize the impacts to social, economic and environmental factors to Inyo County from solar and wind renewable energy development; off-set the costs of solar and wind renewable energy development to Inyo County; balance the conversion of productive agriculture land for solar and wind renewable energy development; coordinate with federal, military, state and local jurisdiction land managers to minimize impact on the use of lands they manage located within Inyo County, which may be used for solar and wind renewable energy development;

encourage solar and wind renewable energy development that utilizes technologies to minimize the use of potable water; site and screen solar and wind renewable energy facilities to minimize significant impacts to the visual environment; minimize impacts to accessing recreational opportunities; support efforts to combine air quality improvements with other social, cultural and environmental goals, including solar and wind renewable energy development; minimize noise from solar and wind renewable energy development; and others; and

WHEREAS, the Inyo County Board of Supervisors, through Section 15.12.040 of the Inyo County Code, has designated the Planning Commission to serve as the Environmental Review Board pursuant to Section 15022 of the California Environmental Quality Act (CEQA) Guidelines, which is responsible for the environmental review of all County projects; and

WHEREAS, GPA No. 2010-03 (Renewable Wind and Solar Energy) is a policy document that directs the responsible development of renewable energy projects within Inyo County and will not directly result in significant changes to the environment, and that the subsequent development of such projects may indirectly impact the environment, and that these impacts can be mitigated so as not to exceed thresholds of significance, individually or cumulatively; and therefore a Mitigated Negative Declaration/Initial Study (MND/IS) of Environmental Impact has been prepared and processed pursuant to the California Environmental Act (CEQA), and the Inyo County CEQA procedures and together with a draft of GPA No. 2010-03 (Renewable Wind and Solar Energy) circulated through the State Clearinghouse; posted on the County website, and made available upon request; and

WHEREAS, in compliance with CEQA, a Notice of Availability/Intent was recorded by the Inyo County Recorder on December 16, 2010 and published in the Inyo Register on December 18, 2010; and

WHEREAS, courtesy notices regarding the availability of the MND/IS were transmitted to a list of interested parties on December 16, 2010; and

WHEREAS, a courtesy public comment meeting regarding the MND/IS was held on January 6, 2011; and

WHEREAS, the public comment period for the draft MND/IS was extended twice and closed on February 14, 2011; and

WHEREAS, a notice of public hearing before the Inyo County Planning Commission for General Plan Amendment No. 2010-03 (Wind and Solar Energy) was published in the Inyo Register on March 19, 2011; and

WHEREAS, the Planning Commission held a noticed public hearing on March 31, 2011, for General Plan Amendment No. 2010-03 (Wind and Solar Energy), considered public testimony, the staff report, and all of the information in the record; made findings, and unanimously recommended that the Inyo County Board of Supervisors: (1) certify and adopt the Mitigated Negative Declaration of Environmental Impact and (2) make certain findings with respect to, and approve General Plan Amendment No. 2010-03/Inyo County Renewable Solar and Wind Energy, based on all of the information in the public record and on recommendation of the Planning Commission; and

WHEREAS, a notice of public hearing before the Inyo County Board of Supervisors for General Plan Amendment No. 2010-03 (Wind and Solar Energy) was published in the Inyo Register on April 16, 2011; and

WHEREAS, this Board does hereby find and declare adoption of General Plan Amendment No. 2010-03 (Wind and Solar Energy) to be in the public interest; and

NOW, THEREFORE, BE IT HEREBY RESOLVED that, based on all of the written and oral comments and input received at the April 26, 2011 hearing, including the staff report for the project, this

Board of Supervisors makes the following findings regarding General Plan Amendment No. 2010-03 (Wind and Solar Energy):

- 1.) An MND/IS was prepared and circulated in accordance with CEQA and reflects the County's independent analysis and judgment. Together with the MND/IS, all comments received, the responses to those comments, and all other information in the record, the MND/IS demonstrates that there is no substantial evidence that the project will have a significant effect on the environment. The Planning Department shall be the custodian of all documents constituting the record of these proceedings. Mitigation measures for any individual future projects will be identified, implemented, and monitored/reported for such future projects.
- 2.) The County's zoning permits solar and wind renewable energy development throughout the County. The General Plan currently allows such development in the State and Federal Lands, Public Service Facilities, Agriculture, and General Industrial Land Use Designations. The proposed Solar and Wind Renewable Energy General Plan Amendment would limit such development to areas identified in the proposed overlay, which areas are most appropriate for solar and wind renewable energy development.
- 3.) The proposed Solar and Wind Renewable Energy General Plan Amendment identifies appropriate areas for solar and wind renewable energy development; it provides no authorization to construct any project and provides no assurances that any project will be approved. There is no practical possibility that any significant portion of the identified areas will be developed and there is no way to identify in advance what portions of the areas will be developed. The primary effect of the proposed Solar and Wind Renewable Energy General Plan Amendment is to allow persons to apply to construct renewable energy projects, subject to environmental analysis independent of the MND/IS, federal or state landowner approval, Inyo County Renewable Energy Ordinance and all other applicable local, state and federal laws. The effect of any future project is speculative and cannot be currently analyzed or mitigated.
- 4.) Based on substantial evidence in the record, the proposed Solar and Wind Renewable Energy General Plan Amendment is consistent with the Goals and Policies of the Inyo County General Plan.
- 5.) Based on substantial evidence in the record, the proposed Solar and Wind Renewable Energy General Plan Amendment is consistent with the purposes and intent of Title 18 (Zoning Ordinance) of the Inyo County Code.
- 6.) Based on substantial evidence in the record, the Solar and Wind Renewable Energy General Plan Amendment, complies with California Government Code Section 65300 et seq. (i.e., the State's regulations for the General Plan).

BE IT FURTHER RESOLVED, that the Inyo County Board of Supervisors hereby certifies and adopts the Mitigated Negative Declaration of Environmental Impact for General Plan Amendment No. 2010-03/Inyo County Renewable Solar and Wind Energy and approves General Plan Amendment No. 2010-03/Inyo County Renewable Solar and Wind Energy, based on all of the information in the public record and on recommendation of the Planning Commission.

