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18 **UNITED STATES DISTRICT COURT**  
 19 **FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

20 QUECHAN INDIAN TRIBE,	)	Case No. 02cv1096-JAH (MDD)
	)	
21 Plaintiff,	)	<b>DEFENDANT UNITED STATES OF</b>
	)	<b>AMERICA’S MEMORANDUM OF</b>
22 vs.	)	<b>CONTENTIONS OF FACTS AND LAW</b>
	)	
23 UNITED STATES OF AMERICA,	)	[CivLR 16.2.-3.]
	)	
24 Defendant.	)	<b><u>Final Pre-Trial Conference</u></b>
	)	Date: December 12, 2011
	)	Time: 2:30 p.m.
	)	Ctrm: Edward J. Schwartz Courthouse
	)	940 Front St., Ctrm. 11
	)	San Diego, CA
	)	The Honorable John A. Houston
	)	
	)	
	)	

25

26 Pursuant to CivLR 16.2. and 16.3, defendant United States of America (“United States”)  
 27 hereby submits its Memorandum of Contentions of Fact and Law for the liability/scope of impact  
 28 phase of trial. Plaintiff Quechan Indian Tribe (“plaintiff” or “Tribe”) brings this case against the

1 United States under the Federal Tort Claims Act, 28 U.S.C. §§ 1346(b)(1), 2671 *et seq.*  
2 (“FTCA”).

3 **CivLR 16.2.a. General**

4 In October 1998, Western Area Power Administration (“Western”), within the United  
5 States Department of Energy, began the Gila-Knob Pole Replacement Project on the United  
6 States’ right-of-way that crosses plaintiff Quechan Indian Tribe (“plaintiff” or “Tribe”) Fort  
7 Yuma Reservation. The project was necessary because of the deteriorated condition of the Gila-  
8 Knob transmission line structures, presenting reliability and safety concerns. Western decided to  
9 replace the existing wood pole structures with new steel structures. In preparation for the project  
10 and as required by law, Western retained Western Cultural Resource Management (“WCRM”) to  
11 conduct an inventory of cultural resources on the Gila-Knob 161-kv transmission line and access  
12 roads. A cultural resource inventory was performed in 1995 and identified sensitive sites within  
13 the project boundaries. These sites were marked with flagging prior to the pole replacement  
14 project. In spite of the care taken to inventory and mark these cultural resources, certain cultural  
15 sites were damaged during the pole replacement project.

16 On February 22, 1999, a Western employee discovered the damage and reported it to  
17 Western’s management, who notified the Tribe and the California Office of Historic Preservation  
18 on March 2, 1999. Western prepared a report entitled “Environmental Lessons Learned[:]  
19 Investigation [of] Damage to Archaeological Resources During the Gila-Knob Pole Replacement  
20 Project” dated April 28, 1999 (“Lessons Learned”). Western also retained URS Corporation  
21 (“URS”) to conduct a survey of the sites following discovery of the damage. A report was  
22 prepared by URS in 2001.

23 Western employees have testified that the following vehicles were used during the pole  
24 replacement project: crane, digger truck, backhoe, tractor, bulldozer, forklift, pickup trucks, and  
25 SUVs. Employees of Bowen Poles, an independent contractor hired by Western to pick up and  
26 dispose of the wooden poles, testified that Bowen Poles used a bulldozer, a pole trailer, and a  
27 pickup truck. Western’s Lessons Learned report indicates that the equipment included a “90-foot  
28 Condor bucket truck; Texoma digger truck; Lorain 23-ton all-terrain crane; Telect line truck;

1 work and crew trucks.” Apart from vehicles used by Western and its contractors in the pole  
2 replacement project, the immediate area includes extensive evidence of other vehicle use. The  
3 area includes tracks made by recreational users of all-terrain vehicles, off-road vehicles, dune  
4 buggies, and tanks during World War II. There is also evidence of earth removal equipment and  
5 a bobcat used by a thief who stole some of the wooden poles during the pole replacement project.

