Meeting Date: 06/07/24 Application Number: 4545 Staff: C. Fox

Staff Report 57

APPLICANT:

LS Power Grid California, LLC

PROPOSED ACTION:

Issuance of a Non-Exclusive Geological Survey Permit.

AREA, LAND TYPE, AND LOCATION:

Sovereign land, Assessor's Parcel Number 0090-18-0220 in Solano County and Assessor's Parcel Number 085-010-012-4 in Contra Costa County, located within the Sacramento-San Joaquin Delta in the northern greater San Francisco Bay Area, Solano, Sacramento, and Contra Costa counties, Section 22, Township 2 and 3 North, Range 1 East, Mount Diablo Baseline & Meridian (as shown in Figure 1 and Table 1, below).

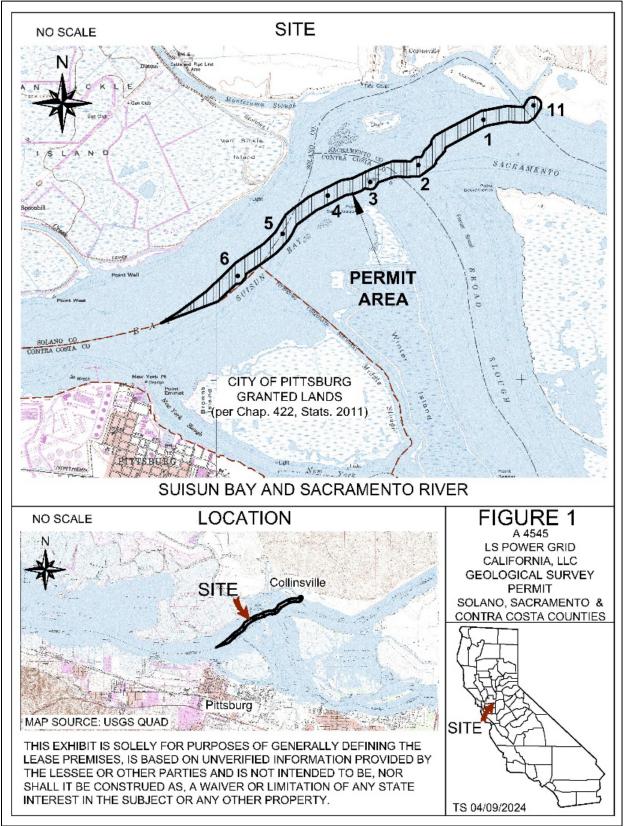


Figure 1. Permit Area (Site and Location)

Boring	Boring Method	Township	Range	Section	Latitude	Longitude		
ID								
1	Rotary	03N	01E	00	38.06968569	-121.83951014		
2	Rotary	03N	01E	00	38.06477618	-121.84840604		
3	Rotary	03N	01E	00	38.06296038	-121.85498254		
4	Rotary	03N	01E	00	38.06149554	-121.86076564		
5	Rotary	03N	01E	00	38.05737567	-121.86694543		
6	Rotary	02N	01E	00	38.05283236	-121.87307184		
11	Rotary	03N	01E	00	38.07122683	-121.83265134		

Table 1. Boring Locations

AUTHORIZED USE:

Non-exclusive use of portions of Sovereign land in Solano, Sacramento, and Contra Costa Counties, located within the Sacramento-San Joaquin Delta in the northern greater San Francisco Bay Area, Solano, Sacramento, and Contra Costa counties for the collection of geological data by rotary drilling up to 10 7-inch-diameter borings with water to a depth of 15 to 100 feet.

TERM:

3 years, beginning June 7, 2024.

SPECIFIC PERMIT PROVISIONS:

- The general terms of this Geological Survey Permit require the permittee to provide staff with advance notification of operations and the equipment specifications to be employed. Staff may obtain copies of all geological data derived from any and all surveys under this permit upon request.
- Lessee acknowledges that the land described in this Permit is subject to the Public Trust and is presently available to members of the public for recreation, waterborne commerce, navigation, fisheries, open space, or other recognized <u>Public Trust uses, and that Lessee's proposed construction activities and use of the Lease Premises shall not interfere or limit the Public Trust rights of the public.</u>
- At least 2 weeks prior to the start of construction, Lessee agrees to post signs on the Pittsburg marina parking lot and boat ramp indicating the dates that the work will begin and the duration of any closure of the river access.