PASSED AND ADOPTED this 26<sup>th</sup> day of April, 2011 by the following vote of the Inyo County Board of Supervisors:

AYES:  
NOES:  
ABSTAIN:  
ABSENT:

\_\_\_\_\_  
Chair, Inyo County Board of Supervisors

ATTEST:

Kevin Carunchio  
Clerk of the Board

By \_\_\_\_\_  
Patricia Gunsolly, Assistant



**BOARD OF SUPERVISORS  
COUNTY OF INYO**

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*Assistant Clerk of the Board*

April 19, 2011

Virgil Moose, Tribal Chairperson  
Big Pine Paiute Tribe of the Owens Valley  
PO Box 700  
825 South Main Street  
Big Pine, CA 93513

Re: General Plan Amendment No. 2010-03 (Renewable Solar and Wind Energy)

Dear Tribal Chairperson Moose:

On behalf of the Inyo County Board of Supervisors, I wanted to let you know that during the April 19, 2011 Board of Supervisors Meeting, the Board made findings and considered your April 15, 2011 correspondence pursuant to Government Code Section 54954.2(b)(2). The County has been involved in meaningful consultation with the Big Pine Tribe for the last year regarding the subject General Plan Amendment (GPA). The Board discussed your correspondence today due to your concerns that the Tribe considers a lack of response to your previous correspondence disrespectful. I wish to assure you and the Tribe that this is not the case. The Board's lack of a direct response was because the issues raised by the various letters from you on behalf of the Tribe have been addressed.

Issues raised in this consultation and previous correspondence have been addressed by the County, both through the extensive outreach process and the written and oral responses offered by the County to each comment letter received, including those from the Big Pine Tribe. Specific responses to the Big Pine Tribe's previous correspondence are attached. Please refer to the information posted on the Planning Department's website for the GPA at <http://inyoplanning.org/RenewableNewPage.htm> for more information.

Please convey to interested Tribal members and the Tribal Council that a hearing is scheduled before the Inyo County Board of Supervisors regarding the GPA next Tuesday, April 26, 2011 at 10:00 a.m. in the Board of Supervisors Chambers' in Independence. On behalf of the Board of Supervisors, we extend to the Big Pine Tribal Council an invitation to attend the public hearing before the Board of Supervisors to provide testimony on this matter and look forward to continuing the dialogue with the Big Pine Tribe on the County's proposed GPA.

Thank you for your continued interest in renewable energy issues and input into this planning process. If you wish to engage in further consultation with the County prior to next Tuesday's hearing, or if you have other questions regarding the GPA, please contact the County's Planning Director, Joshua Hart, at (760) 878-0263. If you have questions regarding other matters, please contact the County's Administrative Officer, Kevin Carunchio, at (760) 878-0292.

Sincerely,

Susan Cash, Chairperson  
Inyo County Board of Supervisors

Attachment

cc: Board of Supervisors  
CAO  
County Counsel  
Planning Director



Letter No. 11

**BIG PINE PAIUTE TRIBE OF THE OWENS VALLEY**  
*Big Pine Paiute Indian Reservation*

January 24, 2011

Josh Hart, Planning Director  
Inyo County Planning Department  
Post Office Drawer L  
Independence, CA 93526

**RE: Comments on the Initial Study of Environmental Impact and a Draft Mitigated Negative Declaration of Environmental Impact for the General Plan Amendment No. 2010-03 (Renewable Solar and Wind Energy, Inyo County)**

Dear Mr. Hart:

The Big Pine Paiute Tribe of the Owens Valley (Tribe) is a federally recognized Tribe. The Tribe's home has been the eastern Sierra since time immemorial, and the Tribe has a deep interest in current and future management of its ancestral lands. The purpose of this letter is to submit comments on the Initial Study (IS) and draft Mitigated Negative Declaration (MND) for the General Plan Amendment No. 2010-03 (Renewable Solar and Wind Energy, Inyo County).

11-1

Concurrently, the Tribe is sending a letter to the Inyo County Board of Supervisors requesting face to face, government-to-government consultation per SB 18 on the proposed General Plan Amendment 2010-03. A copy of that letter is attached.

11-2

The Tribe previously sent comments to Inyo County (letter dated December 9, 2010) regarding issues to address in the IS. Unfortunately, the Tribe's substantive comments were not acknowledged or addressed. The county's IS/MND released December 17, 2010, does not adequately present, analyze, or mitigate the potential significant impacts which may occur if the proposed General Plan Amendment (GPA) is approved.

11-3

The Tribe has serious objections to the IS/MND, because an Environmental Impact Report (EIR) should be prepared for a project affecting so much land with countless and varied resources.

As was stated in the Tribe's letter of December 9, 2010 (p.1):

The designation of parcels of land in Inyo County for large-scale solar and wind development is an undertaking which may have potential significant impacts to the environment, thus creating the need for an Environmental Impact Report (EIR) for this General Plan Amendment. Large-scale industrial development in these largely unpopulated rural lands is unprecedented and would drastically change the character of these unique landscapes. Even though there would be site specific environmental reviews for proposed projects, large scale development will be steered into these particular areas as opposed to other areas. Because of this, a detailed EIR is

11-4

**Big Pine Tribal Office**  
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needed for a General Plan land use change of this magnitude, rather than the shallower analysis of a Mitigated Negative Declaration.

11-4

The Tribe notes the IS/MND fails to disclose the total acreage/size of the delineated "overlay areas." Land Use Diagram #32a suggests the area is huge, and in response to public comment at the January 6, 2011, hearing, you estimated that 15% of Inyo County was being redesignated. Inyo County is 10,140 square miles, so the total area affected by this GPA may be approximately 1 million acres; this is larger than Yosemite National Park. Other agencies with proposals affecting large tracts of land have prepared or are preparing full CEQA or NEPA environmental analyses (EIR or EIS).

11-5

The county's IS/MND cites renewable energy planning efforts in southeastern California and Nevada, such as the Renewable Energy Transmission Initiative (RETI) and the Desert Renewable Energy Conservation Plan (DRECP), but does not explain why Inyo County does not similarly use a more detailed analysis for selecting suitable places for solar projects in Inyo County. The BLM has released a draft programmatic EIS disclosing and describing its criteria for identifying areas in the southwest United States suitable for solar. On a smaller scale, the BLM's California Desert District is preparing a DEIS on redesignation of about 35 square miles in the Haiwee area of Rose Valley, which they propose to open simply for exploration of potential geothermal development. Even though the DRECP, BLM's Solar PEIS and BLM's redesignation of the Haiwee Geothermal area are all just "plans," each requires an EIR/EIS because they will alter land use designations and promote development, just like Inyo County's renewable energy GPA.

11-6

The Tribe notes that every single box is checked under "Environmental Factors Potentially Affected" (p.9) in the IS/MND. Throughout the IS/MND few "No Impact" boxes are checked, while many "Less Than Significant With Mitigation Incorporation" boxes are checked. This simple count should be sufficient to alert the county that an EIR is needed.

