


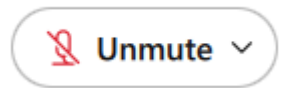
# Joint State-Federal Workshop

*Rights of Way for Utility Infrastructure Development  
on Tribal Lands in California*

July 9, 2024

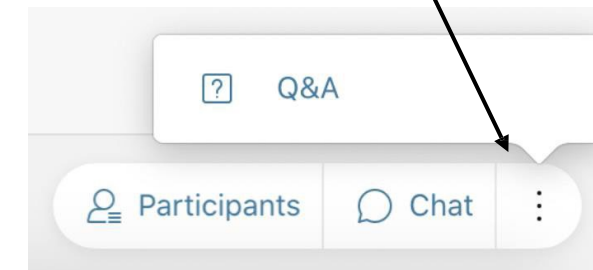


# Logistics for Remote Attendees

- All attendees are muted upon entry.
- To ask questions during the Q&A portion, please 'raise your hand' and the host will unmute you. 
- If you would rather type, **please use the "Q&A" function.** Q&A questions will be read aloud; attendees may be unmuted to respond to the answer verbally if requested.  
\*Reminder: Please press mute when done speaking 
- Use chat only for webinar logistic questions and not substantive comments or questions.



"Q&A": on the bottom right of screen, click "3 dots"



# Agenda

9:05 a.m. – 9:10 a.m.

Land Acknowledgement and Welcome

9:10 a.m. – 9:20 a.m.

Opening Remarks

9:20 a.m. – 10:30 a.m.

Federal & State Agency Presentations & Panel

10:30 a.m. – 12:00 p.m.

Tribal Presentations & Panel

12:00 p.m. – 1:00 p.m.

Lunch Break

1:00 p.m. – 2:00 p.m.

Energy Utilities & Telecommunications Providers Panel

2:00 p.m. – 3:00 p.m.

Q&A Session

3:00 p.m. – 3:15 p.m.

Wrap Up & Conclusion of Public Workshop

3:15 p.m. – 3:30 p.m.

Break

3:30 p.m. – 5:00 p.m.

Government-to-Government Consultation

# Opening Remarks – State & Federal Officials

- Christina Snider-Ashtari, Tribal Affairs Secretary, Office of the Governor
- Darcie L. Houck, Commissioner, California Public Utilities Commission
- Amy Dutschke, Regional Director, Pacific Region, Bureau of Indian Affairs, U.S. Department of the Interior
- Mark Monroe, Deputy Director, California Department of Technology
- Noemi Gallardo, Commissioner, California Energy Commission
- Nailah Pope-Harden, Deputy Director, Equity & Tribal Affairs, Caltrans

# State & Federal Agency Presentations

Yvonne Rangel, Realty Officer, Southern California Agency, Bureau of Indian Affairs, U.S. Department of the Interior

Michael Rosauer, Senior Regulatory Analyst, California Public Utilities Commission

Shannon Martin Guzman, Project Delivery Manager, California Department of Technology

René Fletcher & Sri Balasubramanian, Deputy Division Chiefs, Caltrans

# **BUREAU OF INDIAN AFFAIRS**



**Rights-of-Way Across  
Indian Land**

July 9, 2024



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- HOOPA
- YUROK
- KARUK
- GUIDIVILLE
- REDDING
- BIG LAGOON
- CABAZON

**COMPACT TRIBES:**

- BISHOP
- DRY CREEK
- EWIAAPAAYP
- GRATON
- KOI NATION
- SCOTTS VALLEY
- MANZANITA
- PINOLEVILLE
- SUSANVILLE
- SMITH RIVER

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**TRIBAL LAND:** HELD IN TRUST BY THE UNITED STATES FOR THE BENEFIT OF INDIAN TRIBES. THE TRIBE WOULD PROVIDE CONSENT, BY TRIBAL RESOLUTION, FOR THESE LANDS.

**ALLOTTED LAND:** HELD IN TRUST BY THE UNITED STATES FOR THE BENEFIT OF INDIVIDUAL INDIANS. THESE LANDS HAVE BEEN PROBATED OVER THE YEARS AND CREATED AN UNDIVIDED INTEREST OWNERSHIP SCENARIO.

-PUBLIC DOMAIN ALLOTMENTS



# Rights-of-Way Over Indian Land

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## General Overview of the BIA ROW Application Process

### What is a Right-of-Way (§169.2)?

An easement or legal right to go over or across tribal land, individually owned Indian land, or BIA land for a specific purpose; including but not limited to building and operating a line or road. **Title to the land remains vested in the landowner.**

Easement: an interest consisting of the right to use or control, for a specific limited purpose, land owned by another person, or an area above or below it, while title remains vested in the landowner.



## To what land does Part 169 apply (§169.3)?

This part applies to Indian and BIA Land;

This part **does not** apply to fee land or fee interest;

The BIA will not negotiate, compensate, or calculate consents for fee interest.

The Applicant is responsible for contacting, negotiating and compensating any owners of fee interest that may exist in the property on which the right-of-way is granted.



## When is a ROW needed (§169.4)?

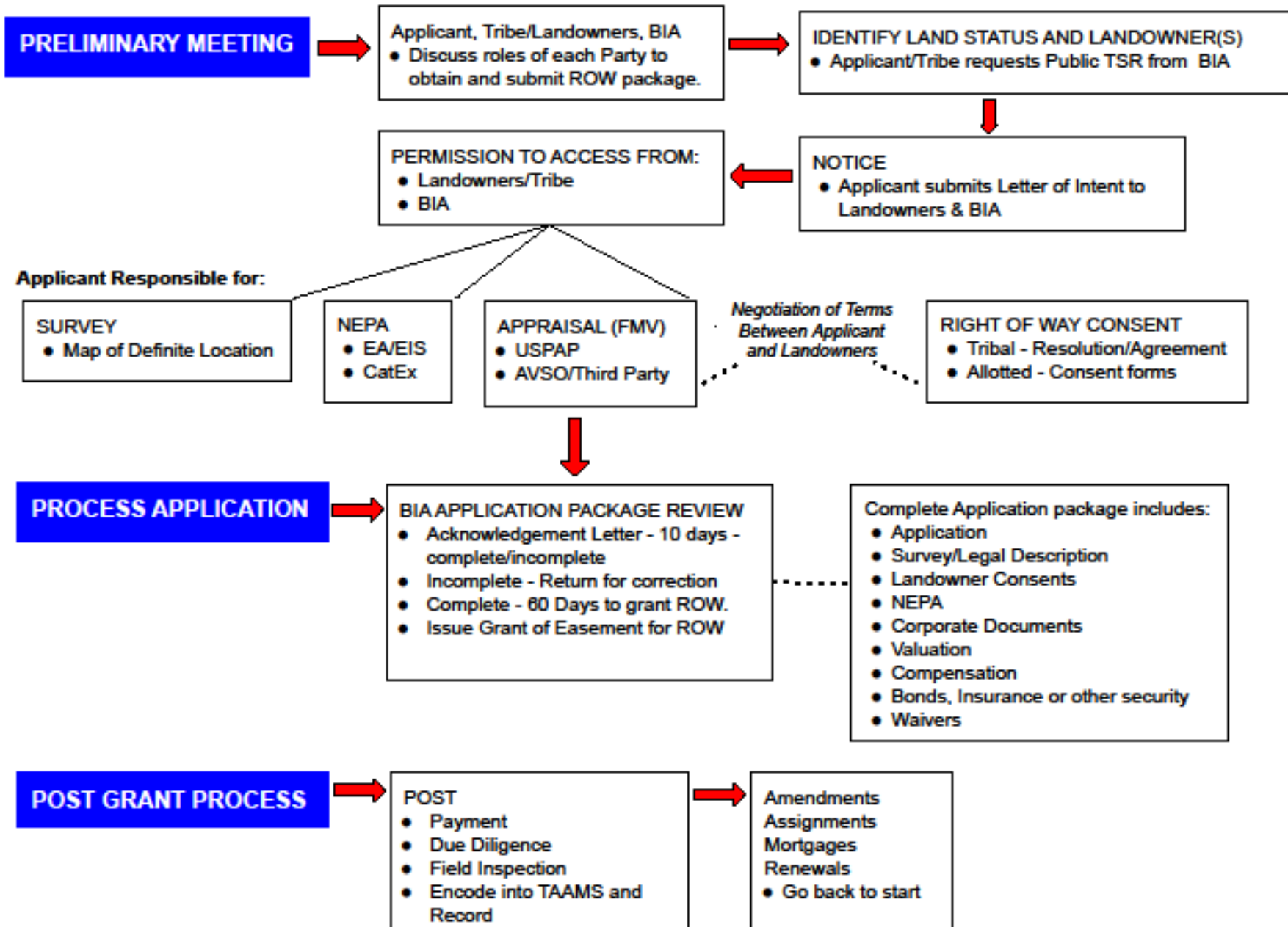
A ROW is required when you want to cross over, under, or above Indian land and if you are:

- A person or legal entity that is NOT an owner of Indian land;
- An individual Indian landowner who owns a fractional interest;
- Indian Tribe, agency or instrumentality of the Tribe who owns a fractional interest.

## When is a ROW **not** required (§169.4)?

- You are a landowner who owns 100% interest in the land; or
- A parent/guardian of a minor child who owns 100%, or
- Authorized by a lease, permit, service line agreement, or
- Independent legal entity wholly owned and operated by the Tribe that owns 100% of the trust or restricted interest in the land; or
- Otherwise authorized by law:
  - Note, Tribal land assignment, tribe-specific authority, another land use agreement not subject to this part do not require a ROW.

## General Flowchart To Obtain ROW



# Permission to Access the Land and the ROW Application

## Permission to Access (§169.101)

Obtain consent of the landowner(s) to access the land; Letter of Intent

BIA approval is not required

## Application (§169.102)

No standard form required, OMB template on BIA website

Must identify:

Applicant (name, address, phone, email);

Purpose of the ROW (be specific);

Duration of the ROW (term);

Ownership of permanent improvements and responsibility for construction, operation, maintenance, and management of the permanent improvements

# ROW Application Supporting Documents

- The following must be submitted with the ROW application (§169.102(b)):
  - Accurate legal description and associated parcels, (for each parcel);
  - Map of definite location; (include adjacent facilities);
  - Bond(s), insurance, and/or other security (§169.103);
  - Copy of Record of Notice sent to all landowners (the Notice of Intent);
  - Record of consents received;
  - Valuation, if applicable;
  - Corporate documents, if applicable;
  - NEPA documents – Environmental & Archaeological reports;
  - Statement that proposed use is in conformance with applicable tribal law, if required.

# Sample ROW Application

SAMPLE

UNITED STATES DEPARTMENT OF THE  
INTERIOR  
BUREAU OF INDIAN  
AFFAIRS

RIGHT-OF-WAY APPLICATION MUST IDENTIFY [§169.102(a)]:

1. Applicant Name and Address: \_\_\_\_\_  
\_\_\_\_\_
2. Tract(s) or parcel(s) affected by the right-of-way: \_\_\_\_\_
3. General location (easement description): \_\_\_\_\_
4. Purpose: \_\_\_\_\_
5. Term (Renewal, if applicable): \_\_\_\_\_
6. Identify ownership of permanent improvements associated with the right-of-way and the responsibility for constructing, operating, maintaining, and managing; or removal of permanent improvements under §169.105: \_\_\_\_\_

REQUIRED SUPPORTING DOCUMENTS [§169.102(b)]:

1. Accurate legal description of the right-of-way, its boundaries, and parcels associated with the right-of way;
2. A map of definite location of the right-of-way; (25 CFR 169.102((b)(2); survey plat signed by professional surveyor or engineer showing the location, size, and extent of the ROW and other related parcels, with respect to each affected parcel of individually owned land, tribal land, or BIA land and with reference to the public surveys under 25 U.S.C.§ 176, 43 U.S.C. § 2 AND § 1764, and showing existing facilities adjacent to the proposed project.)
3. Bond(s), insurance, and/or other security meeting the requirements of §169.103;
4. Record of notice that the right-of-way was provided to all Indian landowners;
5. Record of consent that the right-of-way meets the requirements of §169.107, or a statement documenting a request for a right-of-way without consent under §169.107(b);
6. If applicable, a valuation meeting the requirements of §§ 169.110, 112, 114;
7. With each application, if the applicant is a corporation, limited liability company, partnership, joint venture, or other legal entity, except a tribal entity, information such as organizational documents, certificates, filing records, and resolutions, demonstrating that:
  - a. The representative has authority to execute the application;

SAMPLE

- b. The right-of-way will be enforceable against the applicant; and
- c. The legal entity is in good standing and authorized to conduct business in the jurisdiction where the land is located.
8. Current environmental and archaeological reports, surveys, and site assessments, as needed to facilitate compliance with applicable Federal and tribal environmental and land use requirements;
9. If required, a statement from the appropriate tribal authority that the proposed right-of-way is in conformance with applicable tribal law.
10. **If applicable**, include a construction schedule or general schedule of construction and a process for changing the schedule by mutual consent of the parties, if permanent improvements are to be constructed.

THE APPLICANT FURTHER STIPULATES AND EXPRESSLY AGREES AS FOLLOWS:

To conform and to abide by all applicable requirements with respect to the right-of-way herein applied for. The applicant agrees to conform to and abide by the rules, regulations, and requirements contained in the *Code of Federal Regulations*, Title 25 Indians, Part 169, as amended, and by reference includes such rules, regulations and requirements as a part of this application to the same effect as if the same were herein set out in full.

Applicant Point of Contact Information:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Email: \_\_\_\_\_

DATE: \_\_\_\_\_

APPLICANT (Signature): \_\_\_\_\_

(Applicant Printed Name) \_\_\_\_\_



# Consent Requirements – Tribal Land

## Tribal Consent for Tribal Land(s) (§169.106-109):

Tribal consent can be provided in the form of:

Tribal resolution;

Letter; or

Written agreement

Tribal consent is required when Tribe owns a fractional interest in an Allotment, no matter how small

BIA cannot consent on behalf of a Tribe

# Consent Requirements – Individually Owned Land

## Individual Indian Consent (§169.106-109):

Individual Indian consent over Indian Land:

Majority consent + Tribal Fractional Interest (if any) is required;

Life Estate including majority of Remainder;

BIA may provide consents on behalf of:

Whereabouts unknown

Estates

Non-compos Mentis

Orphaned Minor

Power of Attorney

Fee interests are not to be included in calculating majority interest.

# Consent Requirements – Individually Owned Land Continued

## No Consent (§169.107(b)(1)):

BIA may grant ROW without Individual landowner(s) consent if **ALL** apply:

Owners are so numerous (50 or more), it would be impracticable to obtain consents;

**and**

No substantial injury to the land or any landowner; **and**

All landowners will be adequately compensated; **and**

BIA provides 60-day notice of intent to consent on behalf of all owners and provide 30 days to object

# Consent Requirements – The Landowner Consent From

Consent Requirements (§169.106-109):

Consent form should include all terms requested by the Applicant such as:

Landowner information

Purpose and Payment Terms

Proposed Compensation

Consent to terms, or self-negotiation, denial

Bond

Future Consent to Assignment, Mortgage, Amendments

Waiver of Bond, Appraisal, Compensation, Due Diligence,

Permanent improvements

Due Diligence

# Sample Landowner Consent Form

## Consent of Owner to Grant a Right-of-Way Template

UNITED STATES DEPARTMENT OF THE INTERIOR  
BUREAU OF INDIAN AFFAIRS

### CONSENT OF OWNER FOR GRANT OF RIGHT-OF-WAY

Landowner Name: First Name, Last Name Allotment No.: LAC, Tract No.  
Landowner Undivided Interest: Enter Owner Interest Amount  
Purpose of Easement: Insert Specific Purpose Compensation: \$/Tract  
Term: Insert Number of Years (include any renewal terms, if needed) Easement Description: Enter Section(s), Township, Range, Meridian, County, State, for \_\_\_\_\_ acres.  
The undersigned, owner of an undivided \_\_\_\_\_ percent interest in the subject lot, acknowledges the proposed request for grant of easement for right-of-way submitted by:  
Applicant, Address and Point of Contact  
I agree to the following:

\_\_\_\_ 1. I give my consent to the BIA to grant an easement for right-of-way and I agree to the following terms, compensation, and bonding.

**Terms** (check **one** of the following):

- \_\_\_\_ a. I give my consent to the right-of-way as proposed.  
\_\_\_\_ b. I give my consent to the right-of-way; however, I negotiate for the following terms: \_\_\_\_\_

**Compensation** (check **one** of the following):

- \_\_\_\_ a. I give my consent to the compensation of \$ \_\_\_\_\_,  
\_\_\_\_ b. I negotiate and consent for the following compensation terms:  
\_\_\_\_ c. I waive any compensation. I understand that I am entitled to receive at least Fair Market Value of the property.

**Bonding** (check **one** of the following):

- \_\_\_\_ a. I give my consent to waive any bond, insurance, or alternative form of security.  
\_\_\_\_ b. I do not give my consent to waive any bond, insurance, or alternative form of security.

\_\_\_\_ 2. I do not give my consent to the BIA to grant an easement for right-of-way.

\_\_\_\_\_  
Owner Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Witness One:

\_\_\_\_\_  
Witness Two:

\_\_\_\_\_  
Print Name:

\_\_\_\_\_  
Print Name:

\_\_\_\_\_  
Date:

\_\_\_\_\_  
Date:

Acceptance by Applicant:

Name: \_\_\_\_\_

# Compensation Requirements

## Tribal Compensation Requirements (§169.110):

BIA will defer to the Tribe on:

Compensation

- Negotiated payment amount

- Adjustments

Valuation

- Not required if Tribe submits authorization stating that it:

  - Has negotiated satisfactory compensation;

  - Waives valuation; and

  - Has determined compensation and waiver is in its best interest

- Tribes may make written request for BIA to determine FMV

If a Tribe does neither of the above, BIA will require Grantee to pay FMV based on valuation.

# Compensation Requirements

## Individual Indian Compensation Requirements (§169.112):

Compensation must not be less than fair market value unless certain conditions are met; Fair market value should be a starting point in negotiations.

BIA does not establish a ceiling on compensation amount.

Form of compensation can be a monetary or non-monetary:

Monetary can include FMV and fees, through-put fees, severance damages, franchise fees, avoidance value, bonuses, or other factors. If monetary compensation will vary based on % of income, fixed amount, or other methods, it needs to be identified as such in the grant

Non-monetary (alternative forms) could be varying types of in-kind compensations and is acceptable as long as it is determined by BIA to be in the best interest of the landowner.

# Compensation Requirements Cont. and Adjustments

## Individual Indian Compensation Requirements (Cont):

BIA may approve ROW with nominal or less than FMV if:

Grantee is utility cooperative or tribal utility providing a direct benefit to the land; or  
Landowners waive their right to receive FMV and BIA determines it is in the best interest of landowners

FMV is required to be paid to non-consenting landowners, to owners BIA consented on behalf of (WAU, Estates, etc) or granted without owner consent

## Payment Terms (§169.113)

Review of compensation must occur at least every 5th year but is not required if:

Payment is one-time lump sum;

ROW duration is 5 years or less;

Grant provides for automatic adjustments; or

BIA determines it is in landowner's best interest.

Identify Due Date, Direct (if applicable)



# SAMPLE APPLICANT CHECKLIST



## APPLICANT CHECKLIST FOR BIA ROW

Applicant: \_\_\_\_\_ Purpose: \_\_\_\_\_  
 Land Status: Tribal \_\_\_\_\_ Allotment \_\_\_\_\_ Location: \_\_\_\_\_  
 New  Renewal  Amendment  Assignment  Mortgage

<u>DATE:</u>	<u>DOCUMENTATION:</u>	<u>YES</u>	<u>NO</u>	<u>N/A</u>
<b>Preliminary Documents</b>				
_____	Applicant's Letter of Intent to Obtain ROW	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	Title Status Report, Landowner Name and Address	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	Permission to Access from Indian Landowner(s)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	Field Inspection (Photos, Maps, etc.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Right-of-Way Application Package</b>				
Consent(s):				
_____	Tribal Resolution	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	Landowner(s) Consent to Grant ROW	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	Spreadsheet - consent percentage calculation, if applicable	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	Superintendent/Regional Director per 25 CFR 169.108, if applicable.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Maps:				
_____	Survey Plat/Legal description	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	Location Map showing adjacent existing facilities	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Environmental Compliance:				
_____	Categorical Exclusion (CatEX)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	Environmental Assessment (EA)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	Finding of No Significant of Impact (FONSI)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	Environmental Impact Statement (EIS)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	Record of Decision (ROD)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	NHPA Section 106	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	ESA Section 7 review	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Valuation:				
_____	Valuation Report	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Corporate Documents:				
_____	Authority of Officers to Execute Documents	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	Articles of Partnership or Association	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	State-certified corporate charter	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	License to do business (Tribe and/or State)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Waivers:				
_____	Valuation (Appraisal, market analysis, etc.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	Bond(s), insurance, and/or alternative form of security	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	Compensation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	Permission to cross existing rights-of-way, if applicable	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	Payment - Lockbox or Proof of Payment for Direct Payment	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	Grant of Easement for ROW	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>



# ROW APPLICATION REVIEW (§169.123)

**Approval Authority:** Delegation to the Agency Superintendent for all Rights-of-Way **Application Review** - Agency staff conducts a preliminary review of the Right-of-Way application and supporting documents for completeness within ten (10) days of receipt.