• At all times during work, Lessee agrees to install precautionary signage at the local marina docks and warning buoys upstream and downstream of the construction in the river in order to provide adequate warning notices to recreational users on the river of the potential safety hazards associated with project construction and to exercise caution.

STAFF ANALYSIS AND RECOMMENDATION:

AUTHORITY:

Public Resources Code sections 6005, 6212.2, 6216, and 6301; California Code of Regulations, title 2, section 2100.02 et seq.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

LS Power Grid California, LLC has applied for a 3-year Geological Survey Permit to gather geological and geotechnical data from Sovereign land in Solano, Sacramento, and Contra Costa counties, located within the Sacramento-San Joaquin Delta, in the northern greater San Francisco Bay Area. The permit will enable the drilling of no more than 10 borings in the Delta conducting geotechnical soil sampling to evaluate the geologic and geotechnical feasibility of trenching the proposed route of the submarine cables associated with the Collinsville 500/230 kV Substation Project, which will be permitted separately.

The borings will be drilled with a small rig loaded onto a barge and towed to each of the no more than 10 locations. The work is expected to take no more than 3 weeks. The drilling process will involve a potable water non-toxic drilling fluid, and the boreholes will be naturally backfilled with sediment through natural riverine processes.

California courts have recognized the collection of data for scientific study on lands subject to the Public Trust as a use consistent with the common law Public Trust Doctrine. (See e.g., Marks v. Whitney (1971) 6 Cal.3d 251, 259-260.) Additionally, California Public Resources Code section 6212.2 expressly permits the Commission to issue permits for the taking of cores or other samples by means of drilling operations for the purpose of obtaining geological information so long as the activity is not for the purpose of commercial exploration or exploitation. The proposed permit contains restrictions to safeguard public rights and environmental resources. For example, the permit grants non-exclusive use of the permit area to the permittee and the defined work must be completed within 3 years. Furthermore, all work must be conducted in an environmentally conscientious manner.

Given these considerations, staff believes authorizing the permit will not substantially interfere with the Public Trust needs at this location at this time or for the foreseeable term of the permit.

For all the reasons above, staff believes that approving the permit application is consistent with the common law Public Trust Doctrine and is in the best interests of the State. Staff recommends approval of this Non-Exclusive Geological Survey Permit application.

TRIBAL COORDINATION AND CONSULTATION:

Tribal outreach and a historical resources study was conducted by the LS Power Grid California, LLC's archeological consultant Paleo West in June of 2023. A record search of the Native American Heritage Commission (NAHC) Sacred Lands File was completed for the information submitted for the above-referenced project (Exhibit A, attached). The results were negative, indicating an absence of specific site information in the NAHC Sacred Lands Files. Absence of site specific information does not always indicate the absence of tribal cultural resources. Therefore, consultation letters were sent to the tribes listed on the NAHC contact list as shown in Exhibit A. The Amah Mutsun Tribal Band of San Juan Bautista offered training or onsite services if requested but did not indicate any interest in the estuary work area. Eighteen additional tribes listed on the Native American Heritage Commission's AB 52 list did not respond to the LS Power Grid California LLC's consultation request.

OTHER PERTINENT INFORMATION:

- Approval or denial of the application is a discretionary action by the Commission. Each time the Commission approves or rejects a use of sovereign land, it exercises legislatively delegated authority and responsibility as trustee of the State's Public Trust lands as authorized by law. If the Commission denies the application, the Applicant will not be authorized to conduct geological surveys on sovereign land. Upon expiration or prior termination of the permit, the applicant has no right to a new permit or to renewal of any previous permit.
- 2. This action is consistent with the "Meeting Evolving Public Trust Needs" and "Partnering with Sovereign Tribal Governments and Communities" Strategic Focus Areas of the Commission's 2021-2025 Strategic Plan.

3. Staff recommends that the Commission find that this activity is exempt from the requirements of the California Environmental Quality Act (CEQA) as a categorically exempt project. The project is exempt under Class 6, Information Collection; California Code of Regulations, title 2, section 2905, subdivision (e)(3).

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15300 and California Code of Regulations, title 2, section 2905.

