Appendix D.

Programmatic Agreement with State Historic Preservation Officer – Final Version
PROGRAMMATIC AGREEMENT
AMONG
THE U.S. DEPARTMENT OF AGRICULTURE, FOREST SERVICE,
THE U.S. ARMY CORPS OF ENGINEERS,
THE CALIFORNIA PUBLIC UTILITIES COMMISSION,
SOUTHERN CALIFORNIA EDISON COMPANY AND
THE CALIFORNIA STATE HISTORIC PRESERVATION OFFICER
REGARDING
THE TEHACHAPI RENEWABLE TRANSMISSION PROJECT
SEGMENTS 4 THROUGH 11, KERN, LOS ANGELES AND
SAN BERNARDINO COUNTIES, CALIFORNIA

WHEREAS, the U.S. Department of Agriculture Forest Service, Angeles National Forest (ANF) and the U.S. Department of the Army, Los Angeles District, Corps of Engineers (COE) have determined that issuing permit(s) allowing or facilitating the removal and relocation of existing transmission and sub-transmission lines and other related facilities and constructing new 220 kV and 500 kV transmission lines and associated facilities comprising Segments 4 through 11 of the Tehachapi Renewal Transmission Project (hereinafter, “TRTP” or “Project”; depicted in Attachment 1) constitutes an “Undertaking” as defined at 36 CFR § 800.16(y); and

WHEREAS, historic properties and cultural resources on public lands administered by the ANF and administered and regulated by the COE are managed according to the National Historic Preservation Act (NHPA) (P.L. 89-665, as amended) as amended, Archaeological Resources Protection Act (ARPA)(P.L. 96-95, as amended), National Environmental Policy Act (NEPA)(P.L. 91-190, as amended), American Indian Religious Freedom Act (AIRFA)(P.L. 95-341, as amended), and Native American Graves Protection and Repatriation Act (NAGPRA)(P.L. 101-601), applicable regulations (e.g., 36 CFR Parts 60, 63, 296, and 800; 43 CFR Part 10), and applicable Executive Orders (e.g., 13007, 13175, and 13287), and these have been considered during consultation for this Programmatic Agreement (PA); and

WHEREAS, the ANF and COE have consulted with the California State Historic Preservation Officer (SHPO), pursuant to 36 CFR § 800.14(b)(3) about this Undertaking and have notified and invited the Advisory Council on Historic Preservation (ACHP) per 36 CFR § 800.6(a)(1)(C) to participate in consultation to resolve the potential effects of the Undertaking on Historic Properties, and as per their letter dated February 2, 2009 the ACHP has elected not to participate in this PA; and

WHEREAS, the ANF is the lead Federal agency for the Undertaking for the purpose of complying with Section 106 of the NHPA and its implementing regulations found at 36 CFR Part 800, and the ANF shall be responsible for managing historic properties within the Area of Potential Effects (APE) for the Undertaking pursuant to the NHPA; and

WHEREAS, the California Public Utilities Commission (CPUC) shall be responsible for managing all historical resources within the APE for the Project pursuant to the California Environmental Quality Act (CEQA; California Public Resources Code, Division 13, Sections 21000–21177, as amended) on lands outside the boundaries of ANF and outside COE administered and regulated lands, and the CPUC shall consult with the ANF as the lead federal
WHEREAS the ANF and COE in consultation with the State Historic Preservation Officer (SHPO) have determined that a phased approach for compliance with NHPA Section 106 is appropriate for the Undertaking because all effects of the Undertaking on historic properties cannot be known prior to the approval of the Project (36 CFR § 800.14(b)(1)(ii)) and there is the potential to encounter unanticipated historic properties during the life of the Project (36 CFR § 800.13(a)(1)), and that the completion of the identification of historic properties, determinations of specific effects on historic properties, and consultation concerning measures to avoid, minimize, or mitigate any adverse effects will be carried out as part of planning for and prior to implementing any specific Project activities that have the potential to cause adverse effects on historic properties; and

