

STATE OF CALIFORNIA

Edmund G. Brown, Jr., Governor

NATIVE AMERICAN HERITAGE COMMISSION

915 CAPITOL MALL, ROOM 364
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de_nahc@pacbell.net



January 18, 2012

Dr. Jerry Schaefer, Ph.D., Principal Investigator

ASM Affiliates, Inc.

2034 Corte del Nogal
Carlsbad, CA 92011

Sent by FAX: to: 760-804-5755

No. Pages: 5

Re: Tribal Consultation per NEPA Requirements under NHPA, Section 106, 36 CFR Part 800 for the "Seville Solar Project," located in northwest Imperial County, California

Dear Dr. Schaeffer:

The Native American Heritage Commission (NAHC) conducted a search of the Native American Heritage Commission (NAHC) *Sacred Lands File* was completed for the area of potential project effect (Area of Potential Effect or APE) referenced above. Please note that the absence of specific site information in the *Sacred Lands File* does not indicate the absence of Native American traditional cultural places or cultural landscapes in any APE. While in this case, a search of the NAHC *Sacred Lands File* did not indicate the presence of Native American cultural sites within the APE location data you provided. However, Native American cultural sites were located in the Shell Reef and Kane Springs NW USGS Quadrangles close to the APE perimeter.

Also, a Native American tribe or individual may be the only source for the presence of traditional cultural places. For that reason, enclosed is a list of Native American individuals/organizations who may have knowledge of traditional cultural places in your project area. This list should provide a starting place in locating any areas of potential adverse impact.

California Public Resources Code §§5097.94 (a) and 5097.96 authorize the NAHC to establish a Sacred Land Inventory to record Native American sacred sites and burial sites. These records are exempt from the provisions of the California Public Records Act pursuant to California Government Code §6254 (r). The purpose of this code is to protect such sites from vandalism, theft and destruction.

In the 1985 Appellate Court decision (170 Cal App 3rd 604), the court held that the NAHC has jurisdiction and special expertise, as a state agency, over affected Native American resources, impacted by proposed projects including archaeological, places of religious significance to Native Americans and burial sites

The California Environmental Quality Act (CEQA – CA Public Resources Code §§ 21000-21177, amendments effective 3/18/2010) requires that any project that causes a substantial adverse change in the significance of an historical resource, that includes archaeological resources, is a 'significant effect' requiring the preparation of an Environmental Impact Report (EIR) per the CEQA Guidelines defines a significant impact on the environment

as 'a substantial, or potentially substantial, adverse change in any of physical conditions within an area affected by the proposed project, including ... objects of historic or aesthetic significance.' In order to comply with this provision, the lead agency is required to assess whether the project will have an adverse impact on these resources within the 'area of potential effect (APE)', and if so, to mitigate that effect. CA Government Code §65040.12(e) defines "environmental justice" provisions and is applicable to the environmental review processes. The NAHC recommends *avoidance* as defined by CEQA Guidelines §15370(a) to pursuing a project that would damage or destroy Native American cultural resources and California Public Resources Code Section 21083.2 (Archaeological Resources) that requires documentation, data recovery of cultural resources, construction to avoid sites and the possible use of covenant easements to protect sites.

Early consultation with Native American tribes in your area is the best way to avoid unanticipated discoveries once a project is underway. Local Native Americans may have knowledge of the religious and cultural significance of the historic properties of the proposed project for the area (e.g. APE). Consultation with Native American communities is also a matter of environmental justice as defined by California Government Code §65040.12(e). We urge consultation with those tribes and interested Native Americans on the list that the NAHC has provided in order to see if your proposed project might impact Native American cultural resources. Lead agencies should consider *avoidance* as defined in §15370 of the CEQA Guidelines when significant cultural resources as defined by the CEQA Guidelines §15064.5 (b)(c)(f) may be affected by a proposed project. If so, Section 15382 of the CEQA Guidelines defines a significant impact on the environment as "substantial," and Section 21083.2 which requires documentation, data recovery of cultural resources.

The NAHC makes no recommendation or preference of any single individual, or group over another. All of those on the list should be contacted, 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 or group. If a response has not been received within two weeks of notification, the NAHC requests that you follow-up with a telephone call to ensure that the project information has been received.

