

# Past vs. Future:

## The Growing Tension between Renewable Energy and Cultural Preservation



**PROFESSOR TROY A. RULE**

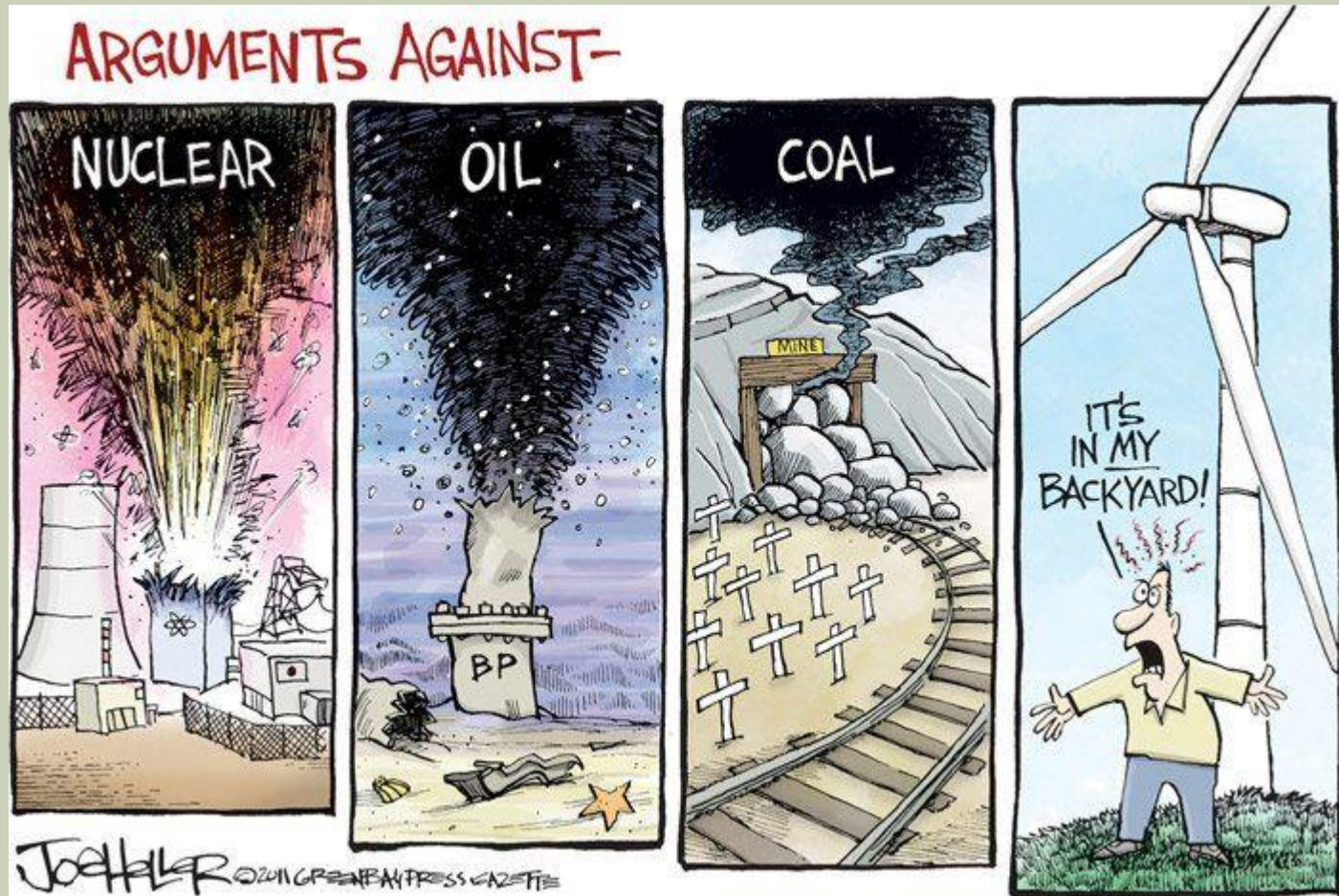
SANDRA DAY O'CONNOR COLLEGE OF LAW

**SUTTON COLLOQUIUM – UNIVERSITY OF DENVER**

October 10, 2015