WHEREAS, the ANF may issue Temporary Special Use Permits for TRTP-related construction activities as well as a 50-year term Special Use Permit and/or right-of-way for TRTP Segments 6 and 11 on ANF administered lands pursuant to the Federal Land Policy and Management Act (P.L. 94-579) of 1976, as amended, which statute authorizes the Forest Service to permit the occupancy, use, or traversing of National Forest lands for generation, transmission, and distribution of electrical power; and

WHEREAS, the COE may issue permits for portions of TRTP Segments 4 through 11 pursuant to Section 404 of the Clean Water Act (CWA), and may otherwise permit TRTP activities on Federal lands under the administrative authority of the COE associated with the Los Angeles County Drainage Area, including Santa Fe and Whittier Narrows Flood Control Basins, along TRTP Segments 7 and 8A pursuant to 10 USC § 2668, which authorizes the COE to grant easements for use of COE administered lands for poles and lines for transmission and distribution of electrical power and for substations for electric power transmission lines, and the COE has participated in this consultation and is a Signatory to this PA; and

WHEREAS, the CPUC is the lead State agency for compliance with the CEQA and has certain responsibilities under State laws and regulations to take into account and mitigate the effects of this Project on historical resources eligible for or included on the California Register of Historical Resources (CRHR) and is coordinating compliance with State law with federal agency responsibilities to comply with Section 106 of the NHPA, and has participated in this consultation and is an Invited Signatory to this PA; and

WHEREAS, the CPUC has the authority per California Code of Regulations Title 14 § 15064.5 to regulate construction activities outside ANF and COE administered lands for the protection of historical resources that may be affected by the Project, and has received from Southern California Edison Company (SCE) an application (A.07-06-031) for a Certificate of Public Convenience and Necessity seeking authorization for construction of TRTP Segments 4 through 11; and

WHEREAS, SCE has participated in this consultation, will be the entity to whom the ANF and the COE issues any permits related to TRTP activities, and SCE will have responsibility for carrying out specific terms of this PA, so therefore SCE is an Invited Signatory to this PA; and

WHEREAS, in developing this PA, consultation has been performed with federally recognized California Indian tribes (per 36 CFR § 800.2(c)(3); 36 CFR § 800.2(d); 36 CFR § 800.3(f)(2); 36
CFR § 800.14(b)(2); and 36 CFR § 800.14(f), i.e., San Manuel Band of Mission Indians, the
Gabrielson-Tongva Tribe (per 36 CFR § 800.2(c)(5)), and these tribes and interested parties have
been invited to participate as Concurring Parties to this PA.

NOW, THEREFORE, the ANF, COE, and SHPO (hereinafter “Signatories”) and CPUC and
SCE (hereinafter “Invited Signatories”) agree that the Signatories and Invited Signatories, to the
extent of their respective legal authorities, shall ensure that the following stipulations of this PA
are implemented to take into account the effects of the Undertaking and Project on historic
properties and historical resources.

STIPULATIONS

The Signatories and Invited Signatories shall ensure that the following measures are
implemented.

I. DEFINITIONS

The definitions found at 36 CFR § 800.16 apply throughout this PA except where another
definition is offered in this PA.

(A) APE. A single APE is defined as consisting of the following components:

(1) Prior to and during construction of the TRTP, the APE within ANF administered lands shall
include all areas in which:

(a) Historic properties could sustain direct effects as a result of the Undertaking and is
defined to include:

(1) two continuous corridors for Segments 6 and 11, each a total of 500 feet wide. The
TRTP Segment 6 right-of-way (ROW) extends south from the SCE Vincent Substation
near the city of Acton, approximately 27 miles across ANF lands to the southern
boundary of the ANF bordering the city of Duarte. The corridor along TRTP Segment
11 ROW extends south from the SCE Vincent Substation approximately 23 miles
across ANF lands to the southern boundary of the ANF bordering the city of Altadena
(see Attachment 1); and

(2) any ancillary Project use areas or facilities locations that are outside these 500-foot
wide corridors and permitted by the ANF, including but not limited to marshalling
yards, access and spur roads, helicopter fly yards/support areas, helicopter landing
zones, construction turn-around/pull out, guard pole locations, and splicing/pulling set-up areas. A 50-foot wide buffer will extend beyond either side of the center line of any
access road or other linear facility. A 100-foot wide buffer will extend beyond the
proposed boundary of any marshalling yard, splicing/pulling set-up areas, or other areas
similarly used for the Project.