## **Incomplete Application**

Agency staff will return the package within **(10) days** to the applicant including a letter identifying the missing information and/or documents.

## **Complete Application**

Agency staff will conduct a comprehensive review from the acknowledgement of a complete application package

Prepare a decision letter to authorize a ROW **within 60 days**.

## **Review Extension**

Agency staff will notify the Grantee if additional review time is required  
decision will be **(30) days** from date of notice of additional review time

# Overlapping Rights-of-Way (§169.127)

If **Grantee** requests a new use for its existing approved ROW – the Grantee may:

Request an Amendment, if :

New use

Not within the same scope

Does not require ground disturbance.

Request a New ROW, if:

New use

Not within the same scope

Require ground disturbance.

The original Grantee does not have the authority to grant a new ROW.

Additional survey, consent, NEPA, bond and compensation may be required.

If you are **not the Grantee** you may use (cross/overlap) an existing ROW, if:

Request a New ROW

Obtain consent of the existing ROW Grantee

The proposed new ROW must not interfere with the use or purpose of the existing ROW

The existing ROW Grantee may not unreasonably withhold consent.

# TRESPASS

When a ROW is **not executed and approved**, and possession is taken, any occupation and construction is considered a Trespass

When a ROW term has **expired**, any continued use/occupation is considered a Trespass

Under the Quiet Title Act, no prescriptive rights exist on Indian Trust lands

Consequences of Trespass – subject to jurisdiction of Tribal Court or the United States Department of Justice



# Subpart B – Service Line Agreements

25 CFR §169.51-56

## What is a Service Line Agreement (SLA)? (§169.52):

- Service Line: A utility line, connecting to a main line, transmission line, or distribution line, that is used for supplying service to **one** house, business, or other structure.
- Service Line Agreement: An agreement between a utility provider and landowner (**or authorized occupant**) for the purpose of providing utility service to the landowner (or authorized occupant) of **one** tract of tribal **or** individually owned land.

## Is a right-of-way required for a service line? (169.51):

- **YES** – A service line **must** connect to a line which has **an existing valid** right-of-way.
- What if the main line does **not** have a right-of-way or the right-of-way is expired?
  - A right-of-way **must** be obtained for the line **before** a SLA can be put in place.

- Is valuation required for SLA? **NO**
- Does the BIA approve SLA? **NO**
- Must a SLA be filed with BIA? **YES**, within **30** calendar days after the date of execution.
- What needs to be included with a SLA:
  - Plat or diagram showing the boundary of the tract, the point of connection to the main line, and must include the signatures of the parties if on a separate sheet.
- The utility provider may not begin any work to construct the service lines until the BIA has received the agreement and verified that the agreement meets all regulatory requirements (meeting the definition of a SLA)
- SLAs must be encoded, recorded and imaged in TAAMS



# Sample Service Line Agreement and Plat

BIA TAAMS No. \_\_\_\_\_  
 Allotment No(s). \_\_\_\_\_  
 Tribal Tract No(s). \_\_\_\_\_

## SERVICE LINE AGREEMENT

WHEREAS, (Insert Applicant/Service Provider Name), organized and existing under the laws of the \_\_\_\_\_ (insert State/Tribe), hereinafter termed "APPLICANT", requested to extend \_\_\_\_\_ (insert purpose) --- service to \_\_\_\_\_ (Name of legally authorized occupant) thereafter termed "AUTHORIZED OCCUPANT" of tract of \_\_\_\_\_ (Insert Tribal/Allotted No.) land located on the \_\_\_\_\_ (Insert Name of Reservation), for a term of \_\_\_\_\_, described below:

(Insert Legal Description – at a minimum should include Section, Township, Range, Meridian, County, State and location of point of connection to distribution line);

WHEREAS, the location of the service line required to serve the above described premises, and its extent, is more particularly shown and delineated on the attached "EXHIBIT A".

Now, therefore, it is hereby agreed that in consideration of the Applicant supplying \_\_\_\_\_ (insert purpose) to the described premises, the AUTHORIZED OCCUPANT hereby grants permission to Applicant to construct, operate, and maintain a service line on and across said premises, with the right of ingress and egress, for a length of \_\_\_\_\_ insert acreage or length of service line.

Applicant agrees to comply with all the applicable requirements of 25 CFR Subpart B (169.51-.56) – Service Line Agreements.

IN WITNESS WHEREOF, this agreement was executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

### APPLICANT

Insert the Name of Applicant  
 \_\_\_\_\_ (Signature)

### AUTHORIZED OCCUPANT

Insert the Name of Occupant  
 \_\_\_\_\_ (Signature)

Lease No. \_\_\_\_\_

### ATTEST:

Filed with the Superintendent or other officer in charge of the \_\_\_\_\_ Agency on \_\_\_\_\_, 20\_\_.

### INSERT NAME OF TRIBE

\_\_\_\_\_ (Authorizing Signature),  
 \_\_\_\_\_ Name of Authorizing Official

INDIAN RESERVATION  
 SE 1/4 NW 1/4  
 SEC 26 T14S R1E S.B.M  
 RANCHO \_\_\_\_\_  
 LS 191, TRACT 44

330  
07

N

UG ELEC. EXHIBIT "A"

Signature: \_\_\_\_\_, Chairman  
 SDG&E: CHRIS FARETTA

SAN DIEGO GAS & ELECTRIC SAN DIEGO, CALIFORNIA		ORIGINATOR: D. Guiseville	OK TO INSTALL:	PROJECT NO.
		SURVEYED BY: SERVICE	R/W OK:	3-54018
SERVICE TO _____		DRAWN BY: FRASMUSSEN	DATE:	CONST. NO.
		DATE: 07/06/17	THOS. BRGS. 1212-J1	SERVICE
		SCALE: NONE		DRAWING NO. N/A
NO.	SUPPLEMENTS			DATE: BY APP'D

**QUESTIONS???**



## ADDITIONAL INFORMATION:

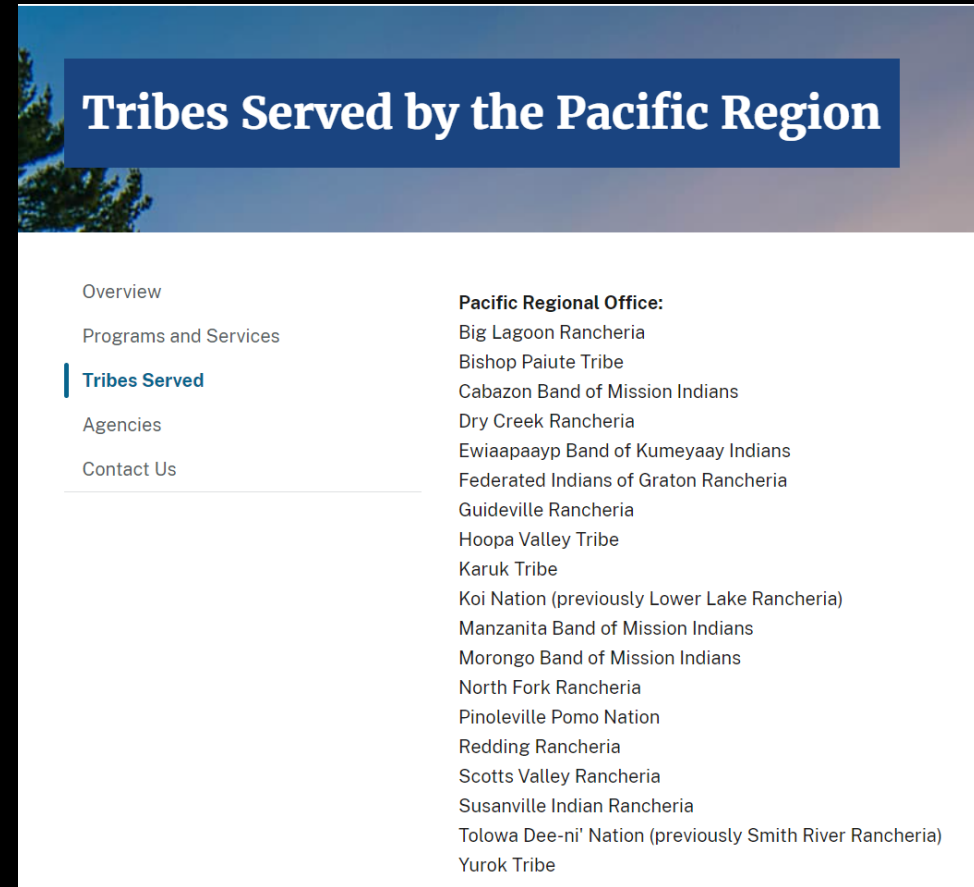
**BIA'S WEBSITE:**

**[www.bia.gov](http://www.bia.gov)**

**[www.bia.gov/regional-offices/pacific](http://www.bia.gov/regional-offices/pacific)  
**Tribes Served  
Agencies****

**The forms, templates, and checklist listed in this presentation are posted on the IA online forms webpage, found at:**

**<https://www.big.gov/policy-forms/online-forms>**



The screenshot shows a webpage with a blue header containing the title "Tribes Served by the Pacific Region". Below the header is a navigation menu with the following items: "Overview", "Programs and Services", "Tribes Served" (which is highlighted with a blue vertical bar), "Agencies", and "Contact Us". To the right of the navigation menu is a list of tribes served by the Pacific Regional Office, including: Big Lagoon Rancheria, Bishop Paiute Tribe, Cabazon Band of Mission Indians, Dry Creek Rancheria, Ewiaapaayp Band of Kumeyaay Indians, Federated Indians of Graton Rancheria, Guideville Rancheria, Hoopa Valley Tribe, Karuk Tribe, Koi Nation (previously Lower Lake Rancheria), Manzanita Band of Mission Indians, Morongo Band of Mission Indians, North Fork Rancheria, Pinoleville Pomo Nation, Redding Rancheria, Scotts Valley Rancheria, Susanville Indian Rancheria, Tolowa Dee-ni' Nation (previously Smith River Rancheria), and Yurok Tribe.

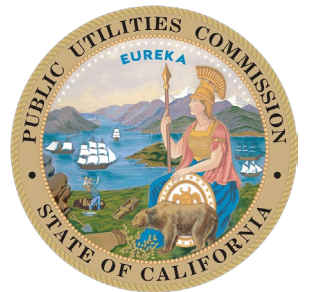
# Overview of CPUC Infrastructure Permitting

*Electric Transmission, Telecommunications, and Natural Gas  
Easements and Rights of Way*

## **California Public Utilities Commission**

Energy Division, Infrastructure Planning & CEQA  
Michael Rosauer, Senior Regulatory Analyst

July 9, 2024

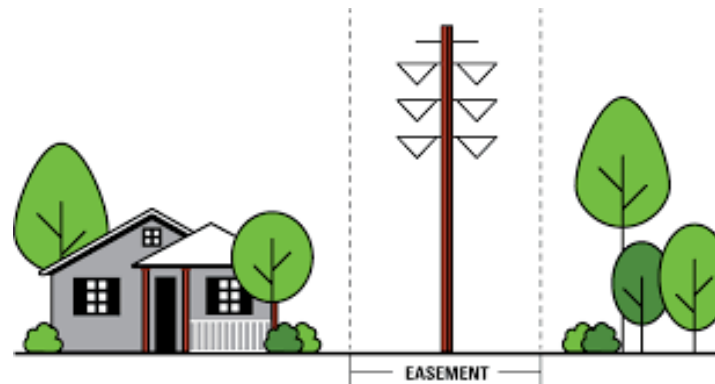


# Definition - Easement

- Easements are a nonpossessory property interest in land that is often perpetual and confers certain rights and obligations to both the easement holder, and the landowner.
  - Affirmative Easement gives easement holder the right to perform a particular action on one's property (e.g., to install and operate infrastructure).
- The property owner may continue to enjoy the real property. Owner may exclude everyone but the easement holder from the land.
- Easements are created in two ways:
  1. By express agreement between the party who owns the land and the party that seeks to own the interest, or
  2. By Court Order (Condemnation)

# Overview – Typical Easement Agreements with Private Landowners

- The landowner sells the easement to a utility for a negotiated amount of money. The contract specifies the restrictions on both the utility and landowner's use of the land and specifies the rights of the utility. It is binding on both parties and is perpetual unless dissolved.
- When negotiations break down, the utility has a right to eminent domain (condemnation).
- Utilities have been granted the right of eminent domain because it is in the public interest to provide safe and reliable electric service at a fair price.



# Definition - Right of Way (ROW)

- A corridor of land on which electric lines (or other infrastructure) may be located. The transmission owner may own the land in fee, may own an easement, or have certain franchise, prescription, or license right to construct and maintain lines.
- Telecommunications Public Utilities Code Section 7901 creates a right to construct facilities along and upon public roads and highways.
- The width of the corridor is established by engineering or construction standards.
- The ROW width in no case exceeds the transmission owner's legal easement but may be less.



# Overview – Types of Right of Way (ROW)

- **Fee Simple Ownership**—the landowner sells the strip of land to the utility outright. This is common for substations.
  - Recorded Easement on property deed granting use of land for infrastructure location. Landowner retains rights to use land.
- **Franchise Agreement**—contract between utility and local government to grant a right to use public ROW for installation and maintenance of infrastructure. Agreement covers permitting procedures, notice requirements, insurance or indemnification, and any applicable cost, fees, or tax arrangements.
- **Public Utility or Road Widening Easement** - typically granted by local government.



# CPUC Role in Permitting Electric Infrastructure

- CPUC General Order (GO) 131-D includes:
  - Rules for the permitting of electrical transmission and distribution lines, substations, and generation facilities 50kV or above in capacity
    - ✓ Certificate of public convenience and necessity (CPCN) criteria and process
    - ✓ Permit to Construct (PTC) criteria and process
    - ✓ Tier 2 Advice Letter process for projects exempt from the PTC requirement
    - ✓ CPCN and PTC application requirements including the Proponent's Environmental Assessment (PEA)
  - Reporting requirements for electric public utilities
  - Procedures for CPUC review of projects approved by the California Energy Commission (CEC)
  - Protest and complaint procedures

# General Order 131-D Updates



- Pursuant to SB 529 (Hertzberg, 2022), GO 131-D was revised in December 2023 to allow a utility to file an application for a Permit to Construct (PTC) application in lieu of an application for a Certificate of Public Convenience and Necessity (CPCN) application for Transmission projects (200kV and above) in **existing** transmission easements, franchise agreements, and ROW.
- Certain transmission (200 kV and above), powerline (operate between 50 and 200kV), and substation projects are exempt from PTC Requirements. However, they must be noticed in compliance with GO 131-D (Section XI.B)
- **CPUC is currently in the process of adopting a new General Order version by January 31, 2025. This considers more extensive changes to provide a clearer, more efficient and consistent process.**

# GO 131-D Section III.B.1 Exemptions

- a) Powerline facilities with an in-service date before January 1, 1996.
- b) Replacement of existing facilities with equivalent facilities.
- c) Minor relocation of existing powerline facilities.
- d) Conversion of overhead to underground.
- e) Placement of new conductor or insulators on supporting structures already built.
- f) Powerlines to be relocated or constructed which have undergone review pursuant to CEQA as part of a larger project, and for which no significant unavoidable environmental impacts were identified.

# GO 131-D Section III.B.1 Exemptions (cont'd)

g) Powerline facilities to be located in existing franchise, road-widening setback easement, or public utility easement; or in a utility corridor designated, precisely mapped and officially adopted pursuant to law by federal, state, or local agencies and for which a final Negative Declaration or EIR finds no unavoidable environmental impacts.

h) The construction of projects that are statutorily or categorically exempt from CEQA



# Exceptions for GO 131-D Exemptions

- **Exemptions do not apply if exceptions identified in CEQA Guidelines Section 15300.2 are present:**
  - a) Reasonable possibility that the activity may impact an environmental resource of hazardous or critical concern.
  - b) Cumulative impact of successive projects of the same type in the same place over time is significant; or
  - c) There is reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.

# Distribution Level Infrastructure (under 50kV) Does not Require CPUC Permit or Notice

- **GO I31-D. Section III.C** -Requires no CPUC permits for distribution voltage level projects and requires no discretionary permits or approvals by local governments.
- Requires utility compliance with local building standards.
  - The utility must first communicate with, and obtain the input of, local authorities regarding land use matters and obtain non-discretionary permits.

# Utility Noticing Requirement - Infrastructure Projects Requiring CPCN or PTC Applications

## GO 131-D Section IX. A.1

- g) A listing of government agencies with which the proposed route reviews have been undertaken, including a written request for a brief position statement by that agency. Listing shall include the Native American Heritage Commission (NAHC) which shall constitute notice on California Indian Reservation Tribal Governments.