11-7

CEQA guidelines indicate when a MND is acceptable, and the county appears to have ignored many of these guidelines (see, for example: [http://ceres.ca.gov/ceqa/more/tas/mit\\_neg\\_dec/neg\\_decs.html](http://ceres.ca.gov/ceqa/more/tas/mit_neg_dec/neg_decs.html)). Guidelines state that, "simply filling out an initial study checklist without citing supporting information is insufficient to show the absence of significant effects." The guidelines say, "a thorough" initial study "is a crucial part of the record supporting the Lead Agency's determination to prepare a mitigated Negative Declaration." Regardless, the county's IS/MND presents few meaningful references and virtually no data. An MND "is based on the premise that the project will not result in a significant effect." Also, the words "will" and "shall" should replace "may" and "should." In contrast, the county's IS/MND frequently employs phrases such as (p. 18), "future development of renewable wind and solar energy may result in potentially significant indirect impacts in these regards" and "mitigation measures... are anticipated to reduce any potentially significant indirect impacts... to less than significant levels" [italics added for emphasis].

11-8

The county's use of the words "direct" and "indirect," and their variants, throughout the IS/MND when referring to potential environmental impacts is disingenuous. An indirect adverse or significant environmental impact simply takes a different path on its way to becoming yet another environmental impact. If these two words and their qualifiers are omitted from the IS/MND, then it is clear to all readers that many adverse environmental impacts may result from the proposed project, and potentially significant impacts must be addressed with clear language. For example, here are two sentences from p. 15 in which we strike through the objectionable words: "The

11-9

proposed GPA will not directly impact cultural resources. Indirectly, development of individual renewable wind and solar energy projects has the potential to impact cultural resources." (And again, the Tribe is not satisfied with the conclusion to this section which states, "Mitigation measures ..... are anticipated to reduce any potentially significant impacts that may be identified to less than significant levels." Such language is not permitted in an MND. The county must insist that mitigation measures will reduce impacts to less than significant.)

11-9

Throughout the IS/MND, it is stated that the proposed GPA will not affect resources because it is just a policy document and, as such, cannot have a significant impact on the environment. However, these statements are typically contradicted by information in the checkboxes ("Less Than Significant with Mitigation Incorporation" is repeatedly checked, and not "No Impact") and by fairly lengthy but not specific discussions of the numerous potential impacts that may occur (e.g., Aesthetics Resources, Biological Resources) should developers actually consider the areas designated in the amended GP.

11-10

The Tribe notes that the County's emphasis in the Project Description (p.1, and elsewhere) on social and economic impacts of developing renewable energy facilities in Inyo County may mislead some reviewers. CEQA is California's Environmental Quality Act, and it does not require or expect impacts to local economies to be addressed because they are typically removed from the environment. Inyo County has opted to include these sideline discussions in this IS/MND, but as presented, they are simply fill and not relevant to CEQA.

11-11

Upon the Tribe's request, the Planning Department sent a land ownership map for Inyo County. However, the relationship between land ownership and the renewable energy land designations were not analyzed. It is important to disclose land ownership in the environmental review to best understand matters such as required permitting and potential conflicts with existing management plans. Different land owners have different goals for management and thresholds for what constitutes a significant impact. However, within each of the county's delineations, several land owners may have jurisdiction. In order for the county and the reader to judge the significance of an environmental impact, each definition of significance needs to be presented, but the IS/MND did not present definitions, and this would be very difficult to accomplish when multiple land owners are included in single, large overlays. Because of this, generalizations about possible future impacts are meaningless in this IS/MND.

11-12

The proposed GPA would effectively promote exploration of the designated lands. Despite promoting this increased activity, no information is presented in the IS/MND that infrastructure is adequate to support it. Are there roads and are they designed to handle increased traffic? Will there be additional law enforcement and patrolling of these areas?

11-13

The Tribe also requested in its December 9 letter that "the selection criteria for each Renewable Energy (Wind and Solar) Overlay Area needs to be explained in detail." However, the IS/MND's rationale for choosing the areas for renewable energy is stated in the following vague passage (p.6-7):

11-14

Criteria utilized at the beginning of the process included (1) areas with known interest in renewable wind and solar energy development; (2) proximity to transmission and electrical conveyance facilities, and (3) appropriate terrain. Through an extensive public engagement effort, the maps have been refined and updated iteratively. The General Plan Land Use

Designation Overlay maps now show areas where it may be appropriate to develop renewable wind and solar energy projects based on a more comprehensive set of criteria. Commercial scale wind and solar renewable energy development in areas outside of the overlay will not be permitted.

Yet the IS/MND does not describe any "comprehensive set of criteria" for choosing one area over another. The actual criteria for selecting areas where renewable energy development might be appropriate must be disclosed to comply with CEQA. Criteria, by definition, must allow any reader with reasonable access to the information to reproduce the selection process and subsequently identify the same areas the county has chosen. Inyo County needs to provide true criteria, for example, by addressing the following: Who has expressed interest in which areas? (Regardless, "interest" in solar development cannot be considered an environmentally relevant criterion for what may or may not be suitable for large-scale solar development.) Which transmission or electrical conveyance facilities were deemed appropriate? What is an acceptable distance from such a transmission facility, and how far is too far? The maps show no transmission lines depicting capacity and ownership, even though proximity to such facilities is an important criterion for potential future development. Many of the chosen designated areas, such as Centennial Flat and Deep Springs Valley, do not have any transmission lines adequate for large scale solar facilities. What terrain characteristics (slopes, aspects, erosion patterns, flooding frequency, land cover, etc.) were deemed acceptable? The maps accompanying the IS/MND show virtually no useful detail which is required for reasonable assessment of the proposed project. In fact, aerial imagery presented in the maps suggests the county's own criteria were violated in parts of most overlays.

11-14

Many valuable resources occur throughout the lands the county has designated in the maps included with the IS/MND. For example, the Tribe notes there are archaeological sites (including petroglyphs), rare plant and animal populations, springs and wetlands, relatively undisturbed areas of native vegetation, livestock, mining, and recreational uses, and unsurpassed views, included in the mapped areas. The Tribe suggested the county use existing data to identify important resources and omit such areas from further consideration for development, but this was not done.

Besides specific archaeological sites, the impacts to the existing cultural landscape of the Owens Valley Paiute and neighboring tribes needs to be assessed. The Tribe's spiritual ties to the land will be severed throughout miles and miles of ancestral lands if the proposed industrialization is planned and carried out. Further government-to-government consultation must be conducted so that we can protect these areas and exclude them from industrial development.

11-15

The GPA environmental review must define and address cumulative impacts. The IS/MND implies all of the mapped areas could be developed.