# Costs of Energy Development

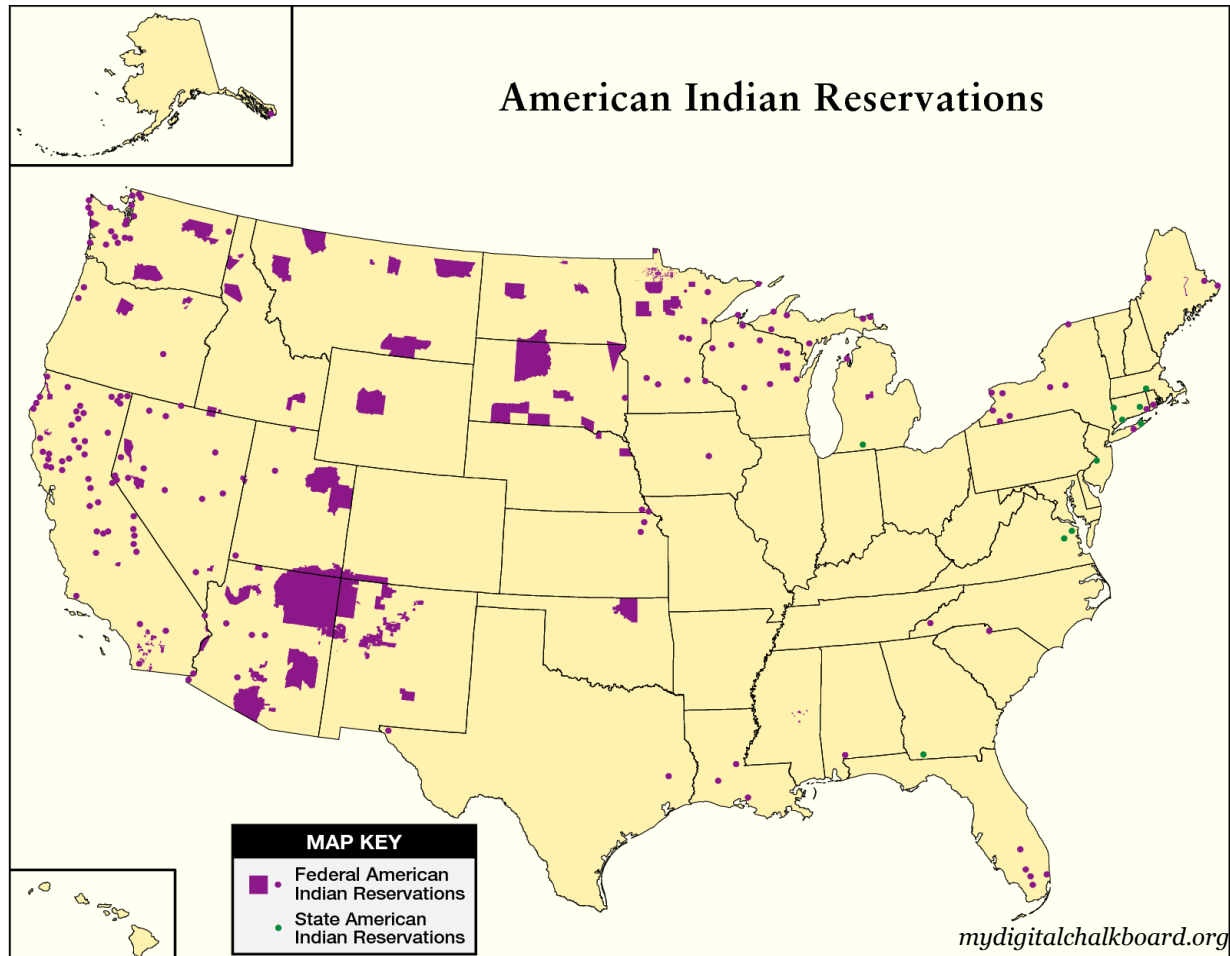


# Tribal Support of Renewable Energy



**16-Mile Moapa/Piute “Coal to Clean Energy” Walk**

# US Indian Trust Lands



# Moapa Solar Project (Nevada)

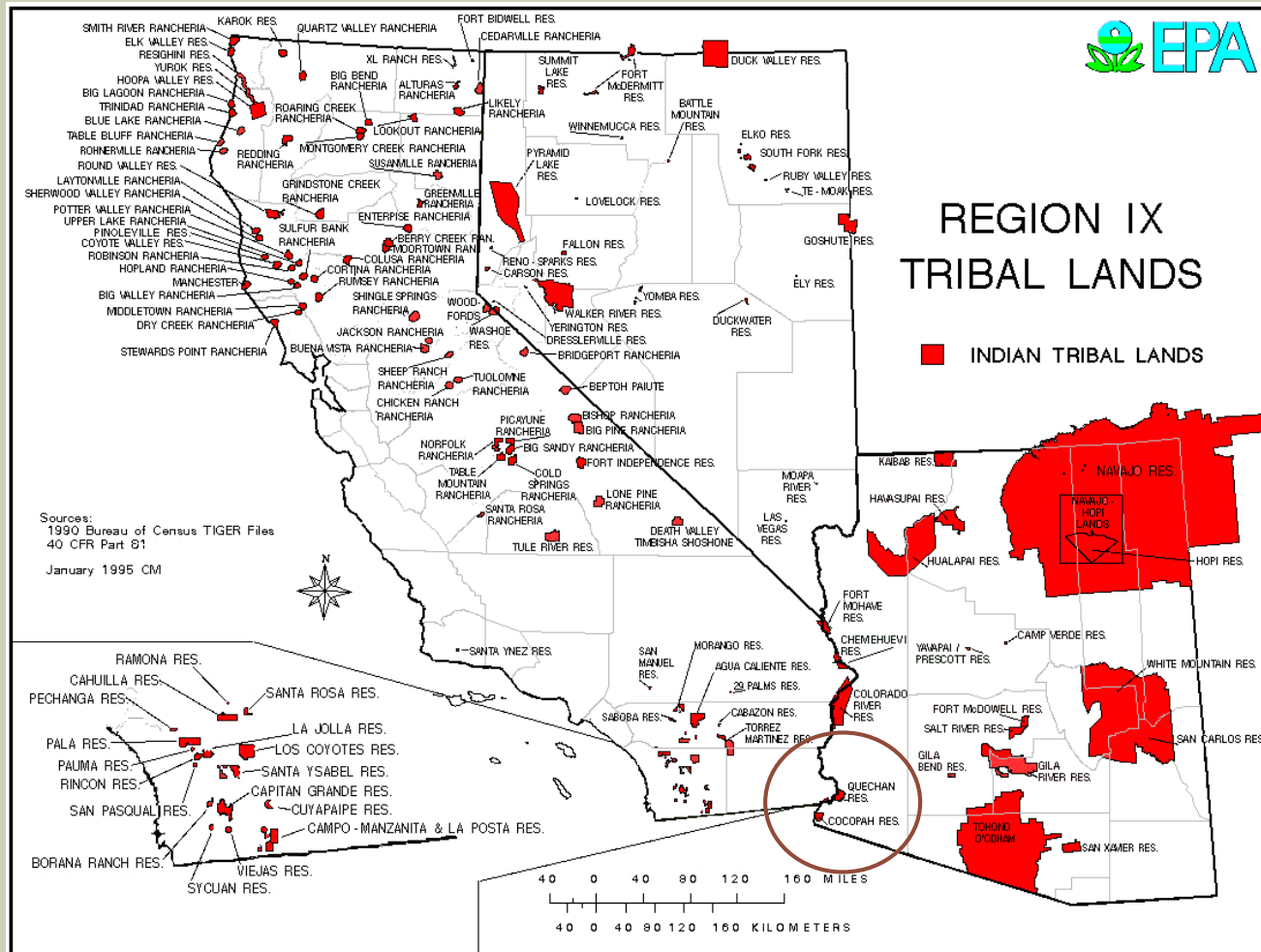


**350 MW Solar Energy Project on Moapa land**

# Ancestral Lands: California BEFORE Tribal Relocation



# California AFTER Tribal Relocation



# Conflict over the Ocotillo Express Wind Project

Pattern Energy Group planned a wind farm on 13,000 acres of BLM land in Imperial County, CA

