

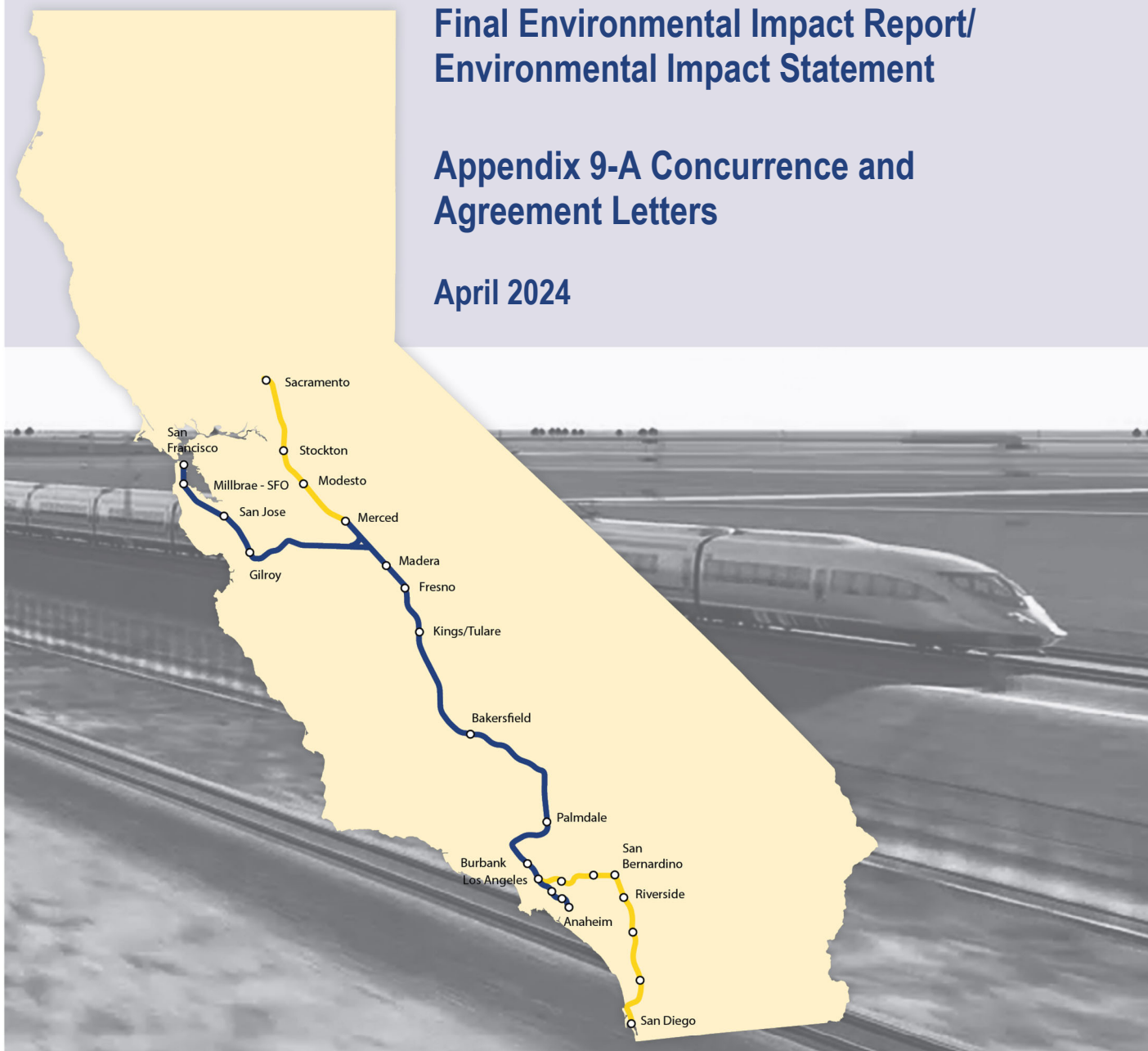
California High-Speed Rail Authority

Palmdale to Burbank *Project Section*

Final Environmental Impact Report/
Environmental Impact Statement

Appendix 9-A Concurrence and
Agreement Letters

April 2024



CALIFORNIA
High-Speed Rail Authority

The environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being or have been carried out by the State of California pursuant to 23 U.S.C. 327 and a Memorandum of Understanding dated July 23, 2019, and executed by the Federal Railroad Administration and the State of California.

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Since publication of the Palmdale to Burbank Project Section Draft Environmental Impact Report/Environmental Impact Statement (EIR/EIS), the following substantive changes have been made to this appendix:

- Appendix 9-A was re-titled from Consultation with Authorities with Jurisdiction to Concurrence and Agreement Letters to clarify its content.
- Table 1, Concurrence and Agreement Letters, was added.
- Checkpoint A agreement from U.S. Army Corps of Engineers (USACE) dated December 18, 2014, was added.
- Checkpoint A agreement from U.S. Environmental Protection Agency (USEPA) dated December 29, 2014, was added.
- Concurrence with the conclusions presented in the Section 106 Finding of Effect from the Department of Parks and Recreation Office of Historic Preservation (OHP) dated September 3, 2021, was added.
- Executed Section 106 Memorandum of Agreement and its transmittal from OHP dated December 14, 2023, was added.
- Checkpoint C agreement from USACE dated January 5, 2024, was added.
- Checkpoint C agreement from USEPA dated January 9, 2024, was added.
- Transmittal of Biological Assessment to U.S. Fish and Wildlife Service (USFWS) and request for Biological Opinion dated June 1, 2023, was added.¹
- Concurrence from Los Angeles County Department of Parks and Recreation (LACDPR) with Section 4(f) finding dated February 14, 2024, was added.
- Concurrence with Section 4(f) finding from U.S. Department of the Interior (USDOJ) dated January 22, 2024 was added.

These revisions and clarifications do not change the impact conclusions presented in the Draft EIR/EIS.

Table 1 Concurrence and Agreement Letters

Letter Number	Date	Summary
Checkpoint A, B, and C Agreement Letters		
1	December 18, 2014	USACE Agreement: Checkpoint A
2	December 29, 2014	USEPA Agreement: Checkpoint A
3	December 16, 2020	USEPA Agreement: Checkpoint B
4	December 17, 2020	USACE Agreement: Checkpoint B
5	January 5, 2024	USACE Agreement: Checkpoint C
6	January 9, 2024	USEPA Agreement: Checkpoint C
Section 106 Concurrence Letters		
7	April 22, 2019	OHP Concurrence: Revised Archaeological Survey Report
8	August 30, 2019	OHP Concurrence: Historic Architectural Survey Report
9	September 3, 2021	OHP Concurrence: Finding of Effect

¹ The Authority has not received the Biological Opinion.

Letter Number	Date	Summary
10	December 14, 2023	OHP Execution: Memorandum of Agreement
Section 7		
11	June 1, 2023	Transmittal to USFWS of the Biological Assessment and request for Biological Opinion. ¹
4(f) Owners with Jurisdiction Concurrence Letters (Preferred Alternative)		
12	February 14, 2024	LACDPR concurrence: <i>De minimis</i> impact finding.
13	January 22, 2024	USDOJ Concurrence: Temporary Occupancy – No use finding

¹The Authority has not received the Biological Opinion.

Letter No. 1



DEPARTMENT OF THE ARMY
LOS ANGELES DISTRICT, U.S. ARMY CORPS OF ENGINEERS
915 WILSHIRE BOULEVARD, SUITE 930
LOS ANGELES, CALIFORNIA 90017-3401

December 18, 2014

Mark A. McLoughlin
Director of Environmental Services
California High Speed Rail Authority
770 L Street, Suite 800
Sacramento, CA 95814

Dear Mr. McLoughlin:

I am writing in response to your October 22, 2014 request for our agreement on the Purpose and Need statement for the proposed Palmdale to Burbank section of the California High Speed Train ("CHST") Project. Based on our *National Environmental Policy Act/Clean Water Act Section 404/Rivers and Harbors Act Section 14 (33 U.S.C. 408) Integration Process for the California High-Speed Train Program Memorandum of Understanding* (dated November 2010; herein referred to a "NEPA/404/408 MOU"), one of the underlying goals is to reach mutual agreement on the purpose statement such that it is duly appropriate for defining the U.S. Army Corps of Engineers ("Corps") overall project purpose statement pursuant to the U.S. Environmental Protection Agency's Clean Water Act Section 404(b)(1) Guidelines (40 C.F.R. Part 230).

As an official cooperating agency on the development of Palmdale to Burbank section Environmental Impact Report/Environmental Impact Statement (EIR/EIS) and in fulfillment of our responsibilities under the NEPA/404/408 MOU, in accordance with Checkpoint A of the MOU, we offer our agreement on the project purpose statement presented below.

The purpose of the Palmdale to Burbank Section of the California HSR system is to provide the public with electric-powered HSR service that provides predictable and consistent travel times between the Antelope Valley and the San Fernando Valley, provide connectivity to airports, mass transit systems, and the highway network in the Antelope Valley and the San Fernando Valley; and to connect the Northern and Southern portions of the Statewide HSR system.

With reference to our agreement, the Corps affirms the aforementioned purpose statement reflects the needs of the project proponent/applicant (i.e., Authority) and that it will provide for the development of a reasonable range of feasible and practicable alternatives to be evaluated in the Draft EIR/EIS which will serve to fulfill the procedural and substantive requirements of NEPA and the Section 404(b)(1) Guidelines, respectively.

I am forwarding electronic copies of this letter to Mr. David Valenstein and Ms. Stephanie Perez, Federal Railroad Administration; and Ms. Sarvy Mahdavi and Ms. Jennifer Blonn, U.S. Environmental Protection Agency, Region IX.

We look forward to our continued involvement with the CHST Project. Should you have any questions or need additional information, please contact Crystal L.M Huerta at (805) 585-2143 or via e-mail at crystal.huerta@usace.army.mil. Please address all correspondence to the Regulatory Division and refer to the Corps File Number, SPL-2009-00833-CLH.

Please be advised that you can now comment on your experience with Regulatory Division by accessing the Corps web-based customer survey form at http://corpsmapu.usace.army.mil/cm_apex/f?p=regulatory_survey.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark D. Cohen". The signature is fluid and cursive, with the first name "Mark" being the most prominent.

Mark D. Cohen
Deputy Chief, Regulatory Division

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Letter No. 2



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street
San Francisco, CA 94105

DEC 29 2014

David Valenstein
Federal Railroad Administration
1200 New Jersey Avenue, SE
Mail Stop 20, W38-219
Washington, DC 20590

Mark McLoughlin
California High-Speed Rail Authority
770 L Street, Suite 800
Sacramento, CA 95814

Subject: Agreement on Purpose and Need for the Palmdale to Burbank Section of the California High-Speed Rail System

Dear Mr. Valenstein and Mr. McLoughlin:

Thank you for the opportunity to review the Purpose and Need Statement for the Palmdale to Burbank section of the California High-Speed Rail system. This letter provides EPA's agreement with the California High-Speed Rail Authority's proposed Purpose and Need Statement, which states:

The purpose of the Project is to implement the Palmdale to Burbank HSR Project Section of the California HSR system; to provide the public with electric-powered high-speed rail service that provides predictable and consistent travel times between major urban centers, and connectivity to airports, mass transit systems, and the highway network in the Antelope Valley and the San Fernando Valley; and to connect the Northern and Southern portions of the Statewide HSR system.

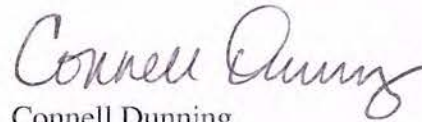
The Federal Railroad Administration is the lead federal agency for compliance with the National Environmental Policy Act and other federal laws. The California High-Speed Rail Authority is serving as the joint-lead under the NEPA and is the lead agency for compliance under the California Environmental Quality Act. The U.S. Environmental Protection Agency, U.S. Army Corps of Engineers, Federal Railroad Administration, and California High-Speed Rail Authority are participating in the early coordination process outlined in the *National Environmental Policy Act / Clean Water Act Section 404 / Rivers and Harbors Act Section 14 (33 U.S.C. 408) Integration Process for the California High-Speed Train Program Memorandum of Understanding (MOU)*, dated December 2010. This MOU defines Checkpoint A as a decision point where participating agencies agree or disagree with the proposed Purpose and Need Statement. Early coordination promotes efficiency within the environmental review process because it facilitates upfront identification and resolution of potential issues and integration of NEPA and Clean Water Act Section 404 processes.

The proposed 800-mile HSR system is divided geographically into ten sections for the purpose of environmental analysis and documentation. Following early coordination, EPA maintains its

full authority and independence in reviewing all environmental impact statements pursuant to NEPA, Council on Environmental Quality regulations (40 CFR Parts 1500-1508), and Section 309 of the Clean Air Act.

We look forward to further participation in this project through the process outlined in the early coordination MOU, formal review of public environmental documents, and ongoing collaboration on system-wide environmental sustainability. If you have any questions or comments related to aquatic resources, please contact Sarvy Mahdavi at 213-244-1830 or mahdavi.sarvy@epa.gov. For all other environmental topics, please contact Jen Blonn at 415-972-3855 or blonn.jennifer@epa.gov.

Sincerely,



Connell Dunning
Transportation Team Lead
Environmental Review Section

CC Via Email:

Stephanie Perez, Federal Railroad Administration
Spencer MacNeil, U.S. Army Corps of Engineers
Crystal Huerta, U.S. Army Corps of Engineers
Veronica Li, U.S. Army Corps of Engineers
Flo Gardipee, U.S. Fish and Wildlife Service
Sally Brown, U.S. Fish and Wildlife Service
Jan Zimmerman, Regional Water Quality Control Board

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Letter No. 3



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

December 16, 2020

Serge Stanich
Director Environmental Services
California High-Speed Rail Authority
770 L Street, Suite 620
Sacramento, California 95814

Subject: Checkpoint B Summary Report – Request for Agreement on Range of Alternatives for California High-Speed Rail Project Palmdale to Burbank Section

Dear Mr. Stanich:

Thank you for the opportunity to provide recommendations prior to publication of the Draft Environmental Impact Statement for the Palmdale to Burbank Section of the California High-Speed Rail System. This letter provides EPA's agreement with California High-Speed Rail Authority's proposed Range of Alternatives.

The EPA, U.S. Army Corps of Engineers (USACE), and California High-Speed Rail Authority (CHSRA) are participating in the early coordination process outlined in the *National Environmental Policy Act / Clean Water Act Section 404 / Rivers and Harbors Act Section 14 (33 U.S.C. 408) Integration Process for the California High-Speed Train Program Memorandum of Understanding*, dated December 2010. This MOU defines Checkpoint B as a milestone to document participating agency agreement or disagreement with the proposed Range of Alternatives to be evaluated in the EIS. This early coordination promotes efficient integration of NEPA and CWA Section 404 within the environmental review process, provides certainty for future permitting, and facilitates upfront identification and resolution of potential issues.

CHSRA first proposed a Range of Alternatives for this section in a 2010 Preliminary Alternatives Analysis. In response to public and agency feedback, the alternatives were revised and refined several times and integrated into 2011, 2012, 2014, 2015, and 2016 Supplemental Alternatives Analyses. Following publication of the 2016 Supplemental Alternatives Analysis, the EPA and USACE expressed continued concerns regarding the large projected impacts to Una Lake, a rare natural lake within an otherwise arid ecosystem. In response, CHSRA identified new alignments that run to the east of Una Lake, thereby avoiding this important aquatic resource. These alignments form the basis for three of the six Build Alternatives evaluated in the current Checkpoint B Summary Report, submitted on Oct 21, 2020. We appreciate the extensive effort and coordination that has taken place in order to develop and finalize the range of alternatives. The EPA believes that the proposed range of alternatives likely contains the least environmentally damaging practicable alternative and, as such, we agree that the following alignments should be carried forward for analysis in the Palmdale to Burbank Draft EIS:

- Refined SR14 Build Alternative
- SR14A Build Alternative
- E1 Build Alternative
- E1A Build Alternative
- E2 Build Alternative
- E2A Build Alternative

Aquatic Resource Comments for Future Consideration - Draft EIS and Mitigation Planning

At this stage of project design, the goal of the Checkpoint B milestone is to establish agreement with the Range of Alternatives to be considered through the Draft EIS process. While the EPA provides agreement with the identified range of alternatives listed above, we anticipate further refinements and reductions to estimates of acreages of aquatic resource impacts reported within Checkpoint B materials. The EPA provides the following recommendations for your consideration for the development of the Draft EIS and mitigation planning:

- Coordinate with the USACE to receive final jurisdictional determination and ensure those impact values are presented consistently in the Draft EIS and Checkpoint C.
- Further refine the alignments to avoid and minimize impact to aquatic resources.
- Coordinate closely with the USACE and the EPA to identify avoidance and minimization measures for direct and indirect impacts.
- In the Draft EIS:
 - Provide estimates of direct and indirect impacts to aquatic resources.
 - Describe the type, location, and ecological condition of aquatic resources that may be directly or indirectly impacted.
 - Fully describe any ecologically sensitive regions impacted by the proposed alignments as well as any specific high-value resources that may be impacted.
- Begin advance planning for compensatory mitigation for the Palmdale to Burbank section, and ensure mitigation opportunities are available to fully offset project impacts. Early planning for compensatory mitigation may reveal that there is limited opportunity for compensatory mitigation in the project watershed area(s), which would further the need to identify refinements and management practices to avoid and minimize impacts.

Thank you for requesting the EPA's agreement on the Range of Alternatives. We look forward to further collaboration to reduce impacts and maximize benefits from this project. The EPA will ultimately review EISs for each section of the California HSR System pursuant to NEPA, Council on Environmental Quality regulations (40 CFR Parts 1500-1508), and Section 309 of the Clean Air Act. The EPA will also review the CWA Section 404 permit applications for each HSR section for compliance with the EPA's 404(b)(1) Guidelines (40 CFR 230.10). If you have any questions or comments please contact the NEPA lead for this project, Clifton Meek, at (415) 972-3370 (meek.clifton@epa.gov) or the aquatic resources lead for this project, Sarvy Mahdavi, at (213) 244-1830 (mahdavi.sarvy@epa.gov).

Sincerely,

CONNELL
DUNNING

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CONNELL DUNNING
Date: 2020.12.16
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Connell Dunning
Transportation Team Lead, Environmental Review Branch

CC Via Email: Sue Meyer, California High Speed Rail Authority
Stephanie Roberts, California High Speed Rail Authority
Crystal Huerta, U.S. Army Corps of Engineers
Susan A. Meyer Gayagas, U.S. Army Corps of Engineers
Veronica Li, U.S. Army Corps of Engineers
Spencer MacNeil, U.S. Army Corps of Engineers
Cliff Harvey, State Water Resources Control Board
Sally Brown, U.S. Fish and Wildlife Service

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Letter No. 4



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS
LOS ANGELES DISTRICT
60 SOUTH CALIFORNIA STREET, SUITE 201
VENTURA, CA 93001-2598

December 17, 2020

Serge M. Stanich
Director of Environmental Services
California High-Speed Rail Authority
770 L Street, Suite 800
Sacramento, California 95814

Dear Mr. Stanich:

I am writing in response to your November 10, 2020 Checkpoint B letter and the final revised Checkpoint B Summary Report, dated December 2020, for the California High-Speed Rail Authority's (Authority) proposed Palmdale to Burbank (P-B) Project Section range of alternatives. In accordance with our *National Environmental Policy Act/Clean Water Act Section 404/Rivers and Harbors Act Section 14 Integration Process for the California High-Speed Train Program Memorandum of Understanding* dated November 2010 (NEPA/404/408 MOU), this letter is our formal response to your request for agreement on the reasonable range of alternatives to be evaluated in the P-B Environmental Impact Report/Environmental Impact Statement (EIR/EIS).

As a cooperating agency on the preparation of the EIR/EIS and in fulfillment of our responsibilities under the NEPA/404/408 MOU, the U.S. Army Corps of Engineers (Corps), offered verbal and written feedback to the Authority on prior draft versions of the Checkpoint B Summary Report to ensure the range of alternatives is likely to contain an alternative that is the least environmentally damaging practicable alternative. After reviewing the final Checkpoint B summary report, including supporting information, we agree that the following alternatives should be carried forward for evaluation in the EIR/EIS:

1. SR-14 Build Alternatives
 - a) Refined SR14 Build Alternative
 - b) SR14A Build Alternative
2. E1 Build Alternatives
 - a) E1 Build Alternative
 - b) E1A Build Alternative
3. E2 Build Alternatives
 - a) E2 Build Alternative
 - b) E2A Build Alternative

Additionally, to assist in compliance with the *Rivers and Harbors Act Section 14* (Section 408) the Authority will need to provide the Corps with sufficient engineering analysis to ensure the proposed tunneling near the dams identified in the Checkpoint B Summary Report would have no adverse impacts to these Section 408 facilities nor be injurious to the public. In addition, the Authority will need to identify any protective measures to be integrated into the P-B project for the dam infrastructure; otherwise, surface options/alternatives should also be evaluated in the EIR/EIS in addition to the tunneling near the dams that the Authority has proposed.

We look forward to continued dialogue and coordination with your office on this project section. If you have any questions, contact Crystal Huerta at (213) 359-9662 or via e-mail at crystal.huerta@usace.army.mil. Please help me to evaluate and improve the regulatory experience for others by completing the customer survey form at http://corpsmapu.usace.army.mil/cm_apex/f?p=regulatory_survey.

Sincerely,

A handwritten signature in blue ink that reads "David J. Castanon". The signature is written in a cursive style.

David J. Castanon
Chief, Regulatory Division

cc:

Ms. Sarvy Mahdavi, U.S. Environmental Protection Agency, Mahdavi.Sarvy@epa.gov
Mr. Clifton Meek, U.S. Environmental Protection Agency Meek, meek.clifton@epa.gov
Rafiqul Talukder, P.E., U.S. Army Corps of Engineers, Los Angeles District, Engineering Division, Rafiqul.I.Talukder@usace.amry.mil

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Letter No. 5



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS
LOS ANGELES DISTRICT
915 WILSHIRE BOULEVARD, SUITE 1109
LOS ANGELES, CALIFORNIA 90017-3409

January 5, 2024

California High-Speed Rail Authority
Attn: Stefan Galvez-Abadia
Director of Environmental Services
770 L Street, Suite 620
Sacramento, California 95814

Dear Mr. Galvez-Abadia:

I am writing in response to your November 16, 2023, Checkpoint C Summary Report, and appendices for the proposed California High-Speed Rail (CHSR) Program, Palmdale to Burbank (P-B) Project Section located in Los Angeles County, California (reference to Department of the Army file number SPL-2009-00933). This letter constitutes the U.S. Army Corps of Engineers, Los Angeles District's (Corps) formal response to your Checkpoint C request in accordance with our "*National Environmental Policy Act/Clean Water Act Section 404/Rivers and Harbors Act of 1899 Section 14 Integration Process for the California High-Speed Train Program Memorandum of Understanding*", dated November 2010 ("NEPA/404/408 MOU").

As a cooperating agency under the National Environmental Policy Act (NEPA) on the preparation of the project's joint Environmental Impact Report/Environmental Impact Statement (EIR/EIS) and in fulfillment of our responsibilities under the NEPA/404/408 MOU, we reviewed the draft and final versions of the Checkpoint C documents, dated July 2023 and November 2023, respectively, and provided written comments on issues specific to our Section 404 of the Clean Water Act ("Section 404"; 33 U.S.C. § 1344) and Section 14 of the Rivers and Harbors Act of 1899 ("Section 408"; 33 U.S.C. § 408) authorities. We also participated in a series of coordination meetings and technical workshops with the California High-Speed Rail Authority (Authority), your consultants, and the U.S. Environmental Protection Agency between August 2023 and November 2023.

Following our December 7, 2023, formal Checkpoint C meeting and our independent review of the information and analyses presented in the Checkpoint C Summary Report and appendices, we concur the SR14A Build Alternative appears to be the "preliminary" least environmentally damaging practicable alternative (LEDPA) based on the information and analysis made available to us. We further concur that while the draft compensatory mitigation plan ("CMP"; Appendix A, dated November 2023) is only conceptual in nature it demonstrates a range of opportunities the Authority may pursue to provide sufficient mitigation for offsetting the unavoidable losses of aquatic resource functions and services pursuant to the Section 404(b)(1) Guidelines and the 2008 "*Final*

Rule for Compensatory Mitigation for Losses of Aquatic Resources (“2008 Mitigation Rule”; 33 CFR Part 332).

Furthermore, based on our review under Section 408 of the information and analyses presented in the Checkpoint C Summary Report, appendices, and conceptual plans, we have determined that the alignment portions near Lopez Basin, Hansen Basin, through Hansen Basin, and crossing Tujunga Channel have potential concerns. Technical comments have been provided to and acknowledged by the Authority for consideration. Technical comments regarding the preferred SR14A Build Alternative include, but not limited to, potential design challenges through seismic areas and faults, the potential for leakage or flooding from the Reservoir inundation events into tunnels or portals, and concerns about structural integrity of existing channel wall due to lowering adjacent grade. Technical comments regarding alternative alignments such as the E2 Build Alternative include, but not limited to, consideration for scour and debris for piers within Hansen Basin, potential flooding of portal P5, and requirements to offset fill in the flood pool. Notwithstanding the foregoing technical comments, we do not object to the preliminary recommendation of carrying forward the SR14A Build Alternative for further coordination and review under Section 408, as long as the Authority adheres to the conditions specified below.

Please note, our concurrence and preliminary recommendation reflect the Corps’ professional judgment in light of the limitations documented in the Checkpoint C Summary Report and are based on conditions and information existing at the time the Checkpoint C documents were provided to us. Therefore, our responses do not take into account any subsequent changes the Authority may make in the future. Toward this end, on December 11, 2023, the Corps transmitted additional written comments, guidance, and suggestions for revising the Checkpoint C Summary Report and [preliminary] draft CMP based on our Checkpoint C meeting discussions. As a condition of our concurrence, we expect the Authority to revise the Checkpoint C Summary Report and CMP to incorporate our feedback.

I also highlight the Authority requested our Checkpoint C responses prior to the Authority a) completing formal consultation with the U.S. Fish and Wildlife Service (USFWS) under Section 7 of the Endangered Species Act and obtaining the USFWS’ biological opinion; b) performing site-specific geotechnical investigations; c) conducting on-the-ground aquatic, biological, and cultural resource surveys and other fieldwork (e.g., aquatic resource functional or condition assessment) within the SR14A Build Alternative footprint of disturbance; and d) providing the Corps with greater than 15% engineering design. Accordingly, our responses are commensurate with the level of information made available in the Checkpoint C documents. Should new or additional data come forward that would have a material bearing on the “preliminary” LEDPA, draft CMP, or the preliminary 408 recommendation that was not previously considered by the Corps, we may revisit, modify, or rescind one or both responses.

Additionally, as conditions of our preliminary 408 recommendation and to assist in your compliance with Section 408, the Authority will need to coordinate closely with the Corps in providing us with sufficient engineering analysis. Specifically, we request a 30% and 60% design process review of the preferred alternative Tujunga Channel crossing prior to the submittal of the Section 408 permission request. We also request final designs of the preferred alternative portions near Lopez Basin and Hansen Basin for final concurrence. This preliminary 408 recommendation with conditions is valid for 5 years from the date of this letter. If the design changes such that the preferred alternative is no longer a minor, low-impact modification to the Corps' flood risk reduction projects, this recommendation is no longer valid and may require approval from Corps Headquarters.

Lastly, we recognize the importance our Section 404 permit and Section 408 permission decision-making is to the Authority's ability to implement the Palmdale to Burbank project section. For this reason, it is worth reiterating that a Section 404 standard individual permit decision will first require we approve a final CMP consistent with the 2008 Mitigation Rule (or superseding mitigation regulations/policies in effect at the time when a Section 404 permit application is processed); receive a copy of your Section 401 water quality certification (or waiver) and evidence of the Authority's compliance with Section 7 of the Endangered Species Act and Section 106 of the National Historic Preservation Act; ensure all applicable subparts of the Section 404(b)(1) Guidelines have been satisfied; render our public interest review determination; and issue our Record of Decision under NEPA adopting your Final EIS or parts thereof; and make a Section 408 permission decision, if applicable.

Thank you for your continued collaboration on the CHSR P-B Project Section. We value our partnership and appreciate the Authority's efforts to work with us in reaching Checkpoint C concurrence and a preliminary 408 recommendation. If you have questions, please contact Susan A. Meyer Gayagas at (213) 304-9810 or via email at susan.a.meyer@usace.army.mil. Please also help me evaluate and improve the regulatory experience for others by completing the customer survey form at <https://regulatory.ops.usace.army.mil/customer-service-survey/>.