11-16

The Tribe objects to the following proposed statement in the December 2010 Draft General Plan Amendment No. 2010-3 (Attachment 1 of the IS/MND, under Policy LU-1.17, #10.0): "The County shall seek compensation for the loss of revenues from potential renewable energy facilities that are not developed due to potential impacts on military readiness, special status species, and aesthetics, and/or barriers to development of appropriate renewable energy facilities." This statement is unreasonable, probably illegal, and suggests that renewable energy facilities are the best use of all the land the county has identified. Please omit this statement.

11-17

One purpose of a General Plan is to encourage smart growth and development. Planning implies that obvious impediments to development have been evaluated, such that when an area is designated suitable for development, few obstacles should be encountered. The scenario presented in this IS/MND is the antithesis of good planning. Without a rigorous selection process which carefully delineates the most suitable areas for wind and solar development, Inyo County sends a message to developers that construction hurdles are minimal. In reality, there are many potential conflicts, from access to transmission to significant cultural and environmental resources. The Tribe suggests it's in the county's and its citizens' interest to be honest that very large scale solar development may be unfeasible except for perhaps a few small areas within the large overlay areas. Equally problematic, the GPA does not evaluate some small, discrete areas which may be suitable. The latter would especially be true if the county took a broader more forward-thinking approach to developing green power. For example, if the county planned for distributed (e.g. roof top) facilities, the door opens for many creative possibilities which could truly make the best use of the wind and sun, avoid adverse environmental effects, and benefit local citizens. The Tribe recommends Inyo County conduct further analysis, hold public hearings and gather input, and continue with tribal consultation.

11-18

In conclusion, it is apparent the present IS/MND is inadequate for a huge County-wide land use change which would affect about one million acres with no previous industrial developments. The Findings on p. 1 do not address potential adverse significant impacts to the environment as a result of designating inadequately studied areas for large-scale solar development, and there is no substantive evidence presented which would guarantee that all proposed future projects in the designated areas would have no potential adverse environmental impacts with mitigation. An EIR is obviously needed and required for such a large project. Within the EIR, an adequate Alternatives section needs to be included. Alternatives to large-scale solar development need to be fully analyzed. Although the Tribe supports reduced reliance on greenhouse-gas emitting fuels, the Tribe objects to the GPA in its current form.

11-19

Government-to-government consultation according to SB 18 is still ongoing for this proposed General Plan Amendment. Please send the Tribe notices of the availability of new documents and notices of any meetings or public hearings relevant to the proposed project as soon as the information is known by Inyo County.

11-20

Sincerely,



Virgil Moose  
Tribal Chairperson

Attachment

c: Inyo County Board of Supervisors  
Inyo County Counsel



**BIG PINE PAIUTE TRIBE OF THE OWENS VALLEY**  
*Big Pine Paiute Indian Reservation*

January 24, 2011

Inyo County Board of Supervisors  
Board of Supervisors Room  
County Administration Center  
P. O. Box N  
224 North Edwards  
Independence, CA, 93526

Dear Inyo County Board of Supervisors:

RE: Request for Government to Government Consultation meeting (per SB 18) regarding the proposed General Plan Amendment No. 2010-03 (Renewable Solar and Wind Energy)

The Big Pine Paiute Tribe of the Owens Valley is requesting a government-to-government consultation meeting with the Inyo County Board of Supervisors regarding the General Plan Amendment No. 2010-03 (Renewable Solar and Wind Energy). As stated in the Tribe's letter to Josh Hart (dated 12/9/10) regarding the Initial Study for the GPA, consultation has been ongoing for the project (see attached letter).

Even though Big Pine Tribal Council and staff have met with Joshua Hart, there are still many unanswered questions concerning this project. According to the California SB 18 Guidelines (p. 15):

Once a tribe requests consultation, consultation for the purpose of preserving or mitigating impacts to cultural places should begin within a reasonable time. Consultation should focus on how the proposed general plan or specific plan amendment or adoption might impact cultural places located on land affected by the plan proposal.


11-21

The GPA as proposed will undoubtedly contribute to the destruction of lands which are spiritually important to the Big Pine Paiute Tribe unless there are significant changes to the proposal. Proper SB 18 consultation should be high on the list for the Board in order to protect these important places and respect the values of the Tribe.

Because the Planning Commission may be making the first governmental decision on the proposed Renewable Energy General Plan Amendment (GPA) on February 23, 2011, a face-to-face meeting is requested as soon as possible. The Tribal Consultation Guidelines for SB 18 states (p.3): "Consultation must be concluded prior to the formal adoption or amendment of a general plan or specific plan."

I suggest the week of February 7-11, for a consultation meeting at the Big Pine Paiute Tribal Council Chambers. Please reply as soon as possible.

Sincerely,

  
Virgil Moose  
Tribal Chairperson

Attachment

cc: Joshua Hart, Inyo County Planning Director

Big Pine Tribal Office  
P.O. Box 700 • 825 South Main Street • Big Pine, CA 93513  
Phone: 760-938-2003 • Fax: 760-938-2942



**BIG PINE PAIUTE TRIBE OF THE OWENS VALLEY**  
*Big Pine Paiute Indian Reservation*

December 9, 2010

Josh Hart, Planning Director  
Inyo County Planning Department  
Post Office Box L  
168 N. Edwards Street  
Independence, California 93526

RE: Comments on the draft Preliminary General Plan Amendment: Renewable Energy (Wind and Solar) Overlay Areas

Dear Mr. Hart:

Please accept these comments on the draft Preliminary General Plan Amendment: Renewable Energy (Wind and Solar) Overlay Areas proposed for Inyo County from the Big Pine Paiute Tribe of the Owens Valley, a federally recognized Tribe. As you are aware, over the past few months, representatives of the Tribe have been participating in consultation and other meetings with the Inyo County Planning Department, and we have submitted oral and written comments, with regard to these proposed changes to the General Plan. Today, the Tribe learned that final public comment on this stage of the planning process are due in your office on December 10, 2010.

The designation of parcels of land in Inyo County for large-scale solar and wind development is an undertaking which may have potential significant impacts to the environment, thus creating the need for an Environmental Impact Report (EIR) for this General Plan Amendment. Large-scale industrial development in these largely-unpopulated rural lands is unprecedented and would drastically change the character of these unique landscapes. Even though there would be site specific environmental reviews for proposed projects, large scale development will be steered into these particular areas as opposed to other areas. Because of this, a detailed EIR is needed for a General Plan land use change of this magnitude, rather than the shallower analysis of a Mitigated Negative Declaration.