# CPUC CEQA Tribal Outreach Procedures for PTC and CPCN Applications

- CPUC provides Tribal notification using NAHC list of project area Tribes
- CPUC statutory outreach pursuant to AB 52
  - Consult master list of CPUC AB 52 Tribes and mail notice letter describing proposed project and offering an opportunity for consultation to determine possible impacts to tribal cultural resources and how best to mitigate as part of the environmental review process.
- Independent of CEQA requirements the CPUC may consult with Tribes pursuant to our Tribal Consultation Policy



For more information, please reach out to:

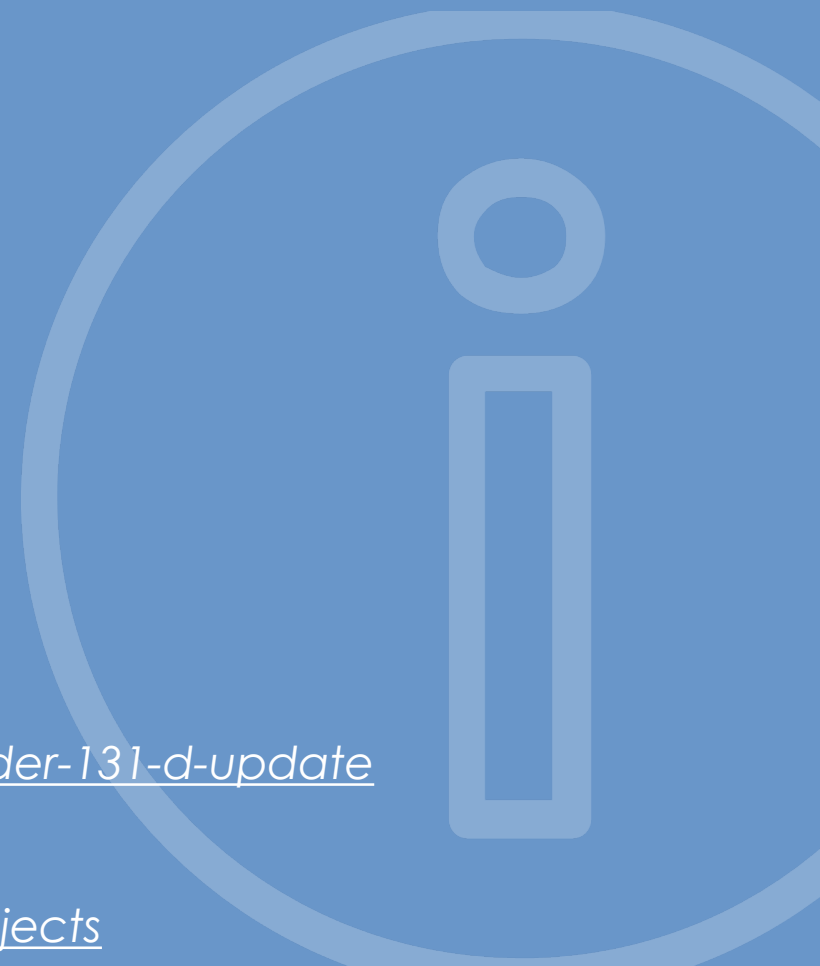
**Michael Rosauer**

**CPUC Energy Division**

*Michael.Rosauer@cpuc.ca.gov*

Additional Resources:

- <https://www.cpuc.ca.gov/industries-and-topics/electrical-energy/infrastructure/permitting-and-environmental-review>
- <https://www.cpuc.ca.gov/industries-and-topics/electrical-energy/infrastructure/permitting-and-environmental-review/general-order-131-d-update>
- <https://www.cpuc.ca.gov/industries-and-topics/electrical-energy/infrastructure/permitting-and-environmental-review/current-projects>





**BROADBAND FOR ALL**

# Middle-Mile Broadband Initiative Overview



July 9<sup>th</sup>, 2024

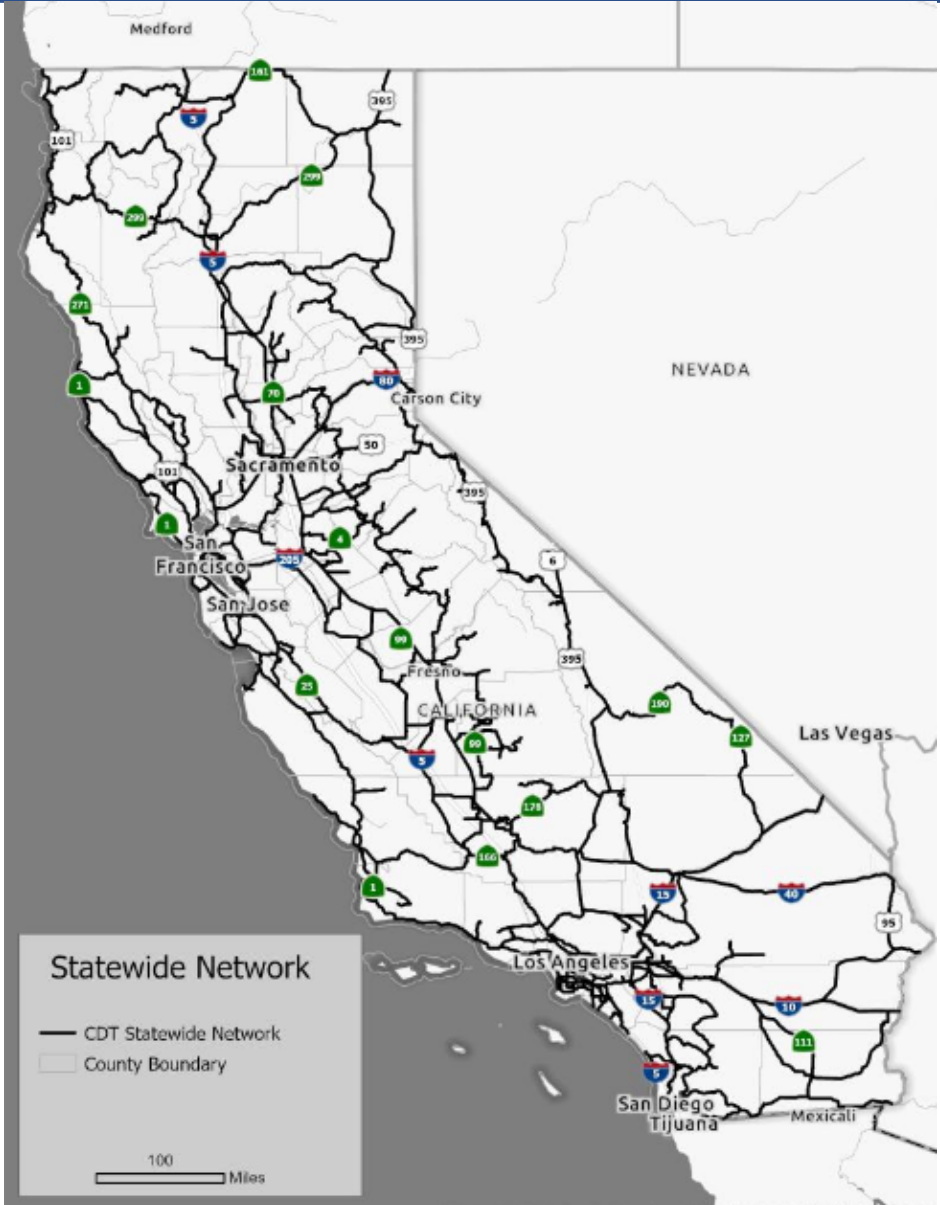


MMBI OVERVIEW

# Middle Mile Broadband Initiative

Senate Bill 156 was signed into law in July 2021 to create an open-access middle-mile network to bring high-speed broadband internet to all Californians.

IRU/Lease	Purchase	Joint-Build	Caltrans	Total
3,485 mi	435 mi	2,615 mi	4,024 mi	10,559 mi



# Tribal Policy

- MMBI developed a baseline offer as a tribal policy for each of the tribes whose lands the Middle-Mile Broadband Network will cross.
- In exchange for right of way, MMBI is offering dark fiber and lit services:
  - Six (6) Dark Fiber Strands (3 pairs) to the two nearest diverse huts
  - Two (2) diverse 10 gigabit circuits (Dedicated Internet Access)
- MMBI program team is meeting with each tribe 1:1 to present this tribal policy.
  - To date CDT has presented policy to eleven Tribes with two adopting

# TRIBAL POLICY PACKAGE

## Example Diagram

### Logical Portion

Internet Service 1 [uses 2 strands]

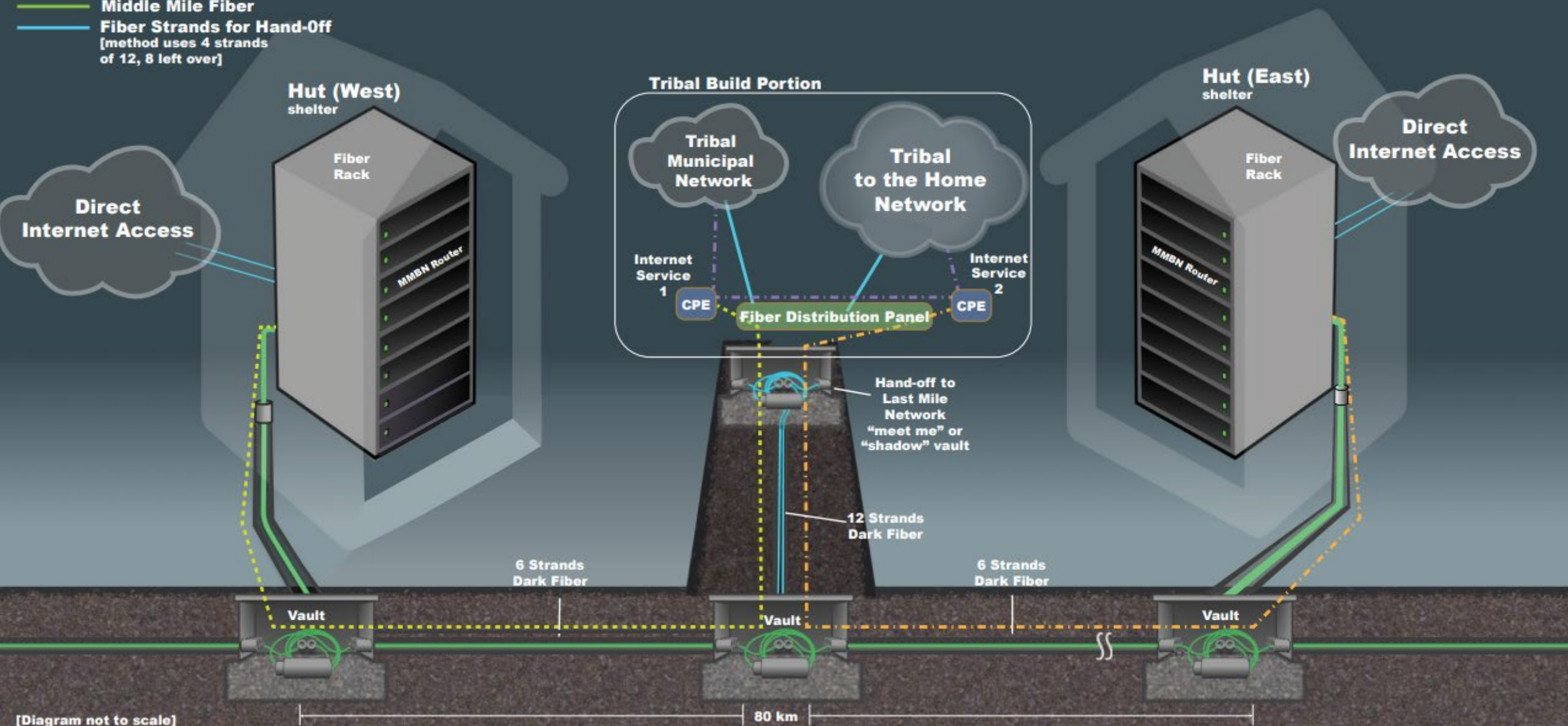
Internet Service 2 [uses 2 strands]

Connectivity to the internal Tribal Network  
[over local infrastructure]

### Physical Portion

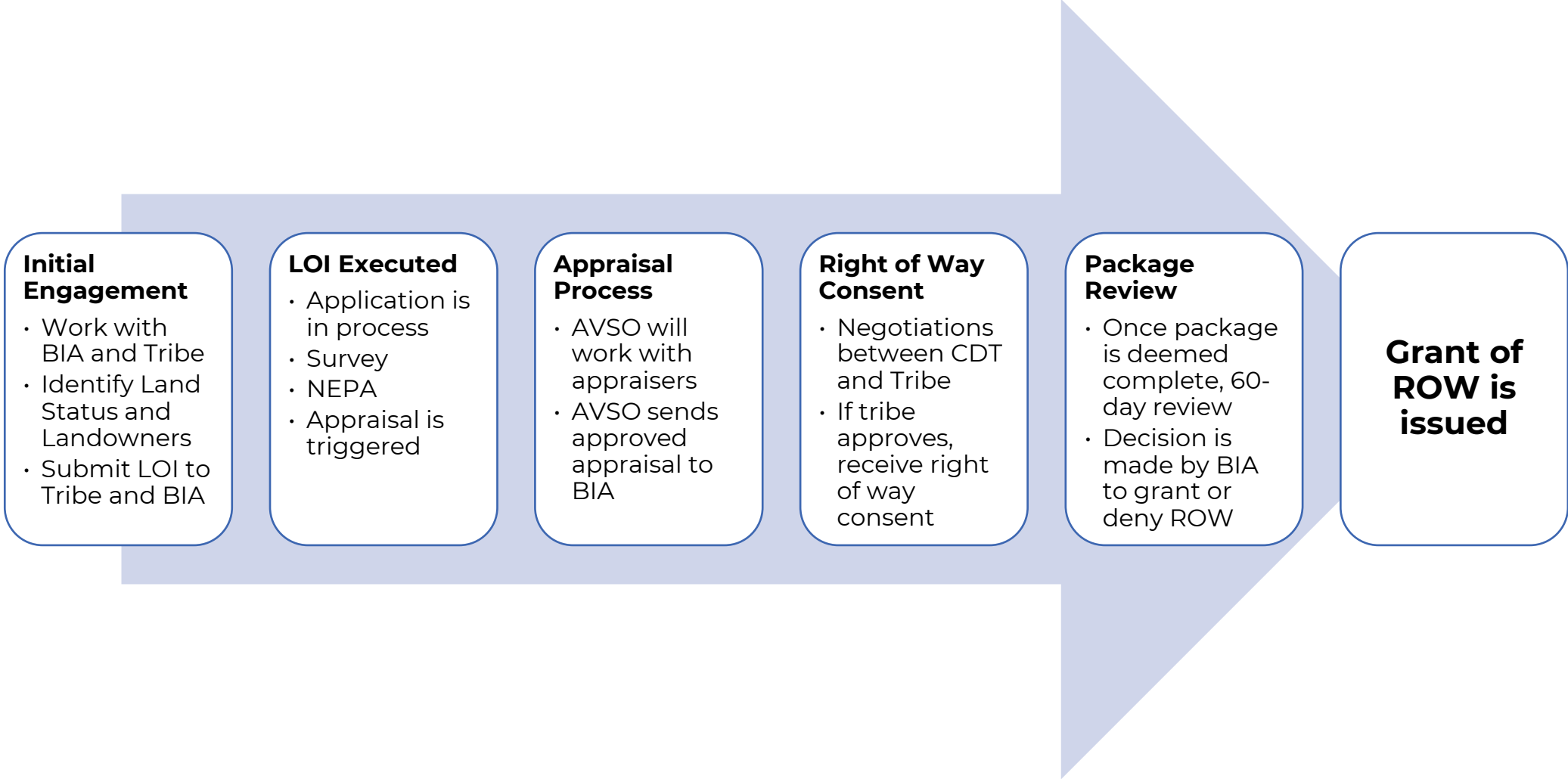
Middle Mile Fiber

Fiber Strands for Hand-Off  
[method uses 4 strands  
of 12, 8 left over]



MMBI OVERVIEW

# MMBI ROW Process



**Initial Engagement**

- Work with BIA and Tribe
- Identify Land Status and Landowners
- Submit LOI to Tribe and BIA

**LOI Executed**

- Application is in process
- Survey
- NEPA
- Appraisal is triggered

**Appraisal Process**

- AVSO will work with appraisers
- AVSO sends approved appraisal to BIA

**Right of Way Consent**

- Negotiations between CDT and Tribe
- If tribe approves, receive right of way consent

**Package Review**

- Once package is deemed complete, 60-day review
- Decision is made by BIA to grant or deny ROW

**Grant of ROW is issued**

# Q & A

CALIFORNIA  
**ALL**

**BROADBAND  
FOR ALL**

# **Right of Way Process Infrastructure on Tribal Lands**

**Caltrans Division of Right of Way and Land Surveys and Traffic Operations**

**July 9, 2024**



# Transportation Project

Follow the Department of Interior Regulations as described in 25 CFR 169

Grant of Right of Way from Bureau of Indian Affairs (BIA) for Highway Use

Non-BIA Tribal Lands – Negotiation occurs directly with the Tribe – Highway Easement

# Utility Infrastructure





# Utility Infrastructure

Caltrans and BIA recognize Utilities as a separate use and therefore are required to obtain their own rights through the application process

# Caltrans Encroachment Permits

- A Caltrans encroachment permit needs to be obtained for all encroachment activities within highway right-of-way limits, under federal and state laws/regulations.
  - Utilities
  - Special Events – Marathons, parades, local celebrations, etc.
  - Driveways, Vegetation management, etc.
  - Collection of seeds (Consent letter).
- Caltrans encroachment permit is a revocable permissive authorization for temporary encroachment.
  - A Caltrans encroachment permit doesn't provide any property rights.
  - Caltrans encroachment permit is not transferable to another entity or individual.

# Caltrans Encroachment Permits

- Encroachment requests are reviewed for:
  - impacts on highway operations,
  - traffic safety, and
  - compliance with applicable federal and state laws/regulations.
- Caltrans requires the applicant to obtain all necessary approvals/permissions from various regulating agencies and entities involved.
  - This includes consent from land or easement owners within the highway right-of-way.
- Permit office verifies to see if tribal consultations happened or if there are established communications between the permittee and the tribe.
- Permit office also confers internally with Caltrans environmental team and the Native American Liaison, as needed.

**Thank you**

Rene Fletcher  
Deputy Division Chief  
Right of Way and Land Surveys  
Caltrans  
(916) 208-8446

Sri Balasubramanian  
Deputy Division Chief  
Division of Traffic Operations  
Caltrans  
(916) 208-2348

# Tribal Representative Presentations & Panel

Michelle Lee, Attorney, The Circle Law Group

Denise Turner Walsh, Attorney General, Rincon Band of Luiseño Indians

Linnea Jackson, General Manager, Hoopa Valley Public Utilities  
District, Hoopa Valley Tribe

Karen Woodard, Realty Administrator, Morongo Band of Mission  
Indians



THE CIRCLE LAW  
GROUP

# Rights-of-Way, Easements, & Service Line Agreements

**Michelle Lee, Attorney**  
**The Circle Law Group**





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# Tribal Trust Land

1. Tribal trust land is land that is owned by the United States of America and held in trust for the benefit of a particular tribe.
2. Tribal trust land is managed by Tribe in collaboration with Bureau of Indian affairs.
  - Land title records, for that land is recorded in the land title and records office or LTRO.
  - Easements and ROW recorded with a county are not enforceable against the United States.

Title to trust land(s) is held by the United States of America for the benefit of a Tribe(s) or an individual Indian(s).

This type of title document will usually read, “To the United States of America in trust for *name of Tribe (from Federal Register published list of Tribal Entities Eligible to Receive Services) or individual.*”

***Unfortunately, roads have been built, powerlines have been constructed, and infrastructure has been developed that cuts through Tribal trust land without proper documentation or approval.***



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# Definitions

Right of Way (ROW): A right-of-way is an easement or a legal right to go over or across tribal land, individually owned Indian land, or BIA land for a specific purpose, including but not limited to building and operating a utility line or road.

- An easement for ROW creates a non-possessory interest in land owned by another person, consisting of the right to use or control the land, on an area above or below it, for a specific limited use or enjoyment; can be protected against third parties; and is not terminable at will by the Indian landowner(s).
- However, title to the property remains with the landowner(s) regardless of how a ROW encumbers the title. Easements can be created by a grant, reservation, agreement, Tribal Authorization, or an Act of Congress.
- **A ROW application is required under Part 169 - Rights-of-way Over Indian Land**  
([5 U.S.C. 301](#); [25 U.S.C. 323-328](#); [25 U.S.C. 2201](#); [80 FR 72534](#)).



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# Definitions

**Easement: An easement is a voluntary and perpetual legal agreement between a landowner and another party that grants a use right to the easement holder and limits the uses of the land by the landowner.**

- Easements granted by the BIA over trust lands, or by the Tribe (not requiring a grant by BIA) over Tribal trust lands, will be submitted to the BIA for its records and for recordation by the LTRO.
- Most ROWs are granted as an easement by the Secretary of the Department of the Interior (DOI) (as redelegated down to the appropriate Indian Affairs (IA) approving official) pursuant to the Act of February 5, 1948 (25 U.S.C. 323-328), with consent of the Indian landowner(s) (or consent supplied by the Secretary in certain cases).
- **There are also an increasing number of conservation easements over lands that protect the land from development. This is an evolving area of land use restrictions on Tribal trust land that may come up during the fee-to-trust process.**



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# Definitions

Service line agreement: A service line agreement is an agreement signed by a utility provider and landowner for the purpose of providing limited access to supply the owners (or authorized occupants or users) of one tract of tribal or individually owned Indian land with utilities for use by such owners (or occupants or users) on the premises. A service line agreement originates from a ROW.

- Service lines generally branch off from facilities for which a valid ROW was obtained. A service line is a utility line running from a main line, transmission line, or distribution line that is used only for supplying telephone, water, electricity, gas, internet service, or other utility service to a single house, business, or other structure.
- In the case of a power line, a service line is limited to a **voltage of 14.5 kv or less, or a voltage of 34.5 kv** or less if serving irrigation pumps and commercial and industrial uses.
- To obtain access to Indian land for service lines, the ROW grantee must file a service line agreement (SLA) with BIA, to include the requirements of Subpart B (25 CFR 169.51-56). **NOTE:** Compensation not required.

§ 169.54 What are the consent requirements for service line agreements?

- (a) Before the utility provider may begin any work to construct service lines across tribal land, the utility provider and the tribe (or the legally authorized occupants or users of the tribal land and upon request, the tribe) must execute a service line agreement.
- (b) Before the utility provider may begin any work to construct service lines across individually owned land, the utility provider and the owners (or the legally authorized occupants or users) must execute a service line agreement



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# Title Status Report

**A title status report will show all valid recorded encumbrances on tribal trust land.**

- The Federal Government's fiduciary responsibility, under 25 U.S.C. 5, is to administer title on behalf of the Indian landowners by ensuring lawful and proper recordation of title documentation for transactions on trust and restricted Indian lands.
- The official recordation of the legal description, owners, and existing encumbrances of these lands is recorded and maintained by the BIA LTRO in accordance with 25 CFR 150. LTRO is also responsible for issuing a certified TSR verifying ownership and any or all restrictions, encumbrances, and/or limitations.