Ехнівіт

A. Native American Heritage Commission's Response to Katherine Sinsky, PaeloWest dated June 1, 2023

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15061 as a categorically exempt project, Class 6, Information Collection; California Code of Regulations, title 2, section 2905, subdivision (e)(3).

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that proposed Permit will not substantially interfere with Public Trust needs and values, is consistent with the common law Public Trust Doctrine, and is in the best interests of the State.

AUTHORIZATION:

Authorize issuance of a Non-Exclusive Geological Permit to LS Power Grid California, LLC to conduct geological surveys for the period June 7, 2024, through June 6, 2027, to gather geological and geotechnical data by drilling up to 10 shallow borings within Sovereign land located within Sacramento-San Joaquin Delta in the northern greater San Francisco Bay Area, Solano, Sacramento, and Contra Costa counties.



ACTING CHAIRPERSON Reginald Pagaling Chumash

SECRETARY Sara Dutschke Miwok

COMMISSIONER Isaac Bojorquez Ohlone-Costanoan

Commissioner **Buffy McQuillen** Yokayo Pomo, Yuki, Nomlaki

Commissioner Wayne Nelson Luiseño

COMMISSIONER Stanley Rodriguez Kumeyaay

COMMISSIONER Vacant

COMMISSIONER Vacant

COMMISSIONER Vacant

Executive Secretary Raymond C. Hitchcock Miwok, Nisenan

NAHC HEADQUARTERS

1550 Harbor Boulevard Suite 100 West Sacramento, California 95691 (916) 373-3710 nahc@nahc.ca.gov NAHC.ca.gov STATE OF CALIFORNIA

Gavin Newsom, Governor

NATIVE AMERICAN HERITAGE COMMISSION

June 1, 2023

Katherine Sinsky PaleoWest

Via Email to: ksinsky@paleowest.com

Re: Insignia Collinsville Substation Project, Contra Costa and Solano Counties

Dear Ms. Sinsky:

A record search of the Native American Heritage Commission (NAHC) Sacred Lands File (SLF) was completed for the information you have submitted for the above referenced project. The results were <u>negative</u>. However, the absence of specific site information in the SLF does not indicate the absence of cultural resources in any project area. Other sources of cultural resources should also be contacted for information regarding known and recorded sites.

Attached is a list of Native American tribes who may also have knowledge of cultural resources in the project area. This list should provide a starting place in locating areas of potential adverse impact within the proposed project area. I suggest you contact all of those indicated; if they cannot supply information, they might recommend others with specific knowledge. By contacting all those listed, your organization will be better able to respond to claims of failure to consult with the appropriate tribe. If a response has not been received within two weeks of notification, the Commission requests that you follow-up with a telephone call or email to ensure that the project information has been received.

If you receive notification of change of addresses and phone numbers from tribes, please notify me. With your assistance, we can assure that our lists contain current information.

If you have any questions or need additional information, please contact me at my email address: <u>Cody.Campagne@nahc.ca.gov</u>.

Sincerely,

Cody Campagne

Cody Campagne Cultural Resources Analyst

Attachment

Native American Heritage Commission Native American Contact List Solano, Contra Costa Counties 6/1/2023

Amah MutsunTribal Band of Mission San Juan Bautista

Irene Zwierlein, Chairperson 3030 Soda Bay Road C Lakeport, CA, 95453 Phone: (650) 851 - 7489 Fax: (650) 332-1526 amahmutsuntribal@gmail.com

Costanoan

Chicken Ranch Rancheria of Me-Wuk Indians

Lloyd Mathiesen, Chairperson P.O. Box 1159 Me-Wuk Jamestown, CA, 95327 Phone: (209) 984 - 9066 Fax: (209) 984-9269 Imathiesen@crtribal.com

Cachil Dehe Band of Wintun Indians of the Colusa Indian Community

Clifford Mota, Tribal Preservation Liaison 3730 Highway 45 Wintun Colusa, CA, 95932 Phone: (530) 458 - 8231 cmota@colusa-nsn.gov

Cachil Dehe Band of Wintun Indians of the Colusa Indian Community

Daniel Gomez, Chairman 3730 Highway 45 Colusa, CA, 95932 Phone: (530) 458 - 8231 dgomez@colusa-nsn.gov