Sincerely,



Spencer D. MacNeil, D. Env.
Deputy Chief, Regulatory Division

cc:

Clifton Meek, U.S. Environmental Protection Agency (meek.clifton@epa.gov)
Jonathan Snyder, U.S. Fish and Wildlife Service (jonathan_d_snyder@fws.gov)
Sarvy Mahdavi, U.S. Environmental Protection Agency (Mahdavi.sarvy@epa.gov)
Scott Rothenberg, California High-Speed Rail Authority (scott.rothenberg@hsr.ca.gov)
Sue Meyer, AECOM-Fluor (sue.meyer@hsr.ca.gov)

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Letter No. 6



REGION 9

SAN FRANCISCO, CA 94105

January 9, 2024

Stefan Galvez-Abadia
Director of Environmental Services
California High-Speed Rail Authority
770 L Street, Suite 620
Sacramento, California 95814

Subject: Palmdale to Burbank Project Section: Checkpoint C Summary Report, Request for Agreement on Preliminary Least Environmentally Damaging Practicable Alternative and Preliminary Compensatory Mitigation Plan

Dear Director Galvez-Abadia:

Thank you for the opportunity for the U.S. Environmental Protection Agency to provide comments in advance of publication of the Final Environmental Impact Statement (FEIS) for the Palmdale to Burbank project section of California High Speed Rail (HSR). This letter responds to your November 16, 2023 request for agreement on the Preliminary Least Environmentally Damaging Practicable Alternative determination and Preliminary Compensatory Mitigation Plan for the proposed SR14A Build Alternative. We appreciate the significant revisions made to the Checkpoint C materials in response to comments provided by our agency via email on September 13, 2023, and through a series of coordination meetings and technical workshops held between August and November 2023. We also understand that the Checkpoint C Summary Report will be further revised to incorporate feedback presented at the formal Checkpoint C meeting on December 7, 2023.

The EPA feedback provided is aimed at integrating permitting requirements of Clean Water Act (CWA) Section 404 with NEPA requirements. The purpose of this letter is to provide the EPA's "agreement" with "Checkpoint C", a step in the integration process described in the *NEPA/CWA Section 404/Rivers and Harbors Act Section 14 (33 U.S.C. 408) Integration Process for the California High-Speed Train Program Memorandum of Understanding (NEPA/404 MOU)* dated December 2010. To facilitate effective integration of CWA Section 404 and NEPA for this project, the EPA continues to coordinate closely with your agency and the U.S. Army Corps of Engineers (Corps).

Least Environmentally Damaging Practicable Alternative (LEDPA)

After reviewing the information provided in the Checkpoint C Summary Report, and per the NEPA/404 MOU, the EPA provides agreement with CHSRA's determination that the SR14A Build Alternative is the preliminary LEDPA for the Palmdale to Burbank Project Section of HSR. As this determination has been made prior to public circulation of the FEIS, it will be revisited if necessary should additional information become available after public comments are received and/or as project design advances.

Preliminary Compensatory Mitigation Plan

The Preliminary Compensatory Mitigation Plan is a conceptual strategy specifying resources available for the establishment and/or rehabilitation of aquatic resources. The Checkpoint C Summary Report provides a general overview of mitigation needs, opportunities, and potential implementation scenarios. According to the

submittal, the SR14A Build Alternative will result in permanent impacts to 0.87 acres of wetlands and 25.91 acres of other waters of the United States (WOUS). Of that, 17.74 acres consist of constructed waters/basins that are likely to be replaced on-site, with functions of the existing constructed features being retained. Off-site mitigation will likely be needed for all other permanent, direct impacts on jurisdictional waters, totaling approximately 9.04 acres of impact. The submittal presents a preliminary determination that compensation for these unavoidable impacts on jurisdictional waters can likely be completed through a combination of approved mitigation bank credits and permittee-responsible mitigation in partnership with one or more of the open-space, parkland, or other natural resource management agencies in the region.

Per the NEPA/404 MOU, the EPA provides agreement that the Preliminary Compensatory Mitigation Plan may provide sufficient mitigation to meet the needs of the project under Section 404 of the Clean Water Act. The EPA expects that more site-specific information will be made available prior to Clean Water Act Section 404 permitting. Specifically, the Final Mitigation Plan should include information on all key elements of the mitigation rule (Subpart J of the 404(b)(1) Guidelines at 40 CFR Part 230) in order to ensure compliance. The EPA looks forward to collaborating with your agency and Corps staff in the use of the program technical procedures to implement a watershed approach to mitigation. We understand that impacts will likely be refined and reduced as design advances, and we recommend that all possible measures be taken to reduce impact numbers through further avoidance and minimization measures. If impacts to WOUS are reduced as a result of changes in project design, adjustments to the amount of compensatory mitigation will be made accordingly. Permitted impacts to WOUS will be confirmed during project construction.

Thank you for your collaboration and efforts over these past few months to reach agreement on the LEDPA and Preliminary Compensatory Mitigation Plan for the Palmdale to Burbank Project Section. We look forward to further coordination in the development of future environmental documents for this project. The EPA will ultimately review EISs for each section of the California HSR system pursuant to NEPA, Council on Environmental Quality regulations (40 CFR Parts 1500-1508), and Section 309 of the Clean Air Act. The EPA will also review CWA Section 404 permit applications for each HSR section for compliance with the EPA's 404(b)(1) Guidelines (40 CFR 230.10). We appreciate this opportunity to address potential environmental issues as early as possible. If you have any questions regarding our comments, please contact the NEPA lead for this project, Clifton Meek, at (415) 972-3370 or by email at meek.clifton@epa.gov.

Sincerely,

**CONNELL
DUNNING**  Digitally signed by
CONNELL DUNNING
Date: 2024.01.09
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Connell Dunning
Transportation Team Lead
Environmental Review Branch

cc: Sue Meyer

Deputy Assistant Environmental Services Manager, California High Speed Rail Authority

Susan A. Meyer Gayagas

Regional Technical Specialist for Transportation & Infrastructure, U.S. Army Corps of Engineers

Jonathan Snyder

Assistant Field Supervisor, U.S. Fish and Wildlife Service

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Letter No. 7



DEPARTMENT OF PARKS AND RECREATION
OFFICE OF HISTORIC PRESERVATION

Lisa Ann L. Mangat, Director

Julianne Polanco, State Historic Preservation Officer

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Telephone: (916) 445-7000 FAX: (916) 445-7053

calshpo.ohp@parks.ca.gov www.ohp.parks.ca.gov

April 22, 2019

In reply refer to: FRA_2018_0418_001

Mr. Brett Rushing
Cultural Resources Program Manager
California High-Speed Rail Authority
770 L Street, Suite 620
Sacramento, CA 95814

Subject: High Speed Rail Program, Palmdale to Burbank Project Review and Comment on Revised Archaeological Survey Report

Dear Mr. Rushing:

The California State Historic Preservation Officer (SHPO) received your letter on April 12, 2019 continuing consultation regarding the Palmdale to Burbank Section of the High-Speed Rail project. The High Speed Rail Authority (Authority) and Federal Railroad Administration (FRA) are consulting with the SHPO in accordance with the June 2011, *Programmatic Agreement Among the Federal Railroad Administration, the Advisory Council on Historic Preservation, the California State Historic Preservation Officer, and the California High-Speed Rail Authority (Authority) regarding Compliance with Section 106 of the National Historic Preservation Act, as it pertains to the California High-Speed Train Project (PA)*. Along with the consultation letter, the following document was provided to document the Authority and FRA's efforts to identify historic properties:

- *California High Speed Rail Authority Palmdale to Burbank Project Section Archaeological Survey Report* (April 2019).

The provided archaeological survey report (ASR) documents the results of historic property identification efforts that have occurred to date for resources that may be affected by the California High-Speed Rail's Palmdale to Burbank Project Section. The Authority and FRA previously submitted the ASR on April 11, 2018 and received comments from the SHPO on May 16, 2018. Comments were also received from the Gabrieleño Band of Mission Indians – Kizh Nation, Angeles National Forest, and County of Los Angeles Department of Parks and Recreation. The revised ASR has been provided to address consulting parties' comments, pursuant to Stipulation VI.C.3 of the PA.

The revised ASR documents subsequent modification to the Area of Potential Effects (APE) that have occurred since the last submittal due to changes in the undertaking. The overall project footprint has been reduced from 5655 to 5470.6 acres. The ASR

documents that 526.08 acres have been subjected to pedestrian archaeological survey to date. Records and literature searches and pedestrian surveys led to the identification of 73 archaeological resources in the APE. Of these, 12 resources have previously been determined ineligible for the listing on the National Register of Historic Places (NRHP), two resources have been determined eligible for listing on the NRHP, one resource is currently considered eligible for listing by the US Forest Service but has not been formally evaluated, one resource is no longer extant, 25 resources are considered exempt from evaluation under the PA, and 32 resources are unevaluated and will be considered eligible for listing on the NRHP for project planning purposes. The Authority and FRA will continue phased identification as access is granted and the project design is refined in accordance with Stipulation VIII.A.1 of the PA and the future Memorandum of Agreement (MOA) and Archaeological Treatment Plan (ATP) that will be developed for this project section.

In addition, the revised ASR addresses the SHPO's May 16, 2018 comments as follows:

- A revised evaluation has been provided for site P-19-004479. The Authority and FRA have determined that this site is not eligible for listing on the National Register of Historic Places (NRHP) because it falls outside of the period of significance of the larger Blum Ranch Property. **I concur, pursuant to 36 CFR 800.4(c)(2) and Stipulation VI.C.3 of the PA.**
- The Authority and FRA are proposing to treat site P-19-002415 as eligible for listing on the NRHP for the purposes of the undertaking until it can be fully evaluated. **I do not object to treating the site as eligible.**
- The DPR 523 site records were not updated for site P-19-002415 because the site has not been revisited. The DPR 523 site forms for P-19-004194 have been updated to reflect the site's current condition. Aerial imagery research was used to confirm that the site was destroyed in recent years. The Authority and FRA have therefore determined that the site is not eligible for listing on the NRHP. **I concur, pursuant to 36 CFR 800.4(c)(2) and Stipulation VI.C.3 of the PA.**

For more information or if you have any questions, please contact Koren Tippett, Archaeologist, at (916) 445-7017 or koren.tippett@parks.ca.gov or Kathleen Forrest, Historian, at (916) 445-7022 or kathleen.forrest@parks.ca.gov.

Sincerely,



Julianne Polanco
State Historic Preservation Officer

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Letter No. 8



**DEPARTMENT OF PARKS AND RECREATION
OFFICE OF HISTORIC PRESERVATION**

Lisa Ann L. Mangat, Director

Julianne Polanco, State Historic Preservation Officer

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August 30, 2019

Reply in Reference To: FRA_2018_0418_001

Brett Rushing
WSP-Parsons Brinkerhoff
Rail Delivery Partners to the Authority
770 L Street, Suite 700
Sacramento, CA 95814

Re: High-Speed Rail Program, Palmdale to Burbank Section, Request for Review and Concurrence on Historic Architectural Survey Report

Dear Mr. Rushing:

Thank you for your letter of July 29, 2019, regarding the above-referenced report. You are consulting pursuant to Stipulation VIII of the *Programmatic Agreement among the Federal Railroad Administration, the Advisory Council on Historic Preservation, the California State Historic Preservation Officer, and the California High-Speed Rail Authority regarding Compliance with Section 106 of the National Historic Preservation Act, as it pertains to the California High-Speed Train Project (PA)*.

The California High-Speed Rail Authority (the Authority), on behalf of the Federal Railroad Administration (FRA), requests SHPO review on the following document, included with the letter:

- *California High-Speed Rail Authority, Palmdale to Burbank Project Section, Historic Architectural Survey Report, July 2019*

The Historic Architectural Survey Report (HASR) documents the historic properties identification efforts within the Palmdale to Burbank section Area of Potential Effect (APE). The HASR identified 348 built environment resources. Resources identified include:

- 12 historic properties
- 334 built resources ineligible for listing on the NRHP or California Register of Historical Resources
- Two built resources previously determined ineligible for listing on the NRHP with SHPO concurrence

The 12 historic properties include the following resources listed in Tables 1, 2, and 3:

Table 1. Properties Listed in the NRHP

Map ID	Historic Name	Address	City	Year Built	Primary Number (if applicable)	OHP Status Code	NRHP/CRHR Criteria
3862	Vincent Transmission Line (Big Creek Hydroelectric System Historic District)	Multiple APNs	Multiple	1927	N/A	1D	A/1 and C/3

ID = identification

OHP = Office of Historic Preservation

NRHP = National Register of Historic Places

CRHR = California Register of Historical Resources

N/A = not applicable

1D = Contributor to a district or multiple resource property listed in the NRHP by the Keeper. Listed in the CRHR.

Table 2. Properties Previously Determined Eligible for the NRHP with SHPO Concurrence

Map ID	Historic Name	Address	City	Year Built	Primary Number (if applicable)	Previously Assigned CHRIS Code	NRHP/CRHR Criteria
152	Los Pinetos Nike Missile Site	Forest Road 3N 17	N/A	1955–1956	No P#; HAER No. CA-56	2S2	A/1 and C/3
3421	East Branch of the California Aqueduct	N/A	Palmdale vicinity	1966–1973	19-004154	2S2	A/1 and C/3, Consideration G
3480	Palmdale Ditch (CA-LAN-1534H)	N/A	Palmdale vicinity	1895–1896	19-001534	2D2	A/1

ID = identification

APN = Assessor's Parcel Number

CHRIS = California Historical Resource Inventory System

NRHP = National Register of Historic Places

CRHR = California Register of Historical Resources

N/A = not applicable

2S2 = Individual Property determined eligible for NRHP by a consensus through Section 106 process. Listed in the CRHR.

2D2 = Contributor to a district determined eligible for NRHP by consensus through Section 106 process. Listed in the CRHR.

Table 3. New Properties Determined Eligible for the NRHP

Map ID	Historic Name	Address	City	Year Built	Primary Number (if applicable)	Current CHRIS Code	NRHP/CRHR Criteria
1044	Pink Motel and Café	9457–9475 San Fernando Rd	Los Angeles	1946-1949, 1958	N/A	2S2	A/1 and C/3
1504	N/A	10004 Clybourn Ave	Los Angeles	Circa 1922	N/A	2S2	C/3
2500	LADWP Boulder Transmission Line 3	N/A – resource is multi-state	N/A – resource is multi-state	1939–1940	19-150047; HAER No. NV-27-M	2D2	A/1 and C/3

Map ID	Historic Name	Address	City	Year Built	Primary Number (if applicable)	Current CHRIS Code	NRHP/CRHR Criteria
2593	Eagle and Last Chance Mine Road	FS 05-01-55-45	Angeles National Forest	Circa 1880s	P-19-002-009	2D2	A/1, B/2; C/3
2920	1890s Acton Ford Road	FS 05-01-55-216	Angeles National Forest	Circa 1890s	19-188484	2D2	A/1
2990/ 3000/ 3002	Monte Cristo Wagon Road System (including Monte Cristo Mining District Road, Aliso Creek Wagon Road, Forest Road 4N32 – Aliso Arrastre Cutoff)	FS 05-01-55-116, FS 05-01-55-158, FS: 05-01-55-189	Angeles National Forest	Late 19 C.	19-186545	2D2	A/1
2947	Blum Ranch	31880 Aliso Canyon Rd	Acton vicinity	1891–ca. 1924	N/A	2S2	A/1 and C/3
3768	Blum Ranch Farmhouse	31880 Aliso Canyon Rd	Acton vicinity	1916	N/A	2S2; 2D2	C/3

ID = identification
APN = Assessor's Parcel Number
CHRIS = California Historical Resource Inventory System

The following fourteen properties were evaluated and determined ineligible for listing on the NRHP:

Table 4. New Properties Determined Ineligible for the NRHP – Documented on DPR forms

Map ID	Resource Name	Address	City	Primary Number (if any)	Year Built	CHRIS Status
302	Charles Maclay Junior High School	12540 Pierce Street	Los Angeles	N/A	1960	6Z
154	Key Burger	10971 Glenoaks Boulevard	Los Angeles	N/A	1961	6Z
190	Shelter Isle Mobile Estates Office	10965 Glenoaks Boulevard	Los Angeles	N/A	1961	6Z
1113	LADWP Valley Generating Station	11801 Sheldon Street	Los Angeles	N/A	1953–1957	6Z
1180	Pacoima Canyon Trail	FS 05-01-55-46	Angeles National Forest	P-19-187823	Unknown	6Z
1366	Republic Services, Inc.	9200 Glenoaks Blvd	Los Angeles	N/A	1964	6Z
1620	Mt. View Motel	8065 San Fernando Rd	Los Angeles	N/A	1939	6Z
1653	Santa Clara Divide Road	FS 05-01-55-102	Angeles National Forest	19-186921	c. 1930s	6Z

Map ID	Resource Name	Address	City	Primary Number (if any)	Year Built	CHRIS Status
1689	Little Tujunga Canyon Road	FS 05-01-55-213	Angeles National Forest	P-19-187823	Unknown	6Z
1777	Mendenhall Ridge Road	FS 05-01-55-110	Angeles National Forest	P-19-186902	Unknown	6Z
1781	Glenwood Elementary School	8001 Ledge Ave	Los Angeles	N/A	1945	6Z
1846	San Fernando Road (Segment B: Welden Canyon to Glendale Junction)	N/A	Los Angeles	19-188007	1924	6Z
2083	Oak Springs Trail	FS 05-01 55-31	Angeles National Forest	P-19-180668	Unknown	6Z
3185	Angeles Forest Highway, aka County Road N-3	FS 05-01-55-185	Angeles National Forest	P-19-187713	1941	6Z

ID = identification

APN = Assessor's Parcel Number

CHRIS = California Historical Resource Inventory System

6Z = Found ineligible for NRHP, CRHR, or Local designation through survey evaluation.

N/A = not applicable

ID = identification

APN = Assessor's Parcel Number

CHRIS = California Historical Resource Inventory System

6Y = Determined ineligible for the NRHP by consensus through Section 106 process – Not evaluated for CRHR or Local Listing

After reviewing the information submitted with your letter, I offer the following comments:

- I concur that identification efforts are sufficient for the undertaking at this time, per 36 CFR § 800.4(b).
- I concur that the eight properties listed in Tables 3 are eligible for the NRHP, per 36 CFR § 800.4(c)(2).
- I concur that the fourteen properties listed in Tables 4 are ineligible for the NRHP, per 36 CFR § 800.4(c)(2).
- I concur that the 320 properties evaluated using streamlined methodology documented in Appendix F of the HASR are ineligible for the NRHP, per 36 CFR § 800.4(c)(2).

If the Authority has any questions or comments, please contact State Historian Tristan Tozer at (916) 445-7027 at Tristan.Tozer@parks.ca.gov.

Sincerely,

A handwritten signature in blue ink, consisting of a large, stylized 'J' followed by a horizontal line extending to the right.

Julianne Polanco
State Historic Preservation Officer

Letter No. 9



**DEPARTMENT OF PARKS AND RECREATION
OFFICE OF HISTORIC PRESERVATION**

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Lisa Ann L. Mangat, Director

September 3, 2021

Reference Number: FRA_2018_0418_001

Submitted Via Electronic Mail

Brett Rushing
Cultural Resources Program Manager
California High-Speed Rail Authority
770 L Street, Suite 620
Sacramento, CA 95814

Re: High Speed Rail Program, Palmdale to Burbank Project Section, Request for Review and Concurrence on the Findings Presented in the Finding of Effect Report

Dear Mr. Rushing:

The California State Historic Preservation Officer (SHPO) is in receipt of the California High-Speed Rail Authority's (Authority) August 6, 2021 letter continuing consultation regarding the Palmdale to Burbank project section of the California High-Speed Rail Program. This consultation is undertaken in accordance with the 2011 *Programmatic Agreement Among the Federal Railroad Administration, the Advisory Council on Historic Preservation, the California State Historic Preservation Officer, and the California High-Speed Rail Authority, as Amended (PA)*. In support of this consultation, the Authority has prepared the following report: California High-Speed Rail Authority, Palmdale to Burbank Project Section, Section 106 Finding of Effect Report (FOE) (May 2021)

There are 18 historic properties within the SR14A Build Alternative APE, consisting of five built-environment properties, 12 unevaluated archaeological resources treated as historic properties for the purposes of this undertaking, and once archaeological property listed on the National Register of Historic Places (NRHP). The FOE concludes that the construction and operation of the Palmdale to Burbank Project Section will have no effect on two built-environment historic properties and no adverse effect on three built-environment historic properties, as listed in Table 1 included in your August 6, 2021 letter.

Additionally, the FOE finds that construction and operation of the Palmdale to Burbank Project Section will have no effect on two of the 13 archaeological resources and that determination of effects for the 11 remaining archaeological resources will be phased as access to sites is granted and the project design

Mr. Brett Rushing
September 3, 2021
Page 2 of 2

advances. These sites are listed in Table 2 of your August 6, 2021 letter. None of the archaeological resources listed in Table 2 appear exempt from evaluation under Attachment D of the Section 106 PA. To date, approximately 9.6 percent of the archaeological APE has been surveyed for the current undertaking, and additional archaeological resources may be identified during future phased identification efforts, including survey and construction monitoring. Moreover, consultation with tribal consulting parties will continue to be conducted for the undertaking, as appropriate. To date, this consultation has not identified previously unrecorded archaeological resources or traditional cultural properties. The SR14A alignment would have no effect on two archaeological resources, as shown in Table 2.

Section 4(f) of the United States Department of Transportation Act of 1966 requires consultation with the SHPO, the official with jurisdiction over historic properties, as stipulated in 23 CFR § 774.17. The Authority is consequently notifying the SHPO of its intent to make a de minimis impact determination for the Palmdale Ditch and the East Branch of the California Aqueduct in accordance with 23 CFR § 774.5. For historic properties, a de minimis impact determination under Section 4(f) is based on findings made in the Section 106 consultation process and can be made if the project will have no adverse effect on the historic property. The Authority has determined that the Palmdale Ditch and the East Branch of the California Aqueduct will not be adversely affected and, therefore, will incur a de minimis use under Section 4(f). By concurring with the Authority's finding of no adverse effect under Section 106, the SHPO also concurs with this 4(f) determination.

In accordance with PA Stipulation VII.A, the Authority requests SHPO concurrence findings presented in the FOE. Having reviewed the recommendations summarized in the FOE, SHPO concurs that the undertaking will not adversely affect historic properties.

If you have any questions, please contact State Historian Tristan Tozer at (916) 445-7027 or tristan.Tozer@parks.ca.gov.

Sincerely,

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Julianne Polanco
State Historic Preservation Officer

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Letter No. 10



**DEPARTMENT OF PARKS AND RECREATION
OFFICE OF HISTORIC PRESERVATION**

Armando Quintero, Director

Julianne Polanco, State Historic Preservation Officer

1725 23rd Street, Suite 100, Sacramento, CA 95816-7100

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12/14/2023

In reply refer to: FRA_2018_0418_001

SENT VIA ELECTRONIC MAIL

Brett Rushing
Cultural Resources Program Manager
California High-Speed Rail Authority
770 L Street, Suite 620
Sacramento, CA 95814

RE: High-Speed Rail Program, Palmdale to Burbank Memorandum of Agreement

Dear Mr. Rushing:

Accompanying this letter is a signed copy of the *2023 Memorandum of Agreement Among The California High-Speed Rail Authority, The Surface Transportation Board, And The California State Historic Preservation Officer Regarding The Palmdale To Burbank Project Section Of The California High-Speed Rail Program In Los Angeles County, California.*

If you have any questions or comments, please contact staff historian Tristan Tozer at (916) 894-5499 or Tristan.Tozer@parks.ca.gov.

Sincerely,

A handwritten signature in blue ink, appearing to be "JP", with a long horizontal line extending to the right.

Julianne Polanco
State Historic Preservation Officer

**MEMORANDUM OF AGREEMENT
AMONG THE CALIFORNIA HIGH-SPEED RAIL AUTHORITY, THE SURFACE TRANSPORTATION BOARD,
AND THE CALIFORNIA STATE HISTORIC PRESERVATION OFFICER
REGARDING THE PALMDALE TO BURBANK PROJECT SECTION OF THE
CALIFORNIA HIGH-SPEED RAIL PROGRAM IN
LOS ANGELES COUNTY, CALIFORNIA**

WHEREAS, the California High-Speed Rail Authority (Authority) proposes to construct the Palmdale to Burbank Project Section (the Undertaking), an approximately 42-mile portion of the California High-Speed Rail Program in Los Angeles County, which would consist of modifying existing tracks and stations and constructing a new rail alignment, stations, a maintenance facility, electrical substations, and other appurtenant facilities;

WHEREAS, the Palmdale to Burbank Project Section was identified as an undertaking subject to review under Section 106 of the National Historic Preservation Act (54 United States Code [U.S.C.] § 306108) (Section 106) and its implementing regulations (36 Code of Federal Regulations [CFR] Part 800) in the *Programmatic Agreement among the Federal Railroad Administration, the Advisory Council on Historic Preservation, the California State Historic Preservation Officer, and the California High-Speed Authority regarding compliance with Section 106 of the National Historic Preservation Act as it pertains to the California High-Speed Train Project* executed on July 22, 2011, which was amended with the *First Amendment to the Programmatic Agreement among the Federal Railroad Administration, the Advisory Council on Historic Preservation, the California State Historic Preservation Officer, and the California High-Speed Rail Authority regarding compliance with Section 106 of the National Historic Preservation Act as it pertains to the California High-Speed Train Project* executed on July 21, 2021 (PA; **Attachment 1**); and

WHEREAS, the Authority has coordinated compliance with Section 106 and 36 CFR Part 800 with steps taken to meet the requirements of the National Environmental Policy Act (NEPA), Section 4(f) of the Department of Transportation Act of 1966 (49 U.S.C. § 303), and the California Environmental Quality Act (CEQA) and has planned public participation, analysis, and review in such a way to satisfy the requirements of each statute; and

WHEREAS, on July 23, 2019, the State of California and the Federal Railroad Administration (FRA) executed a memorandum of understanding under the Surface Transportation Project Delivery Program (known as NEPA Assignment), pursuant to the legal authority under 23 U.S.C. § 327; and under NEPA Assignment, the State, acting through the California State Transportation Agency and the Authority, assumed FRA's responsibilities under NEPA and other federal environmental laws, including Section 106, for the California High-Speed Rail Program, including the Undertaking; and

WHEREAS, the FRA notified the Authority that the FRA would not be participating in consultation regarding the Undertaking; and

WHEREAS, government-to-government consultation with federally recognized Native American tribes remains the FRA's responsibility under NEPA Assignment; and

WHEREAS, on April 18, 2013, the Surface Transportation Board (STB) issued a decision concluding that it has jurisdiction over the construction of the California High-Speed Rail Program, requiring the Authority to obtain STB approval for the construction of each project section, and the STB subsequently designated FRA lead agency to act on its behalf for the purposes of compliance with Section 106 for

California High-Speed Rail Program undertakings; and on June 23, 2021, the STB designated the Authority as lead Federal agency for Section 106 and the STB accepted the Authority's invitation to be an Invited Signatory to this memorandum of agreement (MOA); and

WHEREAS, on May 20, 2020, the United States Army Corps of Engineers (USACE), San Francisco, Sacramento, and Los Angeles districts, sent a letter to the Authority reaffirming their understanding regarding the Authority's role as lead agency for compliance with Section 106, and that the Authority has the responsibility to act on the USACE's behalf for their discretionary federal actions related to all project sections of the California High-Speed Rail Program; and

WHEREAS, the Undertaking would be designed and constructed using a procurement process, in which the current level of design is generally 15 percent complete and which the Authority's contractor (the Contractor) will advance to 100 percent, potentially resulting in adjustments to the project footprint; and

WHEREAS, the Authority has delineated the Area of Potential Effects (APE) for the Undertaking based on the current level of design in accordance with Stipulation VI.A of the PA to encompass the geographic areas within which the Undertaking may directly or indirectly cause alterations in the character or use of historic properties, as depicted in **Attachment 2**; and

WHEREAS, the Authority surveyed the APE for built-environment resources and, in consultation with the California State Historic Preservation Officer (SHPO) and other Consulting Parties, determined that the APE contains 5 built-environment historic properties listed in or considered eligible for listing in the National Register of Historic Places (**Attachment 3**); and

WHEREAS, due to access restrictions and the predominance of paved or otherwise non-visible ground surfaces, the Authority has not yet surveyed all of the project footprint for archaeological resources and, in consultation with the SHPO and other Consulting Parties, determined that the APE contains 12 previously identified archaeological resources (**Attachment 3**) that are presumed to be NRHP-eligible for planning purposes; and

WHEREAS, the Authority proposes to phase the identification and evaluation of archaeological historic properties as provided for in Stipulation VI.E of the PA and 36 CFR § 800.4(b)(2); and

WHEREAS, the Advisory Council on Historic Preservation (ACHP) notified the Authority that the ACHP would not be participating in consultation regarding the Undertaking by letter on December 22, 2022; and

WHEREAS, the Authority, in consultation with the SHPO, STB, and other Consulting Parties, determined that the Undertaking as currently designed may have no adverse effect on 3 built-environment historic properties and no effect on 2 built-environment historic properties, as documented in the Finding of Effect (FOE) report for the Palmdale to Burbank Project Section and as listed in **Attachment 3** of this MOA; the Undertaking will have no effect on 2 archaeological properties and the Authority will phase the evaluation and effects assessment for 10 archaeological properties that have been identified in the APE; and

WHEREAS, the Authority will ensure the avoidance, minimization, or resolution of adverse effects of the Undertaking on historic properties through the execution and implementation of this MOA and the implementation of the Archaeological Treatment Plan (ATP; **Attachment 4**) and the Built Environment Treatment Plan (BETP; **Attachment 5**) (collectively referred to as the Treatment Plans); and

WHEREAS, in accordance with Stipulations V.A and V.B of the PA, the Authority has consulted with agencies with jurisdiction over portions of the APE and other parties with a demonstrated interest in the Undertaking, a legal or economic relation to an affected historic property, or concern with the Undertaking's effects on historic properties, as noted in **Attachments 6 and 7**, about the Undertaking and its effects on historic properties and has taken into account all comments received from them; and

WHEREAS, in accordance with Stipulations IV.B and IV.C of the PA, the Authority has consulted with or made a good faith effort to consult with California Native American tribes that are on the Native American Heritage Commission's consultation list and are traditionally and culturally affiliated with the APE of the Undertaking; the California Native American tribes that have chosen to participate in the consultation are identified in **Attachment 7**; and

WHEREAS, the parties listed in **Attachments 6 and 7** have accepted the Authority's invitation to be consulting parties to the Undertaking (collectively referred to as the Consulting Parties); and

WHEREAS, the Authority sought and considered the views of the public on this Undertaking through its public involvement program as part of the environmental review process and requirements of NEPA and CEQA, as described in the Environmental Impact Report/Environmental Impact Statement (EIR/EIS) for the Undertaking, which included distributing informational materials to the public, making presentations and soliciting comments at public meetings, and circulating the draft and final EIR/EIS and supporting technical reports for public review and comment; and

WHEREAS, the Authority and SHPO are collectively referred to as the Signatories; STB is referred to as an Invited Signatory; and

WHEREAS, the Consulting Parties other than the Signatories and Invited Signatory have been invited to sign this MOA as concurring parties (collectively referred to as Concurring Parties); and

NOW, THEREFORE, the Authority and SHPO agree the Undertaking will be implemented in accordance with the following stipulations in order to take into account the effects of the Undertaking on historic properties, and further agree that these stipulations shall govern the Undertaking and all its parts until this MOA expires or is terminated.