6 The purpose of this trial is two part: (1) to determine the scope of impact to cultural  
7 resources; and (2) whether the United States is liable for those alleged impacts. During the  
8 summary judgment briefing, the United States admitted liability for certain impacts outside of its  
9 right-of-way as to four sites identified in the URS report. The United States does not dispute  
10 those impacts to which it has admitted.<sup>1</sup> Plaintiff, however, alleges that Western caused  
11 additional impacts within those four sites and within additional sites, and that the United States is  
12 liable for impacts within its right-of-way.

13 In determining scope of impact, the United States will rely on its expert archaeologist  
14 Christopher D. Dore, Ph.D., RAPA.<sup>2</sup> In particular, Dr. Dore will demonstrate that certain  
15 impacts that the Tribe is attributing to Western’s pole replacement project appear in aerial  
16 photographs taken in 1997 and thus pre-existed the pole replacement project. The United States  
17 will also rely on the testimony of historian Matt Bischoff, FBI tire expert Eric Gilkerson, and  
18 witnesses involved in the pole replacement project. (*See* Witness List *infra*.)

19 Plaintiff will rely on its expert archaeologist James Cleland who first went to the sites in  
20 2003, approximately four years after the pole replacement project, and tire expert William  
21 Bodziak who first went to the sites in 2009, approximately a decade after the pole replacement  
22 project. Plaintiff, of course, bears the burden of proving that additional impacts found by its  
23 experts many years after the pole replacement project are attributable to Western pole  
24 replacement activity in 1998 to 1999.

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25 <sup>1</sup> The Court found liability against the United States based on these admissions. *See Quechan*  
26 *Indian Tribe v. United States*, 535 F. Supp. 2d 1072, 1120, 1122 (S.D. Cal. 2008) (the “Order”).  
27 The United States reserves all rights for appeal.

28 <sup>2</sup> The Tribe’s attempt to exclude the testimony of Dr. Dore and the United States’ historian, Matt  
Bischoff, was rejected by the Court on September 6, 2011. (Dk. No. 279.)

1 Plaintiff contends that the United States is liable for impacts within its right-of-way.  
2 Under the FTCA, however, the Court does not have subject matter jurisdiction against the United  
3 States as to damage within the right-of-way, which the Court ruled the United States owned in  
4 fee simple absolute. (Order at 1101.) The FTCA jurisdictional provision, 28 U.S.C.  
5 § 1346(b)(1), limits the district courts' jurisdiction to claims "for loss of property, or personal  
6 injury or death . . . ." See *Idaho v. U.S. Dept. of Army*, 666 F.2d 444, 446 (9<sup>th</sup> Cir. 1982);  
7 *California v. U.S.*, 307 F.2d 941, 944 (9<sup>th</sup> Cir. 1962); *Charles Burton Builders, Inc. v. U.S.*, 789  
8 F. Supp. 160, 162-63 (D. Md. 1991). Because the United States owns the right-of-way in fee  
9 simple absolute, there can be no jurisdiction against the United States under the FTCA for  
10 alleged injury to its own land. In other words, plaintiff cannot recover for alleged injury to the  
11 United States' lands because it is not a "loss of [its] property."<sup>3</sup>

12 For organizational purposes, the United States will address the sites by number, and  
13 discuss the impacts at issue within the sites, starting first with the sites the Court discussed in its  
14 order on the parties' summary judgment motions, and concluding with the sites that have been  
15 deemed ineligible for listing on the National Register of Historic Places. The right-of-way  
16 discussions are found with the discussions of each site.

17 **Sites 7140, 7147, 7138 and 689**

18 The Court has ruled that plaintiff is entitled to judgment on the claim of negligence as to  
19 sites 7140, 7147, 7138 and 689. (Order at 1120.) The Court based its ruling on the United  
20 States' admission of liability as to impacts outside the right-of-way; the ruling, therefore, is  
21 limited to impacts outside of the right-of-way. The Tribe, however, alleges the United States is  
22 liable for impacts within the right-of-way and that the United States caused greater impacts to  
23 these sites than to what the United States has admitted.

24  
25  
26 <sup>3</sup> The Court denied the United States' motion to dismiss for lack of subject matter jurisdiction  
27 claims pertaining to the fee simple land. (Dk. No. 261.) The Court, however, ruled that while  
28 "Plaintiff need only allege property damage to survive the motion to dismiss," "Plaintiff is  
[ultimately] required to prove the actions within the right-of-ways lands injured its property to  
prevail on its claims." (*Id.* at fn. 1.) Subject matter jurisdiction, of course, cannot be waived,  
and may be raised at any time. Fed. R. Civ. P. 12(h)(3).