Wintun

Cortina Rancheria - Kletsel

Dehe Band of Wintun Indians Charlie Wright, Chairperson P.O. Box 1630 Williams, CA, 95987 Phone: (530) 473 - 3274 Fax: (530) 473-3301

Wintun

Guidiville Indian Rancheria

Donald Duncan, Chairperson P.O. Box 339 Talmage, CA, 95481 Phone: (707) 462 - 3682 Fax: (707) 462-9183 admin@guidiville.net

Pomo

Indian Canyon Mutsun Band of Costanoan

Ann Marie Sayers, Chairperson P.O. Box 28 Costanoan Hollister, CA, 95024 Phone: (831) 637 - 4238 ams@indiancanyon.org

Indian Canyon Mutsun Band of Costanoan

Kanyon Sayers-Roods, MLD Contact 1615 Pearson Court San Jose, CA, 95122 Phone: (408) 673 - 0626 kanyon@kanyonkonsulting.com

Muwekma Ohlone Indian Tribe

of the SF Bay Area Monica Arellano, Vice Chairwoman 20885 Redwood Road, Suite 232 Costanoan Castro Valley, CA, 94546 Phone: (408) 205 - 9714 monicavarellano@gmail.com

Nashville Enterprise Miwok-

Maidu-Nishinam Tribe Cosme Valdez, Chairperson P.O. Box 580986 Elk Grove, CA, 95758-0017 Phone: (916) 429 - 8047 Fax: (916) 429-8047 valdezcome@comcast.net

North Valley Yokuts Tribe

Timothy Perez, P.O. Box 717

Linden, CA, 95236

Phone: (209) 662 - 2788

huskanam@gmail.com

Miwok

Costanoan Northern Valley Yokut

This list is current only as of the date of this document. Distribution of this list does not relieve any person of statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5097.94 of the Public Resource Section 5097.98 of the Public Resources Code.

This list is only applicable for contacting local Native Americans with regard to cultural resources assessment for the proposed Insignia Collinsville Substation Project, Solano, Contra Costa Counties.

Native American Heritage Commission **Native American Contact List** Solano, Contra Costa Counties 6/1/2023

North Vallev Yokuts Tribe

Katherine Perez, Chairperson P.O. Box 717 Linden, CA, 95236 Phone: (209) 887 - 3415 canutes@verizon.net

The Ohlone Indian Tribe

Desiree Vigil, THPO 1775 Marco Polo Way, Apt. 21 Burlingame, CA, 94010 Phone: (650) 290 - 0245 dirwin0368@yahoo.com

The Ohlone Indian Tribe

Andrew Galvan, Chairperson P.O. Box 3388 Fremont, CA, 94539 Phone: (510) 882 - 0527 Fax: (510) 687-9393 chochenyo@AOL.com

United Auburn Indian Community of the Auburn Rancheria

Gene Whitehouse, Chairperson 10720 Indian Hill Road Maidu Auburn, CA, 95603 Miwok Phone: (530) 883 - 2390 Fax: (530) 883-2380 bguth@auburnrancheria.com

Wilton Rancheria

Jesus Tarango, Chairperson 9728 Kent Street Miwok Elk Grove, CA, 95624 Phone: (916) 683 - 6000 Fax: (916) 683-6015 jtarango@wiltonrancheria-nsn.gov

Wilton Rancheria

Dahlton Brown, Director of Administration 9728 Kent Street Miwok Elk Grove, CA, 95624 Phone: (916) 683 - 6000 dbrown@wiltonrancheria-nsn.gov

Costanoan Northern Valley Yokut

Bay Miwok Ohlone Patwin **Plains Miwok**

Bay Miwok Ohlone Patwin Plains Miwok

Wilton Rancheria

Steven Hutchason, THPO 9728 Kent Street Elk Grove, CA, 95624 Phone: (916) 683 - 6000 Fax: (916) 863-6015 shutchason@wiltonrancheriansn.gov

Yocha Dehe Wintun Nation

Anthony Roberts, Chairperson P.O. Box 18 Brooks, CA, 95606 Phone: (530) 796 - 3400 thpo@vochadehe-nsn.gov