The selection criteria for each Renewable Energy (Wind and Solar) Overlay Area needs to be explained in detail. A key criterion is that which is listed in the Recommendations of Independent Science Advisors for The California Desert Renewable Energy Conservation Plan (DRECP):

**Principles for Siting and Designing Renewable Energy Developments**

**Maximize Use of Already Disturbed Lands**—To the greatest degree possible, site all renewable energy developments on previously disturbed land (areas where grading, grubbing, agriculture, or other actions have substantially altered vegetation or broken the soil surface), and site all linear facilities within or alongside existing linear rights-of-way, paved roads, canals, or other existing linear disturbances, so long as this does not create complete barriers to wildlife movements or ecological flows. Habitat fragmentation and impediments to wildlife movements are among the greatest threats to desert communities and species, and maximizing habitat connectivity is essential to climate change adaptation. The combined effects of both new and existing linear features on wildlife movement should be mitigated with appropriate crossing structures or corridors to facilitate wildlife movement (p. vi).

It appears that most of the areas proposed for renewable energy projects in Inyo County do not meet this basic siting principle. For the full report, see <http://www.energy.ca.gov/2010publications/DRECP-1000-2010-008/DRECP-1000-2010-008-F.PDF>.

The Overlay Area maps need to be greatly improved so that relevant information for each site is clearly depicted. For instance, land ownership, including Indian reservations, wilderness areas, wilderness study areas (WSAs), BLM Areas of Critical Environmental Concern (ACECs), and transmission lines depicting capacity and ownership should be on the color maps. The above list is not exhaustive, and The Renewable Energy Transmission Initiative (RETI) map found at: [http://www.energy.ca.gov/reti/documents/phase2B/CA\\_CREZ\\_Conceptual\\_Transmission\\_Segments\\_Phase\\_2B\\_final.pdf](http://www.energy.ca.gov/reti/documents/phase2B/CA_CREZ_Conceptual_Transmission_Segments_Phase_2B_final.pdf) can be used as a guide. The maps used in DRECP documents can also be used as guides.

Each map should be accompanied by detailed criteria explaining why the particular area was chosen for renewable energy development.

The Alternatives section in the EIR for the proposed General Plan Amendment should describe renewable energy alternatives in Inyo County which are not so concentrated or land-use intensive, and which would be of direct benefit to the residents of Inyo County.

Government to government consultation according to SB18 is still ongoing for this proposed General Plan Amendment. Please be proactive and send us all future relevant documents and information pertaining to review deadlines as soon as possible.

Sincerely,



Virgil Moose  
Tribal Chairperson

cc: Inyo County Board of Supervisors

**Response to Comment Letter No. 11**  
**Big Pine Paiute Tribe of the Owens Valley**

- 11-1 The comment provides introductory information.
- 11-2 The County has and will continue to consult with tribal representatives regarding the GPA (refer also to the Resolution).
- 11-3 Comments from the Tribe's previous letter were incorporated into the draft GPA and MND/IS as appropriate. Refer to Response to Public Comment No. 1 regarding requirements for an Environmental Impact Report (EIR). Selection criteria utilized in development of the Overlay are described on pages 6 and 7 of the MND/IS (refer also to Response to Public Comment No. 5 and Attachment 8). The GPA encourages renewable energy development on disturbed lands. The Overlay maps illustrate information deemed necessary based on public outreach, including Wilderness and Areas of Environmental Concern. The other suggestions were not included because they would have made the maps complex and difficult to interpret; this information is available from other sources, including the RETI and DRECP (refer also to Response No. 6-2). Additional information about land tenure has been provided to the Tribe, as requested.
- 11-4 Refer to Response to Public Comment No. 1 regarding the requirements for an EIR.
- The County is proposing to restrict the share of the County in which renewable wind and solar energy development may be considered from over 90 percent to about 15 percent and provide assurances about where renewable energy may and may not be developed (refer to pages 6 and 7 of the MND/IS). Within the proposed Overlay, renewable wind and solar energy development may be considered based on site-specific studies and environmental review. It is anticipated that at most only a small fraction of the Overlay will be developed. Overall, the GPA will work to avoid and minimize environmental and social impacts to the County, and will be beneficial.
- 11-5 As indicated on pages 6 and 7 of the MND/IS, the proposed Overlay is about 15 percent of the County, which corresponds to about 1,500 square miles.
- 11-6 Refer to Response to Public Comment No. 5 regarding selection criteria. This level of analysis is appropriate for County-scale planning given the County's limited resources and the plentiful information already provided by the RETI, DRECP, and other planning efforts.
- 11-7 Refer to Response to Public Comment No. 1 regarding the requirements for an EIR.
- 11-8 Refer to Response to Public Comment No. 1 regarding the requirements for an EIR. Note that the IS Checklist cites abundant supporting information within the document,

as well as by references to other documents as encouraged by CEQA. Due to the lack of information about specific future renewable energy projects that may be proposed within the County, utilization of the terms *may* and *should* and *are anticipated to* is appropriate.

- 11-9 The comment revises language in the MND/IS inappropriately. Refer also to Response No. 11-4 and Response to Public Comment No. 1.
- 11-10 As indicated more fully in the MND/IS, the proposed GPA will not directly impact any resource, as it is a policy document and does not permit development of renewable wind or solar energy. However, the County does include sensitive resources, which may be impacted by development of renewable wind or solar energy, if it occurs. The Inyo County General Plan includes goals, policies, and implementation measures to preserve and protect resources throughout the County. The proposed GPA works to further minimize impacts. As required by existing policies and regulations and the proposed GPA, site-specific studies will be required to address and mitigate potential indirect impacts. Mitigation measures based on these site-specific studies are anticipated to reduce impacts to less than significant levels. Compliance with BMPs, the Inyo County General Plan, the Renewable Energy Ordinance, and other relevant local, State, and federal rules, regulations, policies, and procedures will work to ensure less than significant impacts. Overall, the GPA will work to avoid and minimize environmental impacts to the County, and will be beneficial.
- 11-11 The project description in the MND/IS presents a summary of the proposed GPA, including its goals to minimize social and economic impacts to the County from renewable wind and solar energy development.
- 11-12 Land ownership patterns were provided upon request. As discussed in Response No. 11-3, land tenure is not included in the draft Overlay maps.
- 11-13 The proposed Overlay does not promote exploration of the designated lands, but identifies areas of the County that may be appropriate for renewable wind and solar energy development, based on site-specific studies and environmental review. Refer also to Response No. 11-4.
- 11-14 Refer to Response No. 11-3. Note that significant areas were omitted from the Overlay due to information collected about sensitive resources. This information was collected throughout development of the Overlay and the public outreach process.
- 11-15 The GPA proposes to restrict the share of the County in which renewable wind and solar energy development may be considered from over 90 percent to about 15 percent and provide assurances about where renewable energy may and may not be developed (refer to pages 6 and 7 of the MND/IS). It is anticipated that at most only a small fraction of the Overlay will be developed. Within the proposed Overlay, renewable wind and solar energy development may be considered based on site-specific studies and environmental review. Pursuant to the GPA, the potential impacts of transmission