United States Department of the Interior  
Bureau of Indian Affairs  
Title Status Report

Report Certification Time and Date: 11/13/2000 08:00:00 PM

Requestor: JHECTOR Date/Time: 11/16/2023 12:22:27

<u>Land Area</u>	<u>Land Area Name</u>	<u>Tract Number</u>	<u>LTRO</u>	<u>Region</u>	<u>Agency</u>	<u>Resources</u>
536	PIT RIVER	T 5118	SACRAMENTO, CA	PACIFIC REGIONAL OFFICE	NORTHERN CALIFORNIA AGENCY	Both

---

Original Allottee:

See Appendix A for Land Legal Descriptions

**Title Status**

Tract 536 T 5118 is held by the United States of America in trust for the land owner(s) with trust interests and/or by the land owner(s) with restricted interests and/or fee simple interests, as listed in Appendix "B" attached to and incorporated in this Title Status Report.

The title to Tract 536 T 5118 is current, complete, correct, and without defect. Ownership is in unity and interests are owned in the following title status: trust.

The tract ownership is encumbered by the title documents which have been approved by a properly delegated Federal official and are required to be recorded by law, regulation, or Bureau policy as listed on Appendix "C" attached to and incorporated in this Title Status Report.

See Appendix D for all other documents that are required to be recorded by law, regulation or Bureau policy.

No Tract Notes or Coded Remarks for this tract.

This report does not cover encroachments nor any other rights that might be disclosed by a physical inspection of the premises, nor questions of location or boundary that an accurate survey may disclose. This Report also does not cover encumbrances, including but not limited to irrigation charges, unpaid claims, not filed or recorded in this Land Titles and Records Office. This report does not state the current ownership of the interests owned in fee simple but states the ownership at the time the interest ceased to be held in trust or restricted ownership status.

This Title Status Report is a true and correct report of the status of title to the real estate described herein according to the official land records recorded and maintained in this office.

TSR pg. 1

**Appendix "A"**

<u>Land Area</u>	<u>Land Area Name</u>	<u>Tract Number</u>	<u>LTRO</u>	<u>Region</u>	<u>Agency</u>	<u>Resources</u>
536	PIT RIVER	T 5118	SACRAMENTO, CA	PACIFIC REGIONAL OFFICE	NORTHERN CALIFORNIA AGENCY	Both

**Land Legal Descriptions**

<u>Section</u>	<u>Township</u>	<u>Range</u>	<u>State</u>	<u>County</u>	<u>Meridian</u>	<u>Legal Description</u>	<u>Acres</u>
33	043.00N	013.00E	CALIFORNIA	MODOC	Mount Diablo	SW NW	40.000
						N NW	80.000
TOTAL TRACT ACRES:							120.000

**Appendix "B"**

<u>Land Area</u> 536	<u>Land Area Name</u> PIT RIVER	<u>Tract Number</u> T 5118	<u>LTRO</u> SACRAMENTO, CA	<u>Region</u> PACIFIC REGIONAL OFFICE	<u>Agency</u> NORTHERN CALIFORNIA AGENCY	<u>Resources</u> Both
-------------------------	------------------------------------	-------------------------------	-------------------------------	---	---	--------------------------

Effective Ownership as of 10/23/2004											
----- OWNER -----				---- DOCUMENT ----				NAME ACQUIRED	FRACTION	AGGR SHARE	AGGREGATE
Tribe & Code	ID No. / DOB	Indian / NonIndian	Title	Interest*	Class	Type	Number	SURNAME / FIRST NAME	AS ACQUIRED	CONVERTED TO LCD	DECIMAL
536 PIT RIVER TRIBE, CALIFORNIA (INCLUDES XL RANCH, BIG BEND, LIKELY, LOOKOUT, MONTGOMERY CREEK AND ROARING CREEK RANCHER IAS)	T000010	Tribe	Trust	All	Deed-TS	ACT 1934	243	BANDS OF PIT RIVER INDIANS OF CALIFORNIA	1	1	1 1.0000000000
									IN TRUST:	1	1 1.0000000000
									IN FEE:	0	1 .0000000000
									TOTAL:	1	1 1.0000000000

\* "All" means the equitable beneficial interest and the legal title interest merged together.



**Appendix "C"**

<u>Land Area</u>	<u>Land Area Name</u>	<u>Tract Number</u>	<u>LTRO</u>	<u>Region</u>	<u>Agency</u>	<u>Resources</u>
536	PIT RIVER	T 5118	SACRAMENTO, CA	PACIFIC REGIONAL OFFICE	NORTHERN CALIFORNIA AGENCY	Both

---

Ownership of Tract 536 T 5118 is encumbered by the following:

NO REALTY DOCUMENTS FOUND

NO REALTY DEFECTS FOUND

NO TITLE DEFECTS FOUND

NO ENCUMBRANCES FOUND

**Appendix "D"**

<u>Land Area</u>	<u>Land Area Name</u>	<u>Tract Number</u>	<u>LTRO</u>	<u>Region</u>	<u>Agency</u>	<u>Resources</u>
536	PIT RIVER	T 5118	SACRAMENTO, CA	PACIFIC REGIONAL OFFICE	NORTHERN CALIFORNIA AGENCY	Both

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No Contracts to list for Appendix D

No Encumbrances to list for Appendix D

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# Roadway Easements

25 U.S. Code § 311 - Opening highways

The Secretary of the Interior is authorized to grant permission, upon compliance with such requirements as he may deem necessary, to the proper State or local authorities for the opening and establishment of public highways, in accordance with the laws of the State or Territory in which the lands are situated, through any Indian reservation or through any lands which have been allotted in severalty to any individual Indian under any laws or treaties but which have not been conveyed to the allottee with full power of alienation.

(Mar. 3, 1901, ch. 832, § 4, [31 Stat. 1084](#).)

*See, United States v. Oklahoma Gas & Electric Co.*- Permission to install electric lines in road easement established pursuant to 25 USC §311 through an individual Indian allotment.



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The logo features a circle on the left containing a vertical stack of seven upward-pointing triangles. To the right of the circle, the text "Caltrans ROW" is written in a stylized, hand-drawn font.

# Caltrans ROW

1. If a Caltrans right of way was established under the jurisdiction of the 1941 statute, other utilities may install infrastructure into the Caltrans right-of-way.
2. However, if not, other utilities may not install infrastructure into the Caltrans right-of-way, but they must obtain their own right of way from the Indian Tribe.
3. In addition, even if Caltrans right-of-way was established under the 1941 statute, sometimes the utility infrastructure is not built completely within the Caltrans easement but is located on tribal land outside of the Caltrans easement.
4. In such a case a new right-of-way with the Indian tribe is necessary.
5. Today, it might be best to evaluate and if there is any question establish the ROW for the full line through Tribal trust land.



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# Caltrans

One concern of Indian tribes is that there may not be a valid and recorded Caltrans right-of-way at all.

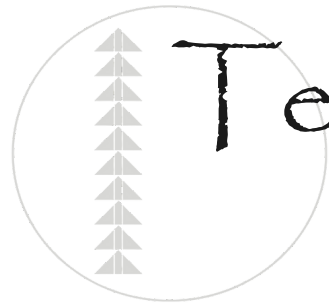
To determine whether there is a valid Caltrans easement, one must look to the title status report or TSR of the land in question. A TSR may be requested for a particular tract of Tribal trust land from the Bureau of Indian Affairs.



**UTILITIES USE OF HIGHWAY RIGHTS-OF-WAY ON TRIBAL LANDS ¶**

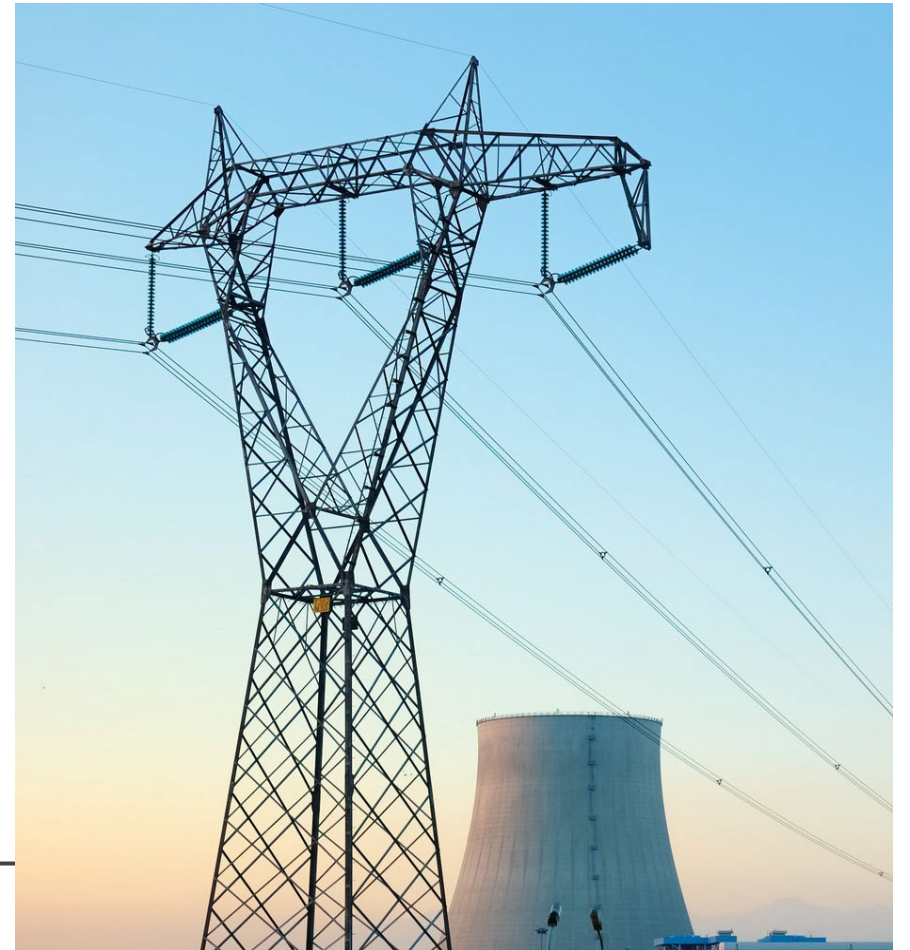
✕	<b><u>1901 Act Section 3 Telecom Easement</u></b> ✕	<b><u>1901 Act Section 4 Highways (SR96)</u></b> ✕	<b><u>1948 Act</u></b> ✕	<b><u>No BIA Grant Exists</u></b> ✕
Tribal Consent Required? ✕	No ✕	No ✕	Yes ✕	Yes, depending on how title is held ✕
Compensation to Tribe? ✕	No ✕	No ✕	Yes ✕	Yes, depending on how title is held ✕
Extent of Utilities' Rights in Rights-of-Way ✕	May install telecom facilities only to extent of rights granted in easement ✕	Grant under Section 4 of 1901 Act has been interpreted to allow all utilities to install facilities in the 1901 highway rights-of-way without BIA's consent or consultation ✕	No cases on point? ✕	No rights until agreement is signed. ¶  Grant could be BIA right-of-way, Tribal consent or easement. ¶  There is no independent right to use state, county or tribal roads without some type of grant. ✕
Facilities installed outside of Highway Rights-of-Way ✕	Must have grant from BIA, Tribe or property owner ✕			✕





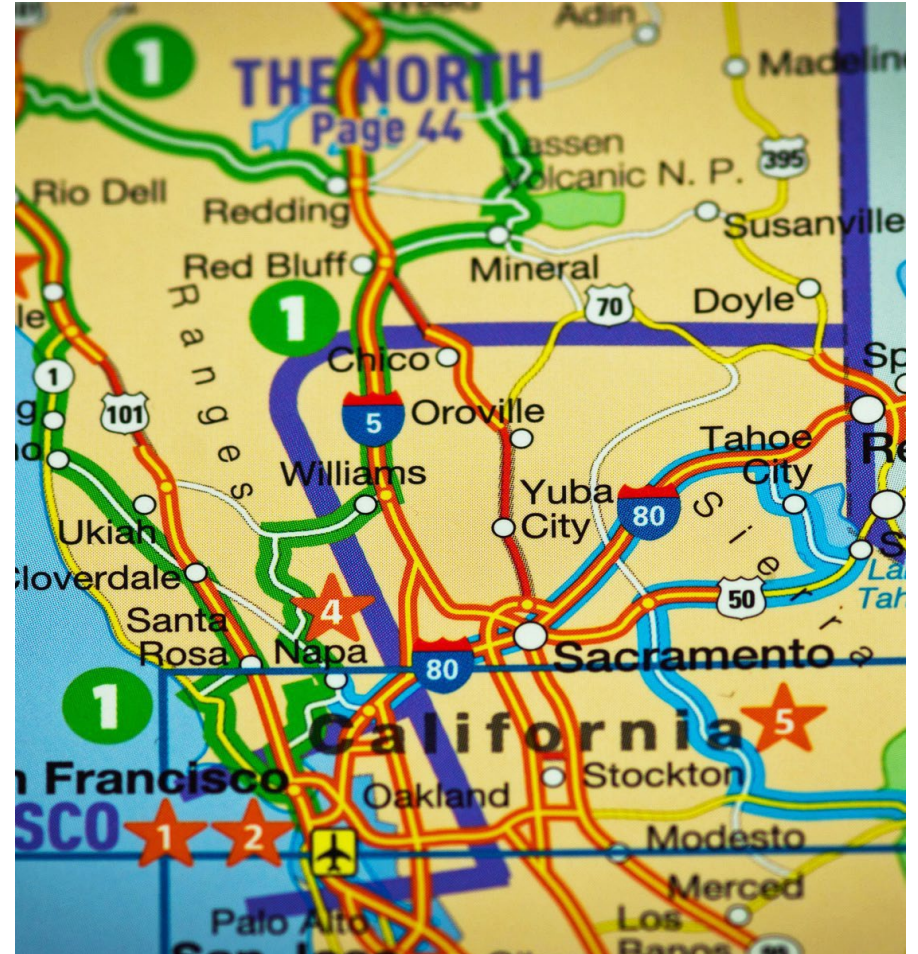
# Telecommunications, Broadband & Fiber (25 USC 319)

- Grants of easement for several types of communications and facilities are limited to a term not to exceed 50 years from the date of issuance of the grant.
- The width of these grants vary in size from 50 feet each side of the centerline to a 400x400 feet area depending on the Act under which the ROW is granted and the intended use.
- Any ROW granted in excess of 50 feet must be fully justified and clearly identified in the application.
- NOTE: 25 USC § 319 covers pre-1948 ROW's or ROW's specifically created by that statute. It cannot be used for new ROW's under the current regulations.

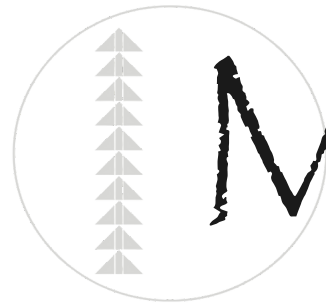




1. There are 52 tribes in northern California that are in the PG&E service area who have tribal trust land. We know of several tribes in this group that have PG&E infrastructure including powerlines, but there is no recorded service line or right of way on the TSR. What do we do?
2. Initiate a right of way application.
3. Prepare service line agreements for those segments that disperse, power or utilities from the right of way to another point on Indian land.







---

# Many types of easements

1. Railroads
2. Public roads and highways
3. Access roads
4. Service roads or trails
5. Public and community water lines
6. Public sanitary and storm sewer lines
7. Water control and use projects
8. Oil and gas pipelines
9. Electric transmission and distribution systems  
(power lines, poles, towers, etc.)
10. Telecommunications, broadband and fiber optic lines
11. Aviation and air rights
12. Conservation easements
13. Temporary construction easements
14. Utility corridors
15. Power projects
16. FERC licensing
17. Irrigation



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# Navigating the Process

The following items will be addressed in more detail by the next panelists:

- ROW documents required from the applicant
- Requesting a certified Title Status Report (TSR)
- Process for reviewing a ROW application
- Completion of the BIA ROW checklist for the required documents
- Review of the applicant's appraisal
- Reviewing certified TSRs for land status and encumbrances
- Preparing the Regional Director's or Agency Superintendent's Decision Letter
- Recording process in the Land Titles and Records Office (LTRO)
- Actions taken in the event of amendments, assignments, and mortgages





Who is the applicant for a right of way or service line agreement?

---

The Utility

Is compensation always required for a Right-of-way through Indian Lands?

---

Compensation is required under 25 CFR part 162 however it may be waived by a tribe in certain limited circumstances.

---



# Where To Go From Here

1. The first step is to identify any easements right of way or service line agreements that are recorded on the TSR for a particular parcel.
2. If infrastructure exists on the parcel, and there is no recorded in conference on the TSR, then the parties must work together to determine which instrument will be required for the infrastructure that is there. In the case where there is no recorded easement, the parties need to work together to identify which form of easement is required and proceed quickly to the application process.

In summary, it is important that the utilities, service providers and Caltrans work with Tribes to record the necessary easements for infrastructure that is located within Tribal trust lands.



Any Questions?

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# RINCON RIGHTS-OF-WAY

*Protectable Tribal Interests for  
Water, Power & Broadband  
on the Reservation*

# RESERVATION OVERVIEW

Rincon Reservation was established in 1875 by Executive Order, surveyed in 1891 pursuant to the Mission Indian Relief Act as permanent homelands for the Rincon Band of Luiseno Indians.

The Reservation is approximately 5,000 acres located within the San Luis Rey Basin in northern San Diego County.

Reservation land is in a high wildfire risk area and sits atop a pristine aquifer that is the sole source of water for the community.

The Tribal Council consists of 5 democratically elected leaders with no separation of powers.

The Articles reserve consent for ROW and land assignments to the General Membership.

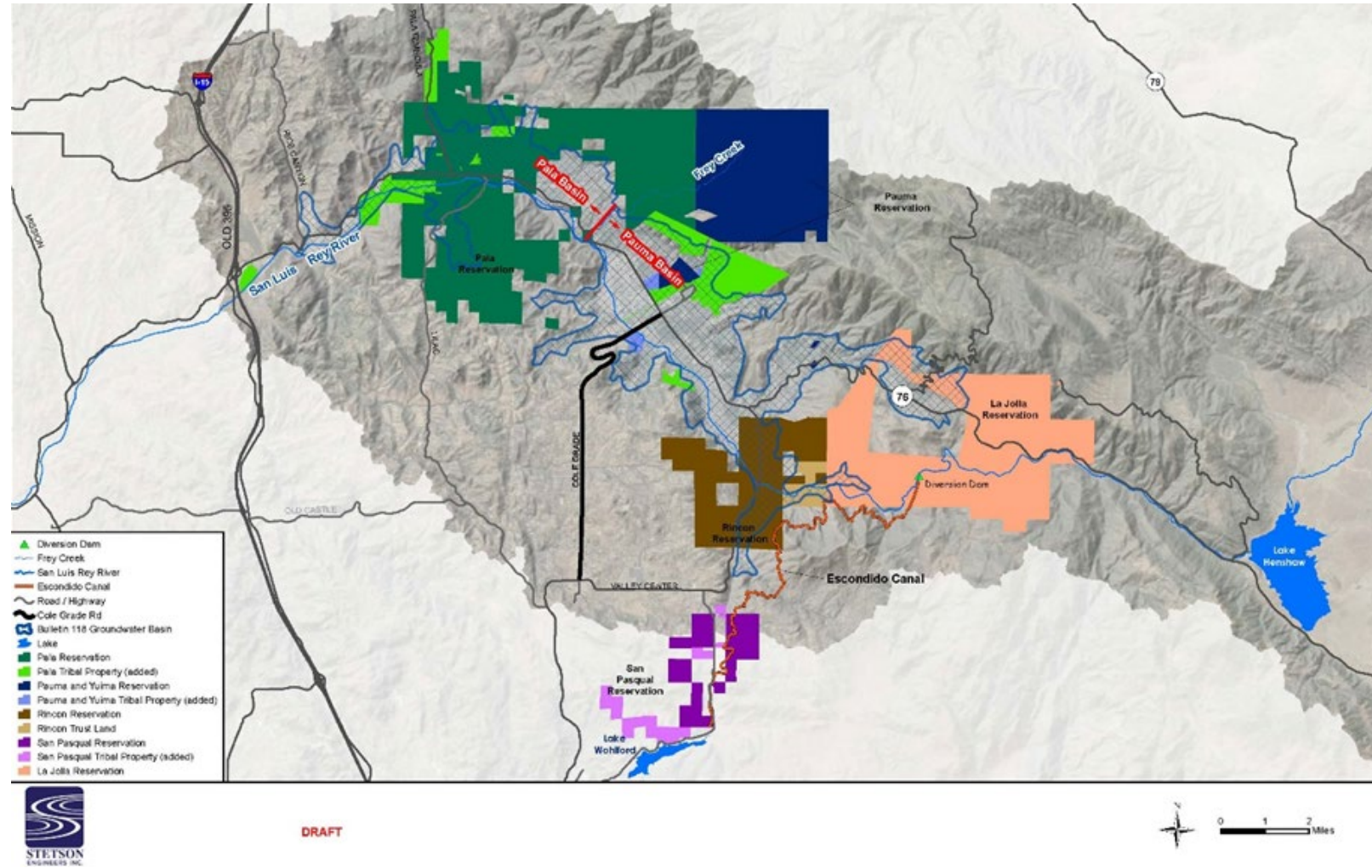




# Mission Indian Relief Act Initial Authorization for ROWs on the Reservation

The MIRA authorized ROWs for conveyance facilities to be constructed on the reservations subject to the condition that the Indians who own and occupy the land consent and be supplied with sufficient water for domestic and irrigation use.