1            **Site 7140**

2            Site 7410 contains a sparse lithic scatter with two cleared circles. “Cleared circles” are  
3 descriptive of what they are. They are a clearing of rocks and stones in the shape of a circle in  
4 the desert pavement. The cleared circles at site 7140 are approximately six to seven feet in  
5 diameter. A “lithic scatter” is a concentration of chipped stone believed to be the remnants from  
6 stone tool manufacture.

7            ***Documented Timeline for Site 7140:***

- 8            • Pre-1994: Impact noted from transmission line construction, access road construction,  
9 and line or road maintenance.
- 10           • Pre-1997: Impact occurred around tower. Two-track access runs down ridge top but is  
11 not visible in some sections. Vehicle track impacts occurred in areas east of the tower  
12 and at the north end of the site. Cleared circles do not appear to be impacted.
- 13           • 1997-1999: Impact from tracks to the site surface, impacts to cleared circles occurs.
- 14           • 1999-2003: No documented evidence of additional impacts.

15           ***Relationship of Impacts to the Right-of-Way for Site 7140:***

- 16           • Pre-1997: Site impacts visible in the 1997 aerial photograph fall both inside and outside  
17 of the right-of-way.
- 18           • 1997-2001: Site impacts reported in the URS report, including impact to the cleared  
19 circles, fall within the right-of-way with the exception of areas in the south and northwest  
20 portions of the site.
- 21           • Post-2003: Impacts sketched by plaintiff’s archaeological expert Dr. Cleland of “multiple  
22 tracks” fall predominantly outside of the right-of-way. A small segment, the eastern  
23 edge, falls within the right-of-way.
- 24           • Post-2003: GPS-measured position of “vehicle disturbance” mapped by Cleland falls  
25 outside the right-of-way.

26           **Site 7147**

27           Site 7147 contains a lithic scatter with one flaking station, one cleared circle and three  
28 potential cleared circles. A flaking station is a lithic scatter (a concentration of chipped stone)  
but implies a singular event, i.e., there is a concentration of a single type of stone.

1                    ***Documented Timeline for Site 7147:***

- 2                    • Pre-1994: Impact reported north and south of the road from construction, recreational  
3                    vehicle use, law enforcement, levee construction, and collecting. Track impact adjacent  
4                    to a cleared circle and potential cleared circle.
- 5                    • Pre-1997: Impact north and south of the road along the desert pavement ridge by vehicles  
6                    and possible other activities. Impacts may have occurred prior to 1994.
- 7                    • Pre-2001: Photographic evidence cannot confirm any additional impacts outside  
8                    previously disturbed areas. “Three-point” turns could have been created at any time after  
9                    1997.
- 10                   • Pre-2003: “Three-point” turns documented as new impacts outside previously noted  
11                   disturbance areas.

12                   ***Relationship of Impacts to the Right-of-Way for Site 7147:***

- 13                   • Pre-1995: Site impacts recorded by WCRM along the edges of the access road fall  
14                   entirely within the right-of-way.
- 15                   • Pre-1997: Site impacts visible in the 1997 aerial photograph fall both inside and outside  
16                   the right-of-way.
- 17                   • Pre-2001: Site impacts recorded by URS fall entirely within the right-of-way.
- 18                   • Post-2003: Site impact “tire tracks” sketched by Cleland fall both within and outside the  
19                   right-of-way. Note, however, that mapping error prevents the exact placement of these  
20                   impacts in relationship to the right-of-way.
- 21                   • Post-2003: Site impact GPS points of “tire tracks” fall exclusively outside the right-of-  
22                   way.

23                   **Site 7138**

24                   ***Documented Timeline for Site 7138:***

25                   Site 7138 contains a sparse lithic scatter and two cleared circles and four flaking stations.

- 26                   • Pre-1994: Impact noted from transmission line and access road construction and  
27                   maintenance and from recreational vehicles in the southern part of the site.
- 28                   • Pre-1997: Spatially extensive impacts from vehicles have occurred in most parts of the  
site. A cleared circle has been impacted. Ditch impact visible. Access road continues  
through site to the south. A cleared circle is in an undisturbed area. Vehicle tracks have

1 impacted the “problematic area.” Vehicle tracks have occurred in the area north of the  
2 tower.