STIPULATIONS

The Authority, with the assistance of its Contractor, shall ensure that the following stipulations of this MOA are carried out:

I. OVERSIGHT AND COORDINATION

The Authority, as the lead federal agency, will be responsible for ensuring compliance with all stipulations of this MOA, with the exception of government-to-government consultation with federally recognized Native American tribes, which remains the FRA's responsibility under NEPA Assignment.

The Authority shall ensure that the terms of this MOA, including the ATP and BETP, are incorporated in their entirety in all contracts, licenses, or other approvals for this Undertaking and shall ensure the completion of all measures specified in this MOA, including in the ATP and BETP.

The Authority shall ensure that it carries out its responsibilities under the PA (as may be amended from time to time) and any subsequent programmatic agreements regarding compliance with Section 106, to the extent such responsibilities are applicable to the Undertaking and in effect.

As an Invited Signatory, STB will receive all documentation related to this MOA and Treatment Plans, will be provided the opportunity to review and comment on such documentation during the implementation of this MOA, and will be part of the ongoing consultation process during implementation of this MOA. The Authority will consider any comments made by STB prior to finalizing all MOA-associated documentation.

II. MODIFICATIONS TO THE AREA OF POTENTIAL EFFECTS

In accordance with the PA, the APE was developed and agreed upon by the Authority and the SHPO, and accounts for potential impacts on both archaeological and built-environment resources that may result from the construction and operation of the Undertaking.

If modifications to the Undertaking, subsequent to the execution of this MOA, necessitate the revision of the APE, the Authority is responsible for informing the SHPO, Invited Signatory, and other Consulting Parties within 15 days of identification of the needed changes in accordance with PA Stipulation VI. The Authority shall document the revised APE in an appropriate supplemental identification report (e.g., APE Modification Memo, addendum Archaeological Survey Report, and/or addendum Historic Architecture Survey Report). The SHPO will have 30 days to review the modified APE. If the SHPO objects to the modified APE, the Authority will revise the APE to address SHPO comments and resubmit for review. The SHPO will have 30 days to review and comment on this revised APE.

III. COMPLETION OF HISTORIC PROPERTIES IDENTIFICATION AND EVALUATION EFFORT PRIOR TO CONSTRUCTION

The Authority will ensure that any additional historic property identification and evaluation efforts are completed as outlined below and that documentation of the identification and evaluation efforts is prepared in accordance with this MOA, including the ATP and BETP, and PA Stipulation VI. The Authority will submit documentation of these efforts to the SHPO, Invited Signatory, and other interested Consulting Parties for a 30-day review period. Prior to finalizing any inventory and evaluation documentation, the Authority shall consider the comments regarding identification efforts that are received through this consultation process.

Completion of the historic properties identification and evaluation effort will be consistent with Stipulation VI (Identification and Evaluation of Historic Properties) and Stipulation IX (Changes in Ancillary Area/Construction Right-of-Way) of the PA, including archaeological survey of areas not previously accessible/surveyed prior to construction. The Authority shall provide the SHPO, Invited Signatory, and other Consulting Parties with the information necessary to document that efforts to identify and evaluate historic properties in the Undertaking's APE are sufficient to comply with 36 CFR § 800.4(b) and (c).

The Authority will ensure that addendum FOEs (aFOE) are prepared, in accordance with PA Stipulation VII, once supplemental historic property identification efforts are completed. The Authority will submit aFOEs to the SHPO, Invited Signatory, and other Consulting Parties with an interest in the historic

property for a concurrent 30-day review period. The Authority shall take into consideration all comments regarding effects received within the review period prior to finalizing aFOEs for submission to the SHPO for review and concurrence. The SHPO shall have an additional 30 days to review final aFOE reports. If the SHPO makes no objection within the final 30-day review period, the findings for resources documented in the aFOE will become final. Should SHPO have any objections, the Authority will follow Stipulation VII.A, Dispute Resolution, in this MOA.

IV. TREATMENT OF HISTORIC PROPERTIES IDENTIFIED IN THE APE

This MOA outlines the Authority's commitments regarding the treatment of all historic properties, both currently known and yet-to-be-identified, that may be affected by the Undertaking. As allowed under Stipulation VIII.B of the PA, this MOA includes provisions for treatment plans that include use of a combined archaeological testing and data recovery program. Two detailed historic property Treatment Plans have been prepared for the Undertaking: the ATP and the BETP.

The ATP (**Attachment 4**) describes treatments for effects on archaeological properties and Native American traditional cultural properties. The BETP (**Attachment 5**) describes the treatments for effects on built environment resources. The work described in the Treatment Plans will be conducted prior to construction, during construction, and/or after construction of the Undertaking in the manner specified in the Treatment Plans. The treatments to historic properties known at the time of execution of this MOA are summarized in an impact/treatment table, organized by historic property, in **Attachment 3**. The treatment measures listed will be applied to historic properties affected in order to avoid, minimize, and/or mitigate effects of the Undertaking. The Authority shall implement and complete the treatment measures within 2 years of completion of construction of the Undertaking, or earlier if so specified. The Authority shall ensure that sufficient time and funding are provided to complete all necessary preconstruction commitments before disturbances related to the Undertaking occur.

A. Archaeological Treatment Plan

The ATP describes in detail the methods that will be employed to complete the historic properties identification effort within the Undertaking's APE as part of the phased identification of archaeological resources. More specifically, the ATP builds upon the identification efforts completed to date and specifies where and under what circumstances further efforts to identify significant archaeological deposits will take place within the Undertaking's areas of physical impact.

The ATP also describes in detail the avoidance, minimization, and/or mitigation treatment measures for all currently known and yet-to-be-identified significant archaeological resources and Native American cultural resources affected by the Undertaking. Additional measures to avoid, minimize, or mitigate adverse effects on archaeological historic properties may be developed in consultation with Consulting Parties as identification and evaluation efforts are performed in future planning and construction phases of the Undertaking. The Authority commits to implementing the terms of the ATP.

The SHPO, Invited Signatory, and other Consulting Parties with an interest in archaeological resources shall have the opportunity to review and comment on cultural resources documentation specified in the ATP in accordance with Stipulation VI of this MOA.

B. Built Environment Treatment Plan

The BETP provides detailed descriptions of treatment measures for built environment historic properties located within the APE that may be affected by the Undertaking. The treatments will be carried out by qualified professionals pursuant to Stipulation III of the PA. The treatment measures are included in the BETP and are intended to avoid, minimize, and/or mitigate adverse effects caused by the Undertaking. The Authority commits to implementing the terms of the BETP.

The Authority shall provide documentation produced under the BETP to the SHPO, Invited Signatory, and other Consulting Parties with an interest in historic properties included in the BETP for review and comment in accordance with Stipulation VI of this MOA.

C. Avoidance and Minimization Measures

The Authority has identified property-specific and programmatic Impact Avoidance and Minimization Features (IAMF) to ensure the Undertaking would result in no adverse effect to 5 built historic properties, as outlined in the BETP (**Attachment 5**).

- a. The Authority will ensure that the IAMFs are incorporated into project design and construction contracts for the Undertaking.
- b. In consultation with the SHPO, Invited Signatory, and other Consulting Parties, the Authority will ensure that the IAMFs are implemented during the appropriate design and construction phases of the Undertaking.
- c. The Authority may revise the IAMFs or develop additional IAMFs to ensure the Undertaking would result in no adverse effects in accordance with Stipulation VII.B below, should project design changes result in new potential effects to previously identified historic properties or to additional historic properties within revised APEs.

V. POST-REVIEW DISCOVERIES

If properties are discovered that may be historically significant or unanticipated effects on historic properties are found, the Authority shall follow the processes detailed in the ATP and BETP.

VI. PREPARATION AND REVIEW OF DOCUMENTS

A. Professional Qualifications

The Authority shall ensure that all cultural resources studies carried out pursuant to this MOA are performed by or under the direct supervision of personnel meeting *The Secretary of the Interior's Professional Qualifications Standards* (48 Federal Register 44738–39) in the disciplines of history, architectural history, historic architecture, and/or archaeology, as appropriate.

B. Confidentiality

The Signatories and Invited Signatory acknowledge that the handling of documentation regarding historic properties covered by this MOA are subject to the provisions of Section 304 of the National Historic Preservation Act of 1966 (54 U.S.C. § 307103) and Section 6254.10 of the California Government Code (Public Records Act).

C. Review

Unless otherwise specified, parties to this MOA will have 30 calendar days from receipt to provide the Authority comments on all technical materials, findings, and other documentation arising from this MOA. If no comments are received from a party within the 30-calendar-day review period, the Authority may assume that the non-responsive party has no comment. The Authority shall take into consideration all comments received in writing within the 30-calendar-day review period and may make revisions before finalizing the documentation.

For documentation that is amended or revised, the Authority will prepare a comment and response summary or matrix and provide it to the SHPO, Invited Signatory, and other Consulting Parties.

If a party to this MOA objects to documentation provided for review within 30 calendar days of the receipt of any submissions, the Authority shall resolve the objection in accordance with Stipulation VII.A of this MOA.

D. Electronic Submittals

Unless otherwise requested, documentation produced under this MOA will be distributed electronically. Additionally, electronic mail may serve as an official method of communication regarding this MOA.

VII. ADMINISTRATIVE STIPULATIONS

A. Dispute Resolution

In accordance with Stipulation XVII of the PA, should any Signatory, Invited Signatory, or other Consulting Party to this MOA object at any time to any actions proposed or the manner in which the terms of this MOA are implemented, the Authority shall consult with such party to resolve the objection. If the Authority determines that such objection cannot be resolved, the Authority will:

1. Forward all documentation relevant to the dispute, including the Authority's proposed resolution, to the ACHP. The Authority will also provide a copy to the SHPO, Invited Signatory, and other Consulting Parties with a demonstrated interest in the affected property or subject of the dispute. Pursuant to Stipulation XVII.A.1 of the PA, the ACHP shall provide the Authority with its advice on the resolution of the objection within 30 days of receiving adequate documentation. Prior to reaching a final decision on the dispute, the Authority shall prepare a written response that takes into account any advice or comments regarding the dispute from the ACHP, Signatories, Invited

Signatory, and interested Consulting Parties, and provide them with a copy of this written response. The Authority will then proceed according to its final decision.

2. If the ACHP does not provide its advice regarding the dispute within the 30-day time period, the Authority may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, the Authority shall prepare a written response that takes into account any comments regarding the dispute from the Signatories, Invited Signatory, and other Consulting Parties with a demonstrated interest in the affected property or subject of the dispute and provide them and the ACHP with a copy of such written response.
3. The Authority's responsibility to carry out all other actions subject to the terms of this MOA that are not the subject of the dispute remains unchanged.

B. Amendment and Revisions to Attachments

This MOA may be amended by written request from any Signatory or Invited Signatory. Consulting Parties shall be afforded 30 days to review and comment on any proposed amendments to this MOA. The Signatories and Invited Signatory shall take into consideration all comments received prior to executing an amendment. The amendment will be effective when a copy of the amendment is signed by all Signatories and Invited Signatory that signed this MOA. The Authority will file a copy of any executed amendment with the ACHP pursuant to 36 CFR § 800.6(c)(7).

Notwithstanding the prior paragraph, to address changes in the Undertaking or the treatment of historic properties affected by the Undertaking, the Authority may revise the ATP, the BETP, or other attachments to this MOA in consultation with the SHPO, Invited Signatory, and other Consulting Parties, without executing a formal amendment to this MOA. The Authority shall provide proposed ATP or BETP revisions to the SHPO, Invited Signatory, and other Consulting Parties with an interest in historic properties that may be affected by the proposed revisions for a 30-day review. The Signatories shall take into consideration all timely comments received prior to agreeing to the revisions. Upon the written concurrence of all the Signatories, such revisions to the ATP, the BETP, or other attachments shall take effect and be considered a part of this MOA.

C. Termination

If any Signatory or Invited Signatory determines that its terms will not or cannot be carried out, that party shall immediately consult with the other Signatories and Invited Signatory to attempt to resolve the issue under Stipulation VII.A, above, or to develop an amendment under Stipulation VII.B, above. If within 30 days (or another time period agreed to by all Signatories and Invited Signatory) an amendment cannot be reached, any Signatory or Invited Signatory may terminate this MOA upon written notification to the other Signatories and Invited Signatory. Termination hereunder shall render this MOA without further force or effect.

If this MOA is terminated, and the Authority determines that the Undertaking will proceed, the Authority must either execute a new MOA pursuant to 36 CFR § 800.6 prior to proceeding further with the Undertaking or follow the procedures for termination of consultation pursuant to 36 CFR § 800.7. The Authority shall notify the SHPO, Invited Signatory, and other Consulting Parties as to the course of action it will pursue.

D. Duration

If the Authority determines that construction of the Undertaking has not been completed within 10 years following execution of this MOA, the Signatories and Invited Signatory shall consult to reconsider its terms. Reconsideration may include continuation of the MOA as originally executed, amendment, or termination.

This MOA will be in effect through the Authority's implementation of the Undertaking and will terminate and have no further force or effect when the Authority, in consultation with the SHPO and Invited Signatory, determines that the terms of this MOA have been fulfilled in a satisfactory manner. The Authority shall provide the SHPO and Invited Signatory with written notice of its determination and of termination of this MOA.

E. Annual Reporting and Meetings

The Authority shall prepare an annual report documenting the implementation of the actions taken under this MOA as stipulated in PA Stipulation XVII.C. The annual report shall include specific lists of studies, reports, actions, evaluations, and consultation and outreach efforts related to implementation of this MOA. The Authority will provide the annual report to the SHPO, Invited Signatory, and other Consulting Parties. If requested by the SHPO, Invited Signatory, and other Consulting Parties, the Authority will coordinate a meeting or call to discuss the annual report.

VIII. EFFECTIVE DATE AND EXECUTION

This MOA may be executed in counterparts, with a separate page for each Signatory, and will take effect on the latest date of execution by the Authority and SHPO. STB's signature is not required to execute this MOA or for its effectiveness. Separate concurrence pages may also be provided for each Concurring Party. The Authority shall ensure that each Signatory, Invited Signatory, and Concurring Party is provided with a copy of the fully executed MOA. The refusal of any Invited Signatory or Concurring Party to sign this MOA shall not invalidate this MOA or prevent this MOA from taking effect.

Execution of this MOA by the Authority and SHPO and implementation of its terms evidence that the Authority has taken into account the effects of this Undertaking on historic properties and afforded the ACHP an opportunity to comment.

MEMORANDUM OF AGREEMENT
AMONG THE CALIFORNIA HIGH-SPEED RAIL AUTHORITY, THE SURFACE TRANSPORTATION BOARD,
AND THE CALIFORNIA STATE HISTORIC PRESERVATION OFFICER
REGARDING THE PALMDALE TO BURBANK PROJECT SECTION OF THE
CALIFORNIA HIGH-SPEED RAIL PROGRAM
LOS ANGELES COUNTY, CALIFORNIA


SIGNATORIES:

CALIFORNIA HIGH-SPEED RAIL AUTHORITY

By: 
Brian P. Kelly
Chief Executive Officer

Date: October 26, 2023

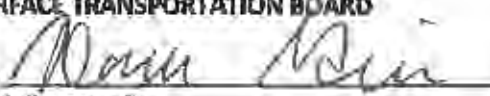
CALIFORNIA STATE HISTORIC PRESERVATION OFFICER

By: 
Julianne Polanco
State Historic Preservation Officer

Date: 12/14/2023

INVITED SIGNATORY:

SURFACE TRANSPORTATION BOARD

By: 
Danielle Gosselin
Director, Office of Environmental Analysis

Date: 11/8/23

**MEMORANDUM OF AGREEMENT
AMONG THE CALIFORNIA HIGH-SPEED RAIL AUTHORITY, THE SURFACE TRANSPORTATION BOARD,
AND THE CALIFORNIA STATE HISTORIC PRESERVATION OFFICER
REGARDING THE PALMDALE TO BURBANK PROJECT SECTION OF THE
CALIFORNIA HIGH-SPEED RAIL PROGRAM
LOS ANGELES COUNTY, CALIFORNIA**

CONCURRING PARTIES:

BUREAU OF LAND MANAGEMENT

By: _____ Date: _____
Name
Title

UNITED STATES FOREST SERVICE – ANGELES NATIONAL FOREST

By: _____ Date: _____
Name
Title

YUHA AVIATAM OF SAN MANUEL NATION

By: _____ Date: _____
NAME
Chairperson

FERNANDEÑO TATAVIAM BAND OF MISSION INDIANS

By: _____ Date: _____
NAME
Chairperson

GABRIELEÑO BAND OF MISSION INDIANS – KIZH NATION

By: _____ Date: _____
NAME
Chairperson

GABRIELINO/TONGVA NATION

By: *Sam Dunlap* Date: 11-30-23

NAME SAM DUNLAP

Chairperson CULTURAL RESOURCE DIRECTOR

LOS ANGELES COUNTY DEPARTMENT OF PARKS AND RECREATION

By: _____ Date: _____

Name

Title

**ATTACHMENT 1: PROGRAMMATIC AGREEMENT AND FIRST AMENDMENT TO THE PROGRAMMATIC
AGREEMENT FOR CALIFORNIA HIGH-SPEED RAIL**

**PROGRAMMATIC AGREEMENT AMONG
THE FEDERAL RAILROAD ADMINISTRATION,
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION,
THE CALIFORNIA STATE HISTORIC PRESERVATION OFFICER, AND
THE CALIFORNIA HIGH-SPEED RAIL AUTHORITY
REGARDING
COMPLIANCE WITH SECTION 106 OF THE NATIONAL HISTORIC PRESERVATION ACT,
AS IT PERTAINS TO THE CALIFORNIA HIGH-SPEED TRAIN PROJECT**

WHEREAS, The California High Speed Rail Authority (Authority), an agency of the State of California, proposes to construct and operate a Statewide High Speed Train (HST) System comprised of nine independent sections between major metropolitan areas of California. The following HST System sections (see map, Attachment A) comprise the nine separate undertakings covered by this Programmatic Agreement (hereafter, Agreement), which are subject to review under Section 106 of the National Historic Preservation Act and its implementing regulations, 36 Code of Federal Register (CFR) Part 800:

- San Francisco to San Jose.
- San Jose to Merced.
- Merced to Sacramento.
- Merced to Fresno.
- Fresno to Bakersfield.
- Bakersfield to Palmdale.
- Palmdale to Los Angeles.
- Los Angeles to Anaheim.
- Los Angeles to San Diego.

WHEREAS, in 2005 the Federal Railroad Administration (FRA), acting as the Federal agency, and the Authority completed a Statewide Program Environmental Impact Report/Environmental Impact Statement (EIR/EIS) in accordance with the requirements of the National Environmental Policy Act (NEPA) and the California Environmental Quality Act (CEQA) as the first phase of the tiered environmental review process. In 2008 the FRA and the Authority completed a second program EIR/EIS on the Central Valley to Bay Area portion of the HST System. The Record of Decision (ROD) for the Statewide Program EIR/EIS indicated that project-level environmental analysis would be conducted for sections of the Statewide HST System as the next phase of environmental review and project approval; and

WHEREAS, pursuant to the requirements of CEQA and NEPA, the Authority and the FRA conducted a public and agency involvement program as part of the program environmental review process for the Statewide Program EIR/EIS. As part of this outreach, information was provided to 15,500 federal, state, and local agency representatives; elected officials; property owners; interested persons; and interested organizations. Approximately 25 informal and formal public meetings were held statewide during the Program EIR/EIS process. The Authority and the FRA convened staff representatives from 27 interested federal and state agencies to provide input on the environmental review process. Targeted interested groups included non-governmental organizations, community planning organizations, and public interest discussion/research groups; and

WHEREAS, for the Statewide Program EIR/EIS, the FRA and the Authority initiated consultation with Native American groups and sent letters providing information about the proposed project alternatives and requesting information about any traditional cultural properties that could be affected by the project. The FRA and Authority also contacted the California Native American Heritage Commission for a search of their Sacred Lands files and to provide a list of Native American tribes or groups for Section 106 consultation.

WHEREAS, in addition to consultation with the Federally-recognized Native American tribes, and other federal, state, regional, and local agencies, as appropriate, the FRA, as the Federal agency, and the Authority, as a responsible state agency, consulted with the Advisory Council on Historic Preservation (Council) and the State Historic Preservation Officer (SHPO) on the historic properties identified in the Program EIR/EIS and on measures to avoid, minimize, and mitigate potentially significant impacts; and

WHEREAS, the FRA has determined that each of the nine independent sections of the proposed HST System that include rail lines, associated structures, maintenance and ancillary facilities, construction easements, and staging areas, is an undertaking of this Agreement that may have an effect upon historic properties included on or eligible for inclusion on the National Register of Historic Places (NRHP); and

WHEREAS, the construction schedule is different for each undertaking, and Section 106 of the National Historic Preservation Act (16 U.S.C. §470f, hereafter Section 106) may be conducted and concluded at different times for each undertaking; and

WHEREAS, the purpose of this Agreement is to provide statewide consistency in consultation procedures, documentation standards, and federal agency oversight in compliance with Section 106 of the National Historic Preservation Act for each undertaking, each of which would be subject to an individualized consultation process under the terms of the PA; and

WHEREAS, the Authority has received a grant from the FRA through the High-Speed Intercity Passenger Rail Program funded in part through the American Recovery and Reinvestment Act (ARRA), to construct a section of the California High-Speed Train consisting of portions of the Merced to Fresno and Fresno to Bakersfield undertakings, and this Agreement streamlines the Section 106 compliance process, thereby expediting the obligation of ARRA funds; and

WHEREAS, the FRA has a statutory obligation, as the federal agency, to fulfill the requirements of Section 106 (36 CFR 800). The FRA, in consultation and cooperation with the Authority, shall ensure that the measures in the following stipulations are carried out. The FRA authorizes the Authority to initiate consultation with the SHPO pursuant to 36 CFR 800.14(b)(1)(iii) for the undertakings covered by this Agreement; and

WHEREAS, pursuant to 36 CFR 800.14, the FRA delegates major decision-making responsibility to the Authority including identification of historic resources, findings of eligibility, findings of effect, consultation, and the development and implementation of individual Memoranda of Agreement (MOAs) and treatment plans for each undertaking. The Authority will submit documents specified in this Agreement to the SHPO on behalf of the FRA: and

WHEREAS, the FRA and the Authority will jointly prepare environmental studies of the HST Projects (undertakings) in accordance with NEPA, including cultural resource studies required for Section 106, to coordinate the NEPA and Section 106 processes to the maximum extent possible; and

WHEREAS, the FRA, the Council, the Authority, and the SHPO are signatories pursuant to 36 CFR 800.6(c)(1) and have authority to execute, amend, or terminate this Agreement; and

WHEREAS, the FRA and the authority will continue to consult with Federally recognized Native American Tribes, concerning properties of traditional religious and cultural significance, and the Pechanga and Soboba Band of Luiseno Indians have requested to be concurring tribes under this Agreement; and

WHEREAS, all of the signatories to this Agreement accede to implement the procedure and measures described herein for each undertaking in keeping with the following stipulations; and

NOW, THEREFORE, the signatories agree that the proposed undertakings covered by this Agreement shall be implemented in accordance with the following stipulations in order to consider the effect of each undertaking on historic properties and that these stipulations shall govern compliance of the proposed HST System with Section 106 of the NHPA until this Agreement expires or is terminated.

STIPULATIONS

I. APPLICABILITY

- A. This Agreement shall apply to all the FRA and Authority undertakings administered under the HST Project for which the FRA is the Federal agency.
- B. This Agreement shall not apply to undertakings that occur on or affect tribal lands as defined in Section 301(14) of the NHPA. While no use of tribal land is anticipated, if such undertakings occur, the FRA shall follow the procedures in 36 CFR Part 800.
- C. In the event that the Authority applies for additional federal funding or approvals for the undertakings from another agency that is not party to this agreement and the undertakings as described herein remain unchanged, such funding or approving agency may comply with Section 106 by agreeing in writing to the terms of this Agreement and notifying and consulting with SHPO and Council. Any necessary modifications will be considered in accordance with Stipulation XVII.B of this Agreement.

II. ROLES AND RESPONSIBILITIES

A. FRA

As the Federal agency, the FRA has primary responsibility pursuant to 36 CFR 800.2(a)(2) to ensure that the provisions of this Agreement are carried out. The FRA will conduct government-to-government consultation with Federally-recognized Native American tribes, execute MOAs for each of the Undertaking sections, and participate in the resolution of disputes. The FRA is responsible for all determinations of eligibility and effect of the undertakings. Consistent with the requirements of 36 CFR 800.2(a) and 800.2(c)(4), the FRA remains legally responsible for ensuring that the terms of this Agreement are carried out and for all findings and determinations made pursuant to this Agreement.

B. Authority

The FRA has delegated to the Authority responsibility for the implementation of the following provisions of this Agreement: Consult with non-Federally-recognized Native American groups, other consulting parties and the public; conduct Section 106 reviews in a timely manner; delineate and change the APE as needed and inform signatories of the change; prepare documentation for the SHPO and the FRA including determinations of eligibility and effect; circulate comments from signatories; maintain documentation of the Section 106 compliance for each Undertaking; develop a prototype MOA for each Undertaking; invite local agencies, Native American groups, interested non-governmental organizations, and individuals to participate in the development of each Undertaking MOA to agree upon means to avoid, minimize, and/or mitigate adverse effects to historic properties; develop and implement MOAs for each Undertaking; develop a built-environment treatment plan and an archaeological treatment plan prototype to be used for each Undertaking; develop and implement the individual Undertaking treatment plans, as provisions in the MOAs for each Undertaking; and ensure project information is available to consulting parties and the public in concert with the CEQA/NEPA process for each undertaking.

C. SHPO

The SHPO shall be responsible for reviewing project documentation in a timely manner and participating in consultation as set forth in this PA.

D. Council

The Council shall be responsible for providing technical guidance, participating in dispute resolutions if needed, and monitoring the effectiveness of this Agreement.

III. PROFESSIONAL QUALIFICATIONS STANDARDS

All actions prescribed by this Agreement that involve the identification, evaluation, analysis, recording, treatment, monitoring, or disposition for historic properties, or that involve reporting or documentation of such actions in the form of reports, forms, or other records, shall be carried out by or under the direct supervision of a person or persons who meet, at a minimum, the Secretary of the Interior's Professional Qualifications Standards (48 FR 44738-44739) (Appendix A to 36 CFR Part 61) in the appropriate discipline. Hereinafter, such persons shall be referred to as Qualified Investigators (QIs). The Authority shall ensure that the work outlined in this Agreement is conducted by staff meeting these qualifications standards. However, nothing in this stipulation may be interpreted to preclude the FRA or the Authority or any agent or contractor thereof from using the services for persons who are not QIs, as long as their activities are overseen by QIs.