(b) Any area within which historic properties could sustain indirect effects as a result of the
Undertaking.

(2) Prior to and during construction of the TRTP, the APE for Segments 4, 5, 7, 8, 10 and 11 and
any alternative alignments approved by the CPUC for construction and outside the boundaries of
ANF administered lands shall include the following areas:
(a) All areas of the Undertaking in which historic properties could sustain direct effects and
is defined to include continuous corridors for each linear segment, each a total of 250
feet wide (see Attachment 1).
(b) Any ancillary Project use areas or facilities locations that are outside these 250-foot
wide corridors, including, but not limited to marshalling yards, access and spur roads,
helicopter fly yards/support areas, helicopter landing zones, construction turn-
around/pull out, guard pole locations, and splicing/pulling set-up areas. A 50-foot wide
buffer shall extend beyond either side of the center line of any access road or other
linear facility. A 100-foot wide buffer will extend beyond the proposed boundary of any
marshalling yard, splicing/pulling set-up areas, or other areas similarly used for the
Project.
(c) The entire area of any COE administered or regulated lands associated with the Project
plus a 100-foot wide buffer around all such lands.
(d) Any areas within which historic properties or historical resources could sustain indirect
effects as a result of the Undertaking.

(3) Prior to and during construction, the APE for Segment 9 (substations) will be

(a) the total area of any ground disturbance required for each substation plus a 100-foot
buffer around the area of disturbance; and
(b) The entire area of any COE regulated lands associated with the Project plus a 100-foot
wide buffer around all such lands.
(c) Any areas within which historic properties or historical resources could sustain indirect
effects as a result of the Undertaking.

(4) Following construction and for purposes of operation and maintenance activities as may be
required, the APE for Segments 4, 5, 6, 7, 8, 10 and 11 or any built alternative alignments will be
the width of any ROW or easement granted to SCE by the ANF or any other party and as
memorialized in legally binding agreements among the relevant parties. The APE for Segment 9
(substations) will be the area of each substation defined in any easement, deed or other legal
definition for the substation parcel. Any lands administered by or under the regulatory authority
of the COE shall be included in the APE.

(B) Concurring parties. Concurring Parties may propose amendments to this PA. Amendments
proposed by Concurring Parties may be considered at the discretion of the Signatories.

(C) Cultural resource. A cultural resource is an object or definite location of human activity,
occupation, or use identifiable through field inventory, historical documentation, or oral evidence.
Cultural resources are prehistoric, historic, archaeological, or architectural sites, structures,
buildings, places, or objects and definite locations of traditional cultural or religious importance
in specified social and/or culture groups. Cultural resources include the entire spectrum of
resources, from artifacts to cultural landscapes, without regard to eligibility for listing on the
National Register of Historic Places (NRHP) or CRHR.

(D) Historic property. Any prehistoric or historic district, site, building, structure, or object
included in, or eligible for inclusion in, the NRHP maintained by the Secretary of the Interior and
per the eligibility criteria at 36 CFR § 60.4. This term includes artifacts, records, and remains that
are related to and located within such properties. The term includes properties of traditional
religious and cultural importance to an Indian tribe or Native Hawaiian organization and that
meet the NRHP criteria. The term eligible for inclusion in the National Register includes both
properties formally determined as such in accordance with regulations of the Secretary of the
Interior and all other properties that meet the NRHP criteria.