- 3 • 1997-2003: Possible additional impact from vehicles in the “problematic area.” Blade  
4 cut northwest of tower occurs. Pole drag impact and tracks east of the tower occurs.  
5 Impact in the “vehicle disturbance extension” occurs.

6 ***Relationship of Impacts to the Right-of-Way for Site 7138:***

- 7 • Pre-1997: Site impacts visible in the 1997 aerial photograph fall both inside and outside  
8 the right-of-way.
- 9 • Pre-1999: Site impacts reported in URS report fall within the right-of-way, with the  
10 exception of the “problematic area” that extends beyond the transmission line right-of-  
11 way to the south.
- 12 • Post-2003: Impacts mapped by Cleland fall both within and outside the right-of-way.  
13 The “pole drag” occurs within the transmission line right-of-way. With the exception of  
14 its southern edge, the “blade cut” also falls within the transmission line right-of-way.  
15 Areas of impact beyond the transmission line right-of-way occur on both the north and  
16 south sides.

17 **Site 689**

18 Site 689 contains a low density lithic scatter with one flaking station located on a series  
19 of heavily eroded dunes. Few artifacts exist within the area. In addition, this site is very sandy  
20 and subject to erosion. Plaintiff’s expert admits that some impacts he documented in 2003 are no  
21 longer visible.

22 ***Documented Timeline for Site 689:***

- 23 • Pre-1974: Impact reported from off-road vehicles.
- 24 • Pre-1997: Impacts from vehicles at the center tower. Impacts identified by Cleland west  
25 of the tower access road.
- 26 • 1997-2001: Impacts documented in URS report at the eastern and western towers.
- 27 • 2001-2003: Impact area documented by Cleland at the eastern tower. Impact north of the  
28 center tower as documented by Cleland.

***Relationship of Impacts to the Right-of-Way for Site 689:***

- Pre-1997: Site impacts visible in the 1997 aerial photograph fall within the right-of-way.

- 1 • Pre-2001: Site impacts in the URS report fall within the right-of-way with the exception  
2 of a small portion that appears to extend to the north of the transmission line right-of-way  
3 at the western tower.
- 4 • Post-2003: Impacts mapped by Cleland fall within the right-of-way, with the exception of  
5 one GPS point at the central tower. This point falls approximately 4.5 meters north of the  
6 transmission line right-of-way.

### 7 **Sites 7141 and 7143**

8 The Court ruled that Plaintiff has failed to “carry its burden as to sites 7141 and 7143”  
9 and was not entitled to summary judgment. (Order at 1120.) The United States does not admit  
10 that it is liable for any alleged impacts to these sites.

### 11 **Site 7141**

12 Site 7141 contains a moderately dense lithic scatter, cleared circles, cobble clusters, and  
13 14 flaking stations. A “cobble cluster” refers to the presence of stacked river-worn cobbles.

### 14 ***Documented Timeline for Site 7141:***

- 15 • Pre-1994: Impacts noted from tower and access road construction and maintenance. Off-  
16 road vehicle impact throughout the western part of the site and along the terrace top. A  
17 cleared circle is impacted. Impacts generally corresponding to Cleland’s Disturbance E  
18 (tracked or rubber tired vehicles).
- 19 • Pre-1997: Spatially extensive impacts from vehicles in the eastern and western parts of  
20 the site. Track impact has occurred in areas identified by Cleland as Disturbances D  
21 (tracked vehicle), E (tracked or rubber tired vehicles), and F (tracked vehicle). Two  
22 cleared circles have been impacted by vehicle tracks.
- 23 • 1997-2001: No new areas of additional impact documented.
- 24 • 2001-2003: Disturbance C (tracked vehicle) occurs.

### 25 ***Relationship of Impacts to the Right-of-Way for Site 7141:***

- 26 • Pre-1995: Site impacts mapped in WCRM report fall outside the right-of-ways.
- 27 • Pre-2001: Site impacts recorded by URS fall within the right-of-way.
- 28 • Post-2003: The GPS-mapped points for impacted areas mapped by Cleland fall both  
inside and outside the right-of-way.
- Post-2003: Impacts mapped by Cleland fall both within and outside the right-of-way.