In 1894, 1914 and 1922, the United States (BIA and FERC) approved contracts, ROWs and licenses with non-Indians to impound SLR water and construct ROWs for canals over the Rincon and La Jolla reservations and a hydroelectric plant at Rincon which resulted in diverting 90% of the SLR River water to the City of Escondido and Vista Irrigation District.



# LAKE HENSHAW DAM AND CANAL





# RINCON WATER RIGHTS LITIGATION SAN LUIS REY RIVER 1969—1988

In 1969, Rincon sued the City of Escondido/Escondido Mutual Water Company to stop the diversion of SLR water.

1972, Rincon sued Vista Irrigation District and the United States filed its own suit.

The cases were consolidated and made it all the way to SCOTUS in 1984, *Escondido Mut. Water Co. v. La Jolla Band of Mission Indians*, 466 U.S. 765 (1984), however the practical effect of SCOTUS' decision was to remand and restart the litigation at the district court.

The tribes went to Congress for legislative solution that resulted in the San Luis Rey Water Settlement Act of 1988.



# **SAN LUIS REY WATER SETTLEMENT ACT 1988—2017**

The Act required the parties to execute a settlement agreement to resolve all claims and controversies in the pending district court case and FERC proceedings, P.L. 100-675, §104.

Once executed, the Act authorized payment of \$30M to the Bands and delivery of up to 16,000 af of supplemental water annually, P.L. 100-675, § 105(b)(1), 106(a).

The Act established the San Luis Rey Indian Water Authority (“IWA”) as a federal tribal entity with a trust relationship with the United States, P.L. 100-675, § 107.

The Act was amended in 2000 to secure the 16,000 af of supplemental water by earmarking the water saved through the lining of the Coachella Branch of the All American Canal.

The Act was further amended in 2015 when Congress approved settlement agreement and became final in 2017 when Congress approved the San Luis Rey Settlement Agreement Implementation, WINN Act, P.L. 114-322, S. 612, 114<sup>th</sup> Congress.

# ELECTRICAL ROWs

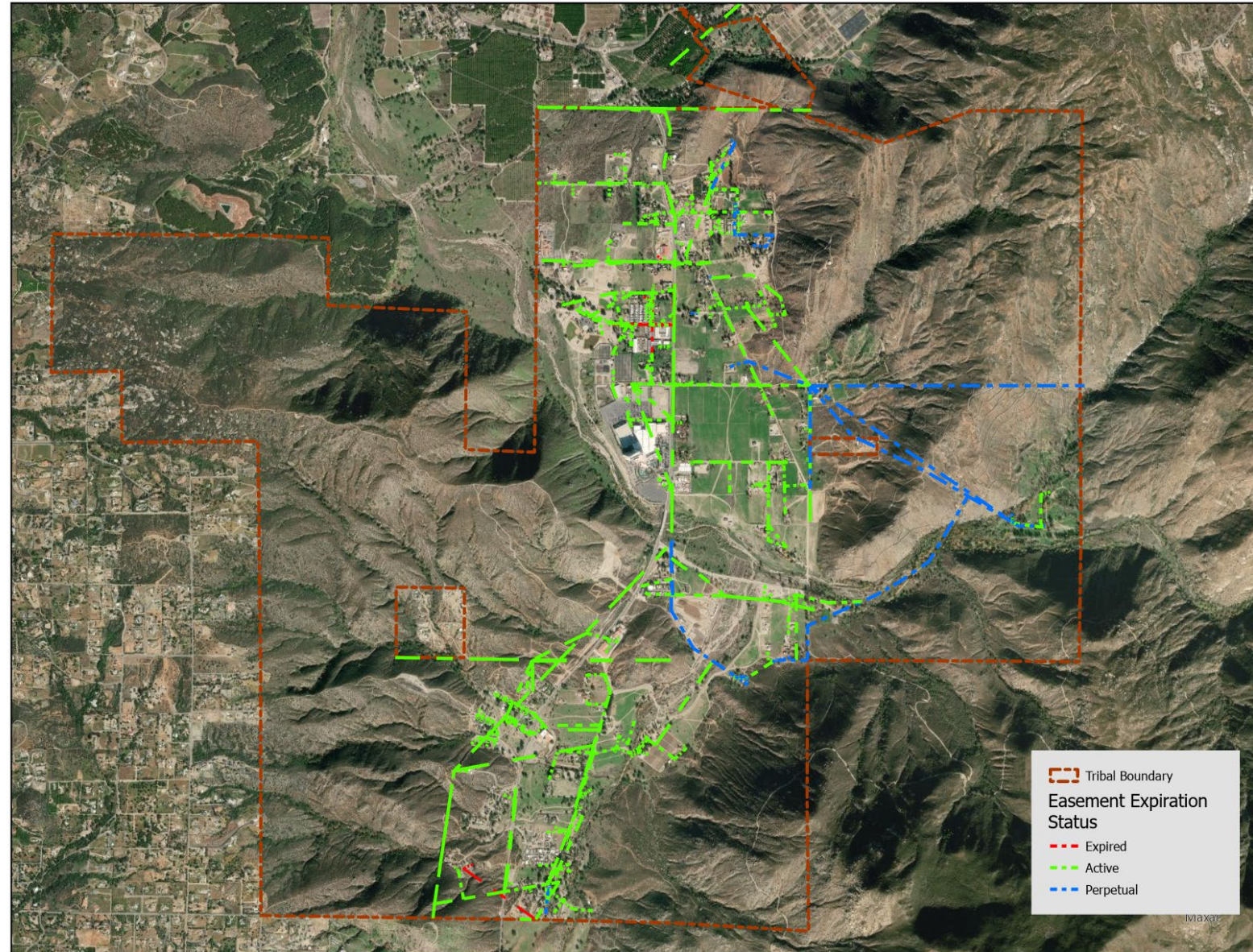
## 25 U.S.C. 323 - 328

The 1948 statutory framework for approving ROWs across Indian lands specifically preserved any ROW approved under the 1920 Federal Power Act or any other statutory authority empowering the Secretary to grant ROWs.

Rincon General Membership consent must be obtained before the Secretary can approve ROWs at Rincon.

Under the Housing Act, the AMIHA built 80 homes on the Reservation in the late-70s, some in subdivisions through a lease, with outliers outside of the lease footprint without approved ROWs for electrical service.

Approval of land assignments for residential purposes has doubled the number units on the reservation.





# COMMUNITY-WIDE & RESIDENTIAL IMPACTS

- The lack of approved ROWs means some residences lack power and are dependent on generators to power homes – even after General Membership consent has been obtained. Homeowners are still waiting on SDG&E submission and BIA approval of ROW applications before SLAs can be obtained.
- The Band’s design for Broadband deployment on the reservation includes co-location on SDG&E utility poles, some of which lack approved ROWs.



# RINCON'S RESPONSE TO LACK OF APPROVED ROWs & WHAT WE KNOW

To understand the extent of the ROW problems, Tribal staff copied all BIA ROW files, hired surveyors to map existing ROWs on reservation to understand nature and scope of unauthorized use of Indian land.

In doing so, surveyors found BIA data inaccurate – ROW file data does not match facilities location in the field, e.g., variations of up to 10' from center of ROW in the field is not uncommon.

SDG&E and BIA are under-resourced in terms of staffing, deficiencies that are largely falling on tribal governments to resolve the ROW gaps to expedite residential service and deploy broadband on the reservation.



# QUESTIONS?

Denise Turner Walsh  
Attorney General

Rincon Band of Luiseño Indians

[dwalsh@rincon-nsn.gov](mailto:dwalsh@rincon-nsn.gov)



*Rincon Band of  
Luiseño Indians*

www.rincon-nsn.gov



# Joint State-Federal ROW Workshop

Linnea Jackson, General Manager  
Hoopa Valley Public Utilities District



# Hoop Valley Indian Reservation



# Humboldt County



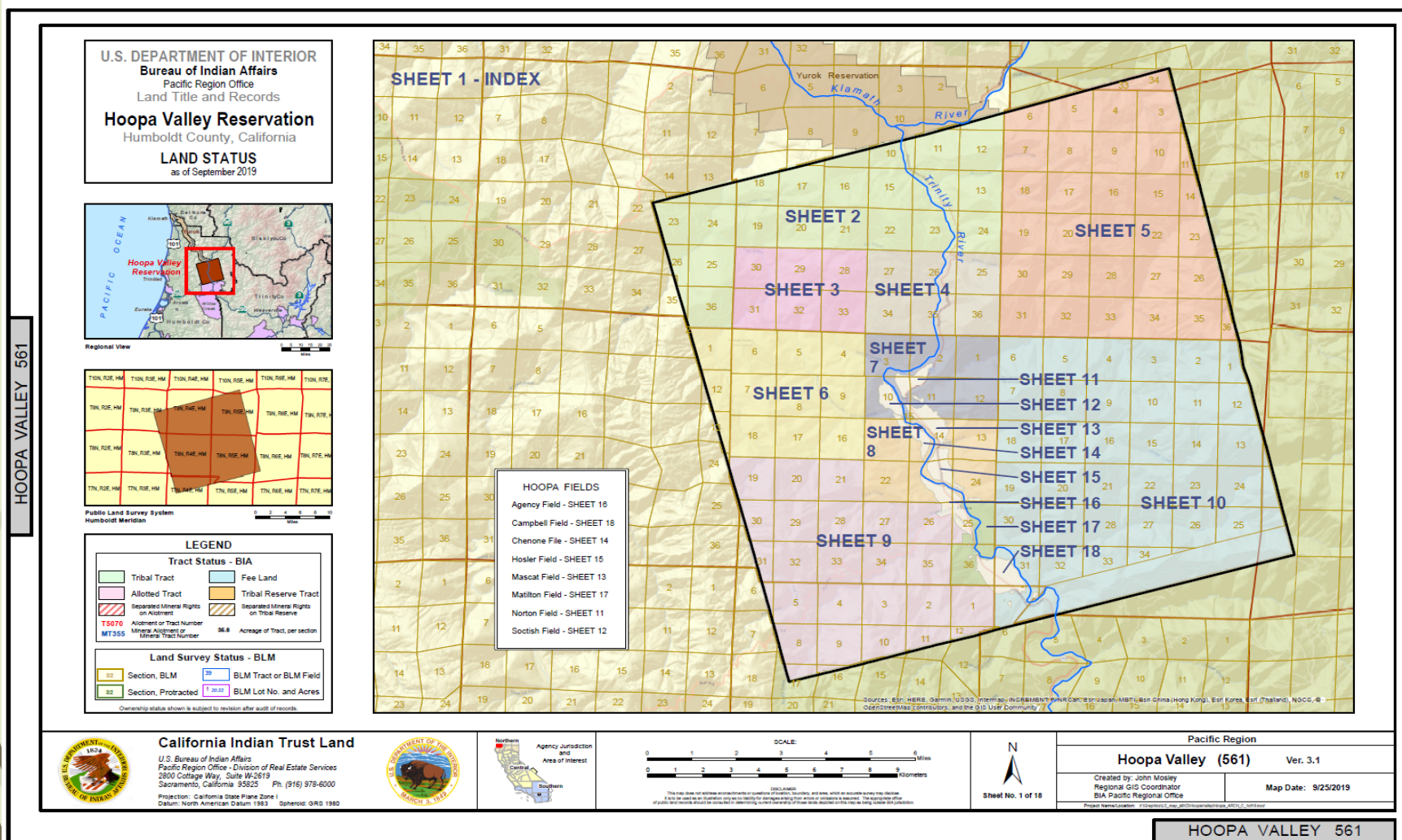


HVPUD was chartered in 1982 and for the past 42 years we have provided essential critical services to the Hoopa Valley Indian Reservation including water, broadband and upcoming energy initiatives.

# BIA LAND STATUS MAPS

The Hoopa Valley Indian Reservation is comprised of over 100,000 acres with multiple types of land including fee, tribal fee, tribal trust, allotted and tribal reserve.

In addition, there is a State Highway, Humboldt County Roads, Tribal and private roads.

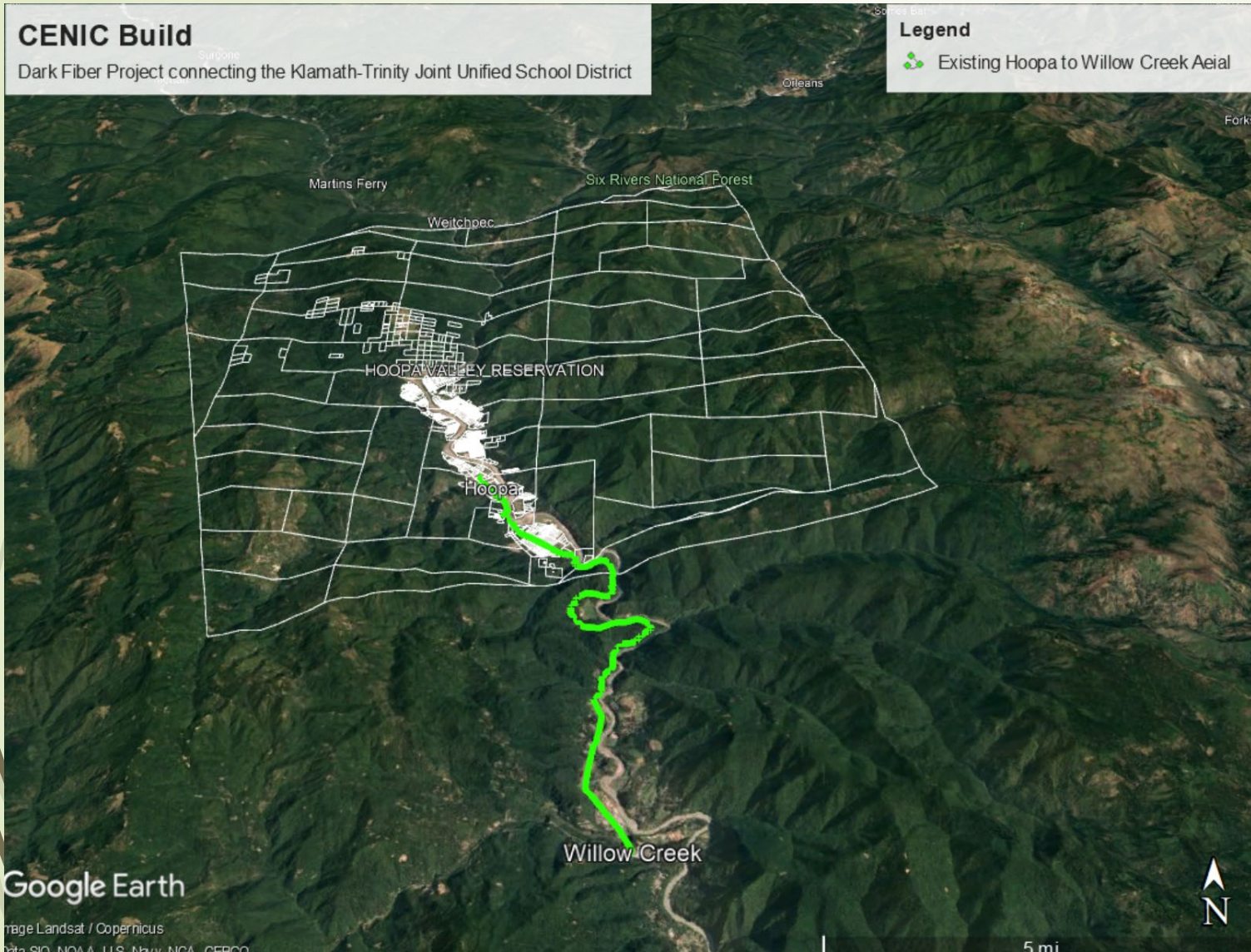


HOOPA VALLEY 561



## CENIC Build

Dark Fiber Project connecting the Klamath-Trinity Joint Unified School District



Lack of understanding jurisdiction and land status

CENIC funded a grant to install aerial fiber for the Klamath-Trinity Joint Unified School District

Contractor inexperienced with federal trust property, tribal governments and the tribal consultation process and requirements.

Funders need to ensure that tribal consultation requirements are mandated.

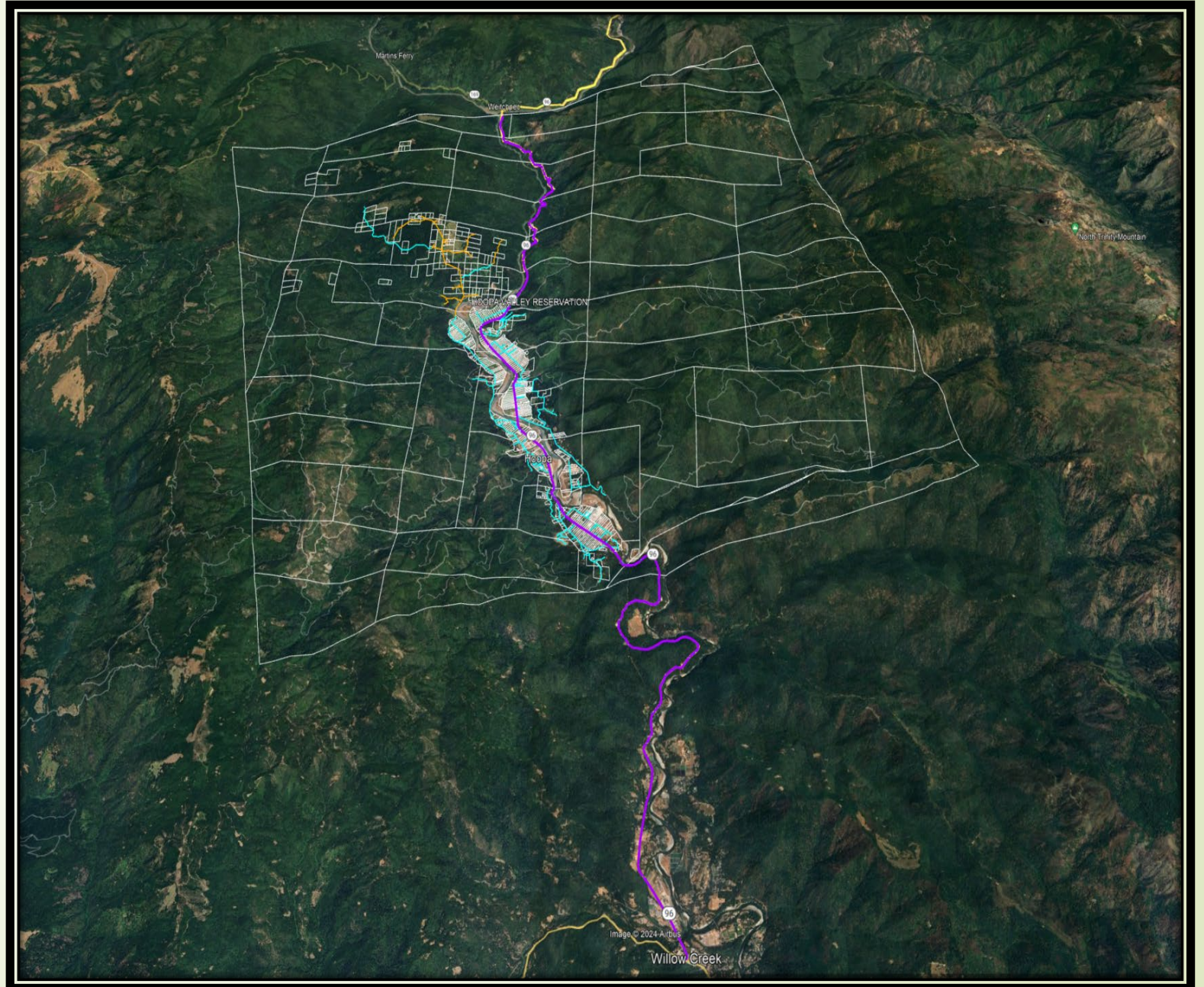
## HOOPA FIBER OPTICS

### NTIA Tribal Broadband Connectivity Program

- ❖ Fiber to the Home
- ❖ Data Center
- ❖ Communication Towers

### SB156 Middle-Mile Broadband Initiative

- ❖ 23 miles underground fiber build through aboriginal territory and tribal lands within State Highway 96