development and other projects that may be proposed in the appropriate area of potential impact can be evaluated to ascertain potential impacts on cultural landscapes. Absent the GPA, more of the County could be developed with renewable wind and solar energy facilities, and thus, the GPA works to minimize possible impacts to cultural landscapes relative to existing conditions. Overall, the GPA will work to avoid and minimize environmental impacts to the County, and will be beneficial. Consultation with the Tribe will continue per Government Code Section 65352.3.

- 11-16 The MND/IS does not imply that all of the Overlay will be developed. To the contrary, as indicated on pages 1, 6, and 7, the Overlay is proposed in which renewable energy projects, specifically solar and wind, may be developed, based on site specific studies pursuant to the County's Renewable Energy Ordinance and other applicable State, federal, and local laws. The GPA proposes to restrict the share of the County in which renewable wind and solar energy development may be considered from over 90 percent to about 15 percent and provide assurances about where renewable energy may and may not be developed (refer to pages 6 and 7 of the MND/IS). It is anticipated that at most only a small fraction of the Overlay will be developed.

Potential cumulative impacts are addressed on page 27 of the MND/IS. As indicated, no significant direct or indirect project-specific or cumulative impacts on the environment or human beings are anticipated, provided that mitigation is developed based on site-specific studies and applied to projects to preclude impact. Compliance with BMPs, the Inyo County General Plan, the Renewable Energy Ordinance, and other relevant local, State, and federal rules, regulations, policies, and procedures will work to ensure less than significant impacts. Overall, the GPA will work to avoid and minimize environmental impacts to the County, and will be beneficial.

- 11-17 Based on public comment, the language has been modified (refer to Response to Public Comment No. 3).
- 11-18 The County has undertaken a broad public outreach for the proposed GPA to identify areas in which renewable energy development may be appropriate, based on site-specific studies and environmental review. This outreach is described in more detail in the Resolution. Distributed power generation can be accommodated under the GPA. The proposed GPA includes measures to continue to evaluate and update the General Plan regarding renewable energy, as necessary.
- 11-19 The MND/IS complies with CEQA requirements. Refer to Response to Public Comment No. 1. Alternatives are analyzed in the Planning Commission staff report.
- 11-20 Consultation with the tribe will continue per Government Code Section 65352.3.
- 11-21 The County has and will continue to consult with tribal representatives regarding the GPA (refer also to the Resolution and Comment Letter No. 19).
- 11-22 Refer to Response No. 11-3.



**BIG PINE PAIUTE TRIBE OF THE OWENS VALLEY**  
*Big Pine Paiute Indian Reservation*

March 29, 2011

Inyo County Board of Supervisors  
Board of Supervisors Room  
County Administration Center  
P. O. Box N  
Independence, CA 93526

RE: Response to Denial of Government to Government Consultation meeting (per SB 18) regarding the proposed General Plan Amendment No. 20 10-03 (Renewable Solar and Wind Energy)

Dear Inyo County Board of Supervisors:

In a letter from the Inyo County Board of Supervisors to the Big Pine Paiute Tribe (Tribe) dated February 15, and received February 22, 2011, the Tribe was refused government to government consultation per SB 18 regarding the General Plan Amendment No. 20 10-03 (Renewable Solar and Wind Energy).

The Big Pine Tribal Council again requests government to government consultation on this important renewable energy General Plan Amendment (GPA). There are still many questions regarding this General Plan Amendment which have not been answered. The County's responses to the Tribe's letter regarding the Initial Study/Mitigated Negative Declaration were not adequately addressed, including an adequate reason for not preparing an Environmental Impact Report for the General Plan Update according to CEQA.

SB 18 provides another vehicle for resolving issues generated by proposed General Plan Amendments. SB 18 is *intended* to have the decision-makers of a City or County meet with affected tribes *before* a decision is made in order to resolve potential conflicts. The SB 18 Guidelines state (p. 18):

Whenever feasible, both local and tribal governments should strive to find mutually acceptable resolutions to differences identified through consultation. When engaging in consultation, local government and tribal representatives should consider leaving the process open-ended to allow every opportunity for mutual agreement to be reached.

Some consultations may involve highly sensitive and complex issues that cannot be resolved in just one discussion. Consultation may require a series of meetings before a mutually acceptable agreement may be achieved. Consultation must be concluded prior to the formal adoption or amendment of a general plan or specific plan.

Consultation, pursuant to Government Code §65352.3 and §65352.4, should be considered concluded at the point in which:

- the parties to the consultation come to a mutual agreement concerning the appropriate measures for preservation or mitigation; or

- either the local government or tribe, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached concerning appropriate measures of preservation or mitigation.

According to SB 18, Section 8, 6532.4: "For purposes of Section 65351, 65352.3, and 65562.5, "consultation" means the *meaningful* and timely process of seeking, discussing, and considering carefully the views of others, in a manner that is cognizant of all parties' cultural values and, where feasible, seeking agreement" [italics added for emphasis]. The Tribe believes that in order for consultation to be "meaningful" on this issue (according to the law) it is imperative that true government-to-government consultation with the County Board of Supervisors and the Big Pine Tribal Council be conducted.

The Tribe asks that you carefully consider this second request for consultation and to respect the request of the Native American Heritage Commission (letter dated 3/15/11) in asking you to fulfill your legal obligation per SB 18. The SB 18 Guidelines state that consultation can be delegated to staff, but it is not stated in the Guidelines or the Statute that the legislative body can refuse to consult with a tribe if the tribe requests consultation with the legislative body in order to have "meaningful" consultation.

We feel that the consultation process can be mutually beneficial to the Tribe as well as the County. There are options and precedence for elected officials to hold meetings with Tribal representatives. If the Board would like to meet in a public meeting setting in order to meet the provisions of the Brown Act, then no confidential archaeological or sacred site information needs to be discussed. If the Board chooses two members to meet with the Tribe, then there is no quorum and the Brown Act does not apply. The Butte County Board of Supervisors had no problem in choosing two members to meet with members of the Mechoopda Tribe during their recent General Plan Update. As their example shows, there doesn't have to be any conflicts in fulfilling government-to-government consultation for a General Plan Amendment.