IV. ON-GOING CONSULTATION WITH NATIVE AMERICAN TRIBES

A. FRA

1. As the Federal agency with responsibility for Section 106 compliance, the FRA is responsible for all government to government consultation with federally-recognized tribes. A list of federally-recognized Native American tribes contacted can be found in Attachment (F).
2. The FRA initiated government-to-government consultation by letter to all Federally-recognized Native American tribes that could be affected by the undertakings. Tribal Representatives have also been contacted by telephone.
3. The FRA shall ensure that on-going consultation with Federally-recognized Native American tribes continues early in the project development process for each undertaking to identify cultural, confidentiality, or other concerns including those about historic properties, and to allow adequate time for consideration of such concerns whenever they may be expressed.
4. The FRA provided the draft Agreement to Federally-recognized Native American tribes for review and comment. Federally-recognized Native American tribes were provided a 30 calendar day opportunity to comment. All comments received by Federally-recognized Native American tribes were considered by the signatory parties and where appropriate incorporated herein.
5. In accordance with 36 CFR 800.2(c)(2), Federally-recognized Native American tribes may be identified as consulting parties for individual undertakings and in subsequent MOAs that are prepared for an undertaking covered by this Agreement as described further in Stipulation VIII.A.
6. Consultation with Federally-recognized Native American tribes shall continue throughout the development of subsequent undertakings regardless of whether such tribes have chosen to concur with this Agreement.

-
7. The FRA shall identify tribes who will participate in an undertaking as a consulting party and shall consider future written requests to participate as consulting parties in an undertaking.

B. The Authority

1. The Authority may consult informally with the federally recognized tribes and will coordinate such consultation with the FRA. The Authority is responsible for consultation with non-federally recognized Native American groups. A list of non-federally-recognized Native American groups contacted can be found in Attachment (F).
2. Authority shall ensure that consultation with non-Federally-recognized Native American groups, as appropriate, is initiated early in the project planning process for each undertaking to identify cultural, confidentiality, or other concerns and to allow adequate time for consideration of such concerns.
3. The Authority sent letters to all non-Federally-recognized Native American groups to begin consultation. Tribal Representatives have also been contacted by telephone.
4. The Authority shall ensure that consultation continues with non-federally-recognized Native American groups respectively throughout the Section 106 compliance process and whenever such groups express a concern about the undertaking or about historic properties that may be affected by an undertaking.
5. In accordance with 36 CFR 800.2(c)(2), non-Federally-recognized Native American groups may be identified as consulting parties in subsequent MOAs that are prepared for an undertaking covered by this Agreement as described further in Stipulation VIII.A.
6. The FRA and the Authority shall ensure that consultation continues with non-federally-recognized Native American groups respectively throughout the Section 106 compliance process and when such groups express a concern about an undertaking or about historic properties that may be affected by an undertaking.
7. The Authority provided the draft Agreement to non-Federally-recognized Native American groups. Native American groups were provided 30 calendar days to comment on the document.

C. Consultation for each Undertaking

1. The Authority shall hold informal informational meetings with both Federally-recognized Native American tribes and non-Federally-recognized Native American groups specific to each undertaking to help provide project updates and to identify potential consulting parties for an MOA.
2. The FRA shall consult on a government to government basis with Federally-recognized Native American tribes identified as consulting parties that attach religious and cultural significance to historic properties that may be affected by an undertaking at key milestones in the Section 106 and NEPA processes to gain input from Tribal governments. The Authority shall consult with all other involved Native American groups. The Tribal consultation will follow a process depicted in Attachment E and includes the following Native American consultation points:
 - i. During identification of historic properties, to confirm the historic properties identified.
 - ii. During assessment of adverse effects, (a) to provide requested Site Records of historic properties adversely affected for review, (b) to determine when and where tribal monitors may be needed during ground disturbing activities in previously identified sensitive areas or known sites, and (c)

to develop avoidance, minimization and treatment measures for adverse effects to both archaeological and built resources.

- iii. During resolution of adverse effects, (a) to develop and finalize treatment plans for archaeology and built resources, (b) develop and execute MOAs, and (c) to determine when and where tribal monitors may be needed during treatment plan implementation or construction.
- iv. During treatment plan and MOA implementation, (a) to provide for Tribal Monitors where agreed upon, (b) to review and comment on the Programmatic Agreement Annual Report, including input on the treatment plan and MOA implementation.

V. PARTICIPATION OF OTHER CONSULTING PARTIES AND THE PUBLIC

A. Public Involvement

Public involvement in planning and implementation of undertakings covered by this Agreement shall be governed by the FRA's and the Authority's environmental compliance procedures, as set forth by the Authority's environmental analysis methods, and any advice and guidance documents. Historic resources will be identified and effects will be disclosed to the extent allowable under 36 CFR 800.2(d)(1-2), 800.3(e), and 800.11(c)(1 and 3) and Stipulation XII of this Agreement. Consistent with Section 106, the public and consulting parties will have an opportunity to comment and have concerns taken into account on findings identified in Section 106 survey and effects documents via attendance at public meetings where they can submit comments on the information presented, as well as access the Section 106 documents via email requests to the Authority's web site. Project information and announcements are posted on the Authority's web site (www.cahighspeedrail.ca.gov). Public involvement and the release of information hereunder shall be consistent with 36 CFR 800.2(d)(1-2), 800.3(e), and 800.11(c)(1 and 3), the Freedom of Information Act, 49 CFR. part 7, and Section 6254.10 of the California Government Code.

The FRA and the Authority have contacted local groups and individuals known to have interests in historic properties regarding the identification of historic properties in each section. Public meetings specific to historic properties and the effects of the project and treatment of these properties will be held in communities within each section. These interest groups and interested individuals will be invited to comment on the treatments proposed and those with demonstrated interest in the project will be invited to participate as consulting parties to the individual section MOAs. Public involvement and the release of information hereunder shall be consistent with 36 CFR 800.2(d)(1-2), 800.3(e), and 800.11(c)(1 and 3), the Freedom of Information Act, 49 CFR. part 7, and Section 6254.10 of the California Government Code.

B. Consulting Parties

Consulting parties shall participate in undertakings covered by this Agreement in accordance with 36 CFR 800.2(c)(3) through (5) and 800.3(f). Consulting parties may include other federal, state, regional, or local agencies that may have responsibilities for historic properties and may want to review reports and findings for an undertaking within their jurisdiction.

The Authority shall submit to the ACHP and SHPO a list of consulting parties for each undertaking and a summary of coordination efforts and comments received. The SHPO shall submit comments, including recommendations for additional parties to the Authority within 30 days. The Authority shall revise and update this information as necessary based on SHPO's comments, and re-submit them to SHPO as part of the reports to be prepared under Stipulation VI. The Authority and FRA shall also consider individuals' written requests to participate as consulting parties in the development of measures to avoid, minimize and mitigate adverse effects to historic properties. Pursuant to 36 CFR

800.11(e) through (g), views of the public will be included in documentation of project effects to historic properties and the individual section MOAs

VI. IDENTIFICATION AND EVALUATION OF HISTORIC PROPERTIES

A. Area of Potential Effects

The Area of Potential Effects (APE) for each undertaking will be determined by the Authority in accordance with the APE Delineation guidelines (Attachment B). As described in Attachment B, throughout the design process, the Authority will determine if revisions to an undertaking require modifications to the APE. If an APE requires revisions, the Authority is responsible for informing the signatories, consulting Federally-recognized Native American tribes, and other consulting parties within 15 days of identification of the needed changes.

B. Identification of Historic Properties

1. The signatories to this Agreement along with the concurring tribes agree that the Authority will identify historic properties and prepare documentation in accordance with Attachment C. As appropriate, these methods may be modified for undertaking-specific needs in consultation with the signatories and in accordance with QI review and current professional standards. Findings shall be made by the Authority to the FRA based on National Register of Historic Places (NRHP) criteria (36 CFR 60.4) and evaluated in accordance with provisions of 36 CFR §800.4(c). Evaluation methods and criteria shall be consistent with the Secretary of the Interior's Standards and Guidelines for Evaluation (48 Federal Register 44729-44738) (36 CFR §63) and shall be completed by QIs qualified in the appropriate discipline: archaeology, architectural history, or history.
2. Historic properties shall be identified to the extent possible within the APE for each of the nine undertakings that comprise the California HST System and will be documented in the Project EIR/EIS and the Historic Property Survey Report (HPSR) as described in Attachment C. The content, methodology, level of effort, and documentation requirements for the HPSR shall follow federal and state guidelines and instructions, and are provided in detail in Attachment C. The identification effort and ineligible properties shall be documented in separate technical reports for archaeological properties and historic architectural properties, the drafts of which will be submitted for review by the signatories and other consulting parties including tribal historic preservation officers (THPOs) and tribal representatives who have expressed an interest in the undertaking.
 - i. Archaeological properties include prehistoric and historic archaeological sites, properties identified as per 800.4(a)(4), objects and districts. Evaluations shall be made by QIs fully qualified in the discipline of archaeology. Archaeological properties within the APE that are identified by QIs as historic properties or presumed to be historic properties shall be documented in the HPSR. Archaeological properties evaluated as ineligible for the NRHP by QIs shall be documented in Archaeological Survey Reports (ASR). The content, methodology, level of effort, and documentation requirements for the ASR are provided in detail in Attachment C. A list of archaeological resources exempt from evaluation is provided in Attachment D.
 - ii. Historic architectural properties include historic buildings, structures, objects, sites, landscapes and districts. Evaluations shall be made by QIs. Historic architectural properties within the APE that are identified by QIs as historic properties shall be documented in the HPSR. Historic architectural properties evaluated as ineligible for the NRHP by QIs shall be documented in Historic Architectural Survey Reports (HASR). The content, methodology, level of effort, and documentation requirements for the HASR are provided in detail in Attachment C. A list of historic architectural property types exempt from evaluation is provided in Attachment D.

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3. Other categories of properties that do not warrant evaluation, including those that are minor, fragmentary, or do not meet age or integrity requirements, are exempt from evaluation in the HPSR, ASR, or HASR, and are identified in Attachment D.
 4. A property less than 50 years old with potential exceptional significance or a property greater than 50 years old with characteristics indicating potential eligibility for the NRHP that is determined by a QI as ineligible for the NRHP that is not among the exempt property types identified in Attachment D shall be evaluated and documented in the HPSR if it meets one of the following conditions:
 - i. The property was identified as significant in a state, regional, or local survey of historic properties.
 - ii. The property was designated under a state, regional, or local ordinance with criteria for evaluating properties with historic or architectural significance.
 - iii. The property was identified by the SHPO, THPO, or any party identified as a result of Stipulations IV and V.
 - iv. The property would be acquired, destroyed, demolished, or substantially altered as a result of the undertaking.

C. Evaluation of Historic Properties

1. Upon review and concurrence of the findings by the FRA, a Draft HPSR would be submitted by the Authority to the signatories and identified consulting parties, including Native American tribes, upon request prior to the public circulation of each project DEIS, and would include documentation of all properties in the APE that are listed in the NRHP, previously determined eligible for the NRHP, found eligible for the NRHP by QIs, or that appear ineligible for the NRHP but meet one of the conditions in B.4. of this stipulation. Known archaeological properties that cannot be evaluated prior to approval of an undertaking will be presumed NRHP eligible. Where archaeological testing to determine NRHP eligibility is feasible, project-specific MOAs may include a provision for treatment plans that include archaeological testing or use of a combined archaeological testing and data recovery program.
2. The Authority shall submit its findings in the HPSR to the signatories and consulting parties, including Native American tribes, identified as a result of Stipulations IV.C and V.B, who shall have 30-days to review the HPSR findings and provide their recommendations for changes to the findings based on National Register criteria. If no objection is made, consistent with Stipulation VI.D, within the 30-day period, the findings for those historic properties would become final.
3. Other non-eligible properties not already reported in the HPSR within the APE will be evaluated by QIs, documented for each undertaking in an ASR and/or HASR, and submitted to the SHPO for review and concurrence at the same time as the HPSR or no later than the end of the comment period of the DEIS. If the SHPO, agency reviewer, consulting Native American tribe, or other consulting party asks for additional information or a re-evaluation of a property, that property and the updated finding of eligibility or non-eligibility shall be included in the Final HPSR. Comments received from the SHPO, the THPO, agency reviewer(s), consulting Native American Tribe(s), and other consulting parties will be considered and may be incorporated into a Final HPSR.
4. If, after the submission of the Final HPSR, there are changes to the APE that includes additional properties not exempt from evaluation or information is received that there may be additional historic properties within the APE, a Supplemental HPSR will be prepared, and distributed following review by the FRA, to the SHPO and all parties who received the Final HPSR for a review and comment period of 30 days. If no objection is made, consistent with Stipulation VI.D, within the 30-day period, the findings for those historic properties in the Supplemental HPSR would become final.

D. Eligibility Disagreements

Should a disagreement arise regarding the NRHP eligibility of a property in the APE for an undertaking, the FRA shall forward a Determination of Eligibility documentation to the Keeper of the National Register (Keeper) for resolution in accordance with 36 CFR 800.4(c)(2) if:

1. The SHPO or a federal agency with jurisdiction over the involved lands objects in writing within 30 days to a finding of eligibility, or
2. A Native American tribe or group that ascribes traditional religious and cultural significance to a property objects in writing within 30 days to a Finding of Eligibility regarding that property; and
3. The FRA is not able to resolve that objection through consultation with the SHPO and the objecting party as provided for in Stipulation XVII.A.

Should a member of the public disagree with any NRHP eligibility determinations, the Authority shall immediately inform the other signatories in writing and take the objection into account. The Authority shall consult with the objecting party and, if the objecting party so requests, with any or all of the other signatories for no more than 30 days. The Authority shall document such consultation efforts and submit the findings to the FRA for review. Within 14 days following closure of the consulting period, the FRA shall render a decision regarding the objection and notify all parties of this decision in writing. In reaching the decision, the FRA shall take comments from all parties into account and make a good faith effort to resolve the dispute. The FRA's decision regarding resolution of the objection from a member of the public will be final.

E. Phased Identification

In accordance with 36 CFR 800.4(b)(2), phased identification may occur in situations where identification of historic properties cannot be completed. In these cases, subsequent MOAs will provide a provision for the development and implementation of a post-review identification and evaluation effort as applicable to the undertaking.

VII. ASSESSMENT OF ADVERSE EFFECTS

- A. If historic properties are identified within an undertaking, the Authority shall assess adverse effects in accordance with 36 CFR 800.5 and distribute a Findings of Effect report (FOE) to the FRA for review, for each undertaking where historic properties were identified within the APE. The FOE shall describe the assessment of potential adverse effects to historic properties that would result from the construction or operation of the project, and identify mitigation measures that would eliminate or minimize effects to be incorporated into the design and construction documents of the undertaking. Following the FRA review and concurrence, the Authority shall distribute the FOEs to the signatories, and other consulting parties, including Native American tribes, identified as a result of Stipulations IV.C and V.B, who shall have a 30-day review and comment period. The Authority shall ensure that comments are considered prior to finalizing the FOE(s) for submission to the SHPO for final review and concurrence. The SHPO shall have an additional 30 days for review and concurrence with the final FOE(s).
- B. FRA will notify and invite the Secretary of the Interior (represented by the National Park Service regional office's program coordinator) when any project section may adversely affect a National Historic Landmark (NHL) pursuant to 36 CFR 800.10 and Section 110(f) of the NHPA.

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- C. Consistent with 36 C.F.R. § 800.5(b) and (d)(1), the FRA may determine that there is no adverse effect on historic properties within the APE for an undertaking when the effects of the undertaking would not meet the Criteria of Adverse Effect at 36 CFR 800.5(a)(1), the undertaking is modified to avoid adverse effects, or if conditions agreed upon by SHPO are imposed, such as subsequent review of plans for rehabilitation by the SHPO/THPO to ensure consistency with the Secretary's Standards for the Treatment of Historic Properties (36 CFR Part 68) and applicable guidelines, to avoid adverse effects. Any conditions would be included in the DEIS or Final EIS (FEIS).

VIII. TREATMENT OF HISTORIC PROPERTIES

A. Memoranda of Agreement

1. A MOA will be developed by the Authority for each undertaking where the FRA determines there would be an adverse effect to historic properties or when phased identification is necessary and adverse effects would occur.
2. Each MOA will include avoidance, minimization, and protective measures for eligible properties identified in the HPSRs such as preservation-in-place; processes for addressing project design changes or refinements after the HPSRs, FOEs and project EISs are completed, incomplete identification of buried resources, and unanticipated discoveries.
3. The FRA will notify the Council of any findings of adverse effect and invite the Council to participate in the development of the MOAs pursuant to 36 CFR 800.6(a)(1)(i)(c) as appropriate.
4. Should Native American tribes or groups decline to participate as signatories to an MOA, they will not be provided documentation regarding treatment that is called for in this Agreement or in subsequent MOAs unless they expressly request such information. Native American tribes and groups will continue to receive information on the undertakings as part of the NEPA process and may request to consult on an undertaking, or request additional coordination with the Authority or the FRA.
5. Pursuant to 36 CFR 800.11(e) through (g), views of the public will be considered and included where appropriate in individual section MOAs.
6. Upon review, concurrence, and execution of the MOA, Section 106 will be considered concluded for that undertaking.

B. Treatment Plans

1. Prototype treatment plans will be developed by the Authority. Two treatment plans will be developed by the Authority for each undertaking: a Built Environment Treatment Plan and an Archaeological Treatment Plan.
 - i. The Built Environment Treatment Plan (BETP) will provide detailed descriptions of treatment measures for eligible buildings, structures, objects, landscapes and districts that will be affected by the undertaking. The BETP will also include descriptions of measures to be taken to protect historic properties and to avoid further adverse effects to historic properties.
 - ii. The Archaeological Treatment Plan (ATP) will provide detailed descriptions of protection measures for archaeological resources and resources of importance to Federally Recognized Native American Tribes or Native American groups because of cultural affinity. The ATP could include but is not limited to the establishment of environmentally sensitive areas (ESAs), use of preconstruction archaeological excavation, preservation-in-place, avoidance, minimization, monitoring during construction where appropriate, procedures to be followed when unanticipated

discoveries are encountered, processes for evaluation and data recovery of discoveries, responsibilities and coordination with Federally Recognized Native American Tribes, Native American groups, NAGPRA compliance, and curation of recovered materials.

2. Each treatment plan will address historic properties adversely affected and set forth means to avoid, protect, or develop treatment measures to minimize the undertaking's effects where the Authority, in consultation with the appropriate agencies, the SHPO, and other MOA signatories, determines that adverse effects cannot be avoided. The Treatment Plans will conform to the principles of the Council's Treatment of Archaeological Properties: A Handbook Parts I and II, the "Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation" (Federal Register, Vol. 48, September 29, 1983, pp. 44716-44742) and appropriate SHPO Guidelines. The Authority will take into consideration the concerns of the consulting parties in determining the measures to be implemented.
3. Each treatment plan will include, but not be limited to; the content outlined in Attachment C for treatment plans. The consultative procedure through which a treatment plan is developed will address the adverse effect of any undertaking on historic properties and indicate that the treatment plan will be incorporated into an MOA.

C. Treatment Plan Reviews

1. Signatory Review

The Authority shall provide the treatment plans to the MOA signatories and MOA concurring parties for a 30-day review and comment period. Based on comments received, treatment plans will be revised and resubmitted for a final 30-day review. If the MOA signatories and/or MOA concurring parties fail to comment within 30-days of receiving the treatment plan, the Authority shall confirm with the MOA signatories and/or MOA concurring parties that no comments will be made and may then proceed with the undertaking. Treatment plans can be amended by the Authority without amending the MOAs. Disputes will be resolved in accordance with the Dispute Resolution clause in Stipulation XVII.A.

2. Public Participation

The Authority shall take reasonable steps to provide opportunities for members of the public to express their views on the Treatment Plans. Opportunities for public input may include the distribution of treatment plans consistent with 36 CFR 800.2(d)(1-2), 800.3(e), and 800.11(c)(1 and 3). Where appropriate, the Authority will hold informational meetings with the public to explain the treatment plans and obtain comment. Any public comments received will be considered and incorporated into the treatment plans as appropriate.

D. Treatment Plan Implementation

1. Upon execution of each MOA and prior to the commencement of construction activities, each related treatment plan will be implemented. Depending upon the nature of the treatment, the treatment may not be completed until after the undertaking is completed. Termination of the project after initiation of the treatment plans will require completion of any work in progress, and amendment of each treatment plan as described below. Amendments to the treatment plans will be incorporated by written agreement among the signatories to the MOA. Each MOA will outline appropriate reporting processes for the treatment plans.
2. Dispute Resolution

The parties participating in the development and implementation of the Treatment Plans will come to agreement on the treatment prescribed in and the implementation of the Treatment Plan in the MOA. If the parties are unable to come to agreement on the treatment of adverse effects in the MOA, the procedures outlined in XVII.A will be followed to resolve the dispute.

IX. CHANGES IN ANCILLARY AREA/CONSTRUCTION RIGHT-OF-WAY

The Authority will notify the MOA signatories and consulting parties of changes in the size or location of ancillary areas or the construction right-of-way that result in changes to the APE, or effects to historic properties (see Attachment B) as appropriate by undertaking. If any changes result in the use of unsurveyed areas, the Authority will ensure that these areas are subject to survey in order to locate any potentially significant cultural resources and that those resources are evaluated for NRHP eligibility. The Authority will consult with the MOA signatories and consulting parties regarding any newly identified historic properties that cannot be avoided. Protective and/or mitigation measures will be developed and the treatment plans will be amended and implemented in accordance with Stipulation VIII. All such changes will be documented in the annual Programmatic Agreement report.

X. CONSTRUCTION APPROVAL

Upon the completion of the pre-construction activities prescribed in the treatment plans, the Authority may authorize construction within portions of the APE after conclusion of treatment plan implementation where adverse impacts would occur and in accordance with the provisions of the applicable MOA, or where no historic properties were identified. If concurrence of the approval to proceed cannot be reached among the signatories, the dispute will be resolved in accordance with Stipulation XVII.A.

XI. DISCOVERIES, UNANTICIPATED ADVERSE EFFECTS, UNANTICIPATED DAMAGE

In accordance with 36 CFR 800.13(a)(2), the Authority will ensure that treatment plans prepared prior to implementation of the undertaking include measures to be completed in the event of a discovery or unanticipated adverse effect or damage. If a previously undiscovered archaeological, historical, or cultural property is encountered during construction, or previously known properties will be affected or have been affected in an unanticipated adverse manner, all activity will cease within 50 feet of the property to avoid or minimize harm to the property until the Authority in consultation with the MOA signatories can determine the resource's eligibility, identify the effects, determine if adverse effects can be avoided by alteration of construction methods or the installation of protective measures, and, if not mitigate impacts to the new discoveries or newly affected properties in accordance with the stipulations of project-specific MOAs and treatment plans.

At a minimum, the treatment plan developed for each undertaking as part of the development of each MOA will outline the process to be followed if historic properties are discovered or there are unanticipated effects on historic properties located within a project's APE after the undertaking has been initiated. The Authority will implement the following procedures:

- A. The Authority shall ensure that all operations for the portion of the undertaking with the potential to affect an historic property are immediately ceased and will contact the FRA upon unanticipated resource discovery;
- B. The Authority shall make a preliminary determination of the National Register eligibility of the historic property and the potential for the undertaking to adversely affect the resource and shall forward that finding to FRA who will make the final eligibility determination. If adverse effects to the resource can be avoided, no consultation with MOA signatories and consulting parties is necessary. If adverse effects cannot be avoided, the Authority will consult with the MOA signatories and propose treatment measures to minimize the effects.

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- C. The Authority shall notify Federally-recognized Native American tribes of any discoveries that have the potential to adversely affect properties of religious or cultural significance to them within 24 hours of the discovery. After reviewing such discoveries, the Native American tribes can request further consultation on the project by notifying the Authority, in writing or other documented means within 48 hours, as feasible. For interested Native American groups that are not Federally-recognized, the Authority shall notify them of any discoveries that have the potential to adversely affect properties of religious or cultural significance to them within 24 hours of the discovery. After reviewing such discoveries, such interested Native American groups can request further consultation on the project by notifying the Authority in writing within 48 hours, as feasible; and
 - D. The Authority shall implement the avoidance, minimization, or treatment plan and advise the FRA and other signatories of the satisfactory completion of the approved work. Once the approved work is completed, the activities that were halted to address the discovery situation may resume; and
 - E. Any treatment to damaged properties will follow the Secretary of the Interior's Standards for the treatment of historic properties. If the Authority determines damaged property should be repaired after construction is completed, then stabilization measures that will prevent and not cause further damage will be installed; and
 - F. If a National Historic Landmark is affected, the Authority shall include the Secretary of the Interior (represented by the National Park Service regional office's program coordinator) and the Council in the notification process.

XII. CONFIDENTIALITY

All parties to this Agreement shall ensure that shared data, including data concerning the precise location and nature of historic properties and properties of religious and cultural significance are protected from public disclosure to the greatest extent permitted by law, including conformance to Section 304 of the NHPA, as amended and Section 9 of the Archaeological Resource Protection Act and Executive Order on Sacred Sites 13007 FR 61-104 dated May 24, 1996.

XIII. HUMAN REMAINS

A. Notification and Treatment

1. If human remains are inadvertently discovered during construction activities, all construction will cease within 100 feet in all directions of human remains and the Authority will immediately notify the appropriate parties in accordance with the project specific Treatment Plan. Human remains and grave goods will be treated in accordance with the Treatment Plan.
2. Federal agencies party to this Agreement will be responsible for curation of all records and other archaeological items resulting from identification and data recovery efforts on Federal lands within the agency's jurisdiction. This includes ensuring that the disposition of any human remains and associated funerary objects of Native American origin encountered on federal land during any action subject to this Agreement complies with § 3(c)(d) of the Native American Graves Protection and Repatriation Act and its implementing regulations codified at 43 CFR Part 10.
3. Any human remains and funerary objects discovered on non-federal land during the implementation of the terms of this Agreement and during the implementation of the undertaking itself will be treated by the Authority, in accordance with the requirements of § 7050.5(b) of the California Health and Safety Code. If, pursuant to § 7050.5(c) of the California Health and Safety Code, the county coroner/medical examiner determines that the human remains are or may be of Native American

origin, the discovery shall be treated in accordance with the provisions of §§ 5097.98 (a) - (d) of the California Public Resources Code. The Authority will ensure that to the extent permitted by applicable law and regulation, the views of the Most Likely Descendant(s) are taken into consideration when the Authority makes decisions about the disposition of Native American human remains and funerary objects, and will further ensure the respectful treatment of each such set of remains and funerary objects.

B. Final Disposition of Human Remains

The FRA and Authority will ensure that every effort is taken to avoid disturbing known human burial sites. Where avoidance is not possible, and in consultation with appropriate tribal representatives and if applicable, Federal land management agencies with jurisdiction, burials will be removed prior to construction and treated in accordance with applicable federal and state laws and as outlined in the treatment plan developed for each undertaking.

XIV. CURATION

A. Collections from Federal Lands

Federal agencies party to this Agreement will be responsible for curation of all records and other archeological items resulting from identification and data recovery efforts on Federal lands is completed in accordance with 36 CFR Part 79, and if the archeological materials are determined to be of Native American origin, the agencies will follow NAGPRA regulations and procedures set forth in 43 CFR Part 10. The Authority shall ensure that documentation of the curation of these materials is prepared and provided to the affected parties to this Agreement within 10 days of receiving the archeological materials.

B. Collections from Private Lands

Private landowners will be encouraged to curate archeological materials recovered from their lands in accordance with 36 CFR Part 79 and the provisions of 43 CFR Part 10. Materials from private lands to be returned to the private landowners after completion of the undertaking shall be maintained in accordance with 36 CFR Part 79, and 43 CFR Part 10 if the archeological materials are determined to be of Native American origin, until all necessary analysis has been completed. The Authority shall document the return of materials to private landowners or alternate curation facilities and submit copies of this documentation to the affected parties to this Agreement. Landowners will be encouraged to rebury items close to their original location.

C. State Lands

The Authority will ensure that all cultural materials discovered on state lands will be curated in accordance with 36 CFR Part 79, the provisions of 43 CFR 10 if the archeological materials are determined to be of Native American origin, and California Guidelines for the Curation of Archeological Collections (May 7, 1993). The Authority will encourage state land agencies to consult with Native American tribes and groups, affiliated with the cultural materials, on repatriation. Appropriate treatment and disposition may occur through onsite reburial of the cultural materials recovered from state lands. In the event that the state agencies and consulting tribes cannot agree, the FRA will ensure that all cultural materials discovered on state lands will be curated in accordance with the project MOA and Treatment Plan.

XV. DOCUMENTATION STANDARDS

- A. All documentation that supports the findings and determinations made under this Agreement shall be consistent with 36 CFR 800.11 and shall be in accordance with the Authority's requirements and its subsequent revisions or editions and with attachments to this Agreement. Documentation shall be submitted to the Authority and prepared by QIs who, at a minimum, meet the Secretary of the Interior's Professional Qualifications Standards (48 FR 44738-44739) (Appendix A to 36 CFR Part 61). The Authority shall review the documentation for adequacy, and transmit all documentation cited herein as stipulated by this Agreement.
- B. All documentation prepared under this Agreement shall be kept on file at the Authority and the FRA and made available to the public without the inclusion of culturally sensitive information that may jeopardize confidentiality as stipulated by this Agreement, consistent with applicable confidentiality requirements and Federal records management requirements.