The 1992 *Secretary of the Interiors Standards for the Treatment of Historic Properties* were revised so that they could be applied to all historic resource types included in the National Register of Historic Places and including cultural landscapes. Also, federal Executive Orders Nos. 11593 (preservation of cultural environment), 13175 (coordination & consultation) and 13007 (Sacred Sites) are helpful, supportive guides for Section 106 consultation. The aforementioned Secretary of the Interior's *Standards* include recommendations for all 'lead agencies' to consider the historic context of proposed projects and to "research" the cultural landscape that might include the 'area of potential effect.'

Partnering with local tribes and interested Native American consulting parties, on the NAHC list, should be conducted in compliance with the requirements of federal NEPA (42 U.S.C. 4321-43351) and Section 106 4(f), Section 110 and (k) of the federal NHPA (16 U.S.C. 470 *et seq.*), Section 4(f) of the Department of Transportation Act of 1966 (23 CFR 774); 36 CFR Part 800.3 (f) (2) & .5, the President's Council on Environmental Quality (CSQ, 42 U.S.C. 4371 *et seq.* and NAGPRA (25 U.S.C. 3001-3013) as appropriate. The 1992 *Secretary of the Interiors Standards for the Treatment of Historic Properties* were revised so that they could be applied to all historic resource types included in the National Register of Historic Places and including cultural landscapes. Also, federal Executive Orders Nos. 11593 (preservation of cultural

environment), 13175 (coordination & consultation) and 13007 (Sacred Sites) are helpful, supportive guides for Section 106 consultation. The NAHC remains concerned about the limitations and methods employed for NHPA Section 106 Consultation.

Also, California Public Resources Code Section 5097.98, California Government Code §27491 and Health & Safety Code Section 7050.5 provide for provisions for accidentally discovered archeological resources during construction and mandate the processes to be followed in the event of an accidental discovery of any human remains in a project location other than a 'dedicated cemetery', another important reason to have Native American Monitors on board with the project.

To be effective, consultation on specific projects must be the result of an ongoing relationship between Native American tribes and lead agencies, project proponents and their contractors, in the opinion of the NAHC. An excellent way to reinforce the relationship between a project and local tribes is to employ Native American Monitors in all phases of proposed projects including the planning phases.

Confidentiality of "historic properties of religious and cultural significance" may also be protected under Section 304 of the NHPA or at the Secretary of the Interior discretion if not eligible for listing on the National Register of Historic Places. The Secretary may also be advised by the federal Indian Religious Freedom Act (cf. 42 U.S.C., 1996) in issuing a decision on whether or not to disclose items of religious and/or cultural significance identified in or near the APE and possibility threatened by proposed project activity.

If you receive notification of change of addresses and phone numbers from any of these individuals or groups, please notify me. With your assistance we are able to assure that our lists contain current information. If you have any questions about this response to your request, please do not hesitate to contact me at (916) 653-6251.

Sincerely,



Dave Singleton

Attachment: Native American Contact List

**Native American Contacts
Imperial County
January 18, 2013**

La Posta Band of Mission Indians
Gwendolyn Parada, Chairperson

PO Box 1120 Diegueno/Kumeyaay
Boulevard , CA 91905
gparada@lapostacasino.
(619) 478-2113
619-478-2125

Chemehuevi Reservation
Edward Smith, Chairperson

P.O. Box 1976 Chemehuevi
Chemehuevi Valley CA 92363
chair1cit@yahoo.com
(760) 858-4301
(760) 858-5400 Fax

Manzanita Band of Kumeyaay Nation
Leroy J. Elliott, Chairperson

PO Box 1302 Kumeyaay
Boulevard , CA 91906
ljbirdsinger@aol.com
(619) 766-4930
(619) 766-4957 Fax

Kwaaymii Laguna Band of Mission Indians
Carmen Lucas

P.O. Box 775 Diegueno -
Pine Valley , CA 91962
(619) 709-4207

Campo Band of Mission Indians
Ralph Goff, Chairperson

36190 Church Road, Suite 1 Diegueno/Kumeyaay
Campo , CA 91906
chairgoff@aol.com
(619) 478-9046
(619) 478-5818 Fax

Colorado River Indian Tribe
Eldred Enas ,Chairman; Ginger Scott, Museum

26600 Mojave Road Mojave
Parker , AZ 85344 Chemehuevi
crit.museum@yahoo.com
(928) 669-9211-Tribal Office
(928) 669-8970 ext 21
(928) 669-1925 Fax

Torres-Martinez Desert Cahuilla Indians
Mary Resvaloso, Chairperson

PO Box 1160 Cahuilla
Thermal , CA 92274
mresvaloso@torresmartinez.
(760) 397-0300
(760) 397-8146 Fax

Fort Yuma Quechan Indian Nation
Keeny Escalanti, Sr., President

PO Box 1899 Quechan
Yuma , AZ 85366
qitpres@quechantribe.com
(760) 572-0213
(760) 572-2102 FAX

This list is current only as of the date of this document.