1                    **Site 7143**

2                    Site 7143 contains a sparse lithic scatter with seven flaking stations, and four cleared  
3 circles.

4                    ***Documented Timeline for Site 7143:***

- 5                    • Pre-1994: Impact reported around the tower and from vehicles particularly in the northern  
6 portion of the site.
- 7                    • Pre-1997: Spatially extensive impacts from vehicles and other sources throughout the site  
8 area. This includes areas identified by Cleland as Area A, Area B, Area C, and the “main  
9 disturbance area” and recorded using GPS data. Additionally, the track GPS-measured  
10 by Cleland and attributed as the “outside track turn” and photographed was made prior to  
11 1997. A cleared circle is shown to have been impacted prior to 1997.
- 12                    • 1997-2003: No new areas of additional impact documented.

13                    ***Relationship of Impacts to the Right-of-Way for Site 7143:***

- 14                    • Pre-1995: Site impacts mapped by WCRM fall outside the right-of-way.
- 15                    • Pre-1997: Site impacts visible in the 1997 aerial photograph fall both inside and outside  
16 the right-of-way.
- 17                    • Pre-2001: Site impacts recorded by URS fall within the right-of-way.
- 18                    • Post-2003: The GPS-mapped points for impacted areas mapped by Cleland fall both  
19 inside and outside the right.

20                    **Site 7142**

21                    The Court did not address site 7142 in its Order. Site 7142 contains a sparse lithic scatter  
22 with four flaking stations, two cleared circles, one trail segment and three cobble clusters. A  
23 “trail segment” is segment of a prehistoric trail.

24                    ***Documented Timeline for Site 7142:***

- 25                    • Pre-1994: Impacts noted from the access road and from off-road recreational vehicles.
- 26                    • Pre-1997: Spatially extensive impacts from vehicles visible in most parts of the site. A  
27 cleared circle has vehicle track damage.
- 28                    • 1997-2003: Vehicle impact noted as Disturbance A, B, and D occurred.

1           ***Relationship of Impacts to the Right-of-Way for Site 7142:***

- 2           • Pre-1997: Site impacts visible in the 1997 aerial photograph fall both inside and outside  
3           the access road right-of-way.
- 4           • Post-2003: The impact lines and site impact GPS points mapped by Cleland fall both  
5           within and outside the access road right-of-way.

6           **INELIGIBLE SITES**

7           Plaintiff also seeks to recover for impacts to the following four sites that are ineligible for  
8           listing on the National Register of Historic Places.

9           **Site 7144**

10           Site 7144 contains sparse lithic scatters and three flaking stations. The WCRM report  
11           recommended that the site be considered ineligible for inclusion in the National Registry of  
12           Historic Places because field documentation on the field had been exhausted. Moreover, this  
13           type of site is common along the terraces of the lower Colorado River and can provide little new  
14           information regarding lithic technology and prehistoric lifeways.

15           ***Documented Timeline for Site 7144:***

- 16           • Pre-1994: Grading, bulldozing, and vehicle impacts are reported over the central and  
17           western portions of the site.
- 18           • Pre-1997: Most areas of the site have been impacted. Flaking Station 1 is impacted.
- 19           • 1997-2003: Area immediately south of the tower is impacted. Flaking Station 3 is  
20           impacted. Tracks defined by Cleland's GPS-measured points occur.

21           ***Relationship of Impacts to the Right-of-Way for Site 7144:***

- 22           • Pre-1995: Site impacts mapped by WCRM fall both inside and outside the right-of-way.
- 23           • Pre-1997: Site impacts visible in the 1997 aerial photograph fall both inside and outside  
24           the right-of-way.
- 25           • Post-2003: Site impact GPS points mapped by Cleland fall both within and outside the  
26           right-of-way.
- 27
- 28

1                    **Site 7151**

2                    Site 7151 contains a lithic scatter with one flaking station and two cleared circles. The  
3 WCRM report recommended that this site be considered ineligible for inclusion in the National  
4 Registry of Historic Places and further archaeological management was unwarranted because of  
5 the limited nature of the site assemblage and the large amount of disturbance to the site.