Please contact me as soon as possible concerning this issue. In the meantime, the Tribe requests the County refrain from making any decisions on the Renewable Energy General Plan Amendment until consultation is completed.

Sincerely,



Virgil Moose Tribal Chairperson

cc: Inyo County Planning Commission  
Native American Heritage Commission

**Responses to Additional Correspondence No. 2  
Virgil Moose, Tribal Chairperson, Big Pine Paiute Tribe of the Owens Valley Letter  
Dated March 29, 2011**

The County has complied with the consultation requirements of Government Code Section 65352.3, and consultation will continue until action is taken regarding the project. Refer also to Comment Letter No. 19 (Exhibit B, Attachment 5) and the previous response to the Native American Heritage Commission regarding the Tribe's request for consultation with the Board of Supervisors.

Refer to Response to Public Comment No. 1 in Exhibit C regarding the adequacy of the County's environmental review process. In summary, an MND/IS is adequate to comply with the California Environmental Quality Act. Responses to the Tribe's correspondence regarding the MND/IS is included in Responses to Comment Letter No. 11 (Exhibit B, Attachment 5).



**BIG PINE PAIUTE TRIBE OF THE OWENS VALLEY**  
*Big Pine Paiute Indian Reservation*

**Virgil "Dave" Moose, Tribal Chairman**

*E-mail: [dmoose@cebridge.net](mailto:dmoose@cebridge.net) • P.O. Box 700 • 825 South Main Street • Big Pine, CA 93513  
Office No. (760) 938-2003 • Fax No. (760) 938-2942*

April 15, 2011

Inyo County Board of Supervisors  
Board of Supervisors Room  
County Administration Center  
P.O. Box N  
Independence, CA 93526

**RE: Second refusal of the Inyo County Board of Supervisors to consult with the Big Pine Paiute Tribe regarding the proposed General Plan Amendment No. 20 10-03 (Renewable Solar and Wind Energy)**

Dear Inyo County Board of Supervisors:

It has been over two weeks since the Big Pine Paiute Tribe's second letter requesting consultation, dated March 29, 2011, was sent, but to date the Tribe has not received a reply. The Tribe views this lack of communication as disrespectful. The Tribe will continue to endeavor to comply with SB 18 (Section 65352.4 of the CA Government Code) and seek *meaningful* consultation with regard to Inyo County's Renewable Energy General Plan Amendment.

The Tribe notes that concerns of the Native American Heritage Commission (NAHC) also were not addressed in the County's response found on the Renewable Energy Issues pages of the Inyo County Planning Department website. In this response, the County tells NAHC it has "responded to the [Big Pine Paiute] Tribe's concerns." The Tribe feels this is an inaccurate, misleading statement. It is not known what input from the Tribe was incorporated into the proposed General Plan Amendment. The Tribe requested an EIR for the GPA, but this request was denied. The Tribe requested a more detailed analysis of the proposed renewable energy areas, but this was ignored. The Tribe desired, through government-to-government consultation, to discuss how the cultural landscapes which are of spiritual importance to the Tribe could be protected, but this request was ignored.

It is extremely important that the Board consult with the Big Pine Paiute Tribe and all tribes requesting consultation, which includes the Bishop Paiute Tribe and the Timbisha Shoshone Tribe. As the Tribe stated in its March 29 letter, consultation needs to occur *before* a decision is made on a General Plan Amendment.

The Tribe again requests that the Board refrain from any decision on the Renewable Energy GPA, as scheduled for April 26, until government-to-government consultation is completed. A consultation team of two supervisors, such as Supervisors Cash and Fortney, can discuss the Renewable Energy GPA with the Tribal Council in such a manner that no conflicts need be raised. As the Tribe stated before, two Butte County Supervisors successfully did this with the Mechoopda Tribe regarding the update of Butte County's General Plan.

A response to this letter, and the letter of March 29, is requested by Thursday, April 21, 2011.

Sincerely,

A handwritten signature in black ink that reads "Virgil Moose". The signature is written in a cursive style with a large, sweeping initial "V".

Virgil Moose  
Tribal Chairperson



19 April 2011

Inyo County Board of Supervisors  
Board of Supervisors Room  
County Administration Center  
P.O. Box N  
Independence, CA. 93526

Joe Kennedy  
**Chairman**

Angie Boland  
**Vice-Chairman**

Madeline Esteves  
**Secretary/Treasurer**

Grace Goad  
**Council Member**

Erick Mason  
**Council Member**

RE: Inyo County Renewable Solar and Wind Energy Plan

Dear Inyo County Board of Supervisors:

On behalf of the Timbisha Shoshone Tribe of Death Valley, California, as Tribal Historic Preservation Officer ("THPO") for the Tribe, I urgently request the Inyo County Board of Supervisors to delay their plans for designating areas in Inyo County for renewable solar and wind energy development without proper government-to-government consultation. The Timbisha Shoshone Tribe does have tribal trust lands including water rights in the Centennial and Death Valley Junction sites. There has been no official consultation done with our Tribal leaders to discuss this plan or how it will affect our Tribe (SB18). The Panamint Valley is of great concern to our Tribe, as there are numerous archaeological sites in this great valley which is connected to our sacred mountain, the Panamint Mountain Range; aboriginal lands of the Timbisha Tribe. These lands are of spiritual importance to the Timbisha. We have many concerns for the natural landscapes, natural resources, cultural sites, sacred sites, native plants, animals and animal habitats, water use by developers. We also request that an Environmental Impact Report (EIR) is needed for this project for such large scale land changes this plan calls for.

Please contact me to arrange a date for consultation with our Tribal leaders.

Thank you,

*Barbara Durham*

Barbara Durham, THPO  
Timbisha Shoshone Tribe  
Death Valley, California

---

**Death Valley Timbisha Shoshone Tribe**

Post Office Box 206 • Death Valley, California • 92328-0206 • PH: (760) 786-2374 • FAX: (760) 786-2376

**Joshua Hart**

---

**From:** Brian Adkins [Brian.Adkins@bishoppaiute.org]  
**Sent:** Monday, April 25, 2011 4:54 PM  
**To:** Joshua Hart  
**Cc:** Matthew Nelson; Michael Lumsden; Bill Vega  
**Subject:** SB 18 Consultation - General Plan Amendment No. 2010-03.