# Coordination with multiple local, state and federal jurisdictions

These projects require coordination with multiple jurisdictions including local, state and federal entities including:

Humboldt County

Caltrans

BIA

U.S. Forest Service

## MANDATORY REQUIREMENTS FOR ALL UTILITY RIGHTS-OF-WAY

- **Tribal Consultation and coordination requirements**
- **Determine Land Status**
- **Determine Ownership**

Regardless of land status, the following tasks will be required:

- **Permission from owner(s) to access, survey and appraise property**
- **Survey of Right-of-Way**
- **Appraisal of Right-of-way**
- **Environmental, Cultural and Botanical Studies**
- **Coordination with THPO**
- **Coordination with State, Local and Federal Agencies**
- **Public Notification and community involvement**



**Service Line Agreement for an extension of a 12kV electric line**

**Application for new service submitted in 2022, surveyed, Customer payment made, SLA executed 1/24, tank still waiting for service**

**Dozens of follow up emails**

**Critical Water Utilities**

## AREAS FOR IMPROVEMENT

Lack of recorded  
ROWs on tribal lands  
for telephone,  
electric, roadways

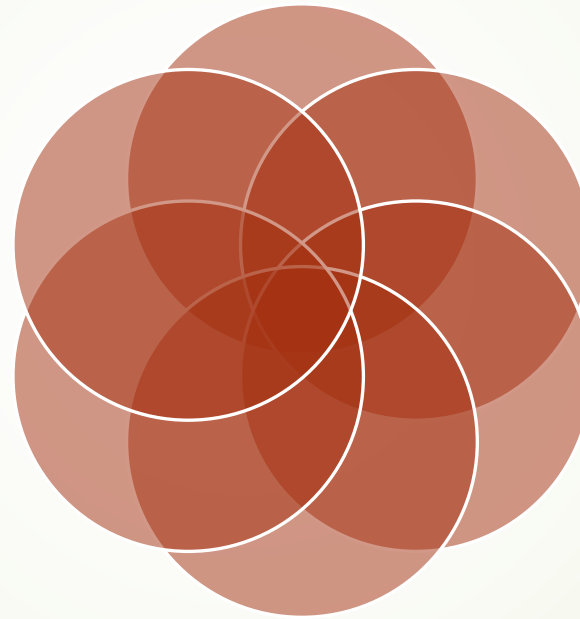
Required staff  
members who  
understand tribal  
land and tribal  
jurisdiction

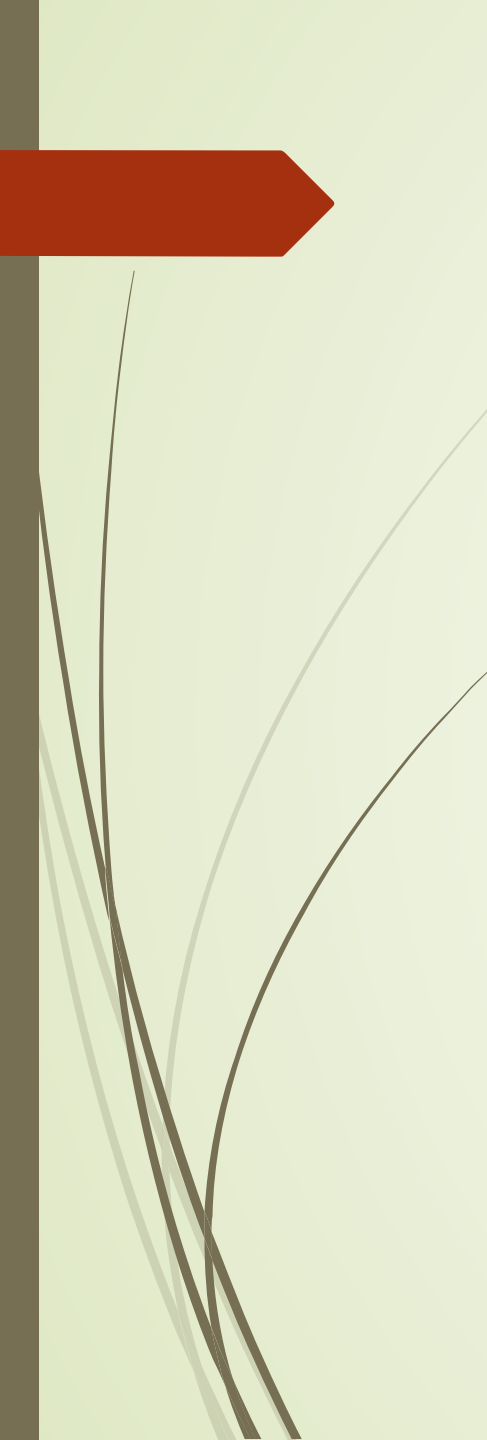
Required timelines  
for utilities to  
process  
applications for  
new service

Annual or Bi-Annual  
meetings for  
project  
coordination

CPUC Penalties for  
not meeting  
required timelines  
or not following  
process

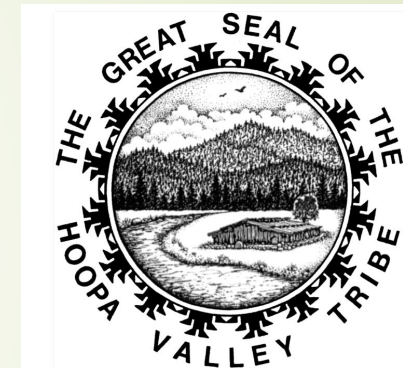
Funding source  
mandates to meet  
tribal jurisdiction  
requirements



- 
- Do not assume that processes that may have been implemented in the past will be accepted now - No more status quo
  - Respect tribal sovereignty and jurisdiction
  - Provide compensation for utility infrastructure on tribal lands
  - Early tribal consultation on projects
  - Work in coordination for the improvement and betterment of all for utility services for our communities



ANY  
QUESTIONS  
?



**Linnea Jackson, General Manager**

**gm@hoopavalleypud.com (530) 510-1145**

# **Utility Right of Ways On Tribal Lands**

**Karen Woodard, Realty Administrator  
Morongo Realty Department  
Morongo Band of Mission Indians**

**California Public Utilities Commission  
Bureau of Indian Affairs  
Sacramento, CA**

**July 9, 2024**

**MORONGO  
BAND OF  
MISSION  
INDIANS**



**A SOVEREIGN NATION**

**MORONGO  
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INDIANS**



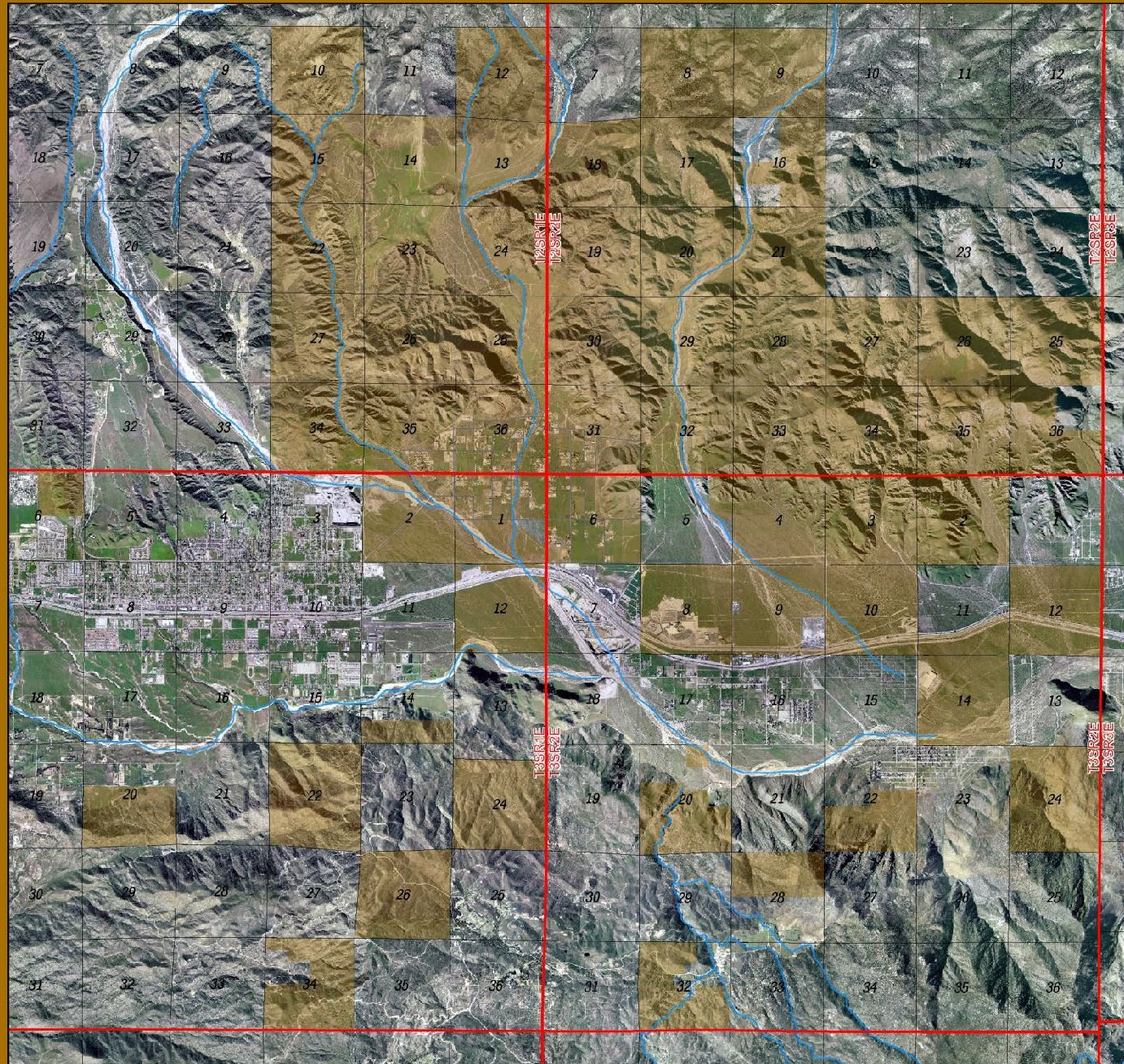
**A SOVEREIGN NATION**

**The Morongo Band of Mission Indians (MBMI) reservation is located in Riverside County, California one of the fastest growing counties in the Country. Situated at the foot of the beautiful San Gorgonio and San Jacinto Mountains, the Morongo Indian Reservation spans more than 35,000 acres and overlooks the vistas of the San Gorgonio Pass.**

**Morongo has a rich cultural history in the historic Banning pass area dating back to the late 1800's. The area was a major hub of business for the railroads, agriculture, and retail.**

**The Morongo Reservation is well-positioned on the I-10 corridor between the cities of San Bernardino and Palm Springs, a major corridor for tourists, commuters, goods movement and large utility transmission lines such as electric, gas and broadband.**



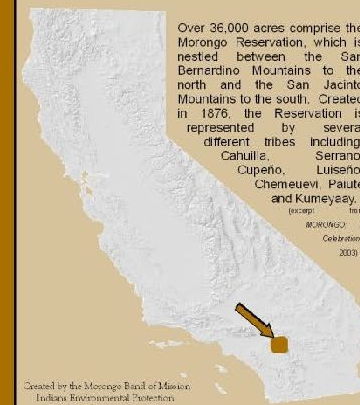


## Lands of the Morongo Band of Mission Indians

**MORONGO  
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MISSION  
INDIANS**



A SOVEREIGN NATION



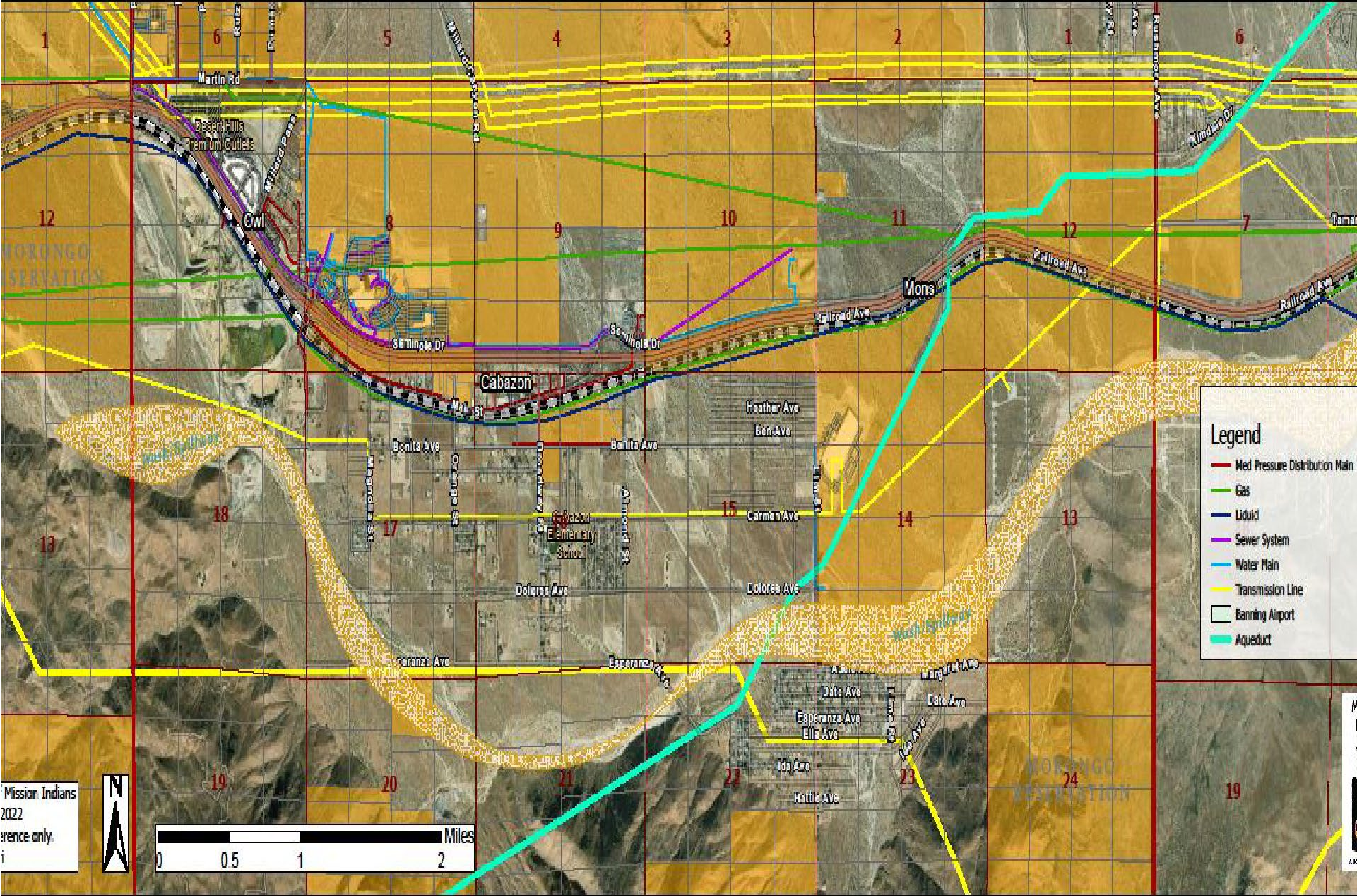
Over 36,000 acres comprise the Morongo Reservation, which is nestled between the San Bernardino Mountains to the north and the San Jacinto Mountains to the south. Created in 1876, the Reservation is represented by several different tribes including: Serrano, Caruleño, Luiseno, Chemehuevi, Paiute and Kumeyaay.  
(except from MORONGO: A Celebration 2009)

**MORONGO  
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**A SOVEREIGN NATION**

- **The Reservation is comprised of approx. 35,000 acres, a land area of approximately 54 square miles**
- **Includes tribal trust lands, allotted (individual) tribally owned fee, Indian owned fee and privately owned fee parcels**
- **Morongo has several right of ways with Southern California Edison, So Cal Gas, T-Mobile, and Cal Trans.**
- **Right of Ways consist of major electric and gas transmission that provide services to Southern California, and**
- **Distribution systems that provide services to Tribal Enterprises, Tribal Member Housing and government facilities.**



- Legend**
- Med Pressure Distribution Main
  - Gas
  - Liquid
  - Sewer System
  - Water Main
  - Transmission Line
  - Banning Airport
  - Aqueduct

Mission Indians  
2022  
reference only.



**2003-Tribe negotiated with BIA to contract/compact all programs, functions, services, activities (PFSA) including Realty and Title Programs**

## **Why contract/compact?**

- ✓ **Self Governance and Self Determination**
- ✓ **Improved understanding of land assets and records**
- ✓ **Improved Tribe and Tribal Member Services**
- ✓ **Improved Land Use and Master Planning**
- ✓ **Economic Development and Housing**

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INDIANS**



**A SOVEREIGN NATION**

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INDIANS**

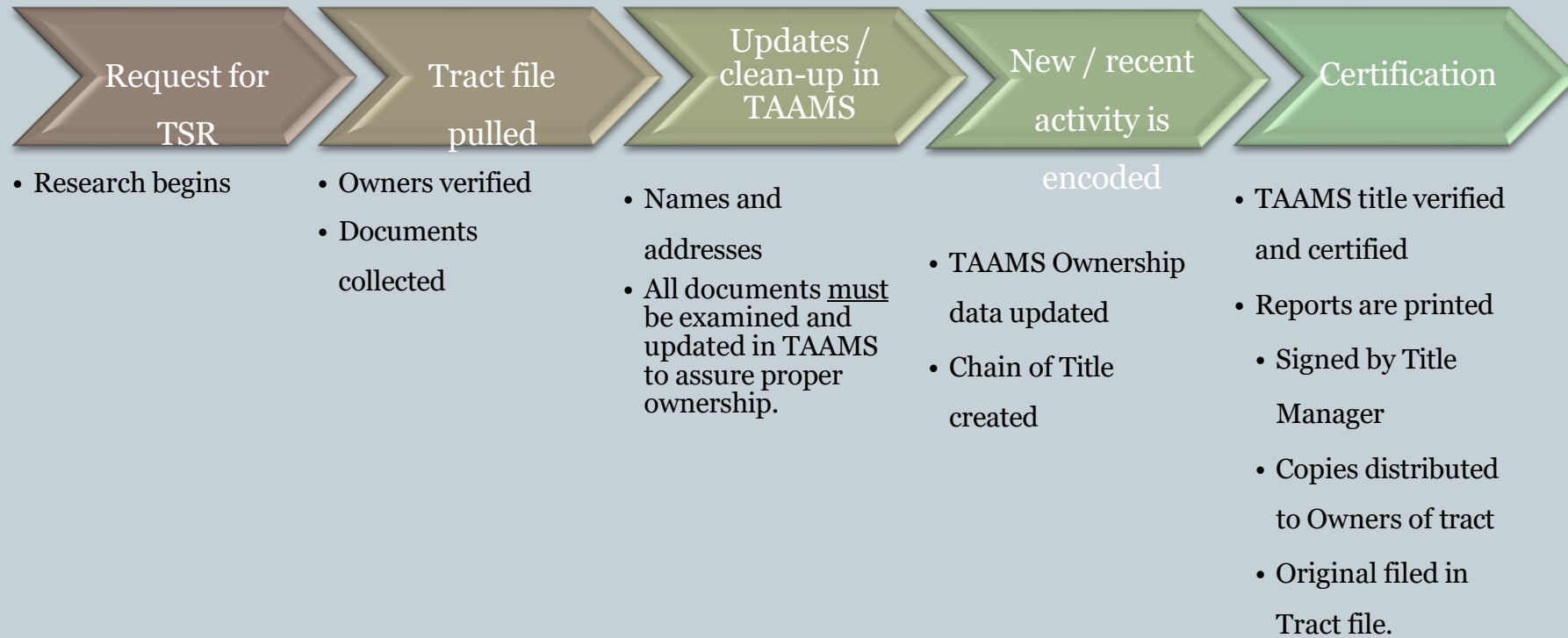


**A SOVEREIGN NATION**

- **Title Status Reports**
  - **Ownership/encumbrances**
  - **Certified, ownership and encumbrances have been examined and verified**
  - **Recording of documents that affect title**
  
