



GO-Biz Clean Energy Permitting Toolkit

Permitting on Tribal Lands

This resource is part of the 2025 Clean Energy Permitting Playbook, which offers guidance and tools to help accelerate clean energy projects in California. Visit the GO- Biz Clean Energy Permitting website for the full Playbook and Toolkit.



Permitting on Tribal Lands

Introduction

Permitting Tribal lands differs based on land type and status, the processes of the individual tribal government, and required coordination with federal agencies. This chapter overviews clean energy permitting on tribal lands and summarizes takeaways from the GO-Biz Clean Energy Permitting Initiative project outreach.

Clean Energy Development on Tribal Lands To Date

Clean energy development on tribal lands has historically been limited but has grown in the last decade. Most projects on tribal lands to date have been small or community-scale, focused on providing resiliency or powering tribal facilities rather than utility-scale projects. These initial projects have often grown to encompass more parts of the community or add additional clean technologies.

Solar and storage projects represent the majority of clean energy development on Tribal lands, with additional microgrid, bioenergy, and wind installations. The table below, while not comprehensive, provides an overview of various clean energy projects completed or near completion on tribal lands.

Table 1. Summary of renewable projects on tribal lands in California.

Tribe / Entity & Clean Energy Project	Technology Type	Size or Capacity	Operational Status	Source
1. Campo Kumeyaay Nation Wind project	Onshore Wind	~50 MW	Operational in 2005	American Indian Magazine
2. Federated Graton Rancheria GREEN (Graton Energy Efficiency Network) Solar Project	Rooftop Solar PV	~1.5 MW	Operational in 2022	LandGate
3. Karuk Tribe Community-Scale Solar + Storage Deployment	Solar PV + Battery Storage	~947 kW + Elder Home systems	Operational in 2023	DOE Office of Indian Energy
4. Middletown Rancheria Carport and Rooftop Solar	Solar PV Carports and Rooftops	Several MW	Under Development as of 2024	California Energy Commission
5. Blue Lake Rancheria Low-Carbon Community Microgrid	Microgrid (Solar PV + Battery Storage)	~420 kW + ~1 MWh	Operational in 2017	WIRED
6. Chemehuevi Tribe Microgrid and Solar	Rooftop Solar PV + Battery Storage	~90 kW + ~91 kWh	Operational in 2020	CEC Tribal Microgrids Program
7. Rincon Band of Luiseño Indians Microgrids	Solar PV + Flow Battery Storage	2 MW + ~4 MWh	Operational in 2025	CEC Tribal Microgrids Program
8. Soboba Band of Luiseño Indians Microgrid	Ground + Rooftop Solar PV + Long-Duration Battery	50 kW + ~0.5 MWh	Portions Operational in 2018	CEC Tribal Microgrids Program

Table 1. Summary of renewable projects on tribal lands in California (continued).

Tribe / Entity & Clean Energy Project	Technology Type	Size or Capacity	Operational Status	Source
9. Viejas Tribe of Kumeyaay Indians Microgrid	Solar PV carport + Storage + EV Charging	15 MW + 60 MWh + flywheel unit	Portions Operational in 2024	CEC Tribal Microgrids Program
10. Paskenta Band of Nomlaki Indians Microgrid	Microgrid (Solar PV + Battery Storage)	5 MW + 15 MWh	Planned Operational in 2025	CEC Tribal Microgrids Program
11. Barona Band of Mission Indians Microgrid	Solar PV + Battery Microgrid	1.5 MW / 6.6 MWh	In Deployment Phase (pre-Operational)	CEC Tribal Microgrids Program
12. Pinoleville Pomo Nation Rooftop Solar and Microgrid	Solar PV + Bioenergy	~42 kW + 200 kW bioenergy	Portions Operational in 2019	Humboldt State CCRP
13. Guidiville Indian Rancheria Solar-Hydrogen Microgrid	Ground mounted Solar PV + hydrogen production + storage	MW scale + hydrogen system	Planned Operational in 2025	Colusa Indian Energy

Tribal Recognition Status and Trusts

Tribal entities are recognized through different forms of legal and political acknowledgement at the federal, state, or other levels. This recognition determines the sovereign status, rights to self-govern, and eligibility for government services. This recognition also impacts the permitting process. The three main categories - federally recognized, state recognized, and tribes seeking recognition (unrecognized) - are described below.