Mr. Hart,

In response to your April 13, 2011 letter sent to our chairman Mr. Vega, and on behalf of the Tribe, I would be happy to assist your office in setting up a government –to –government consultation meeting, as required by CA Govt. Code Section 65252.3 , between the Bishop Paiute Tribe and the Inyo County Board of Supervisors regarding this important issue. The purpose for this meeting will be to allow the leaders of the Tribes government to consult and give input to the County of Inyo proposed General Plan Amendment No. 2010-03 (Renewable Solar and Wind Energy) that could have profound effects to the land use and environment of the Owens Valley.

Our offices have reviewed the project and have determined that the acceptance of an amendment of the County of Inyo General Plan, as proposed, should at minimum require the preparation of an environmental impact statement (EIS) before a decision is made on amending the General Plan. The amendment deals with a major redesignation of land use for a large area of land within Inyo County, the Tribes ancestral homeland and has the capacity of altering land use, environment and cultural resources of this area.

Thank you.

Brian Adkins  
Environmental Director  
Environmental Management Office  
Bishop Paiute Tribe  
50 Tu Su Lane  
Bishop, Ca 93514  
760-873-3584, ext 237 (phone)  
760-873-4614 (fax)  
Brian.Adkins@bishoppaiute.org

Information from ESET NOD32 Antivirus, version of virus signature database 6070  
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<http://www.eset.com>

4/25/2011

CALIFORNIA ENVIRONMENTAL LAW PROJECT  
A Non-Profit Legal Corporation



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April 26, 2011

Facsimile 760-878-2241

Inyo County Board of Supervisors  
P. O. Box N  
Independence, CA 93526

Re: General Plan Amendment No. 2010-03 (Renewable Solar and Wind Energy)  
And Mitigated Negative Declaration of Environmental Impact and Initial Study

Dear Supervisors,

Sierra Club wishes to thank you for an additional opportunity to comment on the General Plan Amendment No. 2010-03 (Renewable Solar and Wind Energy). Sierra Club submitted comments to the Planning Commission dated February 14, 2011 in connection with this General Plan Amendment. Sierra Club's earlier letter urged that a programmatic EIR be done in connection with the plan amendment. Its letter states inter alia:

"The *MND/IS* states that the proposed GPA will not have any direct impacts as it is a policy document and will not directly result in any significant physical change to the environment. The MND does state that "Future renewable wind and solar energy projects may result in potentially significant indirect environmental impacts." (MND, pg. 1) However, the environmental impacts of any future renewable energy projects may be both direct and indirect. It is clear that the proposed GP A is intended to facilitate large-scale renewable energy development in Inyo County and to steer that development to the overlay areas. In the context of the current project, the proposed GPA, potential impacts from future renewable energy projects are reasonably foreseeable indirect impacts of the project and therefore should be addressed in the CEQA analysis. The MNDIIS does not provide adequate evidence to support the finding that the proposed project would not have a significant adverse impact on the environment.

With many of the proposed overlay areas far from existing or planned transmission facilities, the GPA should have addressed the transmission requirements for renewable energy development in the overlay areas. It does not and therefore has ignored potential significant impacts of any future energy development that would be indirect impacts of the proposed GPA.

The MNDIIS leaves resource surveys and development of mitigation measures to future analysis when specific projects are proposed. Other than to indicate the

potential for significant environmental effects, there is no analysis of the potential effects of development within the renewable energy overlay areas on sensitive natural and cultural resources and no accounting of these resources and their significance is provided.”

Thus Sierra Club urges the Board to prepare a programmatic plan and EIR for Inyo County’s renewable energy development amendment. This would ultimately facilitate more efficient and timely completion of project level CEQA analysis for specific projects proposed within the identified development plans. Based on the experience of BLM and the CEC in “fast-tracking” renewable energy projects in the CDCA, there is a need for careful planning in connection with identifying development zones that would potentially support environmentally and economically sound renewal energy generation projects. By taking a programmatic approach to renewal energy development, the cumulative effects of a long-range plan would be identified and mitigated in a comprehensive manner. In this manner, only the most appropriate land for renewable energy would be developed, consistent with environmental constraints and dedicated for long-term renewable energy generation.

In City of Redlands v. County of San Bernardino (2002), 96 Cal.App.4<sup>th</sup> 398, 406 the Court set aside a negative declaration that accompanied a general plan amendment on the ground that the amendments eliminated the requirement in the former version of the general plan that the County “conform development within a city’s sphere of influence to that city’s planning and zoning standards.” Id. at 406. The Court held that the modifications to the General Pan eliminated various requirements or limitations with respect to land use decisions. The Court additionally found that the County failed to consider the ultimate consequences the amendments would have on the physical environment. Id. at 409. The Court held that an analysis of a general plan amendment [must] include a consideration of the larger project; i.e., the future development permitted by the amendment.” Ibid.

Inyo County is here, as in City of Redlands, declining to consider potential impacts of future projects under the new amendments because future projects will be evaluated on their own merits based on the issues associated with each project taken individually. The City of Redlands rejected a similar rationale and noted that CEQA requires analysis of the environmental effects of a project at the earliest possible stage in the planning process. Id. at 410. By “failing to accurately describe the agency action and by deferring full environmental assessment of the consequences of such action, the County failed to comply with CEQA’s policy and requirements.” Ibid.

CEQA defines a “project” to include “an activity which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.” Pub. Res. Code 21065, Guidelines §15378(a).

There would clearly be “indirect impacts” associated with the general plan amendment. Guidelines §15358 provides that ‘indirect’ effects include effects which are caused by the project and are later in time or further removed in distance, but are reasonably foreseeable.” Indirect effects may include “other effects related to induced changes in the pattern of land use...and related effects on air and water and other natural systems, including ecosystems.”

The County’s principal purpose in identifying these renewal energy zones is to direct

Inyo County Board of Supervisors  
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renewable energy developers "where to investigate solar or wind renewable energy development potential." The general plan amendment is tantamount to establishing zones where renewable energy uses would be accommodated and concentrated but without an adequate environmental analysis of the environmental consequences of concentrating this development in undeveloped, ecologically sensitive lands in 15% of the County. It would result in developers expending up-front costs for planning and environmental studies in areas that may not be appropriate for renewable energy development because of environmental constraints. Already in the CDCA, the Ivanpah Solar project has been halted in mid-construction, because it has exceeded permitted incidental take of desert tortoise. The site had not been properly surveyed prior to CEC approval for the Project in the absence of a CDCA wide renewable energy plan that identified appropriate sites for renewable energy projects.

Sincerely,

A handwritten signature in cursive script that reads "Laurens H. Silver". The signature is written in black ink and is positioned above the printed name.

Laurens H. Silver  
Attorney for Sierra Club