XVI. AUTHORITIES

Compliance with the provisions of this Agreement does not relieve the FRA or other federal agencies of their responsibilities to comply with other legal requirements, including those imposed by the NAGPRA (25 U.S.C. Section 3001 and 43 CFR 10), the ARPA (16 U.S.C. Section 470 aa-47011), and the NEPA (42 U.S.C. Section 4321-4347), and applicable Executive Orders.

XVII. ADMINISTRATIVE STIPULATIONS

A. Dispute Resolution

- 1. Should any signatory to this Agreement object within 30 days to any action proposed or any document provided for review pursuant to this Agreement, the FRA shall consult with the objecting signatory to resolve the objection. If the FRA determines that the objection cannot be resolved within 15 days, the FRA shall forward all documentation relevant to the dispute, including the FRA's proposed resolution, to the Council. The FRA will also provide a copy to all signatories and consulting parties for the undertaking. The Council shall provide the FRA with its advice on the resolution of the objection within 30 days of receiving adequate documentation. Prior to reaching a final decision on the dispute, the FRA shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the signatories and consulting parties, including Native American tribes, and provide them with a copy of this written response. The FRA will then proceed according to its final decision.

If the Council does not provide its advice regarding the dispute within 30 days, the FRA may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, the FRA shall prepare a written response that takes into account any timely comments regarding the dispute from the signatories and consulting parties for the undertaking, and provide them and the Council with a copy of such written response.

- 2. Should a consulting party or member of the public disagree with findings, made pursuant to this Agreement, the Authority shall immediately inform the signatories in writing and take the objection into account. The Authority shall consult with the objecting party and, if the objecting party so requests, with any or all of the other signatories for no more than 30 days. Within 14 days following closure of the consulting period, the FRA shall render a decision regarding the objection and notify all parties of this decision in writing. In reaching the decision, the FRA shall take comments from all parties into account. The FRA's decision regarding resolution of the objection will be final.

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3. The FRA's and the Authority's responsibility to carry out all other actions under this Agreement that are not subject to dispute will remain unchanged.

B. Amendment

1. The signatories to this Agreement may request that it be amended, whereupon the signatories will consult to consider such amendment. This agreement may be amended only upon written concurrence of all signatory parties.
2. To address minor changes in the undertaking or the treatment of historic properties affected by the undertaking, the Authority may propose revisions to the treatment plans rather than to this Agreement. Upon the written concurrence of the signatories, the FRA may revise the treatment plans to incorporate the agreed upon changes without executing a formal amendment to this agreement.
3. Revisions to an attachment to this Agreement would be implemented through consultation and include any necessary revisions to the Agreement itself that may result from modification of an attachment.

C. Review and Reporting

1. The signatories and consulting parties, including Native American tribes, may review activities carried out by the Authority pursuant to this Agreement. The Authority shall facilitate this review by compiling specific categories of information to document the effectiveness of this Agreement and by making this information available in the form of a written annual Programmatic Agreement report. Categories of information shall include, but are not limited to, a summary of actions taken under this Agreement, including all findings and determinations, public objections, and inadvertent effects or foreclosures. The range and type of information included by the Authority in the written report and the manner in which this information is organized and presented must be such that it facilitates the ability of the reviewing parties to assess accurately the degree to which the Agreement and its manner of implementation constitute an efficient and effective program under 36 CFR Part 800.
2. The Authority shall prepare the written report of these findings annually following execution of this Agreement. The Authority shall submit the annual reports to the FRA, the SHPO, and the Council no later than three (3) months following the end of the State fiscal year until all treatment is completed. There will be a 30-day period to review and comment on the report. The Annual Programmatic Agreement Report will be finalized within 30 days of receipt of comments.
3. The Authority shall provide that the report herein prescribed is available for public inspection. The report will be sent to signatories and consulting parties, including Native American tribes, of this Agreement and any subsequent MOAs, and a copy available to members of the public for comment, upon request.
4. In conjunction with the review of the reports prepared by the Authority, the signatory parties shall consult in an annual teleconference to review the overall effectiveness and benefits of this Agreement, determine if its requirements are being met, decide if amendments to the Agreement are warranted, review the reporting format and categories for adequacy, and identify any other actions that may be needed in order to take into account the effects of the undertakings on historic properties in California.

D. Termination

The FRA, the Council, the SHPO, or the Authority may terminate this Agreement by providing 30 days written notice to the other signatories; the signatories shall consult during the 30-day period prior to

termination to seek agreement on amendments or other actions that would avoid termination. Should such consultation result in an agreement on an alternative to termination, the signatory parties shall proceed in accordance with that agreement. Should a signatory party propose termination of this Agreement, they will notify the other parties in writing. If any of the signatories individually terminates their participation in the Agreement, then the Agreement is terminated in its entirety. In the event of termination, then the FRA shall either consult in accordance with 36 CFR 800.14(b) to develop a new Agreement or request the comments of the Council pursuant to 36 CFR 800. Beginning with the date of termination, the FRA shall ensure that until and unless a new Agreement is executed for the actions covered by this Agreement, such undertakings shall be reviewed individually in accordance with 36 CFR 800.4-800.6.

E. Duration of this Agreement

In the event that the terms of this Agreement are not carried out within 10 years, this Agreement shall be assessed by the signatories to determine if it is working well, or whether it should be terminated. If the Agreement is effective and its duration needs to be extended, the signatories can decide to extend the duration of the Agreement. If the signatories determine that the Agreement is effective, but needs revisions appropriate revisions based on evaluation of patterns in the implementation of the Agreement over the first 10 years will be made. In the event the signatories determine that the Agreement is not effective and cannot be amended to address concerns, the Agreement shall be considered null and void, memorialized in a letter to the signatories from the FRA. If the FRA or another Federal agency party to this agreement chooses to continue with the undertaking, it shall re-initiate review of the undertaking in accordance with 36 CFR Part 800. Otherwise, the FRA and all other appropriate signatories shall comply with 36 CFR 800 Subpart B with regard to individual actions covered by this Agreement.

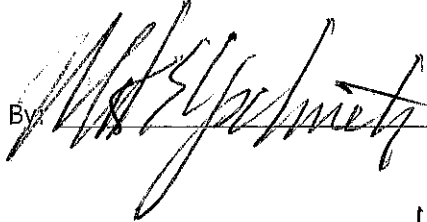
F. Execution and Implementation of the Agreement

This Agreement and its attachments shall take effect following execution by the Council. Additional attachments or amendments to this Agreement shall take effect on the dates they are fully executed by the FRA, the SHPO, the Council, and the Authority.

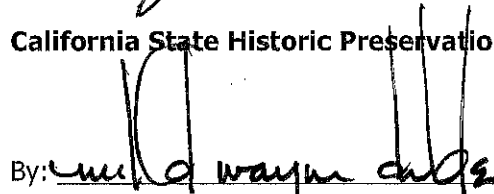
Execution of this Agreement by the FRA, the Authority, SHPO, and the Council and implementation of its terms evidence that the FRA has taken into account the effects of this undertaking on historic properties and afforded the Council an opportunity to comment.

SIGNATORY PARTIES

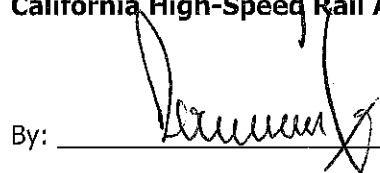
Federal Railroad Administration

By:  Date: 7/15/11

California State Historic Preservation Officer

By:  Date: 14 JUL 2011

California High-Speed Rail Authority

By:  Date: 6/28/2011

Advisory Council on Historic Preservation

By:  Date: 7/22/11

CONCURRING PARTY

Soboba Band of Luiseno Indians

By: _____ Date: _____

CONCURRING PARTY

Pechanga Band of Luiseno Mission Indians

By: _____ Date: _____

ATTACHMENT A

High-Speed Train System Map



ATTACHMENT B

AREA OF POTENTIAL EFFECTS DELINEATION

In accordance with Stipulation VI.A. of this Agreement, The Authority shall establish the Area of Potential Effects (APE) for undertakings covered by this Agreement. The Authority using Qualified Investigators (QIs) would be responsible for describing and establishing the APE and will sign any maps or plans that define or redefine an APE.

As defined in 36 CFR 800.16(d), an APE is "the geographic area or areas within which an undertaking may directly or indirectly cause alterations in the character or use of historic properties, if any such properties exist. The area of potential effects is influenced by the scale and nature of an undertaking and may be different for different kinds of effects caused by the undertaking."

Different APEs may be established for archeological properties and historic architectural properties:

Archaeological Properties

For archeological properties, an APE is typically established based on an undertaking's potential for direct effects from ground-disturbing activities. On occasion, archeological sites may also have qualities that could be affected indirectly.

The APE for archaeological properties is the area of ground proposed to be disturbed during construction of the undertaking, including grading, cut-and-fill, easements, staging areas, utility relocation, borrow pits, and biological mitigation areas, if any.

Traditional cultural properties and cultural landscapes are more likely to be subject to indirect, as well as direct, effects, thus the APE for such properties is usually broader than the archeological APE in order to include the potential for such effects. For instance, the first row of potential properties beyond the right-of-way may be subject to such effects and thus included in an indirect APE when warranted.

Historic Architectural Properties

The APE for historic architectural properties includes all properties that contain buildings, structures or objects more than 50 years of age at the time the intensive survey is completed by the QIs, as follows:

1. Properties within the proposed right-of-way;
2. Properties where historic materials or associated landscape features would be demolished, moved, or altered by construction;
3. Properties near the undertaking where railroad materials, features, and activities *HAVE NOT* been part of their historic setting and where the introduction of visual or audible elements may affect the use or characteristics of those properties that would be the basis for their eligibility for listing in the National Register; and
4. Properties near the undertaking that were either used by a railroad, served by a railroad, or where railroad materials, features, and activities *HAVE* long been part of their historic setting, but only in such cases where the undertaking would result in a substantial change from the historic use, access, or noise and vibration levels that were present 50 years ago, or during the period of significance of a property, if different.

For the California High-Speed Train Project, a key phrase in the APE definition in the Section 106 regulations contained within 36 CFR 800.16(d) is "may...cause alterations in the character or use of historic properties" because many of the undertakings involve the construction of high speed rail alongside existing railroads. In such cases, potential historic properties near the proposed undertaking

historically had railroad features, materials, and activities within their setting that contributed to their character, or may even have been used by or served by the railroad. For example:

- the character and use of a historic railroad passenger or freight depot or railroad bridge *would not change* unless it would be put out of service, destroyed, altered, or moved for the undertaking;
- the character and use of an industrial building next to existing railroad tracks *would not change*, unless freight railroad service was an important association and the spur lines or loading areas would be removed by the undertaking;
- The character and use of buildings *would not change* if they would be separated from the undertaking by an existing railroad; however,
- the character of a non-railroad or non-industrial building *would likely change* if the building is visually sensitive and the proposed undertaking introduces an elevated grade separation or other large building or structure;
- the use of a non-railroad or non-industrial building *would likely change* if the building is sensitive to noise, like a school, museum or library, and the frequency of noise or vibration events from passing trains is increased over historic-era railroad events.

However, some sections of an undertaking may be introducing rail service where none existed during the historic era, for example along a highway or through agricultural fields. For such sections, the undertaking is more likely to change the character or use of a historic property, and the APE would take into account changes to its setting and the introduction of visible or audible elements that are out of character with the property. Other effects to be considered when delineating the APE may include, but are not limited to, physical damage or destruction of all or part of a property; physical alterations; moving or realigning a historic property; isolating a property from its setting; visual, audible, or atmospheric intrusions; shadow effects; damage from vibrations; and change in access or use.

When delineating the APE, the QIs shall follow the identification methodology in Stipulation VI.B., which are different for archaeological properties and historic architectural properties. The QIs shall take into account the nature of the proposed undertaking and whether or not it has the potential to affect the characteristics that might qualify the property for eligibility to the NRHP. Whenever an undertaking is revised (e.g., design changes, utility relocation, or additional off-site mitigation areas), the QIs will determine if changes require modifying the APE. If an APE proves to be inadequate, the Authority is responsible for informing consulting parties in a timely manner of needed changes. The APE should be revised commensurate with the nature and scope of the changed potential effects.

ATTACHMENT C

HST PROGRAM DOCUMENTATION AND FORMAT GUIDELINES

PURPOSE

The purpose of the HST program method for evaluation of cultural resources is to describe, in greater detail, how the FRA and the Authority will implement the Section 106 process for each HST section and ensure that the identification and evaluation of cultural resources is conducted in accordance with the *Secretary of Interior's Standards and Guidelines for Archeology and Historic Preservation (Standards and Guidelines)* (48 CFR 44716-44742) and 36 CFR 800.4.

The historic properties that should be identified include any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register of Historic Places (NRHP) maintained by the Secretary of Interior. This includes artifacts, records, and remains which are related to such district, site, building, structure, or object (16 U.S.C. Section 470(w)(5)). The term includes properties of traditional religious and cultural importance to an Indian Tribe or organization that meet the National Register criteria. Properties eligible for inclusion in the National Register can be properties that are formally determined as such in accordance with regulations of the Secretary of Interior and all other properties that meet the National Register criteria. The level of identification needed varies depending on the nature of the property or property type, the nature of the agency's authority, and the nature of the proposed undertaking's possible effects on the property. Properties that the QIs may find exempt from evaluation are described in Stipulation VI.B.3 and Attachment D.

METHODOLOGY FOR IDENTIFICATION OF HISTORIC PROPERTIES

The Area of Potential Effects (APE) would be delineated as described in Stipulation VI.A and Attachment B, using the best professional judgment of the QIs and taking into account historic property sensitivity and the effects that would occur from construction and operation of the undertaking. An APE Map showing the most current engineering available for the undertaking and the boundary delineated by QIs would be submitted to SHPO with the Historic Property Survey Report (HPSR) or separately if SHPO concurrence with adequacy of the APE is desired prior to the HPSR. The APE maps would be on an aerial base at a scale of 1"=250' in urban areas and 1"=400' in rural areas and indicate whether the project is at-grade, elevated, or in tunnel configuration.

In consultation with the SHPO and other parties to the Section 106 process, including Native American tribes, FRA and the Authority will identify resources, determine eligibility, and treat any adverse effects, as outlined in 36 CFR Part 800 following guidance developed by the National Park Service and in conformance with the Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation 1983 (48 FR 44716, as amended) as enumerated below:

- To identify known locations of historic properties within the APE, review the records for previously recorded archaeological properties and historic architectural properties at the local Information Center (IC) of the California Historical Resources Information System (CHRIS). While at the IC, collect information on recorded sites within the APE, for the range of alternative HST project alignments. Review previous survey technical reports conducted within the APE for historic contexts, bibliography, and determination of significance of sites. Review historic USGS maps. Review properties listed in the National Register of Historic Places and the California Register of Historical Resources, the California Historical Landmarks and Points of Historical Interest lists, Land Grant maps, Online Archive of California, Government Land Office Plat Maps, and Sanborn Fire Insurance Maps for urban areas as appropriate.

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- Review survey findings conducted by local governments, historical societies, or historic preservation organizations, local historic landmark or monument designations, and any other inventories that may help identify or establish the significance of historic properties.
 - Review subdivision maps, assessor maps, county/city directories, utility records, building permits, photographs, newspapers, diaries/journals, architectural drawings, Agency Records, Residential- and Commercial-Building Records, oral histories, thesis/dissertations, and preferred local and credible history studies. Research should be conducted with the appropriate agencies, knowledgeable individuals, local and regional historical societies, archives, and libraries.
 - Develop relevant historic themes and contexts for the identification and evaluation efforts of historic properties within the APE. Use National Register Bulletin No. 15 for guidance.
 - Employ standard archaeological inventory methods. Conduct presence/absence testing, if necessary, in areas where subsurface remains may be present. For resources that cannot be avoided conduct test excavations to determine resource significance in accordance with the research design.
 - Consult with interested Native American Tribe(s) and other cultural groups to identify and evaluate any potential TCPs and cultural landscapes that could be affected by the project following the methods outlined in the National Register Bulletin 38 and the Secretary of the Interior's Standards for the Treatment of Historic Properties, respectively.
 - Perform an intensive survey to identify, record, and evaluate architectural properties adjacent to the proposed alignment, stations and support facilities built within the time period identified in the plan to document and inventory all historic buildings, structures, objects, districts, and cultural landscapes in sufficient detail to permit evaluation for the NRHP (per Section 106 of the NHPA) and the California Register of Historic Resources (CRHR) (per California Public Resources Code Section 5024.1 and 21084.1). Use field maps at 1" = 250' scale that have delineated parcel boundaries, APE boundaries, Assessor Parcel Numbers (APNs), street names, prominent natural and man-made features, and previously recorded sites. Based on the number of historic properties within the APE, a field database may be required. Documentation and evaluation efforts will follow the guidelines of National Register Bulletin No. 15 and the California Office of Historic Preservation (OHP) Instructions for Recording Historic Properties (DPR 523 series forms). Private spaces (i.e., building interiors), suburban backyards, and restricted areas will not be surveyed. Surveys will occur from public vantage points, and if access is infeasible, then the property will be evaluated solely on available information or right-of-entry will be coordinated by the Authority.

TECHNICAL REPORTS

- After completion of the archaeological and historic architectural research, inventories and evaluations, and tribal consultations prepare reports to document the findings and identification effort, and if any historic properties are identified for an undertaking, prepare a report to analyze the effects of the undertaking. Technical reports will be submitted to SHPO in both hard copy and electronic format, and the evaluations made on DPR 523 forms will also be submitted in a data format that is compatible for uploading to SHPO's historical resource inventory database. At a minimum, the technical reports shall follow the following format and content requirements.

A. Historic Property Survey Report (HPSR)

The HPSR would include documentation of all properties in the APE that are:

1. listed in the NRHP,
2. previously determined eligible for the NRHP,
3. found eligible for the NRHP by QIs,
4. presumed eligible for the NRHP by QIs, or
5. that are ineligible for the NRHP and meet one of the following conditions:
 - a. The property was identified as significant in a state, regional, or local survey of historic properties.
 - b. The property was designated under a state, regional, or local ordinance with criteria for evaluating properties with historic or architectural significance.
 - c. The property was identified by the SHPO, THPO, or any party identified as a result of Stipulations IV and V.
 - d. The property is not exempt from evaluation as identified in Attachment D and would be acquired, destroyed, demolished, or substantially altered as a result of the undertaking.

The HPSR would *NOT* include documentation of:

1. Properties that are exempt from evaluation as identified in Attachment D.
2. Non-exempt and non-NRHP eligible properties with the exception of Section A.5, above. Such properties would be documented in the Archaeological Survey Report (ASR) or Historic Architectural Survey Report (HASR).

The HPSR format and content is as follows:

1. Description of the Undertaking

This section shall summarize the description of the undertaking, its location, and any alternatives being considered. If alternatives have been developed to avoid or minimize effects on historic properties, those alternatives may be described here or in the Findings of Effect report.

2. Summary of Findings

This section should include findings for historic properties identified in the APE, and for any non-eligible properties for which SHPO concurrence on ineligibility is needed early in the environmental process.

3. Consulting Parties, Public Participation

This section shall summarize the coordination efforts and public comments received to date from federal, state, and local government agencies, Native American groups, historical societies, or other interest groups. The summary should include outreach done specifically for Section 106 as well as for NEPA.

4. Summary of Identification Effort

Include inventories, facilities, groups, and persons consulted to identify previously determined and potential historic properties.

5. Historic Context

Include those historic contexts developed to evaluate the historic properties identified. Other historic contexts that were developed may be listed in the HPSR, and reported in the ASR or HASR.

6. Historic Properties Identified

Provide a list of historic properties identified within the APE, and a brief description of their significance, including the applicable NRHP criterion or criteria, and level, period, and area of significance. Include, as appropriate:

- a. Historic properties listed in the NRHP.
- b. Historic properties previously determined eligible for the NRHP.
- c. Historic properties determined eligible for the NRHP for which SHPO concurrence is requested.
- d. Archaeological properties that are currently being evaluated and are presumed eligible for the NRHP
- e. Properties evaluated as not eligible for the National Register, for which SHPO concurrence is needed early in the NEPA process.

7. Findings

Summarize the findings for historic properties identified within the APE for which SHPO concurrence is sought.

8. References

Include bibliographic references used for the historic contexts and any literature, inventories or surveys used to identify or evaluate historic properties.

9. Preparer qualifications

List the QIs and their qualifications who prepared the HPSR and evaluated the historic properties.

Attachments to the HPSR:

1. Project location and vicinity maps
2. Area of Potential Effects Map
3. Letters from historical societies, Native American groups, local governments, other special interest groups, etc.
4. DPR 523 forms supporting the findings for historic properties in the HPSR. The DPR 523 forms shall be prepared in accordance with the California Office of Historic Preservation's *Instructions for Recording Historical Resources* (March 1995) for intensive survey level of effort.

B. Archaeological Survey Report (ASR)

The ASR includes all documentation for the identification and evaluation of archaeological resources not submitted to SHPO in the HPSR. This includes those resources that are not eligible for the NRHP and are non-exempt according to Attachment D. The ASR may be submitted as an attachment to the HPSR or as a subsequent document in support of the overall Section 106 findings. The ASR format and content is as follows:

1. Introduction
 - a. This section should include a discussion about the PA and how it was followed in this document.
2. Summary of Findings
 - a. This section should include The Authority's findings for any archaeological properties evaluated and determined not eligible for the NRHP for which SHPO concurrence is being requested within 30 days of receipt of the ASR.
 - b. For reference, this section should include a summary of those archaeological properties reported to SHPO in the HPSR.
3. Description of the Undertaking
 - a. This section shall summarize the description of the undertaking, its location, and any alternatives being considered.
4. Description of the APE
 - a. This section should include a description of the APE, the application of the PA guidance and how the boundary was determined.
5. Summary of Identification Effort
 - a. Include inventory and field methodologies (including a description of any sub-surface investigation, if appropriate), results of archival research including Sanborn mapping as appropriate, and involvement of the public including Native American groups, and individuals.
6. Historic and Geomorphic Context
 - a. Include those historic contexts developed to evaluate the archaeological resources to determine if they are historic properties eligible for the National Register of Historic Places. The report should also describe the geomorphology of the project area and assess the potential for previously unrecorded buried archaeological resources.
7. Findings
 - a. Summarize the findings for properties determined eligible for the NRHP, that were identified within the APE and for which SHPO concurrence is sought. Provide a

description of properties found not eligible for the NRHP within the APE, and a description of the property, its location, and why it lacked significance.

8. References

- a. Include bibliographic references used for the historic contexts and any literature, inventories or surveys used to help evaluate the properties according to NRHP criteria.

9. Preparer qualifications.

- a. List the QIs and their qualifications, that prepared the ASR and evaluated the properties ineligible for the NRHP.

Attachments to the ASR:

1. Project location and vicinity maps
2. Area of Potential Effects Map
3. Letters from Native American groups, local governments, historical societies, other special interest groups, etc.
4. DPR 523 forms supporting the findings for properties ineligible for the NRHP in the ASR. The DPR 523 forms shall be prepared in accordance with the California Office of Historic Preservation's *Instructions for Recording Historical Resources* (March 1995) for intensive survey level of effort.

C. Historic Architectural Survey Report (HASR)

The HASR includes the documentation for evaluating historic architectural properties that are not eligible for the NRHP, are non-exempt according to Attachment D, and were not reported in the HPSR. The HASR may be submitted as an attachment to the HPSR or as a subsequent document. The HASR format and content is as follows:

1. Introduction

- a. A discussion about the PA and how it was followed in this document.

2. Summary of Findings

- a. This section should include The Authority's findings for any non-eligible properties for which SHPO concurrence is requested within 30 days of receipt of the HASR, but which were not submitted in the HPSR.

For reference, this section should include a summary of those historic architectural properties reported to SHPO in the HPSR.

3. Description of the Undertaking

- a. This section shall summarize the description of the undertaking, its location, and any alternatives being considered.

4. Description of the APE

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- a. Description of the APE, the application of the PA guidance and how the boundary was determined.
5. Summary of Identification Effort
 - a. Include inventories, facilities, groups, and persons consulted to identify previously determined and potential historic properties not reported in the HPSR.
 6. Historic Context
 - a. Include those historic contexts developed to evaluate the properties evaluated in the HASR that are not eligible for the NRHP.
 7. Properties Identified as Not Eligible for the NRHP,
 - a. Provide a list of properties found not eligible for the NRHP within the APE, and a brief description of that describes the property, its location, and why it lacked significance. This may be done in a simple table format.
 8. Findings
 - a. Summarize the findings for properties not eligible for the NRHP that were identified within the APE and for which SHPO concurrence is sought.
 9. References
 - a. Include bibliographic references used for the historic contexts and any literature, inventories or surveys used to help evaluate the properties according to NRHP criteria.
 10. Preparer qualifications
 - a. Identify and list the qualifications of the QIs who prepared the HASR and evaluated the properties ineligible for the NRHP.

Attachments to the HASR:

1. Project location and vicinity maps
2. Area of Potential Effects Map
3. Letters from historical societies, Native American groups, local governments, other special interest groups, etc.
4. DPR 523 forms supporting the findings for properties ineligible for the NRHP in the HASR. The DPR 523 forms shall be prepared in accordance with the California Office of Historic Preservation's *Instructions for Recording Historical Resources* (March 1995) for intensive survey level of effort.
5. Streamlined documentation format for *substantially altered* properties constructed more than 50 years ago will be provided as follows:
 - a. Address

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- b. Year constructed
 - c. List of substantial alterations and/or lost aspects of integrity
 - d. Photograph (may be less than 3"x5", but legible)
 - e. Date surveyed
 - f. Optional information. The following documentation may be provided, but is optional at the discretion of the QI:
 - i. Construction or historical information to understand the historic context (*e.g.*, original use, original owner, architect, engineer, builder, and/or historic resident/tenant/user.)
 - ii. Historic contexts considered, if any, or state "no important historic context"
6. Streamlined documentation format for tract homes and pre-fabricated homes more than 50 years old that are *NOT* eligible for the National Register but are *NOT substantially altered*.
- a. Tract homes within the APE that are part of the same tract may be treated as a group with a common construction history and evaluated on a Primary Record (DPR 523A), District Record (DPR 523 D), and Continuation sheets (DPR 523L) that have photographs of representative house models.
 - b. Pre-fabricated homes that are not associated with permanent buildings or a historic district of pre-fabricated homes will be provided:
 - i. Address
 - ii. Photograph (may be less than 3"x5", but legible)
 - iii. Date surveyed
 - iv. Optional information. The following documentation may be provided, but is optional at the discretion of the QI:
 - a) Approximate year fabricated
 - b) Name of fabricator or model

D. Findings of Effect (FOE)

The Findings of Effect (FOE) report documents the application of the Section 106 criteria for adverse effect (36 CFR 800.5) for each historic property identified within the APE, including all properties reported in the HPSR. The FOE also includes any avoidance alternatives, mitigation measures, or treatment plan as needed for each historic property or property type being adversely affected. Such mitigation and treatment would form the basis for the stipulations in the subsequent MOAs. The FOE should be organized to report on the following findings for an undertaking:

- No effect on historic properties.
- No adverse effect on historic properties (with no mitigation or after standard mitigation).
- Adverse effect on historic properties.

The FOE format and content is as follows:

1. Summary of Findings of Effect

This section should include a summary of findings for any historic properties identified, and whether the effect on them would be negative, not adverse, or adverse, and how the effect is taken into account.

2. Description of the Undertaking

This section shall summarize the description of the undertaking, its location, and any alternatives being considered.

3. Public Participation

Discuss consultation about effects and mitigation with federal, state, and local government agencies, Native Americans, historical societies, or other interest groups. The summary should include outreach done specifically for Section 106 as well as for NEPA. Identify any parties who would be consulting parties in the subsequent MOA.

4. Description of Historic Properties

Using information developed in the HPSR, summarize the historic properties identified in the APE, and describe the essential physical features that comprise the characteristics that qualify each property for the NRHP.

5. Application of the Criteria of Adverse Effect

Discuss the application of the Criteria of Adverse Effect for each historic property. State the most relevant of the criteria and describe in detail the nature of the effect on its essential physical features and how it is adverse or not adverse.

6. Conditions Proposed

Discuss in detail any conditions proposed to avoid adverse effect to each historic property. Present separate sub-sections for any alternatives proposed, or design changes that would be a condition to mitigate the adverse effect, including design considerations to ensure meeting the Secretary of the Interior's Standards for the Treatment of Historic Properties (36 CFR part 68). With SHPO concurrence on the FOE, such mitigation would form the basis for stipulations in a subsequent MOA for the undertaking.

E. Treatment Plans

All Treatment Plans for the independent undertakings of the HST Project will include, but not be limited to:

1. Specification of all historic properties to be affected by the project, including a description of the nature of the effects.
2. A detailed description of the treatments proposed for historic properties or portions of historic properties eligible for the NRHP under 36 CFR Part 60.4 criteria (a), (b), (c) or (d), with an explanation or rationale provided for the choice of the proposed treatments. These treatments will take into account the setting, including but not limited to, visual and atmospheric elements, and vibration, as appropriate, and be responsive to the qualities that contribute to the significance of the affected properties.