(E) **Historical resource.** A cultural resource listed in or determined eligible for listing in the
CRHR by the CPUC or other appropriate government agency per CEQA and CEQA Guidelines.

(F) **Invited Signatories.** Invited Signatories to this PA are the CPUC and SCE. Invited
Signatories are non-Federal entities that have specific responsibilities as defined in this PA and
may propose amendments to this PA. Amendments proposed by Invited Signatories may be
considered at the discretion of the Signatories.

(G) **Lands Administered by the U.S. Department of Agriculture, Angeles National Forest**
(ANF) means any Federal lands under the administrative authority of the ANF.

(H) **Lands Administered by the U.S. Army Corps of Engineers** (COE) means any Federal lands
under the administrative authority of the COE, Los Angeles District, including the Santa Fe and
Whittier Narrows Flood Control Basins.

(I) **Lands Regulated by the U.S. Army Corps of Engineers** means any lands subject to
regulation by the COE pursuant to section 404 of the Clean Water Act (33 U.S.C. section 1344)
or other law, and for which the COE has issued a Department of the Army permit.

(J) **Management of cultural resources, historic properties, and historical resources.** The term
“management” refers to any historic preservation activity undertaken by any Signatory or Invited
Signatory to this PA, including, archaeological, historical, ethnographic and other research to
identify cultural resources, historic properties and historical resources; efforts to evaluate and
determine the historical significance of any cultural resource and its eligibility for listing in the
NRHP or CRHR; efforts to determine the Undertaking’s effects/impacts to historic properties/
historical resources; designing and implementing measures for the preservation or protection of
-cultural resources; consultation among the parties to this PA and the public; designing and
implementing mitigation measures for unavoidable adverse effects/impacts to historic properties
and historical resources; preparation of reports and other documentation of historic preservation
efforts; public education; preparation for, and curation of, artifacts, reports, notes, digital data,
and other related materials (e.g., per 36 CFR Part 79); and any other activity required per this PA
or applicable historic preservation law.

(K) **Signatories.** Signatories to this PA are the ANF, COE and SHPO. Signatories have the
exclusive authority to amend or terminate this PA.

(L) **Undertaking.** Issuing any permit(s) individually or collectively by the ANF or COE allowing
or facilitating demolition, construction, operation or maintenance activities for TRTP Segments 4
through 11 on ANF or COE administered or other lands constitutes an “Undertaking” as defined
at 36 CFR § 800.16(y) and is the undertaking addressed by this PA.

II. **COORDINATION OF THIS PROGRAMMATIC AGREEMENT with THE**
**ANGELES NATIONAL FOREST/ CALIFORNIA PUBLIC UTILITIES**
**COMMISSION JOINT ENVIRONMENTAL IMPACT REPORT/**
**ENVIRONMENTAL IMPACT STATEMENT FOR TRTP SEGMENTS 4**
**THROUGH 11**
The CPUC and ANF will implement the historic preservation measures of the State of California Public Utilities Commission and United States Department of Agriculture Southern California Edison’s Tehachapi Renewable Transmission Project /Final Environmental Impact Report/ Environmental Impact Statement (2009) as adopted by the CPUC and the ANF in any decision to permit the Project. The ANF and CPUC will endeavor to make the historic properties management provisions of this PA as consistent as possible with the objectives and terms of the EIR/EIS.

Government agencies and the public identified in the scoping and public notification process for the TRTP Segments 4 through 11 draft EIR/EIS were advised in the draft EIR/EIS that historic properties associated with the Project would be managed consistent with the mitigation measures identified in the final EIR/EIS and adopted by the agencies, consistent with the stipulations of this PA. A proposed final draft of this PA has been circulated for public comment as an attachment to the Final EIR/EIS for TRTP Segments 4 through 11. The ANF, COE and SHPO have consulted with the CPUC and SCE and have taken into consideration applicable public comments, if any, received regarding the draft PA in preparing this final PA. Additionally, the ANF has made written requests to the San Manuel Band of Mission Indians, a federally recognized tribe, to provide comments regarding the proposed final draft PA and has consulted with the other Signatories and Invited Signatories to take into consideration applicable comments received from the tribes in making this final PA.