Distribution of this list does not relieve any person of the statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5097.94 of the Public Resources Code and Section 5097.98 of the Public Resources Code.

This list is applicable for contacting local Native Americans with regard to cultural resources for the proposed Seville Solar Project; located in northwest Imperial County, California for which Sacred Lands File searches and Native American Contacts list were requested.

**Native American Contacts
Imperial County
January 18, 2013**

Augustine Band of Cahuilla Mission Indians
Mary Ann Green, Chairperson
P.O. Box 846 Cahuilla
Coachella, CA 92236
(760) 398-4722
760-369-7161 - FAX

Manzanita Band of Mission Indians
ATTN: Keith Adkins, EPA Director
PO Box 1302 Kumeyaay
Boulevard, CA 91905
(619) 766-4930
(619) 766-4957 Fax

Torres-Martinez Desert Cahuilla Indians
Diana L. Chihuahua, Vice Chairperson, Cultural
P.O. Box 1160 Cahuilla
Thermal, CA 92274
mkrystall@tmdci-nsn.gov
760) 397-0300, Ext. 1209
(760) 272-9039 - cell (Lisa)
(760) 397-8146 Fax

Campo Kumeyaay Nation
ATTN: Fidel Hyde, EPA Supervisor
36190 Church Road, Suite 1 Kumeyaay
Campo, CA 91906
fhyde@campo-nsn.gov
(619) 478-9369
(619) 478-5818 Fax

Cabazon Band of Mission Indians
Judy Stapp, Director of Cultural Affairs
84-245 Indio Springs Cahuilla
Indio, CA 92203-3499
markwardt@cabazonindia

Augustine Band of Cahuilla Mission Indians
Karen Kupcha
P.O. Box 849 Cahuilla
Coachella, CA 92236
(760) 398-4722
916-369-7161 - FAX

(760) 342-2593
(760) 347-7880 Fax

Ewilaapaay Tribal Office
Will Micklin, Executive Director
4054 Willows Road Diegueno/Kumeyaay
Alpine, CA 91901
wmicklin@leaningrock.net
(619) 445-6315 - voice
(619) 445-9126 - fax

Manzanita Band of the Kumeyaay Nation
Nick Elliott, Cultural Resources Coordinator
P.O. Box 1302 Kumeyaay
Boulevard, CA 91905
nickmepa@yahoo.com
(619) 766-4930
(619) 925-0952 - cell
(919) 766-4957 - FAX

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**Native American Contacts
Imperial County
January 18, 2013**

Ah-Mut-Pipa Foundation
Preston J. Arrow-weed
P.O. Box 160 Quechan
Bard , CA 92222 Kumeyaay
ahmut@earthlink.net
(928) 388-9456

Inter-Tribal Cultural Resource Protection Council
Frank Brown, Coordinator
240 Brown Road Diegueno/Kumeyaay
Alpine , CA 91901
frankbrown6928@gmail.com
(619) 884-6437

Kumeyaay Cultural Repatriation Committee
Bernice Paipa, Vice Spokesperson
1095 Barona Road Diegueno/Kumeyaay
Lakeside , CA 92040
(619) 478-2113
(KCRC is a Colation of 12
Kumeyaay Governments

This list is current only as of the date of this document.

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This list is applicable for contacting local Native Americans with regard to cultural resources for the proposed Seville Solar Project; located in northwest Imperial County, California for which Sacred Lands File searches and Native American Contacts list were requested.



Mr. Dwight Carey
Environmental Management Associates
588 Explorer St.
Brea, CA 92821

Re: Results of IID Anza Substation Class III Cultural Resources Survey for the Seville Solar Project.

Dear Mr. Carey;

This letter reports the negative results of an intensive Class III cultural resources investigation at the IID Anza Substation property in Imperial County California (Figures 1-2). ASM Affiliates surveyed the property in association with off-site improvements for the proposed Seville Solar Project. With regard to that project a previous survey on parcels privately owned by Allegretti Farms was conducted by ASM Affiliates, Inc. (ASM) in January 2013 (Schaefer and Quach 2013). Please refer to that report for the records search results that encompassed the IID Anza Substation property, and the review of natural and historical contexts of the project area.