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3. Provisions for the creation of a popular account for disseminating the results of the Treatment Plans to the general public, consistent with the Archaeological Resources Protection Act (ARPA), Executive Order on Sacred Sites, the Freedom of Information Act and Section 304 of the NHPA (16 U.S.C. 4702-3).
 4. The archaeological Treatment Plan will, at a minimum, include:
 - A. The Authority's intent to recover a reasonable sample of the intact archaeological deposits from eligible archaeological sites that the agency determines, through the process set out in Stipulation VII of the Agreement, that may be adversely affected by the implementation of the Undertaking;
 - B. Specify the research issues/questions to be addressed through the recovery of data, and provide for a process whereby the research issues/questions will be refined to reflect the information that the Authority gathers as a result of the investigation set out in Stipulation VII of the Agreement;
 - C. Explain why it is in the public interest to address those research issues;
 - D. Explain how data from the historic property will address those research issues/questions;
 - E. Specify the methods to be used in fieldwork and analysis, and explain how these methods are relevant to the research issues/questions;
 - F. Specify the methods to be used in data management and data dissemination;
 - G. Indicate how recovered materials and records will be curated, taking into account the expressed wishes of the consulting Native Americans;
 - H. Include a schedule for providing the consulting Native American Tribes with periodic updates on implementation of the data recovery plan;
 - I. Include a curation agreement that ensures that all materials (other than Native American human remains and grave associated materials) and records are maintained in accordance with 36 CFR 79. Materials recovered from privately owned lands, other than Native American human remains and grave-associated materials that are to be returned to their owners, will be maintained in accordance with 36 CFR 79 until their analysis is completed; and
 - J. Specify the manner in which human remains and grave associated artifacts recovered during data recovery will be treated according to applicable laws and regulations, and in consultation with the wishes of the consulting Native Americans.

ATTACHMENT D

PROPERTIES EXEMPT FROM EVALUATION

Section 106 regulations require a "reasonable and good faith effort" to identify historic properties (36 CFR 800.4[b][1]). The procedures in this attachment concentrate the Authority's efforts on properties that have the potential to be historic properties. A property should be evaluated only if QIs reasonably determine that the property has a demonstrable potential for historic significance. Evidence of such potential consists of associations with significant historic events or individuals (NRHP Criteria A or B); engineering, artistic, design, or aesthetic values (NRHP Criterion C); information value (NRHP Criterion D); the presence of community concerns; or inclusion as a potential contributing element within a larger property requiring evaluation, such as a historic or cultural landscape, traditional cultural property, or historic district. This attachment defines categories of properties that do not warrant evaluation unless deemed otherwise in the professional judgment of QIs. Exempted properties do not require documentation.

ARCHEOLOGICAL PROPERTIES (PREHISTORIC AND HISTORIC) EXEMPT FROM EVALUATION

The following properties are exempt from evaluation, based on the professional judgment of QIs qualified in the area of archaeology:

- Isolated prehistoric finds consisting of fewer than three items per 100 square meters
- Isolated historic finds consisting of fewer than three artifacts per 100 square meters (e.g., several fragments from a single glass bottle are one artifact)
- Refuse scatters less than 50 years old (scatters containing no material that can be dated with certainty as older than 50 years old)
- Features less than 50 years old (those known to be less than 50 years old through map research, inscribed dates, etc.)
- Isolated refuse dumps and scatters over 50 years old that lack specific associations
- Isolated mining prospect pits
- Placer mining features with no associated structural remains or archeological deposits
- Foundations and mapped locations of buildings or structures more than 50 years old with few or no associated artifacts or ecofacts, and with no potential for subsurface archeological deposits
- Building and structural ruins and foundations less than 50 years old.

QIs qualified in California archaeology shall apply professional judgment as to the level of identification effort, in consultation with consulting Native American Tribe(s) where appropriate. This exemption process does not include archeological sites, traditional cultural properties, or other cultural remains or features that may qualify as contributing elements of districts or landscapes.

HISTORIC ARCHITECTURAL PROPERTIES EXEMPT FROM EVALUATION

QIs qualified in the disciplines of history or architectural history may find the following types of historic architectural properties exempt from evaluation and documentation, or have a lesser level of documentation in the HASR:

1. Properties less than 50 years old at the time of the intensive survey unless they may have achieved exceptional significance in accordance with NRHP Bulletin 22.
2. Properties moved within the past 50 years unless they are among the exceptions noted in "Criteria Consideration B: Moved Properties" of National Register Bulletin 15.

The historical architectural property types listed below are exempt from evaluation and will not require documentation, based on the professional judgment of QIs qualified in the disciplines of history or architectural history.

Railroad Related Features:

- Railroad maintenance facilities
- Railroad communication and signaling systems
- Switching and crossing equipment
- Railroad structures such as grade separations, pedestrian overcrossings and underpasses
- Railroad culverts and drainage systems
- Railroad fencing and other right-of-way features
- Access roads for railroads
- Railroad maintenance materials (e.g., ties, track, ballast, etc.)
- Railroad grades converted to other uses, such as roads, levees, or bicycle/pedestrian paths

Water Conveyance and Control Features:

- Natural bodies or water providing a water source, conveyance, or drainage
- Modified natural waterways
- Concrete-lined canals less than 50 years old and fragments of abandoned canals
- Roadside drainage ditches and secondary agricultural ditches
- Small drainage tunnels
- Flood storage basins
- Reservoirs and artificial ponds
- Levees and weirs
- Gates, valves, pumps, and other flow control devices
- Pipelines and associated control devices
- Water supply and waste disposal systems

Recent Transportation or Pedestrian Facilities:

- Light rail systems, including shelters, benches, and platforms
- Bus shelters and benches
- Airstrips and helicopter landing pads
- Vista points and rest stops
- Toll booths
- Truck scales and inspection stations
- City streets, alleys, and park strips
- Sidewalks, curbs, berms, and gutters
- Bike paths, off-road vehicle trails, equestrian trails, and hiking trails
- Parking lot and driveways

Highway and Roadside Features:

- Isolated segments or bypassed or abandoned roads
- Retaining walls
- Curbs, gutters, and walkways
- Highway fencing, soundwalls, guard rails, and barriers
- Drains and culverts, excluding culverts assigned a Caltrans bridge number
- Cattle crossing guards
- Roadside, median, and interchange landscaping and associated irrigation systems
- Street furniture and decorations
- Signs and reflectors
- Parking meters
- Street lighting and controls
- Traffic lights and controls
- Highway operation control, maintenance, and monitoring equipment

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- Telecommunications services, including towers, poles, dishes, antennas, boxes, lines, cables, transformers, and transmission facilities
 - Utility services, including towers, poles, boxes, pipes, lines, cables, and transformers
 - Oil and gas pipelines and associated control devices

Adjacent Features:

- Prefabricated buildings less than 50 years old not associated with permanent buildings or a historic district
- Fences, walls, gates, and gateposts
- Isolated rock walls and stone fences
- Telephone booths, call boxes, mailboxes, and newspaper receptacles
- Fire hydrants and alarms
- Markers, monuments, signs, and billboards
- Fragments of bypassed or demolished bridges
- Temporary roadside structures, such seasonal vendors' stands
- Pastures, fields, crops, and orchards
- Corrals, animal pens, and dog runs
- Open space, including parks and recreational facilities

Movable or Minor Objects:

- Movable vehicles
- Stationary vehicles less than 50 years old or moved within the last 50 years
- Agricultural, industrial, and commercial equipment and machinery
- Sculpture, statuary, and decorative elements less than 50 years old or moved within the last 50 years.

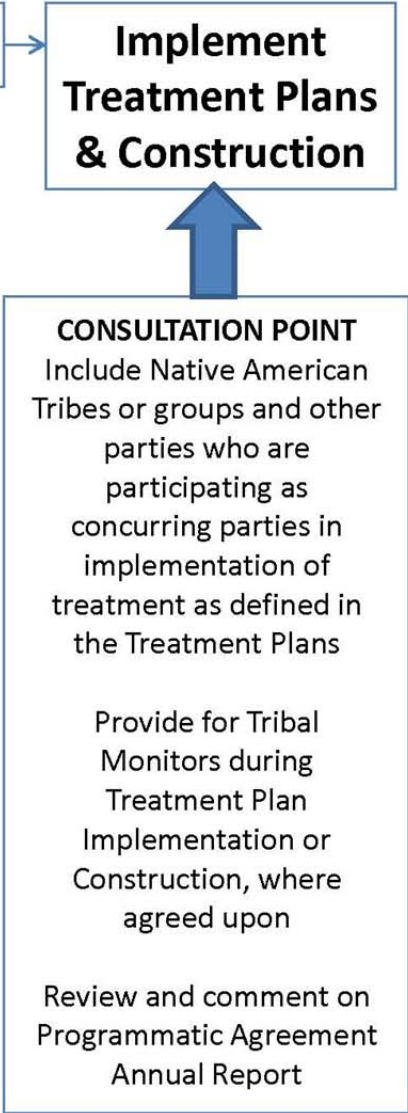
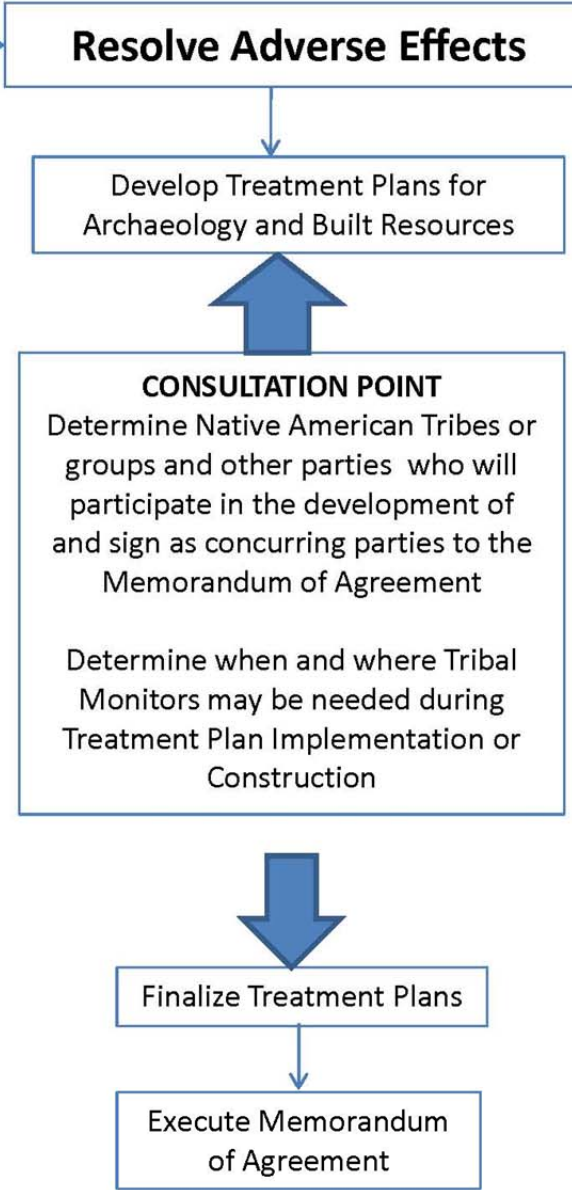
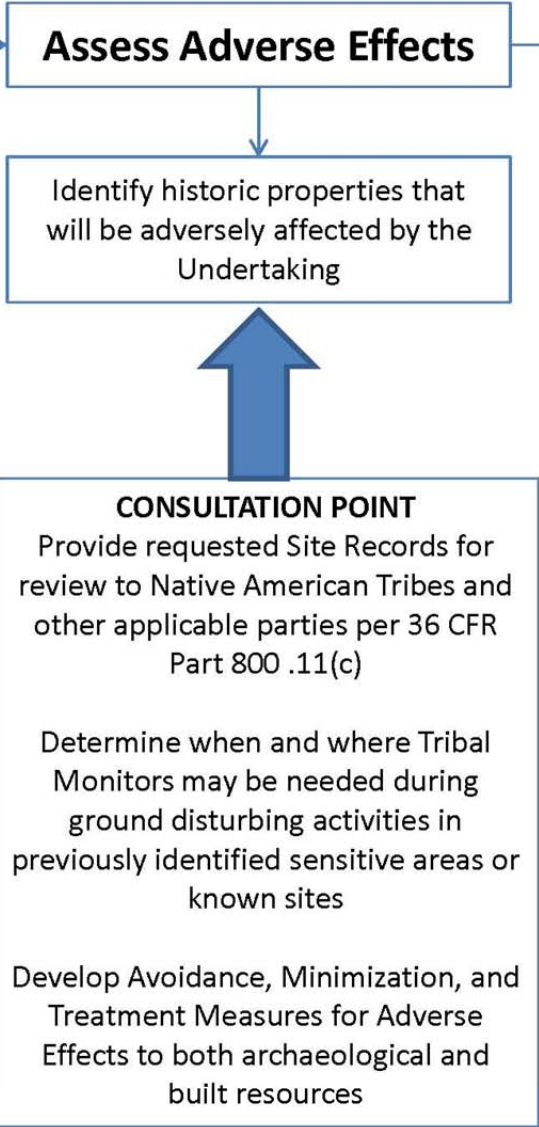
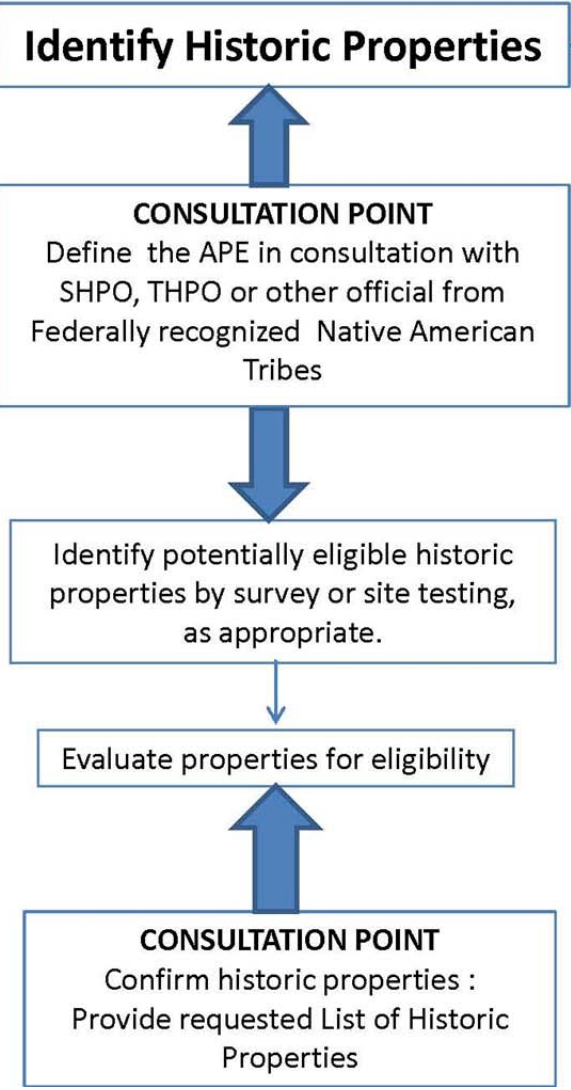
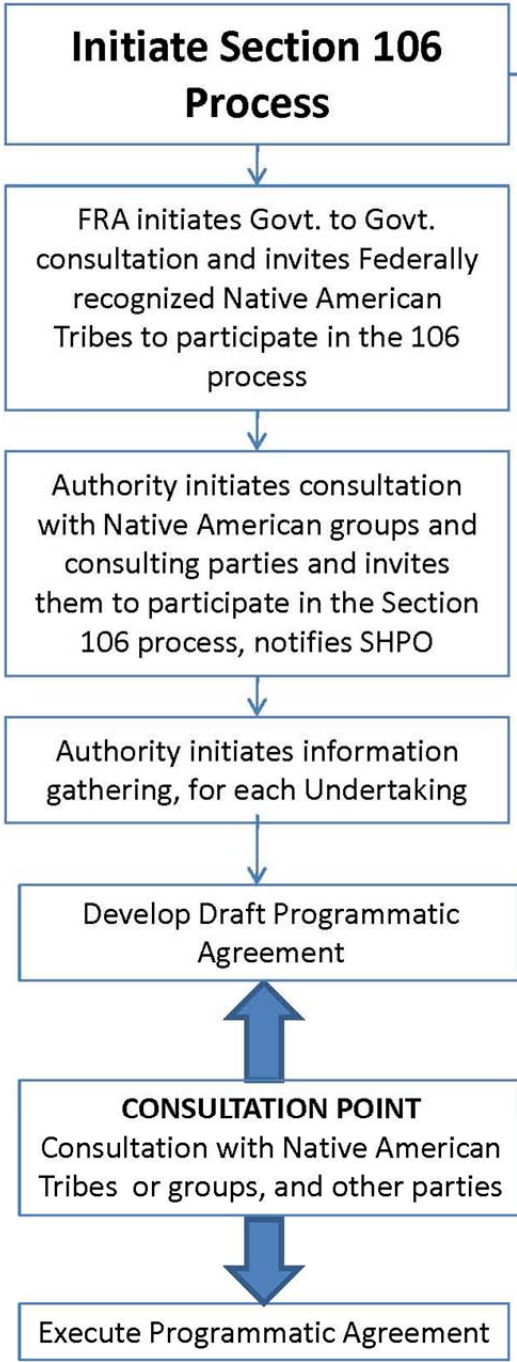
The exemption does not apply to properties 50 years old or older that could be important, nor does it apply to properties that may contribute to the significance of larger historic properties such as districts or landscapes.

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Attachment E

**Compliance with Section 106 of the National Historic Preservation Act
for the California High Speed Train System
Approach for Each Undertaking**

**Establish
Programmatic
Approach**



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ATTACHMENT F- FEDERALLY RECOGNIZED NATIVE AMERICAN TRIBES

Barona Group of the Capitan Grande	Pauma Band of Luiseno Mission Indians
Big Sandy Rancheria of Mono Indians	Pechanga Band of Luiseno Mission Indians
Buena Vista Rancheria of Me-Wuk Indians of California	Picayune Rancheria of Chuckchansi Indians of California
Cahuilla Band of Indians	Ramona Band of Cahuilla Mission Indians
California Valley Miwok Tribe	San Manuel Band of Mission Indians
Cold Springs Rancheria of Mono Indians	San Pasqual Band of Diegueno Mission Indians
Inaja Band of Diegueno Mission Indians of the Inaja and Cosmit Reservation	Santa Rosa Rancheria
Ione Band of Miwok Indians of California	Santa Ysabel Band of Diegueno Mission Indians
Jamul Indian Village	Shingle Springs Band of Miwok Indians, Shingle Springs Rancheria
Pala Band of Luiseno Mission Indians	Soboba Band of Luiseno Indians
La Jolla Band of Luiseno Mission Indians	Sycuan Band of the Kumeyaay Nation
La Posta Band of Diegueno Mission Indians	Table Mountain Rancheria
Los Coyotes Band of Cahuilla & Cupeno Indians	Tule River Indian Tribe
Mesa Grande Band of Diegueno Mission Indians	United Auburn Indian Community of the Auburn Rancheria
Morongu Band of Mission Indians	Viejas Band of Capitan Grande Band of Mission Indians
Northfork Rancheria of Mono Indians of California	Wilton Rancheria

ATTACHMENT F- NON-FEDERALLY RECOGNIZED NATIVE AMERICAN GROUPS

Amah Mutsun Tribal Band	Foothill Yokuts, Mono
Choinumni Tribe	Gabrieleno Band of Mission Indians
Choinumni Tribe of Yokuts	Gabrieleno/Tongva San Gabriel Band of Mission Indians
Choinumni Tribe, Choinumni/Mono	Gabrieleno Ti'At Society
Choinumni, Foothill Yokut	Gabrieleno Tongva
Chowchilla Tribe of Yokuts	Gabrieleno Tongva Indians of California tribal Council
Chumash	Gabrieleno-Tongva Tribe
Chumash (San Fernando Band of Mission Indians)	Indian Canyon Mutsun Band of Costanoan Indians
Chumash Council of Bakersfield	Inter-Tribal Water Commission of California
Chumash, Fernandeno, Tatavianm Shoshone, Paiute and Yaqui	Juaneno Band of Mission Indians
Costanoan Indian Canyon Mutsun Band of Costanoan/Ohlone	Juaneno Band of Mission Indians Acjachemen Nation
Costanoan Band of Carmel Mission Indians	Kawaiisu Tribe
Duma/Foothill/Pomo	Kern Valley Indian Community
Dumna: Foothill	Kern Valley Indian Council
Dumna Foothill, Yokuts, Mono	Kern Valley Paiute Tribe
Dumna Tribal Government	Kings River Choinimni Farm Tribe
Dumna Wo-Wah Tribal Government	Kitanemuk
Dumna, Kechayi, Yokuts	Kitanemuk & Yowlumne Tejon Indians
Dumna/Foothill, Choinumni	Kumeyaay
Dunlap Band of Mono Indians	Kumeyaay Cultural Heritage preservation
El Dorado Miwok Tribe	Kumeyaay Cultural Historic Committee
El Dorado Miwok Tribe (Miwok Tribe Office of the El Dorado Rancheria)	Kumeyaay Cultural Repatriation Committee
Eshohm Valley Band of Indians	Kwaaymii Laguna Band of Mission Indians
Fernandeno Taaviam Band of Mission Indians	LA City/County Native American Indian Committee
Foothill Yokuts, Choinumni	Los Angeles City and County Native American Indian Commission

Maidu/Washoe
Miwok, Paitute and Northern Valley Yokut
Mono: Cold Springs Rancheria of Mono Indians
Muwekma Ohlone Tribe of the SF Bay Area
Nashville-El Dorado Miwok
Nisena-So Maidu, Konkow Washoe
North Fork Mono Tribe
North Fork Rancheria
North Valley Yokuts
North Valley Yokuts Tribe
Ohlone – Costanoan, Bay Miwok, Plains Miwok, Patwin
Ohlone Indian Tribe
Ohlone/Costanoan
Ohlone/Costanoan Northern Valley Yokuts
Ohlone/Costanoan Northern Valley Yokuts Bay Miwok
Paiute, Yokuts & Tubatulabal Tribes
Salinan
San Fernando Band of Mission Indians
San Luis Rey Band of Mission Indians
Serrano Nation of Indians
Serrano Tribe

Sierra Nevada Native American Coalition
Sierra Tribal Consortium
Southern Sierra Miwok Nation
Tache, Tachi, Yokut
Tatavian
Tehachapi Indian Tribe
Tejon Indian tribe
Ti'At Society
Tinoqui-Chalola Council of Kitanemuk & Yowlumne Tejon Indians
Tongva Ancestral Territorial Tribal Nation
Traditional Choinumni Tribe
Trina Marine Ruano Family
Tubatulabal, Kawaiisu, Koso & Yokuts Tribes
Tubatulabals of Kern Valley
Western Mono Sandy Rancheria of Mono Indians
Wukchumni Council
Wukchumni Tribe
Wukchumni, Tachi, Yowlumni
Yokuts

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**FIRST AMENDMENT TO THE PROGRAMMATIC AGREEMENT
AMONG THE FEDERAL RAILROAD ADMINISTRATION,
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION,
THE CALIFORNIA STATE HISTORIC PRESERVATION OFFICER,
AND THE CALIFORNIA HIGH-SPEED RAIL AUTHORITY
REGARDING COMPLIANCE WITH SECTION 106 OF THE NATIONAL HISTORIC
PRESERVATION ACT, AS IT PERTAINS TO THE CALIFORNIA HIGH-SPEED TRAIN
PROJECT**

WHEREAS, the Federal Railroad Administration (FRA), the Advisory Council on Historic Preservation (ACHP or the Council) the California State Historic Preservation Officer (SHPO), and the California High-Speed Rail Authority (Authority) are parties to the *Programmatic Agreement Among the Federal Railroad Administration, the Advisory Council on Historic Preservation, the California State Historic Preservation Officer, and the California High-Speed Rail Authority Regarding Compliance with Section 106 of the National Historic Preservation Act, as it Pertains to the California High-Speed Train Project*, effective July 22, 2011 (Agreement); and

WHEREAS, the Agreement governs compliance with Section 106 of the National Historic Preservation Act, as amended (54 USC § 306108), and its implementing regulations, 36 CFR part 800 (collectively, Section 106) for nine separate undertakings that are individual project sections (each, an Undertaking as defined in the Agreement, and collectively, the Undertakings) of the California High-Speed Rail (HSR) System (previously referred to in the Agreement as the California High-Speed Train System); and

WHEREAS, subsequent to the execution of the Agreement, the Authority separated the Palmdale to Los Angeles project section into two smaller project sections, Palmdale to Burbank and Burbank to Los Angeles, for the purposes of analysis under the National Environmental Policy Act (NEPA) and Section 106, and each of the smaller project sections are considered Undertakings under the Agreement; and

WHEREAS, consistent with Stipulation XVII.E of the Agreement, the FRA, the ACHP, SHPO, and the Authority have assessed the Agreement and determined it is effective and have decided to extend its duration, with appropriate revisions identified in this First Amendment to the Agreement (First Amendment); and

WHEREAS, on April 18, 2013, and June 13, 2013, the Surface Transportation Board (STB) determined that it has jurisdiction over the California HSR System under 49 USC § 10501(a)(2)(A) of the Interstate Commerce Act, as amended, and, on January 18, 2018, the STB requested that it be added as an invited signatory to the Agreement to fulfill its obligations under Section 106; and on June 23, 2021 the STB designated the Authority as lead Federal agency for Section 106; and

WHEREAS, the FRA, the ACHP, SHPO, and the Authority agreed to invite the STB to sign the Agreement as an invited signatory by executing this First Amendment; and

WHEREAS, the Surface Transportation Project Delivery Program, authorized by 23 USC § 327, allows the Secretary of Transportation, through the FRA, to assign, and the State of California to assume, the FRA's responsibilities for environmental review, consultation, and other actions required under Federal environmental laws, including Section 106, for railroad and multimodal projects; and

WHEREAS, the State of California requested that the FRA assign its responsibilities for compliance with NEPA and other Federal environmental laws, including Section 106, with respect to the implementation of the California HSR System; and

WHEREAS, on July 23, 2019, the State of California, acting through its California State Transportation Agency and the Authority, and the FRA entered into a Memorandum of Understanding (MOU) pursuant to which the FRA assigned, and the State of California assumed, FRA's responsibilities for environmental review, consultation, or other action required or arising under certain Federal environmental laws for certain railroad projects relating to the California HSR System; and

WHEREAS, the projects described in 3.3.1.A of the MOU include the Undertakings; and

WHEREAS, such assigned and assumed responsibilities include Section 106 except to the extent 23 CFR § 773.105(b)(4) requires the FRA to retain responsibility for government-to-government consultation with Indian tribes (referred to as Indian tribes in 36 CFR Part 800, 23 CFR § 773.105(b)(4) and the MOU, and as Native American tribes in the Agreement and the remainder of this First Amendment); and

WHEREAS, prior to July 23, 2019, and at the time the Agreement took effect, the FRA was responsible for compliance with Section 106 for the Undertakings; and

WHEREAS, consistent with Sections 3.4.1 and 6.1 of the MOU and 23 USC § 327(e), the Authority is deemed to be acting as the FRA for, and is solely responsible and solely liable for carrying out, compliance with Section 106 for the Undertakings; and

WHEREAS, pursuant to Section 5.1.1 of the MOU and 23 USC § 327(a)(2)(C), in assuming the FRA's responsibilities as set forth in the MOU, the Authority is subject to the same procedural and substantive requirements that apply to the FRA in carrying out the terms of the Agreement and other interagency agreements such as programmatic agreements, memoranda of understanding, memoranda of agreement, and other similar documents that relate to the environmental review process; and

WHEREAS, consistent with Section 5.3.2 of the MOU and 36 CFR § 800.2(a), the Authority has consulted with FRA, the ACHP, and SHPO to enter into this First Amendment to identify the Authority as the Agency Official responsible for ensuring that the Undertakings are implemented in compliance with Section 106, except to the extent 23 CFR § 773.105(b)(4) requires the FRA to retain responsibility for government-to-government consultation with Native American tribes; and

WHEREAS, the FRA requested, and the ACHP, SHPO, and the Authority agreed, to change the FRA's status under the Agreement from a signatory to an invited signatory; and

WHEREAS, the Authority will notify the public and consulting parties, including Native American tribes, following execution of this First Amendment;

NOW, THEREFORE, in accordance with Stipulation XVII.B of the Agreement, the FRA, the ACHP, SHPO, the STB, and the Authority agree to amend the Agreement as follows:

1. Add new Stipulation XVIII, Definitions, to the Agreement as follows:

A. The term signatory or Signatory (or, collectively, signatories or Signatories), as used in the Agreement (as amended by this First Amendment), means the ACHP, SHPO, and the Authority.

B. The term Invited Signatory (or, collectively, Invited Signatories), as used in the Agreement (as amended by this First Amendment), means the FRA and the STB.

2. Amend Stipulations II.A. and II.B. so they are both stricken in their entirety and replaced with the following:

A. FRA

FRA is responsible for government-to-government consultation with Native American tribes for the Undertakings as provided in Stipulation IV, Consultation with Federally-Recognized Native American Tribes and Non-Federally-Recognized Native American Groups.