- **Realty Transactions**
  - **Mortgages**
  - **Residential Leases**
  - **Business Leases**
  - **Land sales**
  - **Gift deeds**
  - **Partitions**
  - **Right of Ways**

# Title Status Reports Process

8



**MORONGO  
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MISSION  
INDIANS**



**A SOVEREIGN NATION**

- **Survey and Mapping**

- **Tribal Tracts**
- **Allotments**
- **Encumbrances**
- **Boundary**
- **Partitions**
- **Right of ways**
- **Managed Tracts**
- **Utility Mapping**
- **Roads**
- **Topography**
- **Fee To Trust**

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INDIANS**



**A SOVEREIGN NATION**

- **Other Services:**
  - **Environmental Protection Department**
  - **Cultural Resources/Tribal Historic Preservation Office**
  - **Construction Services Department**
  - **Reservation Services: Public Works, Water and Sewer, Roads and Transportation**
  - **Broadband (Partnership)**
  - **Government and Community Services**



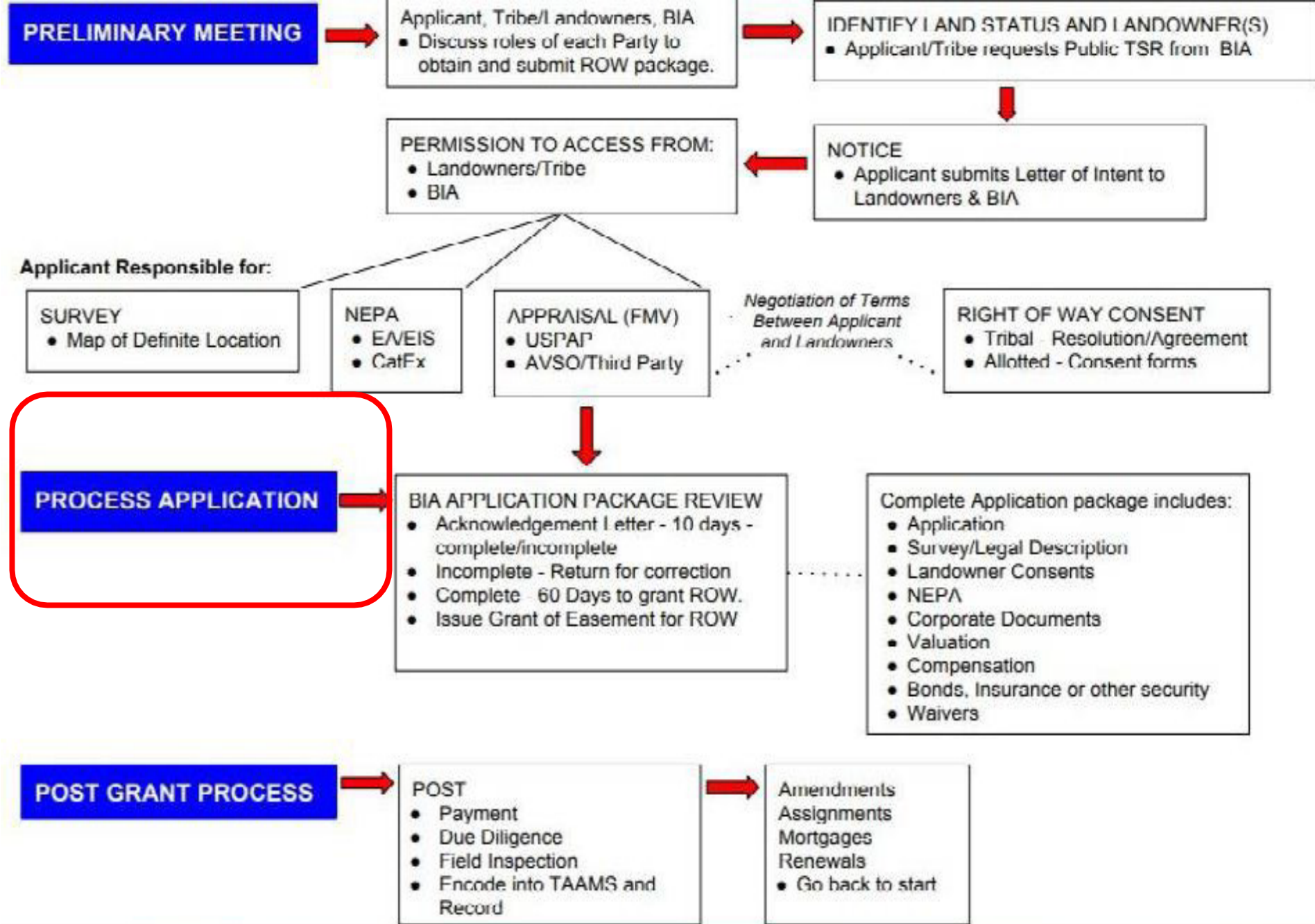
# Regulations

- **Morongo Realty has the same fiduciary responsibilities as the BIA and adheres to the same Code of Federal Regulations Title 25, including Part 169, Right of Ways of Indian Lands, BIA Manuals, Handbooks, Policy Memoranda, etc.**
- **We also contract with other Tribes to assist in processing Realty and Title Transactions.**
- **We process as if we were the BIA, however we do not have the authority to sign on behalf of the Secretary of Indian Affairs.**

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MISSION  
INDIANS



A SOVEREIGN NATION



## Right of Way Process

- **Tribal Ordinances:**

- **Ordinance 26 Utility Authority**, established a Tribal Utility Authority (TUA) on the Morongo Reservation to become it's own utility, the ordinances defines the policies and procedures of that authority, rules and regulations and gives the authority to establish.
- **Ordinance 31 Utility Transmission**, established regulations and procedures for the submission, review and grant or denial of applications for the issuance, renewal or modification of licenses, easements, rights of way or other rights in, across, under or upon the lands of the Morongo Indian Reservation for the location, construction, operation, modification, maintenance or replacement of electric transmission lines, pipelines of any kind, access roads, telecommunication facilities, pumping or booster stations or any other utilities to be owned or operated by any person or entity other than the Morongo Band of Mission Indians.

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MISSION  
INDIANS



A SOVEREIGN NATION

## **Right of Way Process Ordinance 31**

- ✓ **Letter of Intent 90 days prior to submission of application to BIA**
- ✓ **Establishes the Contents of the Notice, Purpose, Description of the Project, Timelines**
- ✓ **Application contents:**
- ✓ **Copies of any environmental, economic and other analyses that the applicant has performed in connection with the proposed project.**
- ✓ **Detailed information identifying required alternative routings or locations for the project that the applicant has designated as such.**
- ✓ **Copies of any economic or other justifications for the project that applicant has submitted to any other governmental jurisdiction.**

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- ✓ **Copies of any permits or certificates that the applicant already has obtained from other governmental jurisdictions in connection with the project, status of such applications, or if permits or certificates have been filed but not yet obtained the status of such permits or certificates must be described.**
- ✓ **To the extent not already provided in response to number three (3) above, a specific analysis of potential impacts on the soil, water, and air for the Morongo Indian Reservation suitable for NEPA must be presented.**
- ✓ **A forecasted 15-year utilization plan for all loads, capacities, or other service uses of the facilities including the associated economic forecast for the project.**
- ✓ **A proposed compensation plan for the granting of the proposed rights of way.**

**Morongo  
established  
a process  
for  
Temporary  
Access  
Permit  
or TAP**

**MORONGO  
BAND OF  
MISSION  
INDIANS**



**A SOVEREIGN NATION**

**TEMPORARY ACCESS PERMIT AND AGREEMENT**

This Temporary Access Permit and Agreement ("Permit") is entered into as of June 1, 2022, by and between the Morongo Band of Mission Indians ("Tribe") and Southern California Gas Company ("SoCalGas"), a subsidiary of Sempra Energy.

**RECITALS:**

- A. NAME \_\_\_\_\_ Morongo Tribal Member, is in the process of constructing a residence on the Morongo Indian Reservation, physical addresses being \_\_\_\_\_, Banning, CA 92220.
- B. Tribal Member Name and the Tribe have agreed to have SoCalGas provide the gas service to her home located at Address \_\_\_\_\_, Banning, CA 92220.
- C. In order to provide gas service to the residence, SoCalGas will need to install ½" PE Service, which will require a right of way.
- D. The Tribe, SoCalGas, and Tribal Member Name have each approved the plans for the 1/2" PE service line extension as shown on the attached.
- E. SoCalGas has agreed to install the 1/2" PE services distribution line extension to provide service to Tribal Member Name residence located at Address \_\_\_\_\_ Banning, CA 92220.

NOW, THEREFORE, in consideration of the foregoing premises and the following promises, covenants and agreements, and for other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged by both parties hereto, the parties hereby agree as follows:

**AGREEMENT:**

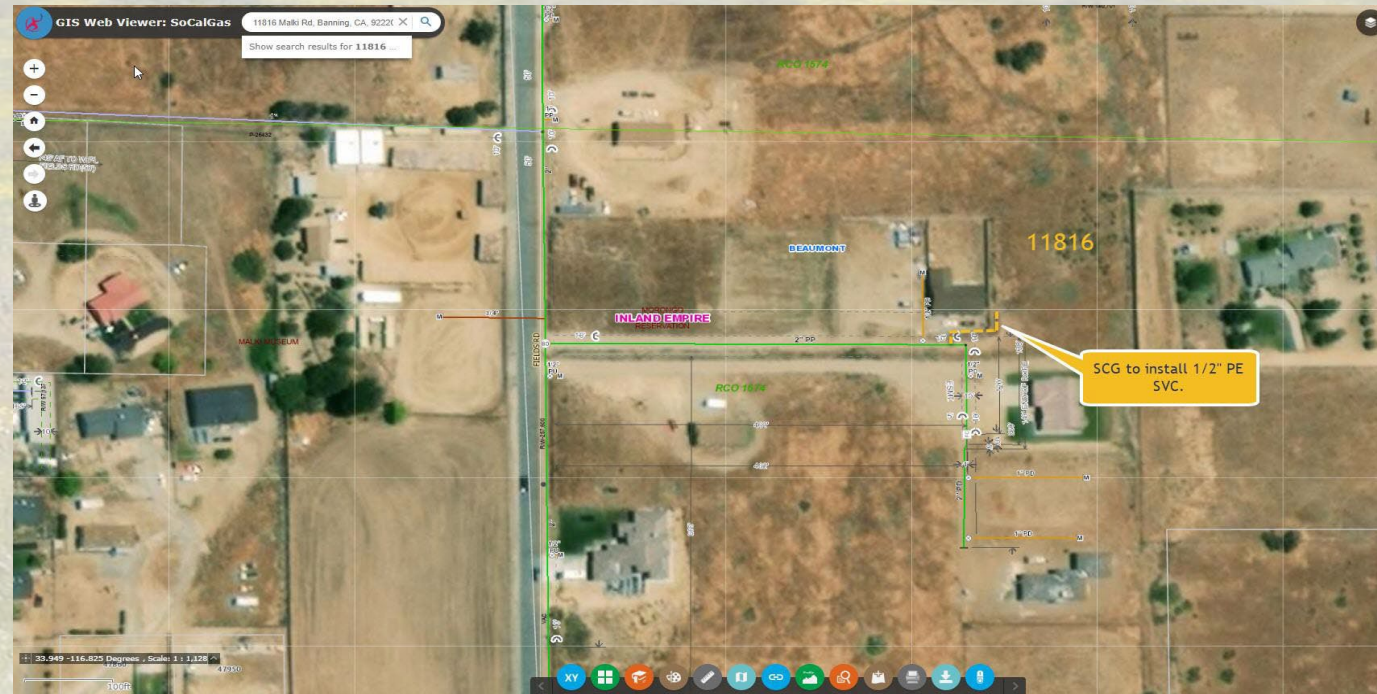
1. Grant of Permit. The Tribe hereby grants to SoCalGas a temporary permit, for a period not to exceed six (6) years and three hundred sixty-four (364) days, to enter upon the Reservation and extend the existing two-inch main distribution line, to provide gas service Address \_\_\_\_\_, Banning, CA 92220 as depicted on the plans attached hereto.
2. Permit Conditions. As a condition of entering upon the Reservation pursuant to this Permit and extending the existing gas line, SoCalGas shall do each of the following:
  - a. SoCalGas shall prepare and provide to the Tribe for submission to the BIA all documents necessary for the BIA to approve a right of way for the extension of the gas line.



# MORONGO BAND OF MISSION INDIANS



A SOVEREIGN NATION





- **Other things to consider:**

- **Working relationships with the Utility Company**
- **Tribal Liaisons**
- **Utility Planners, Environmental and Government land staff dedicated to the Tribe(s)**
- **Collaboration on researching and updating documentation**
- **Establish communications between the Tribe and Utility, confirm main points of contacts, regular meetings and reporting.**

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**Thank you**

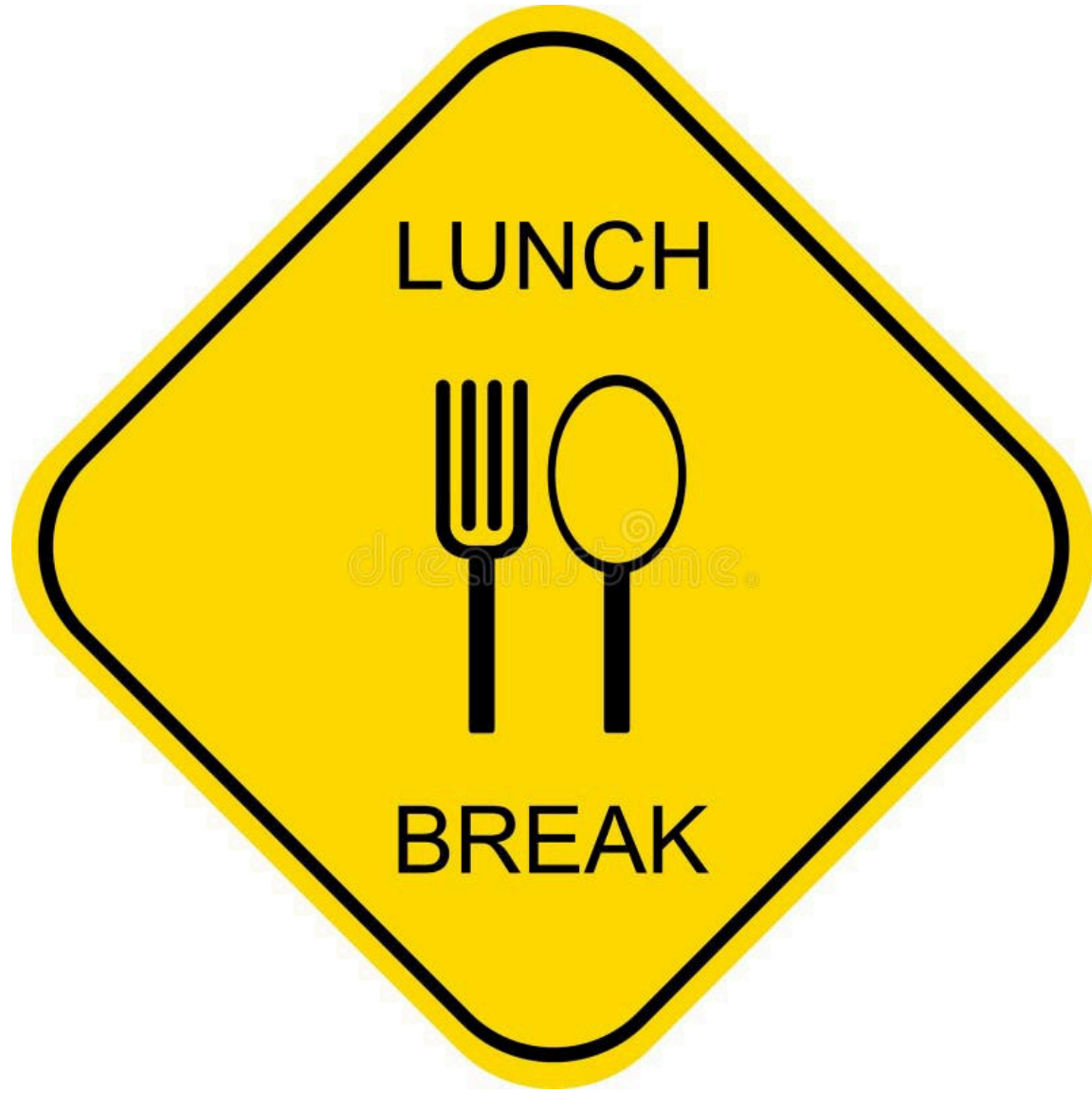
**MORONGO  
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INDIANS**



**A SOVEREIGN NATION**

# Tribal Panel - Q&A Discussion Session

*Moderator: Michelle Lee, The Circle Law Group*



# Energy Utilities / Telecommunications Providers Presentations & Panel Session

John Ritter, Land Services Manager, San Diego Gas & Electric

Aaron Thomas, Tribal Liaison & Roger Jung, Government Lands Manager,  
Southern California Edison

Pratibha Nigam, Land Survey Manager, Pacific Gas and Electric

Julio Figueroa, Director of External & Legislative Affairs, AT&T









**SDG&E™**

**UTILITY INFRASTRUCTURE  
DEVELOPMENT ON TRIBAL LANDS  
CPUC-BIA COMBINED WORKSHOP**

July 9, 2024

# PRESENTATION AGENDA



-  **SDG&E Service Territory**
-  **San Diego County Tribes**
-  **SDG&E/BIA ROW Process**
-  **Experience with ROW on Tribal Lands**
-  **ROW Documentation Tracking**
-  **SDG&E Improvements**

# SDG&E SERVICE TERRITORY

## 4,100 square-mile service area

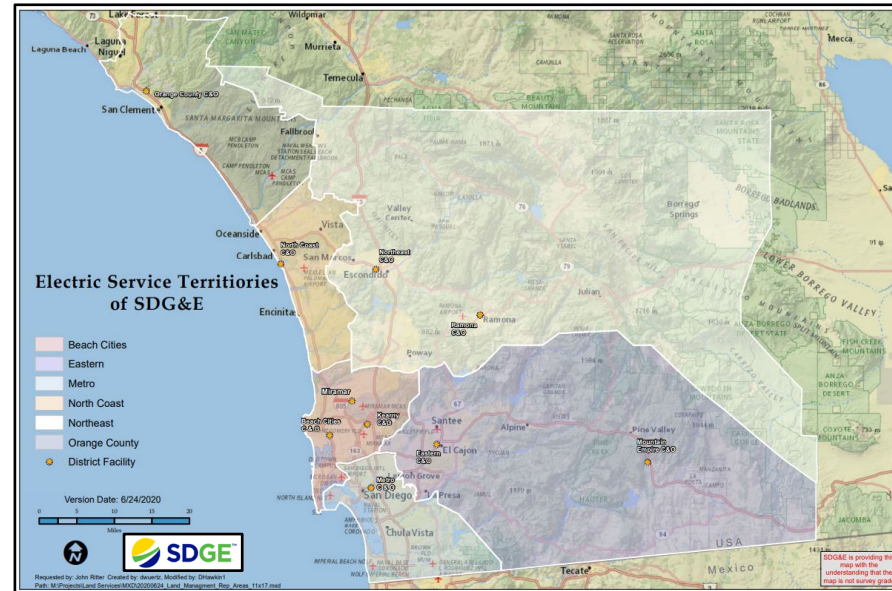
We supply power to 1.4 million business and residential accounts in a 4,100 square-mile service area spanning 2 counties and 25 communities.

## 3.7 million consumers

We distribute energy service to 3.7 million people through 1.49 million electric meters and 915,000 natural gas meters in San Diego and southern Orange counties.

## 4,600+ employees

We employ more than 4,600 people who work every day to deliver the energy our customers need.