The survey was conducted on March 14, 2014 and was systematically surveyed in 10-meter (30-ft.) intervals (Figure 3). It encompassed all of the IID property and a 46-m buffer (150-ft) around the fenced edges of the Anza Substation, thus extending the survey onto BLM lands. A Native American monitor from the Campo Indian Reservation accompanied the archaeologist during this survey. The BLM portion was surveyed under a BLM Fieldwork Authorization and the reports of the entire survey of the IID Substation and the related IID transmission line on BLM lands is currently under review by BLM.

The record search and field survey was negative in that no cultural resources were previously recorded or currently found on the IID property or the BLM buffer. I also conclude that the potential for buried cultural resources on the property is negligible based on observed surface disturbance and surficial character of sites that have been recorded in the general vicinity.

Please contact me if you have any questions.

Sincerely yours,

Jerry Schaefer, Ph.D., RPA
Principal Investigator

References

Schaefer, Jerry and Tony Quach
2013 *Cultural Resource Survey for the Seville Solar Farm Complex, Imperial County, California.*
ASM Affiliates, Inc. Report submitted to Environmental Management Associates, Inc.

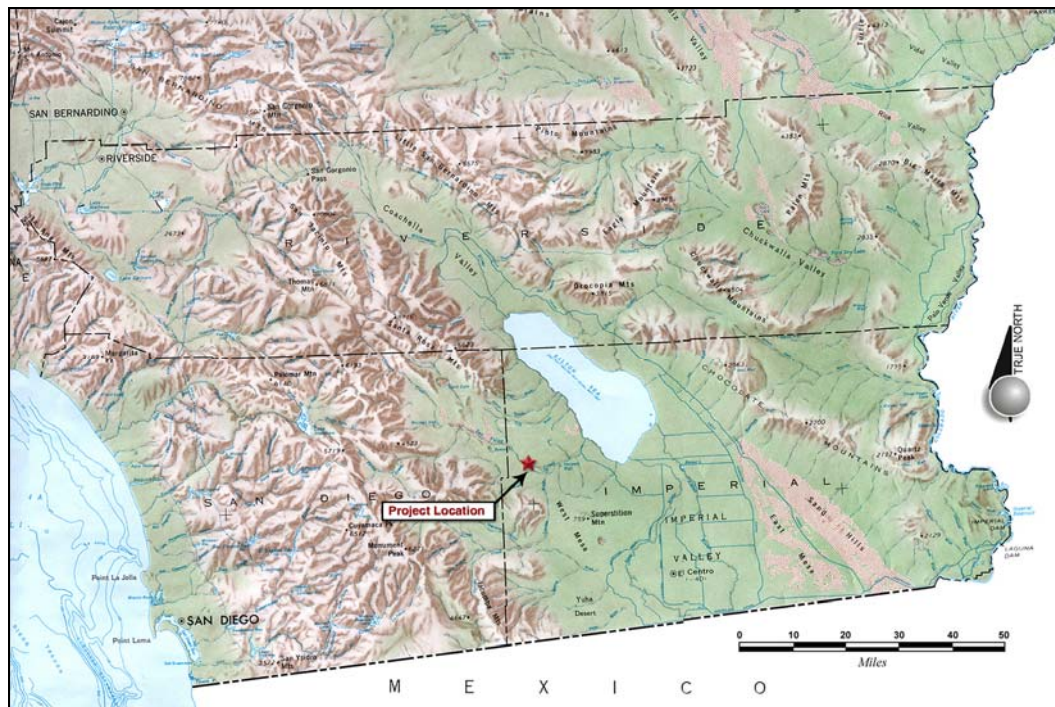


Figure 1. Project vicinity map.