Patwin

Miwok

Yocha Dehe Wintun Nation

Yvonne Perkins, THPO, Cultural Resources Chairman P.O. Box 18 Brooks, CA, 95606 Phone: (530) 796 - 3400 thpo@yochadehe-nsn.gov

Patwin

Confederated Villages of Lisjan Nation

Corrina Gould, Chairperson 10926 Edes Avenue **Bay Miwok** Oakland, CA, 94603 Ohlone Phone: (510) 575 - 8408 Delta Yokut cvltribe@gmail.com

Confederated Villages of Lisjan

Nation Deja Gould, Language Program Manager 10926 Edes Ave Oakland, CA, 94603 Phone: (510) 575 - 8408 cvltribe@gmail.com

Bay Miwok Ohlone Delta Yokut

Confederated Villages of Lisjan Nation

Cheyenne Gould, Tribal Cultural **Resource Manager** 10926 Edes Ave Oakland, CA, 94603 Phone: (510) 575 - 8408 cvltribe@gmail.com

Bay Miwok Ohlone Delta Yokut

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This list is only applicable for contacting local Native Americans with regard to cultural resources assessment for the proposed Insignia Collinsville Substation Project, Solano, Contra Costa Counties.

The Amah Mutsun Tribal Band of San Juan Bautista & A.M.T.B. Inc.

Letter of Response

To whom it may concern:

It is our pride and privilege to be of service for any Native American Cultural Resource Monitoring, Consulting and/or Sensitivity Training you may need or require. We take our Heritage and History seriously and are diligent about preserving as much of it as we can. Construction is a constant in the Bay Area and with that new discoveries are bound to happen. If you choose our services we will gladly guide all personnel through proper procedures to safely protect and preserve: Culture, Heritage, and History.

It is highly recommended, if not previously done, to search through Sacred Lands Files (SLF) and California Historical Resource Information Systems (CHRIS) as well as reaching out to the Native American Heritage Commission (NAHC) In order to determine whether you are working in a Cultural and/ or Historic sensitivity.

If you have received any positive cultural or historic sensitivity within 1 mile of the project area here is A.M.T.B Inc's and Amah Mutsun Tribal Band of San Juan Bautista's recommendations:

- All Crews, Individuals and Personnel who will be moving any earth be Cultural Sensitivity Trained.
- A Qualified California Trained Archaeological Monitor is present during any earth movement.
- A Qualified Native American Monitor is present during any earth movement.

If further Consultation, Monitoring or Sensitivity Training is needed please feel free to contact A.M.T.B. Inc. or Myself Directly.

Sincerely, Irenne Zwierlein

Arenne Zwierlein

3030 Soda Bay Road, Lakeport CA 95453 <u>amtbinc21@gmail.com</u> (650)851-7489

Amah Mutsun Tribal Band of San Juan Bautista

& AMTB Inc.

3030 Soda Bay Road Lakeport, CA 95453

Our rates for 2023

\$250.00 per hour.

4 hours minimum

Cancellations not 48 hours (about 2 days) prior will be charged a 4-hour minimum. There is a round trip mileage charge if canceled after they have traveled to site.

Anything over 8 hours a day is charged as time and a half.

Weekends are charged at time and a half.

Holidays are charged at double time.

For fiscal year (FY) 2023, standard per diem rate of \$329 (\$255 lodging, \$74 M&IE). M&IE Breakdown FY 2023

M&IE	Continental Breakfast/ Breakfast ²	Lunch ²		Incidental Expenses	First & Last Day of Travel ³
\$74.00	\$17.00	\$18.00	\$34.00	\$5.00	\$55.50

Beginning on July 1st, 2022, the standard mileage rates for the use of a car round trip (also vans, pickups or panel trucks) will be: \$62.50 cents per mile driven for business use or what the current federal standard is at the time.

Our Payment terms are 5 days from date on invoice.

Our Monitors are Members of the Amah Mutsun Tribal Band of Mission San Juan Bautista.

If you have any questions, please feel free to contact the A.M.T.B. Inc. at the below contact information.

Sincerely, Arenne Zwierlein

Irenne Zwierlein

3030 Soda Bay Rd, Lakeport CA 95453 amtbinc21@gmail.com (650)851-7489



CERTIFICATE OF LIABILITY INSURANCE

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				Brenda Atolaco					

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