Federally Recognized Tribes

Federally recognized tribes have a formal government-to-government relationship with the U.S. federal government and are acknowledged through treaties, legislation, administrative recognition, or court decisions. The recognition is granted and maintained by the U.S. Department of the Interior (DOI) Bureau of Indian Affairs (BIA). Federally recognized tribes are eligible for federal funding, programs, and services through agencies such as BIA and Indian Health Services (IHS).¹

Three federal entities play central roles in clean energy development with federally recognized tribes: BIA, Department of Energy (DOE) Office

of Indian Energy, and Environmental Protection Agency (EPA) Region 9 Tribal Program. There are currently 109 federally recognized tribes in California.

State Recognized Tribes

State recognized tribes have been formally recognized by individual U.S. states, but not by the federal government. The recognition is granted by state legislatures, governors, or commissions. California does not have a formal process for state recognition of tribes and therefore does not have state recognized tribes.

Tribes Seeking Recognition (Unrecognized Tribes)

Tribes seeking recognition, also referred to as unrecognized tribes, are tribal entities that were either historically tribal entities but never received formal recognition, or lost federal or state recognition due to issues with treaties, land-termination policies, or lack of documentation. Tribes seeking recognition lack sovereign rights and are not eligible for federal programs or protections. There are approximately 80 tribes seeking recognition located in California.

¹ <https://www.congress.gov/crs-product/R47414#:~:text=A%20federally%20recognized%20Tribe%20is,and%20powers%20of%20self%2Dgovernment.>

Figure 1. California Tribal Lands and County Boundaries - a [2011 US Environmental Protection Agency map](#) depicting the tribal land and county boundaries of ~80 federally recognized tribes (reprinted from the EPA)



Land Types and Legal Status

The type of land - whether held in federal trust, reservation or fee status – also impacts the permitting process and determines whether tribal, federal, state, or local authorities have jurisdiction. The land types are as follows:

- **Trust Land** – Title is held by the U.S. government for a tribe or its members. Most land-use changes (leases, easements, rights-of-way) require BIA and tribal government approval.
- **Fee Land** – Owned outright by the tribe or its members. Development is generally subject to state and local permitting, since tribal sovereign authority over land-use decisions does not extend to fee lands.

- **Allotted Land** – Parcels held in trust by the U.S. for individual Tribal members. Development requires consent from the landowners and approval from BIA. Because ownership of allotted lands may be multi-ownership/ fractionated, securing the necessary permissions may be more complex.

The table summarizes permitting considerations based on recognition status and land type, as an initial framework to understand regulatory bodies, cultural and ecological protection laws, and government-to-government consultation requirements, with further discussion after.

Table 2. Overview of Renewable Permitting Process on Tribal Lands based on Tribal Recognition and Land Types.

Tribal Recognition Status	Federally Recognized	Federally Recognized	Tribes Seeking Recognition (Unrecognized)	Tribes Seeking Recognition (Unrecognized)
Land Type	Non-Trust	Trust	Non-Trust	Allotted Lands
1. Consultation Required?	Yes – Consultation required under federal laws if there is a federal nexus ¹ . Otherwise, no formal consultation obligation under state/ local law. Tribes may participate as public commenters.	Yes – Government-to-government consultation required under federal laws such as NEPA (if federal nexus), National Historic Preservation Act (NHPA) Section 106, and other applicable statutes. Under NHPA, Tribal Historic Preservation Officer (THPO) (if established) or State Historic Preservation Officer (SHPO) involvement for historic resources.	No – No formal consultation rights under NEPA or CEQA. Tribes may participate as public commenters during environmental review.	Possibly – If the land is an individual trust allotment, federal agencies may consult with the allottee or tribe-like community, but there is no formal government-to-government consultation under federal law until recognition.

¹ Federal nexus refers to federal involvement (federal funding, federal permit, or approval)

Table 2. Overview of Renewable Permitting Process on Tribal Lands based on Tribal Recognition and Land Types (continued).