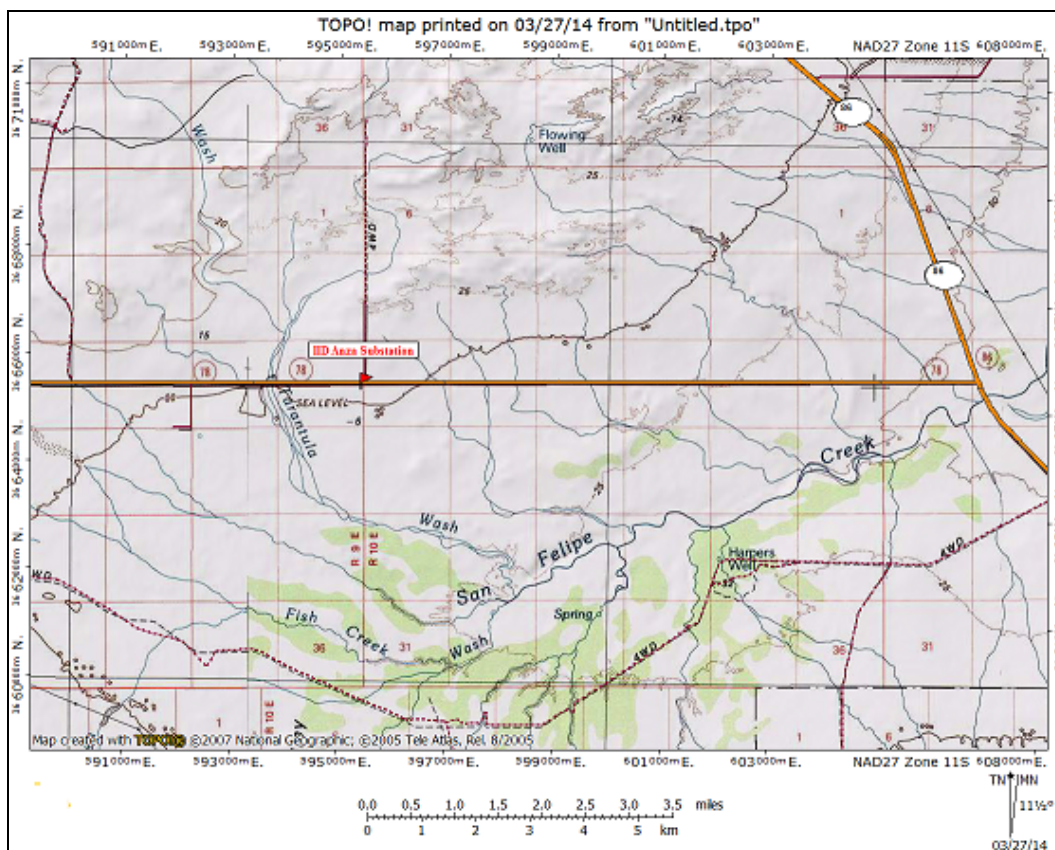


Figure 2. Project location map.



Figure 3. IID Anza Substation with GPS survey control transect lines in green.

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March 28, 2014

Mr. Dwight Carey
Environmental Management Associates
588 Explorer St.
Brea, CA 92821

Re: Preliminary Results of IID SA-Transmission Line Right-of-Way Cultural Resources Survey for the Seville Solar Project.

Dear Mr. Carey;

This letter reports summarizes the results of a previous 2000 survey and provides the preliminary results of a new 2014 intensive Class III cultural resources investigation of the Imperial Irrigation District (IID) SA-Transmission Line, on BLM land south of State Route 78 between the IID Anza Substation and the Allegretti Farms property in Imperial County California (Figures 1-2). ASM Affiliates surveyed this approximately 2.25-mile corridor alignment in association with off-site improvements for the proposed Seville Solar Project. With regard to that project a previous survey on parcels privately owned by Allegretti Farms was conducted by ASM Affiliates, Inc. (ASM) in January 2013 (Schaefer and Quach 2013). Please refer to that report for the records search results and the review of natural and historical contexts of the project area. The draft report for the IID transmission line is currently under review by BLM and until which time that the report is finalized, these results must be considered preliminary.

Electrical interconnection with the IID electrical transmission system would require construction of a new 92 kV transmission line from the proposed IID switch station on the Allegretti Farms property to the existing Anza Substation on Highway 78 through lands administered by the BLM. Approximately 1.0 mile of new 92 kV transmission line would be constructed on the Allegretti Farms property. An additional 2.0 miles of new 92 kV transmission line on BLM administered land would be “overbuilt” on top of the IID’s existing 12.5 kV SA distribution line located immediately south of State Highway 78 from the property to the existing IID Anza Substation (see Figure 2).

The SA-transmission line right-of-way was previously surveyed for IID by ASM Affiliates in 2000 as part of a line upgrade project (Schaefer and Moslak 2000). No cultural resources were recorded at that time along this part of the right-of-way.