# SAN DIEGO COUNTY TRIBES

## 17 Federally Recognized Tribes in San Diego County

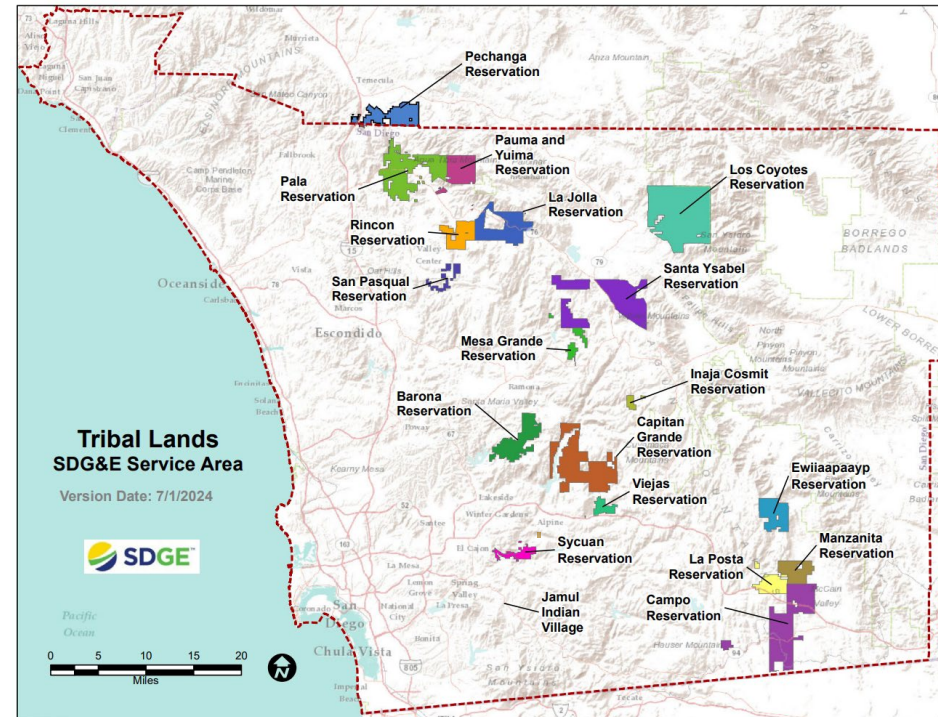
- More than any other county in the U.S.

## All in High Fire-Threat Districts

- 12 historically impacted by Public Safety Power Shutoffs

## Safe and Reliable Energy

- SDG&E mitigates wildfires and promotes clean energy solutions to support Tribal communities and Tribal land needs.



## Cultural Resources

- SDG&E collaborates with Tribal communities in our service territory to protect and preserve cultural resources, enhance wildfire safety and prevention measures, support vital infrastructure and develop clean energy solutions (visit [SDGENews.com](https://www.sdgenews.com) to learn more).

# SDG&E ROW & FACILITIES

SDG&E Land Services acquires, protects and disposes of land rights on behalf of ratepayers.

ROW is acquired to ensure legal access to operate, maintain and repair SDG&E overhead and underground facilities.

## **2,000+ miles electric transmission facilities**

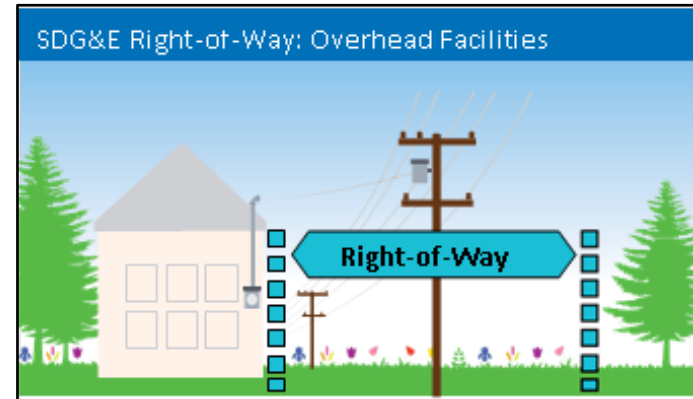
- 192 miles underground

## **24,500+ miles electric distribution facilities**

- 15,234 miles underground

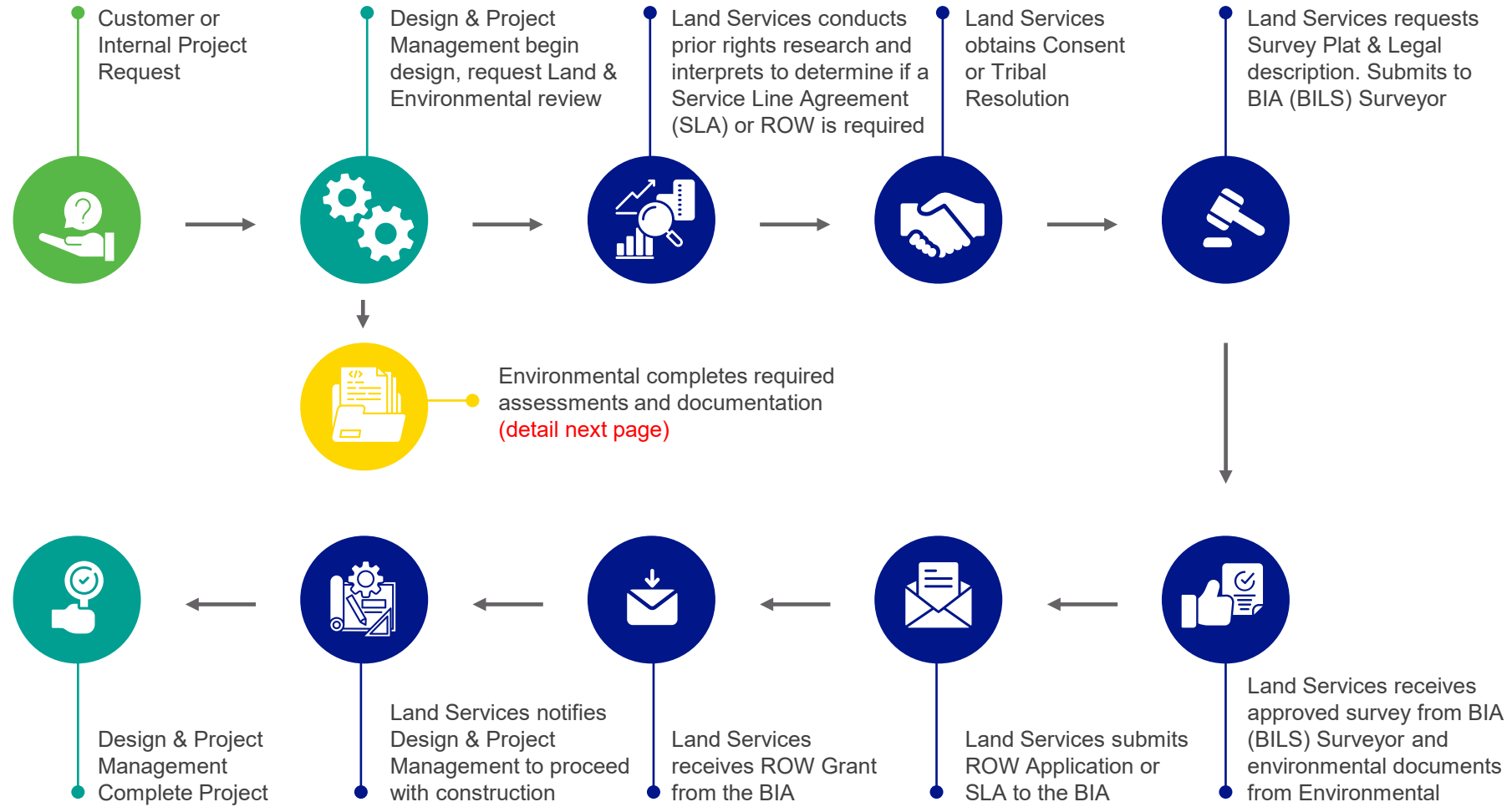
## **15,560+ miles of gas facilities**

- 234 miles gas transmission pipelines
- 8,248 miles gas distribution mains
- 7,081 miles gas service lines



# ROW PROCESS

## BIA ROW Acquisition (Typical Distribution Easement)



# ROW PROCESS

## Environmental Review

### SDG&E Environmental conducts the following tasks, as needed, to support ROW applications and BIA NEPA process:

- Receives Tribal environmental documents when available
- Obtains necessary permissions from Tribes for record searches, studies, or surveys; requests permits from BIA
- Conducts cultural resources surveys, testing, or monitoring and in coordination with THPO or cultural representatives
- Prepares documentation with Tribal input and submits to BIA for approval
- Prepares sections of BIA Environmental documents as requested



# EXPERIENCE WITH ROW ON TRIBAL LANDS

## 2023 Tribal Requests

- 31 ROW applications
- 22 service line agreements
- 8 ROW amendments

## Fire Hardening Projects

- Fire Risk Mitigation (FiRM)
- Pole Risk Mitigation and Engineering (PRiME)
- Wood-to-Steel
- Covered Conductor
- Strategic Undergrounding

Tribe Name	ROW (miles)*
Barona	34.3
Campo	30.7
Capitan Grande	0.4
Ewiiapaayp	0.3
Jamul	0.4
La Jolla	20.2
La Posta	2.8
Los Coyotes	6.7
Manzanita	9.1
Mesa Grande	5.3
Pala	29.7
Pauma	7.1
Pechanga	0.5
Quechan	3.9
Rincon	23.2
San Pasqual	21.0
Santa Ysabel	16.1
Sycuan	16.7
Viejas	15.4
<b>Grand Total</b>	<b>243.8</b>

\* Estimate based on miles of electric transmission & distribution

# ROW DOCUMENTATION TRACKING



SDG&E Land Services stores all ROW documents (~1M documents) including Tribal ROW documents, such as easements, permits, and service line agreements, in an Enterprise Asset Management software application called Archibus.



SDG&E Land Services uses Archibus, and our Environmental Services team uses an Environmental Tracking System (ETS) to process and track the required actions and documentation for ROW applications and service requests.



The BIA is the official agency responsible for keeping all land title agreements on Tribal lands, which includes Right-of-Way agreements.

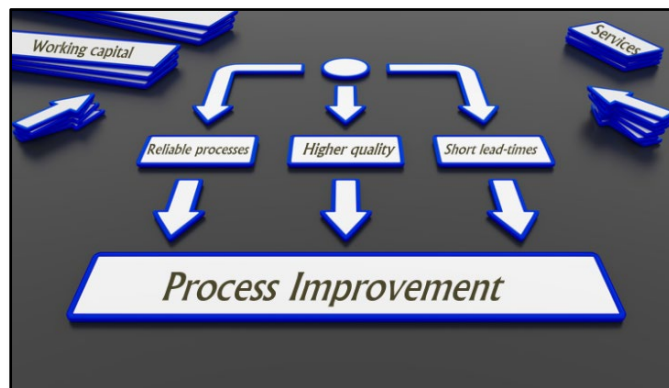


SDG&E is pleased to offer copies of our ROW records for a nominal administrative fee and, while we strive to make the retrieval process efficient and accurate, our records are for reference purposes and should not be relied upon as accurate or complete.

# SDG&E ROW IMPROVEMENTS

**SDG&E is committed to continuous improvement and has implemented or is actively pursuing the following improvement opportunities:**

- Increased SDG&E/BIA communication, coordination
- ROW engagement earlier in the project design phase
- Workforce planning, talent development, knowledge transfer and business optimization efforts
- Additional resources trained to process BIA Right-of-Way applications and service line agreements
- GIS capability with ROW documentation on Tribal land
- AI integration to reduce errors, improve efficiency
- Archibus system software improvements to enhance reporting, and improve status visibility





**THANK YOU VERY MUCH**



# Southern California Edison

Energy for What's Ahead<sup>SM</sup>



## About Southern California Edison

- We deliver power to approximately 15 million people in a 50,000 square mile service territory
- We provide electricity to 13 tribes and have over 40 tribes within our service territory

## Tribe and SCE Common Requests

### SCE Programs and Requests on Tribal Lands

- Covered Conductor
- Targeted Undergrounding
- Deteriorated Poles Replacement
- Vegetation Management
- Inspections

### Tribal Requests to SCE

- Service Line Agreements
- Development
- Generation
- EV Charging
- Tribal Land Transfer Policy Property



# Environmental/Cultural Analysis and Work Authorization

Prior to any work requiring ground disturbance, SCE Environmental Services Department will conduct environmental and cultural/archaeological analysis

- On Reservation/Allotted Lands environmental and cultural analysis will be done in conformance to NEPA and/or applicable federal regulations.
- On private lands environmental and cultural analysis will be done in conformance to CEQA and/or applicable state regulations.
- Mitigations requirements to protect species or historic sites, included those documented through consultation, are recorded as part of SCE's Project Environmental Requirements Document that is given to construction teams prior to any ground disturbing work.
- The need for any environmental or cultural monitors to be present would also be indicated in the Environmental Requirements Document.
- SCE Government Lands will send an application/request to the associated tribe to request approval of necessary work.
- Most Operation and Maintenance activities do not trigger NEPA or CEQA and are conducted in compliance with other federal, including Section 106 of the National Historic Preservation Act and state regulations.

## SCE Contacts

Roger Jung  
Manager, Government Lands  
[roger.jung@sce.com](mailto:roger.jung@sce.com)  
(909) 274-1876

Aaron Thomas  
Tribal Liaison  
[aaron.m.thomas@sce.com](mailto:aaron.m.thomas@sce.com)  
(760) 423-2392



# 5 Minute Meeting

## Topic:

Obtaining  
Permanent Rights  
on Tribal lands

## AUDIENCE:

- Land Management Employees
- Service Planning and Design
- Estimating

March, 2023

This 5-minute meeting provides high level process on obtaining permanent rights for PG&E's facilities on tribal lands.

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### WHY THE NEED FOR AN EASEMENT PROCESS ON TRIBAL LANDS?

PG&E is required by Tariff Rules 15, in file with CPUC, to obtain satisfactory Rights of Way & Permits to own, operate & maintain its facilities on public lands & private property without cost to or condemnation by PG&E.

Land has come across instances when PG&E's facilities were installed crossing or serving tribal lands without benefit of permanent rights. PG&E's facilities installed in trespass, pose risk to the company and our customers, who we are obligated to serve once the facilities are installed.

### HOW TRIBES HOLD INTEREST IN THEIR LANDS?

Some tribes have a resolution/[Hearth Agreement](#) document between the tribe and the Bureau of Indian Affairs (BIA), granting the tribe the authority to sign for easements on their tribal land. If they don't have such a document, the grantor is the BIA, who holds tribal land's interest as trustee. In these cases, PG&E becomes an applicant through the BIA.



## Land Managers

Dawn Plise

Shannon Koontz

Kent Poythress

Donny Kennedy

## 5MM Contact

Pratibha Nigam

### SERVICE PLANNING & DESIGN (SP&D) AND ESTIMATING'S ROLE?

The BIA requires a "Service Line Agreement" for every meter (Rule 16) which is a service planning task but if our Distribution Line Extension facilities cross third-party property (which could be tribal lands and/or applicant could be a tribe) then SP&D and Estimating are required to engage Land Management to ensure PG&E follows the process below to ensure we are not installed in trespass. Reps or estimators can use the Native American Land Trust layer in map guide under Land Ownership. If there is a situation where existing facilities were installed without the benefit of a perpetual right or easement, then SP&D rep to engage Land ASAP and Land will provide guidance on next steps based upon the circumstances.

### PROCESS TO OBTAIN EASEMENT ON TRIBAL LANDS:

1. Land management employee to research the land ownership if it is owned in fee by tribe or BIA is the Trustee of the land.
2. Land management employee will prepare the easement package with cover letter providing in simple language the summary of who is the applicant for the service and whose land(s) we are crossing. Along with providing a single point of contact from PG&E Land Management (This would typically be the Land Technician for the project or other land lead) who can answer any question regarding the easement to Tribes, if any.
3. Land management employee will send the package to the current Corporate Sustainability Tribal Liaison (Reno Franklin at present) for review and submittal to the tribe or BIA on PG&E's behalf.
4. Land management employee to follow the [Routing Documents for Signature Procedure](#) once the document is returned for PG&E signature.
5. PG&E's Tribal Liaison will send the package to Tribal leader and if any further questions from Tribal Leader, then set up a call with Tribe and PG&E land contact.
6. Tribal Liaison will facilitate further discussion till the execution of easement.



## **Presenters**

**Julio Figueroa AT&T CA & NV Tribal Liaison**

**Zaffar Iqbal AT&T Network Construction and Engineering**



1. Rincon Band of Luiseño Indians and San Pasqual Band of Mission Indians AT&T Fiber
  - a. Consultation meetings
  - b. Submit proposals
  - c. Consider proposals
  - d. Sign agreement
  - e. Design and Engineer (90-120 days)
  
2. BIA Application
  - a. Rights-of-Way Checklist (Attached)
  - b. NEPA Environmental and Cultural Resources Checklist (Attached) (8-10 months)
  - c. Survey - Legal Descriptions and Plat Maps (5-6 months)
  
3. Tracking Easements and ROWs
  - a. AT&T tracks ROW per Reservation and consults with the BIA.
  
4. Cell Site deployment follows the same process.
  
5. Areas in the application process identified that could help expedite:
  - a. Environmental Compliance - NEPA Processing (40 CFR 1500.3)
  - b. Survey Plat/ Legal description (25 CFR 169.102)
  - c. Tribal Authorization via Tribal Resolution and Landowner Consent (25 CFR 169.107(b)(1))
  - d. Appraisal (25 CFR 169.112(d)(3))
  - e. Permission to cross existing right-of-way (25 CFR 169.128(b))



# AT&T Right-of-Way Checklist - BIA

**BIA RIGHT-OF-WAY CHECKLIST**

Applicant: \_\_\_\_\_ Purpose: \_\_\_\_\_  
 Land Status: Tribal Allotment Location: \_\_\_\_\_  
 New  Renewal  Amendment  Assignment  Mortgage

<u>DATE:</u>	<u>DOCUMENTATION:</u>	<u>YES</u>	<u>NO</u>	<u>N/A</u>
<b>Preliminary Documents</b>				
_____	Applicant's Letter of Intent to Obtain ROW	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	Title Status Report, Landowner Name and Address	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	Permission to Survey from Landowners	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	Field Inspection (Photos, Maps, etc.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Right-of-Way Application Package</b>				
_____	Acknowledgement Letter	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	Incomplete/Complete Letter	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Consent(s):</b>				
_____	Tribal Resolution	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	Landowner(s) Consent to Grant ROW	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	Spreadsheet - consent percentage calculation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	Superintendent/Regional Director per 25 CFR 169.108	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Maps:</b>				
_____	Survey Plat/Legal description	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	Location Map showing adjacent existing facilities	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Environmental Compliance:</b>				
_____	Categorical Exclusion (CatEX)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	Environmental Assessment (EA)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	Finding of No Significant of Impact (FONSI)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	Environmental Impact Statement (EIS)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	Record of Decision (ROD)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	NHPA Section 106	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	ESA Section 7 review	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Valuation:</b>				
_____	Valuation Report received	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	Valuation Review requested (OASIS)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	Certification of Valuation Review by OST Appraisal Services	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	Fair Market Value _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	Applicant's Offer _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	Letter(s) to Landowner(s) re: FMV	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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**Corporate Documents:**

_____	Authority of Officers to Execute Documents	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	Articles of Partnership or Association	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	State-certified corporate charter	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	License to do business (Tribe and/or State)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Waivers, if applicable:</b>				
_____	Valuation (Appraisal, market analysis, etc.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	Bond(s), insurance, and/or alternative form of security	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	Compensation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	Permission to cross existing rights-of-way, if applicable	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Decision</b>				
_____	Findings and Recommendation Report for Decision	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	Letter - Notice of Intent to Grant b/c Landowners So Numerous (if applicable)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	Letter - Approval or Denial with Appeal Right to Parties	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	Payment - Lockbox or Proof of Payment for Direct Payment	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	Grant of Easement for ROW Approval Date: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Distribution:</b>				
_____	Applicant	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	Tribe	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	Landowner(s), if requested.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Post Decision</b>				
_____	Encode in TAAMS:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	LAC: _____ TAAMS ID No. _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	Contractor ID No. _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	Scan Image	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	TIR Log	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	Recording No. _____ Notice to LTRO: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	Construction Completion (Due Diligence)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	Final Field Inspection Report	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Prepared by: _____	Reviewed by: _____	2nd Reviewer: _____		
Deputy Superintendent: _____	Date: _____			

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# Utility Panel - Q&A Discussion Session

*Moderator: Tony Brunello, California Strategies*

# **Q&A Session – All Panels**

# Wrap Up & Conclusion of Public Session

# Government-to-Government Consultations