B. Authority

The Authority is responsible for ensuring that the Undertakings are implemented in compliance with Section 106, except to the extent 23 CFR § 773.105(b)(4) requires the FRA to retain responsibility for government-to-government consultation with Native American tribes. The Authority has primary responsibility pursuant to 36 CFR 800.2(a)(2) to ensure that the provisions of this Agreement are carried out. The Authority will execute MOAs for each of the Undertaking sections and participate in the resolution of disputes. The Authority is responsible for all determinations of eligibility and effect of the undertakings. Consistent with the requirements of 36 CFR 800.2(a) and 800.2(c)(4), the Authority is legally responsible for ensuring that the terms of this Agreement are carried out and for all findings and determinations made pursuant to this Agreement.

3. Amend all references to “FRA” in the Agreement’s Stipulations so that “FRA” is stricken and replaced with “Authority,” except for Stipulation V.A. and Stipulation XVI and except as otherwise provided in this First Amendment.
4. Amend the third sentence of Stipulation VI.B.1 of the Agreement so it is stricken in its entirety and replaced with the following:

“Findings shall be made by the Authority based on National Register of Historic Places (NRHP) criteria (36 CFR 60.4) and evaluated in accordance with provisions of 36 CFR §800.4(c).”

5. Amend the first sentence of Stipulation VI.C.1 of the Agreement so it is stricken in its entirety and replaced with the following:

“The Authority will submit a Draft HPSR to the Signatories, STB, and identified consulting parties, including Native American tribes, upon request prior to the public circulation of the draft environmental impact statement (DEIS) for each Undertaking, and such Draft HPSR will include documentation of all properties in the APE that are listed in the NRHP, were previously determined eligible for the NRHP, were found eligible for the NRHP by QIs, or appear ineligible for the NRHP but meet one of the conditions in Stipulation VI.B.4.”

6. Amend the first sentence of Stipulation VI.C.4 of the Agreement so it is stricken in its entirety and replaced with the following:

“If, after the submission of the Final HPSR, there are changes to the APE that includes additional properties not exempt from evaluation or information is received that there may be additional historic properties within the APE, the Authority will prepare a

Supplemental HPSR and distribute it to the SHPO and all parties who received the Final HPSR for a review and comment period of 30 days.”

7. Amend the last paragraph of Stipulation VI.D of the Agreement so it is stricken in its entirety and replaced with the following:

Type text here
“Should a member of the public disagree with any NRHP eligibility determinations, the Authority shall immediately inform the other Signatories and STB in writing and take the objection into account. The Authority shall consult with the objecting party and, if the objecting party so requests, with any or all of the other Signatories for no more than 30 days. The Authority shall document such consultation efforts. Within 14 days following closure of the consulting period, the Authority shall render a decision regarding the objection and notify all parties of this decision in writing. In reaching the decision, the Authority shall take comments from all parties into account and make a good faith effort to resolve the dispute. The Authority’s decision regarding resolution of the objection from a member of the public will be final.”

8. Amend Stipulation VII.A of the Agreement so it is stricken in its entirety and replaced with the following:

“A. If historic properties are identified within an Undertaking, the Authority shall assess adverse effects in accordance with 36 CFR 800.5 and prepare a Findings of Effect report (FOE) for each Undertaking where historic properties were identified within the APE. The FOE shall describe the assessment of potential adverse effects to historic properties that would result from the construction or operation of the project, and identify mitigation measures that would eliminate or minimize effects to be incorporated into the design and construction documents of the Undertaking. The Authority shall distribute the FOEs to the Signatories, STB, and other consulting parties, including Native American tribes, identified as a result of Stipulations IV.C and V.B, who shall have a 30-day review and comment period. The Authority shall ensure that comments are considered prior to finalizing the FOE(s) for submission to the SHPO for final review and concurrence. The SHPO shall have an additional 30 days for review and concurrence with the final FOE(s).”

9. Amend Stipulation XI.A of the Agreement so it is stricken in its entirety and replaced with the following:

“A. The Authority shall ensure that all operations for the portion of the Undertaking with the potential to affect an historic property are immediately ceased upon unanticipated resource discovery.”

10. Amend the first sentence of Stipulation XI.B of the Agreement so it is stricken in its entirety and replaced with the following:

“The Authority shall make a determination of the NRHP eligibility of the historic property and the potential for the Undertaking to adversely affect the resource.”

11. Amend the first sentence of Stipulation XI.D of the Agreement so it is stricken in its entirety and replaced with the following:

“The Authority shall implement the avoidance, minimization, or treatment plan and advise the other Signatories and STB of the satisfactory completion of the approved work.”

12. Amend Stipulation IV of the Agreement so it is stricken in its entirety and replaced with the following:

“IV. CONSULTATION WITH FEDERALLY-RECOGNIZED NATIVE AMERICAN TRIBES AND NON-FEDERALLY-RECOGNIZED NATIVE AMERICAN GROUPS

A. FRA

- 1. Consistent with 23 CFR 773.105(b)(4) and Sections 3.2.1 and 3.2.4 of the MOU, the FRA is responsible for conducting government-to-government consultation with Federally-recognized Native American tribes for the Undertakings.*
- 2. Notwithstanding any other provision of this Agreement, the FRA shall honor the request of any Federally-recognized Native American tribe for government-to-government consultation regarding an Undertaking covered by this Agreement. If a request for government-to-government consultation comes to the Authority, the Authority shall promptly inform the FRA. If any Federally-recognized Native American tribe requests government-to-government consultation with the FRA, the FRA shall conduct the government-to-government consultation and, if the tribe agrees, involve the Authority in that consultation process.*

B. The Authority

- 1. The Authority shall consult with Federally-recognized Native American tribes as described in this Stipulation IV. The Authority is responsible for consultation with non-Federally-recognized Native American groups.*
- 2. The Authority shall ensure that consultation with Federally-recognized Native American tribes and non-Federally-recognized Native American groups is initiated early in the project development process for each Undertaking to identify cultural, confidentiality, or other concerns, including concerns about historic properties, and to allow adequate time for consideration of such concerns whenever they may be expressed.*
- 3. The Authority shall ensure that on-going consultation with Federally-recognized Native American tribes and non-Federally-recognized Native American groups continues throughout the Section 106 compliance process and whenever such groups express a concern about the Undertaking or about historic properties that may be affected by an Undertaking.*
- 4. In accordance with 36 CFR §§ 800.2(c)(2) and 800.2(c)(5), respectively, Federally-recognized Native American tribes and non-Federally-recognized Native American groups may be identified as consulting parties in subsequent memoranda of agreement (MOAs) that are prepared for an Undertaking covered by this Agreement as described further in Stipulation VIII.A.*

C. Consultation for Each Undertaking

- 1. The Authority shall identify Federally-recognized Native American tribes and non-Federally-recognized Native American groups who will participate in the Undertaking as a consulting party and shall consider future written requests to participate as consulting parties in an Undertaking.*

2. *The Authority shall hold informal informational meetings with both Federally-recognized Native American tribes and non-Federally-recognized Native American groups specific to each Undertaking to help provide project updates and to identify potential consulting parties for an MOA.*
3. *The Authority shall consult with Federally-recognized Native American tribes and non-Federally-recognized Native American groups identified as consulting parties that attach religious and cultural significance to historic properties that may be affected by an Undertaking at key milestones in the Section 106 and NEPA processes to gain input from tribal governments. The Native American consultation will follow a process depicted in Attachment E and includes the following Native American consultation points:*
 - (i) *During identification of historic properties, to confirm the historic properties identified.*
 - (ii) *During assessment of adverse effects, (a) to provide requested site records of historic properties adversely affected for review, (b) to determine when and where tribal monitors may be needed during ground disturbing activities in previously identified sensitive areas or known sites, and (c) to develop avoidance, minimization and treatment measures for adverse effects to both archaeological and built resources.*
 - (iii) *During resolution of adverse effects, (a) to develop and finalize treatment plans for archaeological and built resources, (b) to develop and execute MOAs, and (c) to determine when and where tribal monitors may be needed during treatment plan implementation or construction.*
 - (iv) *During treatment plan and MOA implementation, (a) to provide for tribal monitors where agreed upon, (b) to review and comment on the Programmatic Agreement annual report, including input on treatment plan and MOA implementation.*
4. *Consultation with Federally-recognized Native American tribes shall continue throughout the development of subsequent Undertakings regardless of whether such tribes have chosen to concur with this Agreement.”*

13. Amend Stipulation XVII of the Agreement in its entirety so it is stricken and replaced with the following:

“XVII. ADMINISTRATIVE STIPULATIONS

- A. *Dispute Resolution*
 1. *Should any Signatory or Invited Signatory to this Agreement object within 30 days to any action proposed or any document provided for review pursuant to this Agreement, the Authority shall consult with the objecting party to resolve the objection. If the Authority determines that the objection cannot be resolved within 15 days, the Authority shall forward all documentation relevant to the dispute, including the Authority’s proposed resolution, to the ACHP. The Authority will also provide a copy to all Signatories, Invited Signatories, and consulting parties for the Undertaking. The ACHP shall provide the Authority with its advice on the resolution of the objection within 30 days of receiving adequate documentation. Prior to reaching a final decision on the dispute, the Authority shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the Signatories, Invited Signatories, and consulting parties, including Native American tribes, and provide them with a copy of this written response. The Authority will then*

proceed according to its final decision. If the ACHP does not provide its advice regarding the dispute within 30 days, the Authority may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, the Authority shall prepare a written response that takes into account any timely comments regarding the dispute from the Signatories, Invited Signatories, and consulting parties for the Undertaking, and provide them and the ACHP with a copy of such written response.

2. *Should a consulting party or member of the public disagree with findings made pursuant to this Agreement, the Authority shall immediately inform the Signatories and Invited Signatories in writing and take the objection into account. The Authority shall consult with the objecting party and, if the objecting party so requests, with any or all of the other Signatories and Invited Signatories for no more than 30 days. Within 14 days following closure of the consulting period, the Authority shall render a decision regarding the objection and notify all parties of this decision in writing. In reaching the decision, the Authority shall take comments from all parties into account. The Authority's decision regarding resolution of the objection will be final.*
3. *The Authority's responsibility to carry out all other actions under this Agreement that are not subject to dispute will remain unchanged.*

B. Amendment

1. *The Signatories and Invited Signatories to this Agreement may request that it be amended, whereupon the Signatories and Invited Signatories will consult to consider such amendment. This Agreement, including any attachment to this Agreement, may be amended only upon written concurrence of all Signatories and Invited Signatories.*
2. *To address minor changes in an Undertaking or the treatment of historic properties affected by an Undertaking, the Authority may propose revisions to the treatment plans rather than to this Agreement. Upon the written concurrence of the Signatories, the Authority may revise the treatment plans to incorporate the agreed-upon changes without executing a formal amendment to this Agreement.*
3. *Revisions to an attachment to this Agreement would be implemented through consultation and include any necessary revisions to the Agreement itself that may result from modification of an attachment*

C. Review and Reporting

1. *The Signatories, Invited Signatories, and consulting parties, including Native American tribes, may review activities carried out by the Authority pursuant to this Agreement. The Authority shall facilitate this review by compiling specific categories of information to document the effectiveness of this Agreement and by making this information available in the form of a written annual Programmatic Agreement report. Categories of information shall include, but are not limited to, a summary of actions taken under this Agreement, including all findings and determinations, public objections, and inadvertent effects or foreclosures. The range and type of information included by the Authority in the written report and the manner in which this information is organized and presented must be such that it facilitates the ability of the reviewing parties to assess accurately the degree to which the Agreement and its manner of implementation constitute an efficient and effective program under 36 CFR Part 800.*

2. *The Authority shall prepare the written report of these findings annually following execution of this Agreement. The Authority shall submit the annual reports to the Signatories and Invited Signatories no later than three (3) months following the end of the State fiscal year until all treatment is completed. There will be a 30-day period to review and comment on the report. The Annual Programmatic Agreement Report will be finalized within 30 days of receipt of comments.*
3. *The Authority shall make the annual report available for public inspection. The Authority shall send copies of the report to the Signatories, Invited Signatories, and consulting parties, including Native American tribes, of this Agreement and any subsequent MOAs, and make a copy available to members of the public for comment, upon request.*
4. *In conjunction with the review of the annual reports prepared by the Authority, the Signatories and Invited Signatories shall consult in an annual teleconference to review the overall effectiveness and benefits of this Agreement, determine if its requirements are being met, decide if amendments to the Agreement are warranted, review the reporting format and categories for adequacy, and identify any other actions that may be needed in order to take into account the effects of the Undertakings on historic properties in California.*

D. Termination

Any Signatory or Invited Signatory may terminate this Agreement by providing 30 days written notice to the other Signatories and Invited Signatories. The Signatories and Invited Signatories shall consult during the 30-day period prior to termination to seek agreement on amendments or other actions that would avoid termination. Should such consultation result in an agreement on an alternative to termination, the Signatories and Invited Signatories shall proceed in accordance with that agreement. Should a Signatory or Invited Signatory propose termination of this Agreement, it will notify the other Signatories and Invited Signatories in writing. If any of the Signatories or Invited Signatories individually terminates its participation in the Agreement, then the Agreement is terminated in its entirety. In the event of termination, then the Authority shall either consult in accordance with 36 CFR 800.14(b) to develop a new programmatic agreement or request the comments of the ACHP pursuant to 36 CFR 800. Beginning with the date of termination, the Authority shall ensure that until and unless a new Agreement is executed for the actions covered by this Agreement, the Undertakings shall be reviewed individually in accordance with 36 CFR 800.4–800.6.

E. Duration of this Agreement

This Agreement shall remain in effect until expiration or termination of the MOU. If the MOU is renewed beyond July 23, 2024, this Agreement shall be amended accordingly. If the Agreement is effective and its duration needs to be extended, the signatories can decide to extend the duration of the Agreement. If this Agreement expires, the Authority shall notify the Signatories and Invited Signatories in writing. If the Authority or a Federal agency party to this Agreement chooses to continue with the Undertaking after this Agreement expires, it shall review the Undertaking in accordance with 36 CFR Part 800.

F. Execution and Implementation of the Agreement

1. *This Agreement, including its attachments, shall take effect upon execution by all the Signatories. Additional amendments to this Agreement shall take effect upon execution by all the Signatories and Invited Signatories.*

2. *Execution of this Agreement by the Signatories and implementation of its terms evidence that the Authority has taken into account the effects of the Undertakings on historic properties and afforded the ACHP an opportunity to comment.”*


14. Effect of Agreement. All provisions of the Agreement that are not amended by this First Amendment remain in effect.

15. Effective Date. This First Amendment shall take effect upon execution by the ACHP, SHPO, and the Authority.

**FIRST AMENDMENT TO THE PROGRAMMATIC AGREEMENT AMONG THE
FEDERAL RAILROAD ADMINISTRATION, THE ADVISORY COUNCIL ON HISTORIC
PRESERVATION, THE CALIFORNIA STATE HISTORIC PRESERVATION OFFICER, AND
THE CALIFORNIA HIGH-SPEED RAIL AUTHORITY REGARDING COMPLIANCE WITH
SECTION 106 OF THE NATIONAL HISTORIC PRESERVATION ACT, AS IT PERTAINS TO
THE CALIFORNIA HIGH-SPEED TRAIN PROJECT**

SIGNATORY:

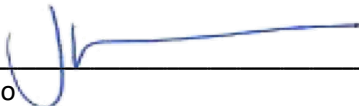
ADVISORY COUNCIL ON HISTORIC PRESERVATION

By:  _____ Date: July 21, 2021
Reid J. Nelson
Acting Executive Director

**FIRST AMENDMENT TO THE PROGRAMMATIC AGREEMENT AMONG THE
FEDERAL RAILROAD ADMINISTRATION, THE ADVISORY COUNCIL ON HISTORIC
PRESERVATION, THE CALIFORNIA STATE HISTORIC PRESERVATION OFFICER, AND
THE CALIFORNIA HIGH-SPEED RAIL AUTHORITY REGARDING COMPLIANCE WITH
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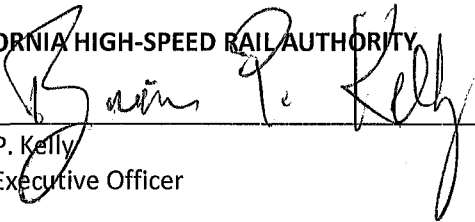
CALIFORNIA STATE HISTORIC PRESERVATION OFFICER

By:  _____ Date: July 20, 2021
Julianne Polanco
State Historic Preservation Officer

FIRST AMENDMENT TO THE PROGRAMMATIC AGREEMENT AMONG THE
FEDERAL RAILROAD ADMINISTRATION, THE ADVISORY COUNCIL ON HISTORIC
PRESERVATION, THE CALIFORNIA STATE HISTORIC PRESERVATION OFFICER, AND
THE CALIFORNIA HIGH-SPEED RAIL AUTHORITY REGARDING COMPLIANCE WITH
SECTION 106 OF THE NATIONAL HISTORIC PRESERVATION ACT, AS IT PERTAINS TO
THE CALIFORNIA HIGH-SPEED TRAIN PROJECT

SIGNATORY:

CALIFORNIA HIGH-SPEED RAIL AUTHORITY


By: 
Brian P. Kelly
Chief Executive Officer

Date: 7/12/21

**FIRST AMENDMENT TO THE PROGRAMMATIC AGREEMENT AMONG THE
FEDERAL RAILROAD ADMINISTRATION, THE ADVISORY COUNCIL ON HISTORIC
PRESERVATION, THE CALIFORNIA STATE HISTORIC PRESERVATION OFFICER, AND
THE CALIFORNIA HIGH-SPEED RAIL AUTHORITY REGARDING COMPLIANCE WITH
SECTION 106 OF THE NATIONAL HISTORIC PRESERVATION ACT, AS IT PERTAINS TO
THE CALIFORNIA HIGH-SPEED TRAIN PROJECT**

INVITED SIGNATORY:

SURFACE TRANSPORTATION BOARD

By:  _____ Date: July 20, 2021 _____
Danielle Gosselin
Acting Director, Office of Environmental Analysis

**FIRST AMENDMENT TO THE PROGRAMMATIC AGREEMENT AMONG THE
FEDERAL RAILROAD ADMINISTRATION, THE ADVISORY COUNCIL ON HISTORIC
PRESERVATION, THE CALIFORNIA STATE HISTORIC PRESERVATION OFFICER, AND
THE CALIFORNIA HIGH-SPEED RAIL AUTHORITY REGARDING COMPLIANCE WITH
SECTION 106 OF THE NATIONAL HISTORIC PRESERVATION ACT, AS IT PERTAINS TO
THE CALIFORNIA HIGH-SPEED TRAIN PROJECT**

INVITED SIGNATORY:

FEDERAL RAILROAD ADMINISTRATION

By: MARLYS A OSTERHUES Digitally signed by MARLYS A OSTERHUES
Date: 2021.07.16 17:55:28 -04'00' Date: _____
Marlys Osterhues
Chief, Environment and Project Engineering Division
Office of Infrastructure Investment

ATTACHMENT 2: AREA OF POTENTIAL EFFECTS

The attachment includes confidential information.

**ATTACHMENT 3: HISTORIC PROPERTIES WITHIN THE AREA OF POTENTIAL EFFECTS AS LISTED IN THE
FINDING OF EFFECT REPORT**

Built Environment Historic Properties within the Palmdale to Burbank Project Section Area of Potential Effects

Property Name and Address	City, County	Effects Finding	Treatment Measures ¹
Palmdale Subsection			
There are no built environment historic properties in the Palmdale Subsection that are listed on, determined eligible for, or assumed eligible for listing in the NRHP.			
Central Subsection			
Big Creek Hydroelectric System Historic District – Vincent Transmission Lines (contributing structure)	Los Angeles County	No effect	
Los Pinetos Nike Missile Site Forest Road 3N 17	Angeles National Forest/Los Angeles	No effect	
East Branch of the California Aqueduct	Palmdale vicinity/Los Angeles	No adverse effect	
Palmdale Ditch	Palmdale vicinity/Los Angeles	No adverse effect	
Pink Motel and Café 9457–9475 San Fernando Road	Los Angeles/Los Angeles	No adverse effect	
Burbank Subsection			
There are no built environment historic properties in the Burbank Subsection that are listed on, determined eligible for, or assumed eligible for listing in the NRHP.			

¹ The full text of these measures can be found in the EIR/EIS and will be attached to any NEPA Record of Decision as a part of the Mitigation Monitoring and Enforcement Plan (MMEP)

Archaeological Historic Properties within the Palmdale to Burbank Project Section Area of Potential Effects

Resource Number*	Resource Type	Attributes	Effect Findings	Treatment Measures
Palmdale Subsection				Applies to all archaeological historic properties: Inventory (Addenda ASRs)
There are no archaeological resources in the Palmdale Subsection that are listed on, determined eligible for, or assumed eligible for listing in the NRHP.				
Central Subsection				Evaluation (AEPs/AERs) Data Recovery (Archaeological Data Recovery Reports) Archaeological Monitoring Plan Avoidance/Protection Measures/Best Management Practices Cultural Resources Awareness Training Archaeological/Native American Monitoring Observation of Protocols for Unanticipated Discoveries Additional measures to avoid, minimize, or mitigate effects on archaeological historic properties may be developed in consultation with signatories and consulting parties as identification and evaluation efforts are performed in future planning and construction phases of the Undertaking.
19-000305	Prehistoric site	Habitation site	Phased	
19-000541	Prehistoric site	Habitation site	Phased	
19-000591	Prehistoric site	Complex lithic scatter	Phased	
19-000628	Prehistoric site	Earthen oven; lithic scatter	No effect	
19-001846	Historic site	Landfill	Phased	
19-001847	Historic site	House foundations; debris scatter	Phased	
19-001859	Prehistoric site	Rock shelter; rock art; cultural material mixed in large packrat nests	Phased	
19-001860	Prehistoric site	Rock shelter; lithic scatter	Phased	
19-001888	Prehistoric site	Lithic scatter	Phased	
19-003536	Historic site	Refuse deposit	Phased	
19-003890	Prehistoric site	Vasquez Rocks Archaeological District	Phased	
19-004606	Prehistoric site	Lithic scatter	No effect	
Burbank Subsection				
There are no archaeological resources in the Burbank Subsection that are listed on, determined eligible for, or assumed eligible for listing in the NRHP.				

Resources are listed in numerical order.
NRHP = National Register of Historic Places

ATTACHMENT 4: ARCHAEOLOGICAL TREATMENT PLAN

The attachment includes confidential information.

ATTACHMENT 5: BUILT ENVIRONMENT TREATMENT PLAN

The attachment is available upon request.

ATTACHMENT 6: AGENCIES AND OTHER INTERESTED PARTIES CONSULTED

California State Historic Preservation Officer
Surface Transportation Board
Bureau of Land Management
USFS Angeles National Forest
Los Angeles County Department of Parks and Recreation

ATTACHMENT 7: NATIVE AMERICAN TRIBAL GOVERNMENTS CONSULTED

Yuhaaviatam of San Manuel Nation²
Fernandeño Tataviam Band of Mission Indians
Gabrieleño Band of Mission Indians – Kizh Nation
Gabrielino/Tongva Nation

² Formerly known as San Manuel Band of Mission Indians

Letter No. 11

June 1, 2023

Sally Brown
U.S. Fish and Wildlife Service
2177 Salk Avenue, Suite 250
Carlsbad, CA 92008

RE: Biological Assessment for the Palmdale to Burbank Project Section

Dear Ms. Brown.

The California High-Speed Rail Authority (Authority) is submitting this letter and the enclosed biological assessment (BA) to initiate formal consultation under Section 7 of the federal Endangered Species Act (16 USC § 1536; ESA) for the Palmdale to Burbank Project Section of the California high-speed rail system. The BA describes the actions to construct and operate the project section, environmental setting, federally listed species and their suitable habitat in the action area. The BA further analyzes the potential adverse effects on those species and their designated critical habitat and proposes conservation measures to avoid and minimize adverse effects on federally listed species and designated critical habitat.

Pursuant to 23 U.S.C. Section 327 and under the National Environmental Policy Act (NEPA) Assignment Memorandum of Understanding (MOU) between the Federal Railroad Agency (FRA) and the State of California, effective July 23, 2019, the Authority is the federal lead agency for review of the project section under NEPA and other federal environmental laws as assigned, including the ESA. Prior to NEPA Assignment, the FRA designated the Authority as the nonfederal representative for Section 7 consultation. Effective July 23, 2019, pursuant to Part 3.2.7 of the MOU, the State, working through the California State Transportation Agency and the Authority, has assumed FRA's ESA Section 7 responsibilities for consultations with respect to the Palmdale to Burbank Project Section and other actions described in Part 3.3 of the MOU. This requested Section 7 consultation serves as consultation for the actions of the Surface Transportation Board, U.S. Army Corps of Engineers, and U.S. Bureau of Reclamation.

The Authority has determined that the proposed action *may affect, and is not likely to adversely affect* the following plant and animal species:

- Marsh sandwort
- Branton's milk-vetch
- Ventura marsh milk-vetch

- Coastal dunes milk-vetch
- Nevin's barberry
- Salt marsh bird's beak
- Slender-horned spineflower
- Gambel's watercress
- Spreading navarretia
- California Orcutt grass
- Conservancy fairy shrimp
- Vernal pool fairy shrimp
- Quino checkerspot butterfly
- Riverside fairy shrimp
- Kern primrose sphinx moth
- Unarmored threespine stickleback
- California red-legged frog
- Mountain yellow-legged frog (southern California DPS)
- Desert tortoise
- California condor
- Yellow-billed cuckoo (western DPS)

The Authority has determined that the proposed action *may affect, and is likely to adversely affect* the following wildlife species and designated critical habitat:

- Arroyo toad
- Arroyo toad designed critical habitat
- Southwestern willow flycatcher
- Coastal California gnatcatcher
- Least Bell's vireo

Species for which the action would have no effect are described in the enclosed BA. The BA reflects the outcome of collaboration with staff from the U.S. Fish and Wildlife Service on the federally listed species affected by the action. Please contact Sue Meyer at sue.meyer@hsr.ca.gov or 949-244-3653 if additional information is needed to initiate formal consultation.

Sincerely,

Scott
Smith

Digitally signed by
Scott Smith
Date: 2023.06.02
12:03:36 -07'00'

Scott Smith
Acting Director of Environmental Services
California High-Speed Rail Authority

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Letter No. 12

December 18, 2023

Sean Woods, Chief of Planning
Los Angeles County Department of Parks and Recreation
1000 S Fremont Ave Ste 40
Alhambra, CA 91803

Subject: Request for Section 4(f) Concurrences

Dear Mr. Woods,

In September 2022, the California High-Speed Rail Authority (Authority) released a Draft Environmental Impact Report/Environmental Impact Statement (EIR/EIS) for the Palmdale to Burbank Project Section (project) of the statewide California High-Speed Rail Program in accordance with the California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA). The Draft EIR/EIS included descriptions and preliminary engineering drawings of six build alternatives; analysis of environmental impacts of the alternatives; and discussion of measures to avoid, minimize, and mitigate adverse environmental effects. Chapter 4 of the Draft EIR/EIS is a Draft Section 4(f) Evaluation pursuant to Section 4(f) of the Department of Transportation Act of 1966, as amended (codified at Title 49 United States Code (U.S.C.), section 303). The Draft EIR/EIS evaluated the project's impacts on resources subject to Section 4(f), including the proposed Littlerock Trail Extension, the proposed Palmdale Hills Trail extension, and the proposed Vasquez Loop Tail extension. The Authority is preparing a Final EIR/EIS, which will include responses to comments received on the Draft EIR/EIS and a Final Section 4(f) Evaluation.

The purpose of this letter is to request concurrence on the Section 4(f) *de minimis* impact findings that the Authority would intend to make with respect to the proposed Littlerock Trail Extension, the proposed Palmdale Hills Trail extension, and the proposed Vasquez Loop Tail extension, to the extent the preferred alternative (known as the SR14A Build Alternative) is considered to use each of the three trails. The basis for this finding was originally detailed in the Draft EIR/EIS. A summary of the Authority's Section 4(f) evaluation for each of the three trails is set forth below.

Overview of Section 4(f) and the Authority's Responsibilities

Section 4(f) declares that "it is the policy of the United States Government that special effort should be made to preserve the natural beauty of the countryside and public park and recreation lands, wildlife and waterfowl refuges and historic sites." The Authority is responsible for Section 4(f) compliance for the California High-Speed Rail Program as the federal lead agency pursuant to 23 U.S.C. § 327 and the terms of the NEPA Assignment Memorandum of Understanding dated July 23, 2019, and executed by the Federal Railroad Administration (FRA) and the State of California, under which the Authority assumed FRA's responsibilities for compliance with NEPA and other federal environmental laws, including Section 4(f) and related U.S. Department of Transportation (USDOT) orders and guidance, for the California High-Speed Rail Program.

In general, Section 4(f) specifies that the USDOT agencies may only approve a project that "uses" a Section 4(f) resource if (1) there is no prudent and feasible alternative that completely avoids the Section 4(f) resource and (2) the project includes all possible planning to minimize harm to that resource. In lieu

of making these findings, the USDOT also can approve the use of a Section 4(f) resource if the USDOT determines that the project will have a “*de minimis*” impact on that resource and the official with jurisdiction over the resource concurs in that determination. For public parks, recreation areas, and wildlife and waterfowl refuges, the official with jurisdiction is the agency (or agencies) that owns or administers the property.