The new survey for the Seville Solar Project was conducted on March 14, 2014 and was systematically surveyed in 10-meter (30-ft.) intervals (see Figure 2). A Native American monitor from the Campo Indian Reservation accompanied the archaeologist during this survey. The survey was conducted under a BLM Fieldwork Authorization and the reports of the entire survey of the IID Substation and the related IID transmission line on BLM lands is currently under review by BLM.

During the 2014 survey, two prehistoric isolates and two historic isolates were identified. Isolates are defined as five or less artifacts in a 25² m area. DPR forms for the isolates were completed and submitted to the SCIC for assignment of formal numeric identifiers. The two prehistoric isolates identified were a single brownware body pottery sherd and an isolate consisting of two water-worn pottery body sherds (one brownware and one buffware). The two historic isolates were United States Coast and Geodetic Survey benchmarks (E-579 and F-579) with a date stamp of “1939”. A search of the

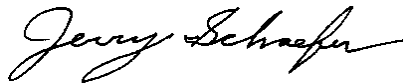
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respective National Geodetic Survey (NGS) survey marker data sheets (PID-DW0309, and PID-DW310) likewise verifies an original installation in 1939. These markers were apparently installed as datum points for State Route 78, possibly in association with later improvements to the road after its initial construction in 1920 and incorporation into the State Highway system in 1934.

All of the isolates were evaluated as not eligible for listing on the National Register of Historic Places, and likewise not eligible for the California Register of Historical Resources. Confirmation of these evaluations is awaiting review of the draft report by BLM. Isolate locations are confidential until permission to release information is obtained by the BLM.

Please contact me if you have any questions.

Sincerely yours,

A handwritten signature in cursive script, reading "Jerry Schaefer".

Jerry Schaefer, Ph.D., RPA
Principal Investigator

References

Schaefer, Jerry and Ken Moslak

2000 *An Inventory and Evaluation of Lake Cahuilla Cultural Resources along Imperial Irrigation District's SA-Line, San Diego and Imperial Counties, California.* ASM Affiliates, Inc. Report Submitted to the Imperial Irrigation District.

Schaefer, Jerry and Tony Quach

2013 *Cultural Resource Survey for the Seville Solar Farm Complex, Imperial County, California.* ASM Affiliates, Inc. Report submitted to Environmental Management Associates, Inc.

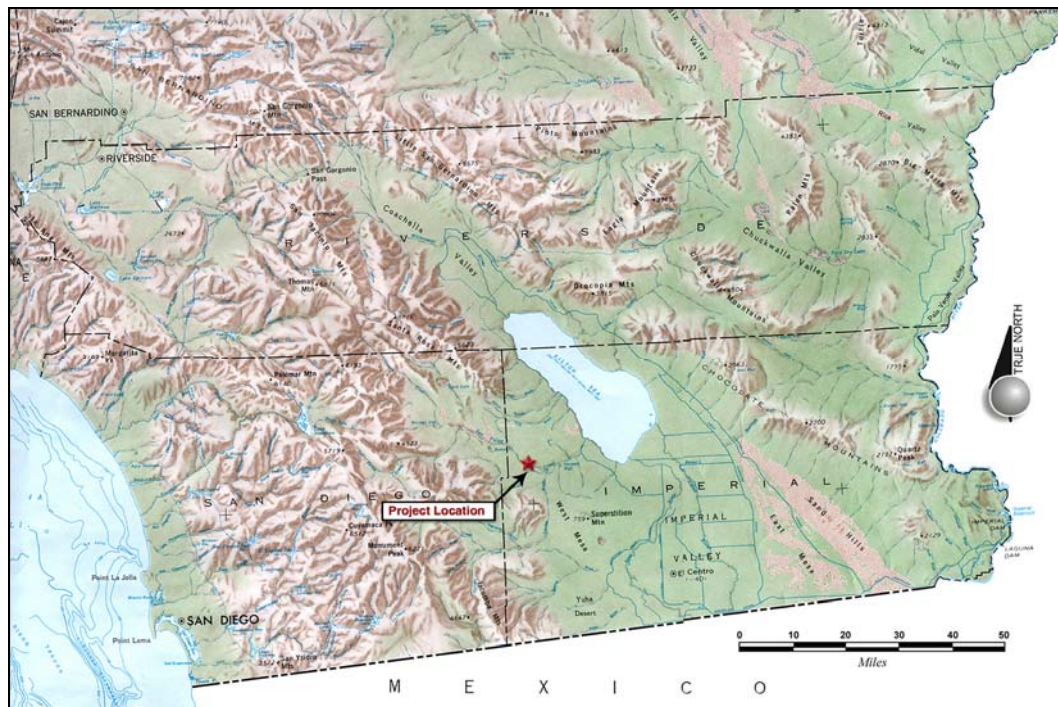


Figure 1. Project vicinity map.