Tribal Recognition Status	Federally Recognized	Federally Recognized	Tribes Seeking Recognition (Unrecognized)	Tribes Seeking Recognition (Unrecognized)
2. Environmental Review Process	CEQA or other state/local environmental review. NEPA only if there is a federal nexus.	NEPA (if federal action) and any applicable tribal environmental review process. Not subject to CEQA or state/local permitting unless there is a voluntary agreement or specific state/federal nexus requiring it (such as with state or federal funding).	CEQA or other state/local environmental review applies. NEPA applies only if there is a federal nexus.	NEPA may apply if federal approval or funding is involved. Not generally subject to CEQA unless state/local jurisdiction applies (e.g., if project scope includes non-allotted portions).
3. Key Permitting Authority	State or local permitting agencies; federal agency involvement only if there is a federal nexus.	Bureau of Indian Affairs (BIA) or other relevant federal agencies; Tribal Government is in charge of providing approval for conditional use permits as part of the BIA led process.	State or local permitting agencies; federal involvement only if there is a federal nexus.	BIA or relevant federal agency if allotment is still in trust; otherwise state/local agencies.

Consultations

Under both federal and California state law, agencies must consult with federally recognized tribes when projects may affect culturally significant lands or resources, described below.

For projects sited on federal or trust lands, the National Historic Preservation Act (NHPA) requires federal agencies to consult with any tribe that attaches religious and/or cultural significance to potentially affected areas, even if the areas are outside tribal lands. NHPA, along with the American Indian Religious Freedom Act (AIRFA), Federal Land Policy and Management Act (FLPMA) provide guidelines for government-to-government consultation for any federal agency that plans to carry out activities that could impact tribal lands, or cultural, and/or natural resources.

For projects on non-federal or non-trust lands, California's Assembly Bill (AB) 52, enacted in 2014 (Gatto, 2014), requires CEQA lead agencies (state and local government agencies) to consult with federally and non-federally recognized tribes that are traditionally and culturally affiliated with the project area. Tribes must request to be included in the agency notification list to be eligible for consultations.

Consultation is the formal, government-to-government process where federal, state, or local agencies directly engage with tribes to identify and address potential impacts of a project on tribal rights, lands, resources, or cultural heritage. It is required because tribes are sovereign nations and their perspectives must be considered in renewable energy permitting. Consultation extends beyond notification and is intended as meaningful dialogue to share information, understand concerns, and

work to avoid or mitigate impacts. Under CEQA, state and local lead agencies must comply with consultation requirements; inadequate consultation can result in litigation or opposition. Some counties, like San Diego and Riverside, have adopted explicit tribal consultation policies to address consultation requirements.

Although federal agencies are not legally required to consult with unrecognized tribes (even if they have long-standing cultural connections to the land) many agencies – such as Bureau of Land Management (BLM), and DOE – voluntarily engage with these tribes to avoid public opposition and align with equity goals.

Some tribes maintain their own Tribal Historic Preservation Officers (THPOs), who must be consulted in addition to, or in place of the State Historic Preservation Officer (SHPO). The SHPO is a state appointed official that carries out the NHPA responsibilities at the state level, which typically informs and feeds into the NEPA process. In instances where a federally recognized tribe does not have a THPO, the SHPO performs the NHPA Section 106 review for historic properties on that tribe's lands, while the tribe remains a separate consulting party in the process.

Environmental Review

The environmental review process for a renewable energy project requiring a discretionary use permit depends on whether the project site is located on trust land.

Environmental Review on Non-Trust Tribal Land

Projects sited on non-trust land owned by a federally recognized tribe or tribe seeking recognition are subject to CEQA similar to projects on non-tribal lands. Any impacts to culturally significant resources should be identified and addressed in Environmental Impact Reports (EIR) including mitigation measures or project alternatives.

Tribes cannot issue permits under CEQA; clean energy projects on tribal lands may have the local agency as the lead agency for CEQA. Tribes can still participate in the CEQA process through formal comments or cultural objections during environmental review.

Environmental Review on Trust Tribal Land

Development on trust lands (on either federally recognized tribal land or allotted land of tribes seeking recognition) is subject to the NEPA process (not CEQA) as the federal government has primary jurisdiction. In these instances of development on trust lands, BIA is the primary authority. These projects require permit approval from the BIA and the tribal government.