6                    ***Documented Timeline for Site 7151:***

- 7                    • Pre-1994: Impacts have occurred from tower placement and access road construction and  
8 maintenance.
- 9                    • Pre-1997: Vehicle track and additional linear impacts have occurred in the central and  
10 northern portions of the site. Impacts, likely from vehicles, have occurred in areas on  
11 both the north and south sides of the road.
- 12                    • 1997-2003: Impacts extend beyond pre-1997 areas.

13                    ***Relationship of Impacts to the Right-of-Way for Site 7151:***

- 14                    • Post-2003: The site impact GPS points mapped by Cleland fall within the right-of-way on  
15 the south side of the road and within and outside the right-of-way on the north side of the  
16 road.

17                    **Site 7152**

18                    Site 7152 contains a circular-shaped lithic scatter with a flaking station and a possible  
19 cleared circle. The WCRM report could not determine if the circle was prehistoric, historic, or  
20 modern. The WCRM recommended that this site be considered ineligible for inclusion in the  
21 National Registry of Historic Places and further archaeological management was unwarranted  
22 because of the indeterminate nature of the cleared circle, the moderate-sized assemblage, and the  
23 lack of tools or varnish suggesting that the site can contribute little new information regarding  
24 lithic technology or prehistoric behavior.

25                    ***Documented Timeline for Site 7152:***

- 26                    • Pre-1994: Impacts have occurred from access road construction and maintenance.
- 27                    • Pre-1997: Access road has been improved.
- 28                    • 1997-2003: Vehicle impacts to the northern half of the site, including the destruction of  
the artifact concentration.

1           ***Relationship of Impacts to the Right-of-Way for Site 7152:***

- 2           • Post-2003: The site impact GPS points mapped by Cleland fall both within and outside  
3           the right-of-way.

4           **Site 7153**

5           Site 7153 contains a lithic scatter with two flaking stations and a cleared circle. The  
6           WCRM recommended that this site be considered ineligible for inclusion in the National  
7           Registry of Historic Places and further archaeological management was unwarranted because  
8           this type of site is common along the lower Colorado River region and can provide little new  
9           information regarding lithic technology or prehistoric lifeways.

10           ***Documented Timeline for Site 7153:***

- 11           • Pre-1994: Impacts have occurred from access road construction and maintenance.  
12           • Pre-1997: Access road has been improved.  
13           • 1997-2003: Vehicle impacts to the northern half of the site, including the destruction of  
14           the artifact concentration.

15           ***Relationship of Impacts to the Right-of-Way for Site 7153:***

- 16           • Post-2003: The site impact GPS points mapped by Cleland fall both within and outside  
17           the right-of-way.

18           **The United States' Affirmative Defenses**

19           CivLR 16.3.a. requires the defendant to “set forth any acts of comparative or contributory  
20           negligence claimed in addition to any other defense he intends to interpose.” The United States  
21           contends that the Tribe is comparatively negligent to the extent that it has permitted other  
22           damage to cultural or archaeological resources at the subject sites, and that persons and entities  
23           other than Western have, over time, damaged cultural resources and that the plaintiff incorrectly  
24           blames Western for such damage.

25           The Court does not have subject matter jurisdiction over the United States under the  
26           FTCA as to damage within the right-of-way, which the United States owns in fee simple  
27           absolute. (Order at 1101.) 28 U.S.C. § 1346(b)(1); *see also Idaho v. U.S. Dept. of Army*, 666  
28           F.2d 444, 446 (9<sup>th</sup> Cir. 1982); *California v. U.S.*, 307 F.2d 941, 944 (9<sup>th</sup> Cir. 1962); *Charles*

1 *Burton Builders, Inc. v. U.S.*, 789 F. Supp. 160, 162-63 (D. Md. 1991). Because the United  
 2 States owns the right-of-way in fee simple absolute, there can be no jurisdiction against the  
 3 United States under the FTCA for alleged injury to its own land.