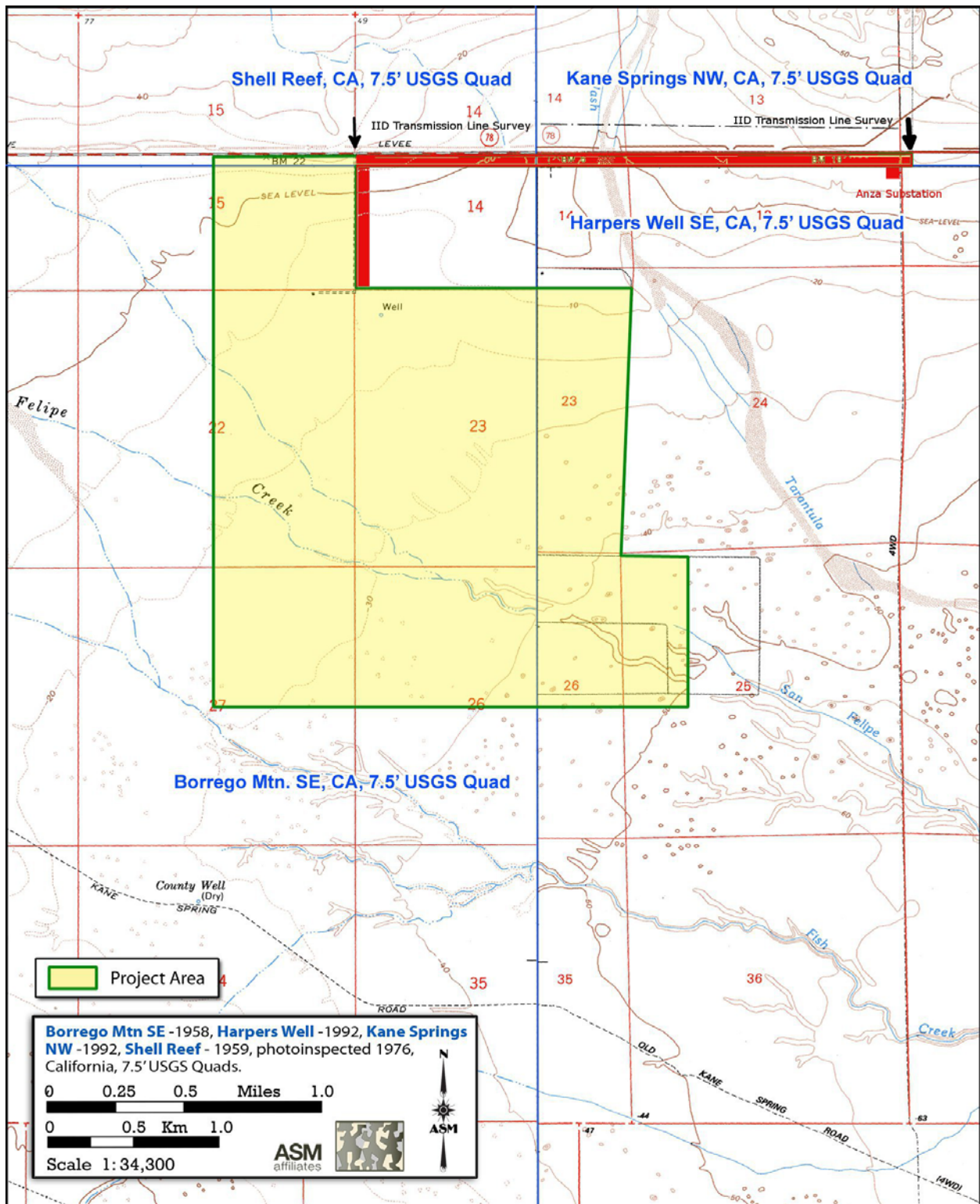


Figure 2. IID transmission line survey area shown between black arrows.