In the event that state or local governments participate in development on tribal trust lands – such as inclusion of state funds (e.g., CEC grants) or interconnection with state-regulated utilities – the CEQA process may also be triggered and with implications on project timelines.

Tribal Treaty Rights and Environmental Justice

Federally recognized tribes may assert treaty-based rights to natural resources, water, or land access that affect project siting and design. These requirements can differ from, or add to, state and local regulations. Additionally, certain federal executive orders may prompt increased federal scrutiny for projects impacting tribal lands or resources.

Additional Considerations for Permitting on Tribal Lands

Additional considerations for developing renewable energy resources on tribal lands are detailed below.

Cultural, Historical, and Ecological Land-Use

Cultural and Sacred Sites

Many tribal lands contain ancestral burial grounds, ceremonial sites or other sacred locations that are legally protected under federal law (e.g., NHPA Section 106). Even seemingly undeveloped lands may carry cultural significance, and renewable energy development in such areas may be strictly prohibited or highly constrained. Tribes often require projects to complete cultural resource surveys, led by tribal monitors, before they are considered.

Ecological Considerations

Tribal lands may include historical hunting grounds, old-growth forests, critical water sources, or endangered species habitats. Renewable projects must undergo environmental assessments, that are sometimes additional to any other state or local assessments, to avoid ecological disruptions.

Tribal Member Involvement and Tribal Ownership

Many tribes prioritize capacity-building and local employment for projects that are sited on their land. As such, they require project labor agreements that include tribal preference for hiring. In addition, some tribes have different stipulations on revenue participation, performance-based royalties, or project ownership. Some tribes require majority ownership in projects that are sited on their land, focusing on partnership or collaboration with developers, rather than solely leasing of the land.

While tribal government consent is essential and projects cannot proceed without it, tribal community members also influence whether a project advances through permitting. Therefore, developers may engage both tribal government and community members in consultation.

Right-of-way and Infrastructure Considerations

Projects requiring transmission access with Right of Way (ROW) over trust land also require separate BIA approval and potentially interconnection permits under CAISO or utility jurisdiction.

Considerations When Siting Near, Not On, Tribal Lands

Projects near but not directly on tribal lands, may still require comprehensive cultural resource studies and mitigation, depending on the nature of the interaction of the project with the tribe's cultural, natural, or historic resources and sites.



Kumeyaa Wind Project, Photo courtesy of Leeward Renewable Energy



Takeaways from Tribal Engagement Activities

As part of the Clean Energy Permitting Initiative, GO Biz conducted outreach to tribes through surveys and formal and informal consultations. Tribal engagement activities highlighted both interest and barriers to advancing clean energy projects. Building stronger trust and sustained engagement with tribes will be important for supporting California's clean energy goals.

The CEC also conducts the Informational Proceeding on Tribal Energy Sovereignty and Tribal Affairs as a formal process. This proceeding aims to revise policies and help develop new policies and best practices for issues like funding, energy development, and workforce development.

The following takeaways were noted from GO Biz tribal outreach:

Insights on Tribal Clean Energy Permitting

- Interest but uneven readiness: Tribes are interested in clean energy projects, but may be hesitant due to lack of land, resources, or "negative past experiences with renewable energy developers".
- Active partnership and sovereignty: Tribes expressed a desire for early engagement with developers, tribal ownership stakes in projects, and protection of cultural and sovereign rights.
- Approval processes are diverse: Timelines for approval of conditional use permits range from less than 3 months to 2 years. Delays and rejections are often tied to funding proof, credibility, and alignment with tribal priorities.

Barriers and Pathways Forward

- Capacity and resource gaps: Staffing, technical and legal expertise, funding, and permitting challenges limit the progress of clean energy projects on tribal lands.
- Guidance and support tools: Tribes expressed interest in toolkits, model ordinances, workflow systems, and person-to-person technical support as part of the GO Biz initiative.
- Developer best practices: Tribes desired developers aligned with their values, with adequate project funding, and without "aggressive tactics".
- Collaborative path forward: Tribes noted the combination of capacity-building and trust-based partnerships to action development projects.