4 **CivLR 16.2.b. Abandoned Issues**

5 The United States has not abandoned any claims or defenses.

6 **CivLR 16.2.c. Exhibits**

7 Case Title: *Quechan Indian Tribe v. United States*

Case No. 02cv1096-JAH (MDD)

8 List of Defendant's Exhibits<sup>4</sup>

No.	Date Marked	Date Admitted	Description
A			Dr. Christopher D. Dore's <i>Expert Witness Report on the Mapping of Impacts to Archaeological Sites on the Gila-Knob 161-kV Transmission Line, Imperial County, California</i> (including Dr. Dore's Resume), July 2009
B			Dr. Dore's Site Specific Excerpt re Site CA-IMP-7147
C			Dr. Dore's Site Specific Excerpt re Site CA-IMP-7140
D			Dr. Dore's Site Specific Excerpt re Site CA-IMP-7138
E			Dr. Dore's Site Specific Excerpt re Site CA-IMP-7142
F			Dr. Dore's Site Specific Excerpt re Site CA-IMP-7141
G			Dr. Dore's Site Specific Excerpt re Site CA-IMP-7143
H			Dr. Dore's Site Specific Excerpt re Site CA-IMP-7144
I			Dr. Dore's Site Specific Excerpt re Site CA-IMP-689
J			Dr. Dore's Site Specific Excerpt re Site CA-IMP-7153
K			Dr. Dore's Site Specific Excerpt re Site CA-IMP-7152
L			Dr. Dore's Site Specific Excerpt re Site CA-IMP-7151
M			Disk containing Arch Reader Application (Software)
N			Disk containing Arch Reader Data
O			Large Base Map with Site Boundaries (Arch Reader printout)
P			Matt C. Bischoff's <i>Nature, Extent and Intensity of Military Activities in the Vicinity of Camp Pilot Knob, California</i> , July 2009
Q			Matt C. Bischoff's December 2009 <i>addendum to Nature, Extent and Intensity of Military Activities in the Vicinity of Camp Pilot Knob, California</i>
R			Mr. Bischoff's Resume, November 2011

28 <sup>4</sup> The United States reserves its right to use deposition transcripts and plaintiff's written responses to discovery without listing such discovery documents as exhibits.

No.	Date Marked	Date Admitted	Description
S			Bischoff, Matt C., <i>The Desert Training Center / California-Arizona Maneuver Area, 1942-1944, Historical and Archaeological Contexts</i> , Statistical Research, Inc., 1999
T			Prose & Wilshire [USGS]'s, <i>The Lasting Effects of Tank Maneuvers on Desert Soils and Intershrub Flora</i> , 2000
U			Eric Gilkerson's <i>FBI Laboratory Report of Examination</i> , August 29, 2009
V			J. L. Moreno, et al. [WCRM]'s <i>Intensive Cultural Resource Inventory For The Western Area Power Administration Gila Knob 161 KV Transmission Line</i> , April 19, 1995
W			Western Area Power Administration Environmental Lessons learned Investigation, April 28, 1999
X			Western Area Power Administration Letter to Chairperson, Cultural Committee, Quechan Tribe, March 19, 1999
Y			D.E. Doyel & K.A. Ryan [URS]'s Documentation of Activities Along the Gila-Knob 161 kV Transmission Line Rehabilitation Project, June 2001
Z			Video Deposition of Lorey Cachora
AA			Amended Notice of Taking Deposition of Plaintiff Quechan Indian Tribe [Fed. R. Civ. P. 30(b)(6)]
AB			Second Amended Notice of Taking Deposition of Plaintiff Quechan Indian Tribe [Fed. R. Civ. P. 30(b)(6)]

**CivLR 16.2.d. Witnesses**

1. Christopher Dore, Ph.D., RPA
2. Matt Bischoff
3. Eric Gilkerson
4. Mark DePoe
5. Thomas Plummer
6. Ken Mathias
7. John Holt
8. Mary Barger
9. Edward Harris
10. Lorey Cachora
11. Mike Jackson

1 12. Pauline Jose

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3 Dated: November 14, 2011.

4 ANDRÉ BIROTTE JR.  
5 United States Attorney  
6 LEON W. WEIDMAN  
7 Assistant United States Attorney  
8 Chief, Civil Division

9 */s/ Chung H. Han*

10 Thomas K. Buck / Chung H. Han  
11 Assistant United States Attorneys

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Attorneys for Defendant  
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