Prior to making a *de minimis* impact determination for parks, recreation areas, and wildlife and waterfowl refuges, public notice and an opportunity for public review and comment concerning the effects on the protected activities, features, or attributes of the property must be provided. This requirement was satisfied in conjunction with the public circulation and comment period provided on the Draft EIR/EIS. In addition, following this opportunity for public review and comment, the official with jurisdiction over the Section 4(f) resource must concur in writing that the project will not adversely affect the activities, features, or attributes that make the property eligible for Section 4(f) protection.

1. Proposed Littlerock Trail Extension

Applicability of Section 4(f) to Proposed Littlerock Trail Extension

The Littlerock Trail is a publicly owned and publicly accessible resource that is managed by the Los Angeles County Department of Parks and Recreation, the official with jurisdiction. Recreation is a primary use of the multi-use trail. For these reasons, the Littlerock Trail is protected by Section 4(f). The proposed extension of the trail is evaluated as protected by Section 4(f) in the EIR/EIS because the Los Angeles County Department of Parks and Recreation has confirmed the trail extension has been formally designated as a planned recreational resource.

Description of High-Speed Rail Project Impacts to Proposed Littlerock Trail Extension

The SR14A Build Alternative, would include a new traction power facility¹ and overhead utility power lines that would cross over a short segment of the proposed Littlerock Trail Extension in the area of the SR 14/Sierra Highway interchange. Refer to Attachment A: Parks and Recreation Resource Study Area – SR14A Mapbook to see the proposed trail extension in relation to the SR14A Build Alternative. In this location, the proposed Littlerock Trail Extension would be adjacent to the existing SR 14 and Angeles Forest Highway, and the existing Metrolink corridor, exposing future trail users to noise associated with the operation of these existing transportation facilities.

The overhead utility lines would be approximately 70 to 200 feet above the trail at the crossing and would not require realignment of the trail. The overhead utility lines would permanently cross approximately 270 feet of the 1-mile proposed Littlerock Trail Extension, constituting a permanent use of that portion of the trail. If the trail extension is built before the SR14A Build Alternative is built, the trail would remain open and available to the public during project construction through a minor detour and would function as it did before construction and operation of the SR14A Build Alternative. Construction of the SR14A Build Alternative would not involve construction easements or staging areas within the trail.

If the trail extension has not been constructed prior to implementation of the SR14A Build Alternative, the SR14A Build Alternative would not preclude the proposed Littlerock Trail Extension.

Coordination Activities with the Los Angeles County Department of Parks and Recreation

¹ Traction power facilities are power stations and accompanying facilities that produce only traction current, which is the electric current used for railways, trams, trolleybuses or other conveyances.

The Los Angeles County Department of Parks and Recreation confirmed through email communication with the Authority in June 2023 that the proposed trail extensions to Littlerock Trail, Palmdale Hills Trail, Acton Community Trail, and Vasquez Loop Trail are still anticipated to be completed. The public was given an opportunity to comment on the preliminary Section 4(f) determination for the proposed Littlerock Trail Extension during the public comment period of the Draft EIR/EIS from September 2022 to December 2022. No comments regarding the proposed Littlerock Trail Extension were received during the public comment period.

The Authority's Section 4(f) Determination

The Authority has determined that the SR14A Build Alternative would neither adversely affect or otherwise restrict the public's use of the proposed Littlerock Trail Extension for recreation, nor would the project adversely affect the activities, features, or attributes that make the proposed Littlerock Trail Extension eligible for Section 4(f) protection as a recreational resource. Therefore, the Authority has determined that the SR14A Build Alternative would result in a *de minimis* impact to the proposed Littlerock Trail Extension, as defined by 49 U.S.C. § 303(d).

2. Proposed Palmdale Hills Trail Extension

Applicability of Section 4(f) to Proposed Palmdale Hills Trail Extension

The Palmdale Hills Trail is a publicly owned and publicly accessible resource that is managed by the Los Angeles County Department of Parks and Recreation, the official with jurisdiction. Recreation is a primary use of the multi-use trail. For these reasons, the Palmdale Hills Trail is protected by Section 4(f). The proposed extension of the trail is evaluated as protected by Section 4(f) in the EIR/EIS because the Los Angeles County Department of Parks and Recreation has confirmed the trail extension has been formally designated as a planned recreational resource.

Description of High-Speed Rail Project Impacts to Proposed Palmdale Hills Trail Extension

The SR14A Build Alternative would include a new, at-grade railway that would cross the proposed Palmdale Hills Trail Extension at grade. Refer to Attachment A: Parks and Recreation Resource Study Area – SR14A Mapbook to see this resource in relation to the SR14A Build Alternative. The SR14A Build Alternative would require permanent realignment of an approximately 300-foot (0.06-mile) portion of the proposed 12-mile trail extension. This impact would be a permanent use of the proposed Palmdale Hills Trail Extension. A realignment plan for the approximately 300-foot (0.06-mile) portion of the 12-mile proposed trail extension would be developed in consultation with the Los Angeles County Department of Parks and Recreation.

If the trail extension is built before the SR14A Build Alternative is built, access to the trail may be temporarily restricted during project construction; however, segments of the trail outside of the temporary construction area would remain open and accessible to the public. The Authority commits to implementing Impact Avoidance and Minimization Feature PK-IAMF#1: Parks, Recreation, and Open Space (described in Section 3.15 of the Draft EIR/EIS) to minimize project impacts on parks, recreation, and open space, including the proposed Palmdale Hills Trail Extension. Specifically, PK-IAMF#1 requires that prior to construction, the Authority's contractor will prepare a technical memorandum that identifies project design features to be implemented to minimize impacts on parks, recreation, and open space, including the proposed trail extension. In preparing the technical memorandum, the Authority (or its contractor) will coordinate with the Los Angeles County Department of Parks and Recreation to

determine connectivity features surrounding the proposed trail extension. These features may include safe and attractive access for present travel modes to ensure ease of use. By applying PK-IAMF#1, the connectivity of the trail would not be diminished and the trail would remain open and available to the public along its new alignment after construction of the SR14A Build Alternative is completed.

If the proposed trail extension has not been constructed prior to implementation of the SR14A Build Alternative, the SR14A Build Alternative would not preclude future extension of the proposed Palmdale Hills Trail.

Coordination Activities with the Los Angeles County Department of Parks and Recreation

The Los Angeles County Department of Parks and Recreation confirmed through email communication with the Authority in June 2023 that the proposed trail extensions to Littlerock Trail, Palmdale Hills Trail, Acton Community Trail, and Vasquez Loop Trail are still anticipated to be completed. The public was given an opportunity to comment on the preliminary Section 4(f) determination for the proposed Palmdale Hills Trail Extension during the public comment period of the Draft EIR/EIS from September 2022 to December 2022. No comments regarding the proposed Palmdale Hills Trail Extension were received during the public comment period.

The Authority's Section 4(f) Determination

The Authority has determined that the SR14A Build Alternative would neither adversely affect or otherwise restrict the public's use of the proposed Palmdale Hills Trail Extension for recreation, nor would the SR14A Build Alternative adversely affect the activities, features, or attributes that make the proposed Palmdale Hills Trail Extension eligible for Section 4(f) protection as a recreational resource. Therefore, the Authority has determined that the SR14A Build Alternative would result in a *de minimis* impact to proposed Palmdale Hills Trail Extension, as defined by 49 U.S.C. § 303(d).

3. Proposed Vasquez Loop Trail Extension

Applicability of Section 4(f) to Proposed Vasquez Loop Trail Extension

The Vasquez Loop Trail is a publicly owned and publicly accessible resource that is managed by the Los Angeles County Department of Parks and Recreation, the official with jurisdiction. Recreation is a primary use of the multi-use trail. For these reasons, the Vasquez Loop Trail is protected by Section 4(f). The proposed extension of the trail is evaluated as protected by Section 4(f) in the EIR/EIS because the Los Angeles County Department of Parks and Recreation has confirmed the trail extension has been formally designated as a planned recreational resource.

Description of High-Speed Rail Project Impacts to Proposed Vasquez Loop Trail Extension

The SR14A Build Alternative would cross under the proposed Vasquez Loop Trail Extension in a bored tunnel near the SR 14/Sierra Highway interchange (see Attachment A: Parks and Recreation Resource Study Area – SR14A Mapbook to see the proposed trail extension in relation to the SR14A Build Alternative). No topographical changes at the ground surface and/or other permanent changes to the proposed trail extension would occur as a result of tunneling. However, overhead electrical utility lines would be installed across the proposed trail extension at Red Rover Mine Road. Construction of the overhead electrical utility lines would require the permanent acquisition of approximately 160 feet of the 3-mile proposed Vasquez Loop Trail extension.

If the proposed trail extension is built before the SR14A Build Alternative is built, the trail would remain open and available to the public during project construction through a minor detour and would function as it did before construction and operation of the SR14A Build Alternative. Construction of the SR14A Build Alternative would involve a construction easements at the utility crossing but no staging areas within the trail.

The Authority has preliminarily concluded that the permanent use of a portion of the proposed trail would constitute a *de minimis* impact because the features and attributes that qualify the resource for protection under Section 4(f), including its purpose as a contiguous recreational hiking trail, would not be diminished with operation of the Build Alternatives. The existing trail intersects with and crosses existing transportation corridors along its alignment. The trail would remain open and connectivity would be maintained after construction of the SR14A Build Alternative.

If the proposed trail extension has not been constructed prior to implementation of the SR14A Build Alternative, the SR14A Build Alternative would not preclude the future proposed extension of the Vasquez Loop Trail.

Coordination Activities with the Los Angeles County Department of Parks and Recreation

The Los Angeles County Department of Parks and Recreation confirmed through email communication with the Authority in June 2023 that the proposed trail extensions to Littlerock Trail, Palmdale Hills Trail, Acton Community Trail, and Vasquez Loop Trail are still anticipated to be completed. The public was given an opportunity to comment on the preliminary Section 4(f) determination for the proposed Vasquez Loop Trail Extension during the public comment period of the Draft EIR/EIS from September 2022 to December 2022. No comments regarding the proposed Vasquez Loop Trail Extension were received during the public comment period.

The Authority's Section 4(f) Determination

The Authority has determined that the SR14A Build Alternative would neither adversely affect or otherwise restrict the public's use of the proposed Vasquez Loop Trail Extension for recreation, nor would the project adversely affect the activities, features, or attributes that make the proposed Vasquez Loop Trail Extension eligible for Section 4(f) protection as a recreational resource. Therefore, the Authority has determined that the SR14A Build Alternative would result in a *de minimis* impact to proposed Vasquez Loop Trail Extension, as defined by 49 U.S.C. 303(d).

Sean Woods, Chief of Planning
Los Angeles County Department of Parks and Recreation
December 18, 2023
Page 6

Request for Los Angeles County Department of Parks and Recreation Concurrence on Section 4(f) Findings

The Authority seeks your concurrence in these Section 4(f) determinations for the proposed Littlerock Trail Extension, the proposed Palmdale Hills Trail Extension, and the proposed Vasquez Loop Trail Extension. A concurrence clause is provided at the end of this letter for this purpose.

We respectfully request your reply to this matter within **30 days** of receipt of this letter. We look forward to continuing our successful working relationship with you and should you have any questions or need additional information, please feel free to contact us.

Please return a scanned copy of this letter by email to Stefan Galvez-Abadia, Director of Environmental Services, at Stefan.Galvez@hsr.ca.gov.

If you have any questions, please contact Brett Rushing, Cultural Resources Program Manager, at Brett.Rushing@hsr.ca.gov or (916) 908-1230.

Sincerely,

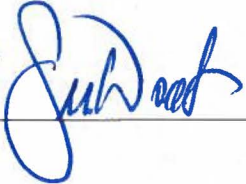

Stefan Galvez-Abadia

Director of Environmental Services
California High-Speed Rail Authority

Cc: LaDonna DiCamillo, Southern California Regional Director, Authority
Christine C. Inouye, P.E., Chief Engineer of Strategic Delivery, Authority

CONCURRENCE:

Based on the information set forth in this letter and the Draft EIR/EIS, the Los Angeles County Department of Parks and Recreation concurs with the California High-Speed Rail Authority's determinations that the SR14A Build Alternative for the Palmdale to Burbank Project Section of the California High-Speed Rail Program would not adversely affect the activities, features, or attributes that make the proposed Littlerock Trail Extension, the proposed Palmdale Hills Trail Extension, and the proposed Vasquez Loop Trail Extension eligible for Section 4(f) protection. Therefore, the Los Angeles County Department of Parks and Recreation concurs in the Authority's determinations that the SR14A Build Alternative for the Palmdale to Burbank Project Section of the California High-Speed Rail Program will have *de minimis* impacts on the proposed Littlerock Trail Extension, the proposed Palmdale Hills Trail Extension, and the proposed Vasquez Loop Trail Extension in accordance with Section 4(f) of the United States Department of Transportation Act of 1966.

SEAN WOODS / 
Printed Name

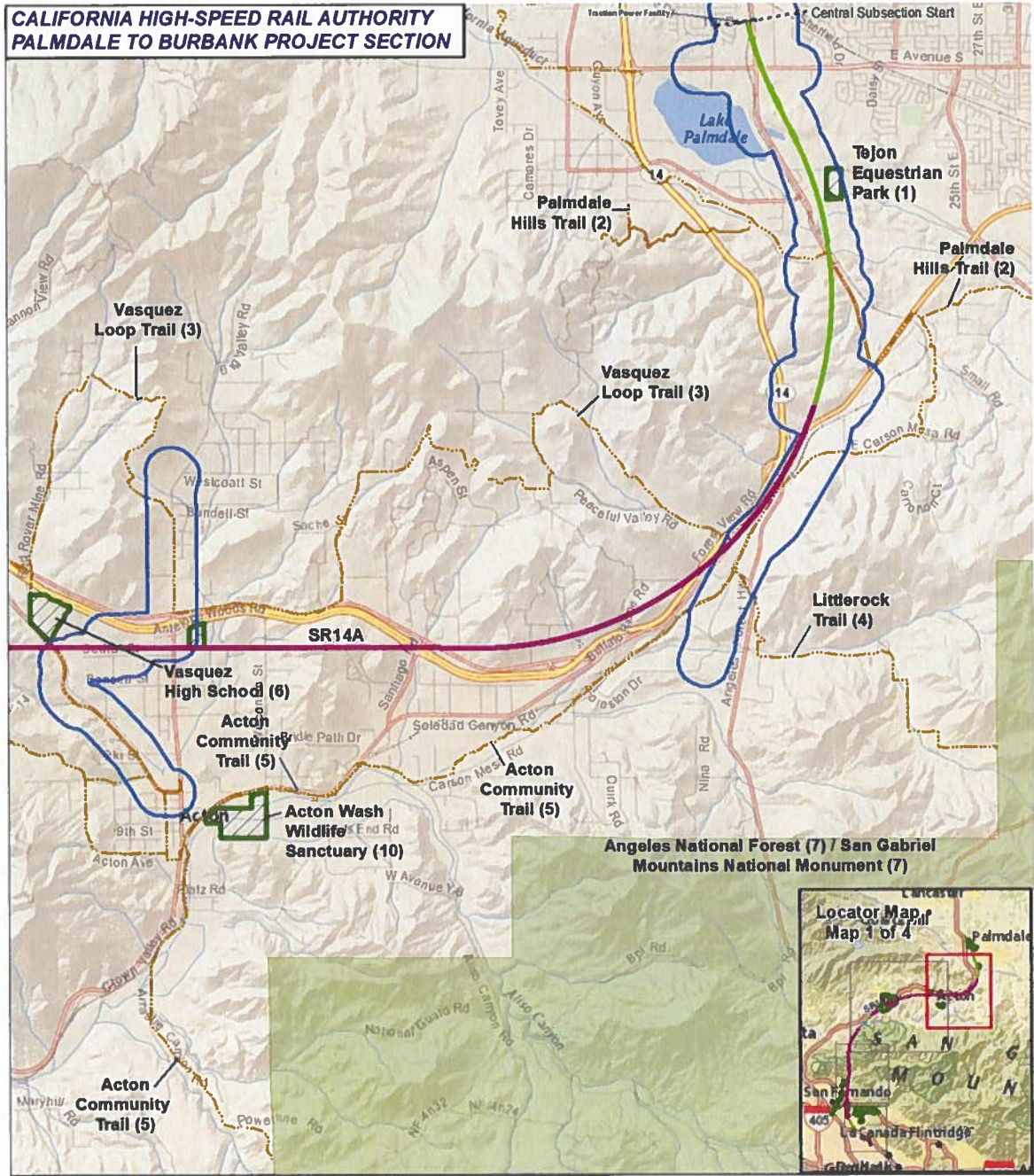
2/14/2024
Date

CHIEF OF PLANNING
Title

PARKS AND RECREATION - PLANNING & DEVELOPMENT
Agency

Sean Woods, Chief of Planning
Los Angeles County Department of Parks and Recreation
December 18, 2023
Page 8

**Attachment A: Parks and Recreation Resource Study Area – SR14A
Mapbook**



PRELIMINARY DRAFT/SUBJECT TO CHANGE - HSR ALIGNMENT IS NOT DETERMINED
 Source: Authority, 2020, Los Angeles County LMS, 2016, National Geographic, 2021

July 27, 2023

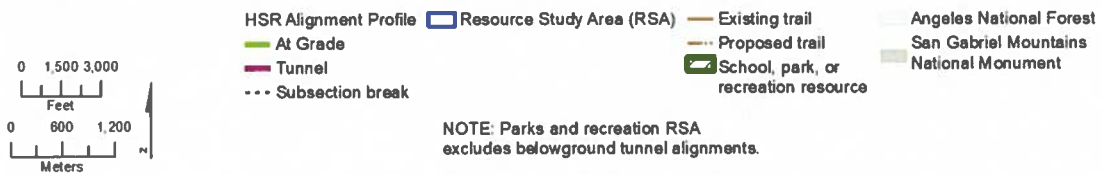
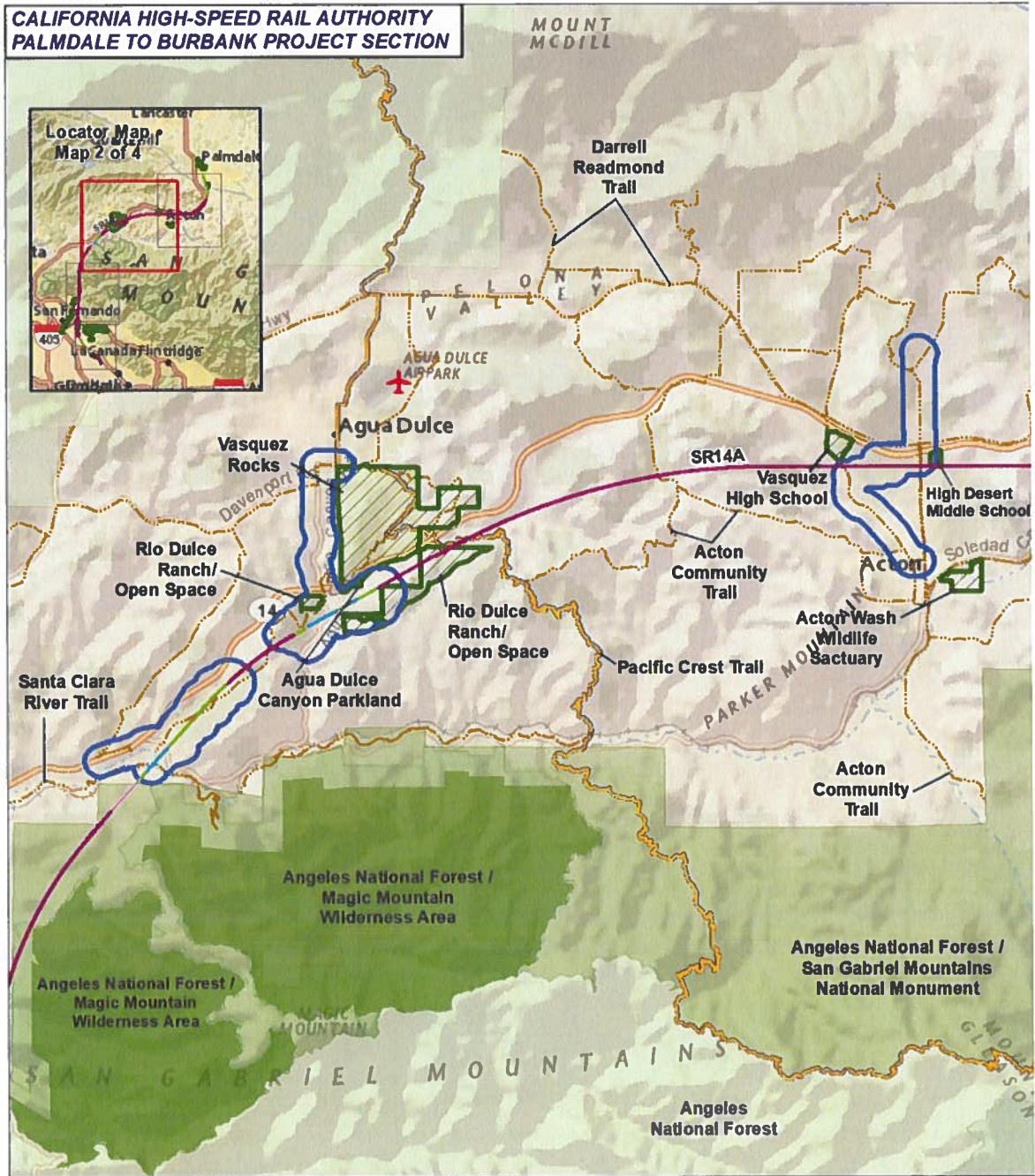


Figure 1 Parks and Recreation Resource Study Area – SR14A



PRELIMINARY DRAFT/SUBJECT TO CHANGE - HSR ALIGNMENT IS NOT DETERMINED
 Source: Authority, 2020; Los Angeles County LMS, 2016; National Geographic, 2020
 July 27, 2023

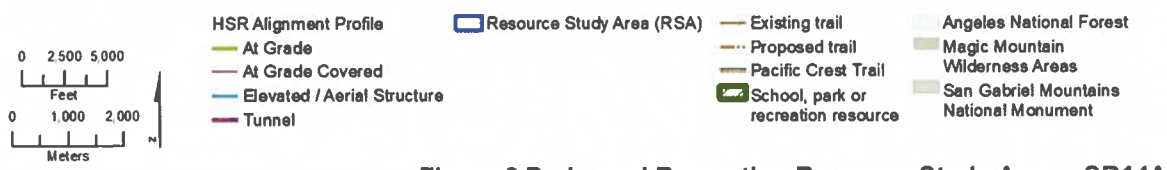
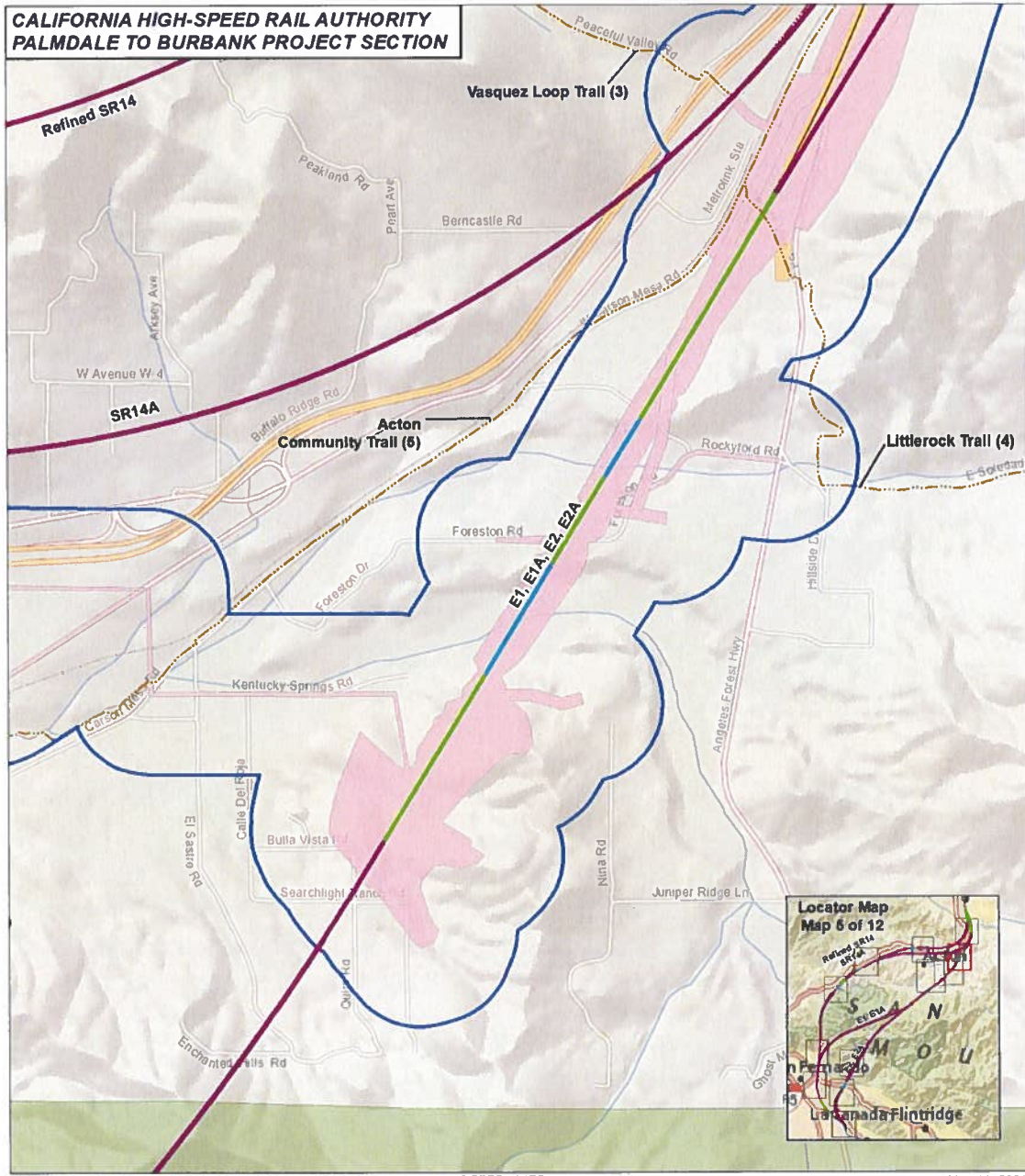


Figure 2 Parks and Recreation Resource Study Area – SR14A



PRELIMINARY DRAFT/SUBJECT TO CHANGE - HSR ALIGNMENT IS NOT DETERMINED
 Source: Authority, 2020; Los Angeles County LMS, 2016; National Geographic, 2021

May 14, 2021



Figure 4 Potential Recreational Section 4(f) Resources

Letter No. 13



United States Department of the Interior

OFFICE OF THE SECRETARY
Office of Environmental Policy and Compliance
2800 Cottage Way, Room E-1712
Sacramento, CA 95825

January 22, 2024

IN REPLY REFER TO:
ER 22/0384
411

Mr. Brett Rushing
Cultural Resources Program Manager
California High-Speed Rail Authority
770 L Street
Sacramento, CA 95814

Subject: California High-Speed Rail Authority Palmdale to Burbank Project Section: Draft Environmental Impact Report / Environmental Impact Statement

Dear Brett Rushing:

This letter is in response to your recent request for the Department of the Interior (Department) to provide concurrence on the Section 4(f) *temporary occupancy – no use* finding on the proposed Rim of the Valley Trail Extension, to the extent the preferred alternative (known as the SR14A Build Alternative) is considered to use the proposed trail. As required under Section 4(f) of the Department of Transportation Act of 1966, the Department, through the National Park Service (NPS), has reviewed the Department of Transportation Act (DOTA), Section 4(f) Evaluation report for the California High-Speed Rail Authority Palmdale to Burbank Project Section: Draft Environmental Impact Report / Environmental Impact Statement.

In a report dated August 2022, the California High-Speed Rail Authority evaluated Section 4(f) properties affected by the California High-Speed Rail Project between Palmdale, California and Burbank, California. Relevant NPS programs have indicated no comments, and no other Department Bureaus have identified any concerns with the 4(f) evaluation. The Department has no objection to Section 4(f) approval of this project and concurs with the California High Speed Rail Authority's finding of Temporary Occupancy/No Use under DOTA Section 4(f). If you have any questions, please contact me at (415) 420-0524 or at janet_whitlock@ios.doi.gov.

Sincerely,

JANET
WHITLOCK

Digitally signed by JANET
WHITLOCK
Date: 2024.01.22 13:05:03
-08'00'

Janet Whitlock
Regional Environmental Officer

cc: Roxanne Runkel, National Park Service: roxanne_runkel@nps.gov
Danette Woo Nolan, National Park Service: danette_woo@nps.gov
Shawn Alam, Department of the Interior: shawn_alam@ios.doi.gov

TRANSMITTED ELECTRONICALLY – NO HARDCOPY TO FOLLOW