BLM consulted with the Quechan Tribe and trimmed project to 10,000 acres based on the Tribe's input

The tribe was still not satisfied and sued for *inadequate consultation* under NHPA, but BLM prevailed

The CA Native American Heritage Commission designated the land a sacred site, but construction was already done

2010

2010-2011

May 2012

April 2013





# Wind Energy Development and the Ikoots Tribe



# Wind Energy Development in Rural Mexico



“This is the life of the poor: we fish so we can eat and have something to sell, to have a bit of money. They say that now that the wind project is here, they’ll give us money for our land and sea, but the money won’t last forever. We don’t agree with this. How are we going to live?”

*-Local (Ikoots) resident, Isthmus of Tehuantepec, Mexico*

“Wind energy is not clean energy for us; instead, it is an energy of death.”

*-Local (Zapotec) resident,  
Union Hidalgo, Mexico*



# Wind Energy Development in Rural Mexico

## San Dionisio Del Mar:

- 393-Megawatt Project
- Placed on hold in 2014 due to pushback from “minority opposition groups”



# Wind Rights and New Zealand's Maori People



“When Whatonga arrived in this new land, he studied the skies and the winds and...he realized the power of the wind...The wind is a source of power that has allowed *tipuna* to establish our people in this land.”

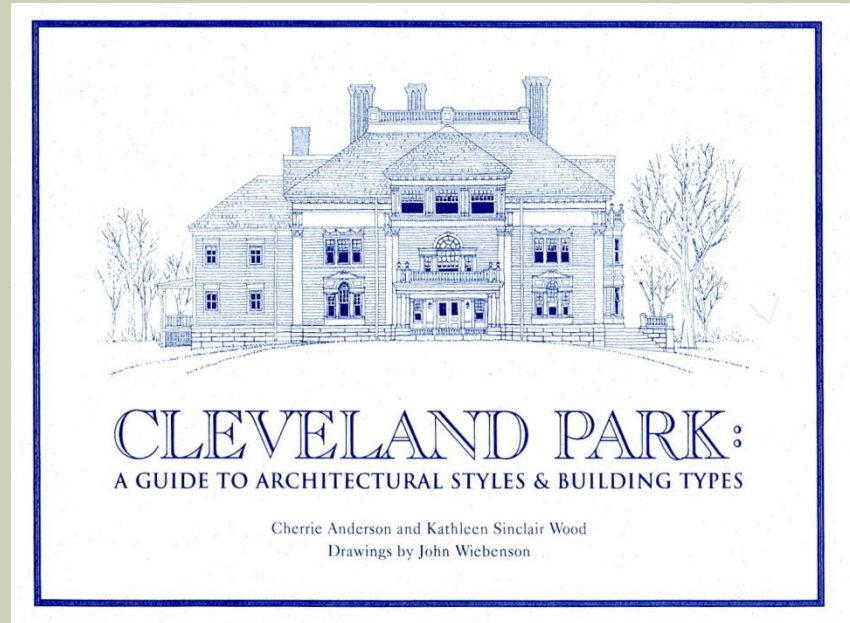
-Rawiri Smith, *A Cultural Impact Assessment of Genesis Energy's Castle Hill Wind Farm before the AEE* (July 21, 2011).

“Traditionally, the wind was regarded as a deity in Maori society, and Maori do not consider the Crown to have the right to use it without Maori consent.”

-David Rankin, Ngapuhi Tribe (2011)



# Rooftop Solar Energy vs. Historic Preservation



**To what extent should rooftop solar installations be restricted in historic districts?**

# Balancing Renewable Energy Development and Cultural Preservation



## The most successful renewable energy developers:

- Anticipate potential conflicts
- Be proactive (voluntary “site-clearing” studies, etc.)
- Engage preservation stakeholders early in the planning process
- Foster positive relationships with preservation groups
- Strive to reasonably accommodate cultural interests
- Seek to *promote* cultural preservation through renewable energy