III. MANAGEMENT OF CULTURAL RESOURCES IN THE APE

(A) The eligibility criteria for listing a property in the NRHP (at 36 CFR Part 60) shall be the criteria used in determining the historical significance of any cultural resources in the APE considered for NRHP listing. No cultural resource less than 50 years old will be considered under this PA unless the resource is listed on or eligible for listing on the NRHP. The SHPO shall be consulted in determinations of historical significance of resources according to their responsibilities defined in this PA.

(B) Any cultural resource in the APE that may be adversely affected by the Undertaking may be assumed by SCE to be eligible for listing in the NRHP or CRHR and SCE shall follow the procedures in this Subsection, below.

(1) SCE will notify in writing the ANF, COE and CPUC (according to the protocols in Subsection C, below) of its intention to assume NRHP or CRHR eligibility for a resource and identify the NRHP or CRHR eligibility criterion or criteria under which the affected characteristics of a resource are assumed to be historically significant. The ANF, COE and CPUC shall respond to SCE within 10 days of receipt of SCE’s notification to agree or disagree with SCE’s proposed assumption of eligibility. SCE shall compile the responses and forward them to the ANF, COE and CPUC. The ANF will forward the record of consultation to the SHPO unless ANF or COE disagrees with SCE’s assumption of NRHP eligibility. SHPO will have 45 days to respond to the ANF. SCE may not assume NRHP eligibility of a resource if the ANF, COE or SHPO objects in writing. SCE may not assume CRHR eligibility of a resource if CPUC objects in writing. If SCE receives an objection to any proposed assumption of eligibility it will either continue to consult with the objecting agency or follow the protocols in Subsection C, below.
Either with its notification regarding NRHP or CRHR eligibility or following concurrence by the relevant agencies with SCE’s assumption of eligibility, SCE will submit to the ANF, COE and CPUC a proposed plan to treat (mitigate) the adverse effects of the Project on the affected cultural resource(s). If a treatment plan is submitted separately from a notice of assumed eligibility the ANF, COE and CPUC shall respond in writing to SCE within 10 days of receipt of SCE’s treatment plan. SCE shall compile the responses and forward them to the ANF, COE and CPUC along with a revised treatment plan, if necessary, taking into account the comments received. If the ANF concurs with the treatment plan it will forward the record of consultation regarding treatment of adverse effects to any resource assumed to be NRHP eligible to SHPO for comment or concurrence. SHPO will have 45 days to respond. If SHPO does not respond, the ANF shall ensure that SCE implements the treatment plan in which ANF has concurred. ANF will take into account any comments received from SHPO regarding a treatment plan and direct SCE to make such changes to a plan as the ANF, in consultation with the COE and CPUC, deems appropriate. If SCE receives an objection to any proposed treatment of adverse effects it will either continue to consult with the objecting agency or follow the protocols in Subsection C, below.

Any treatment plan proposed by SCE may allow for a phased approach to treatment so that if SCE believes that its assumption of NRHP or CRHR eligibility is not supported by data or other information recovered during an initial phase of study, SCE may again consult with ANF, COE, CPUC and SHPO seeking concurrence that a resource is, in fact, not NRHP or CRHR eligible or that an alternative treatment of adverse effects is more appropriate. Any revision or amendment to a treatment plan will follow the protocol for concurrence by the ANF, COE, CPUC and SHPO as for the original treatment plan defined in this Subsection B(2).

SCE may propose to the CPUC that any resource not considered NRHP eligible is, nevertheless, eligible for CRHR listing and propose a plan to mitigate any adverse impacts to the resource consistent with CEQA. The CPUC may at its discretion accept or reject SCE’s assumed CRHR eligibility or any proposed mitigation. The CPUC shall respond in writing within 10 days of receipt of any SCE proposed assumption of CRHR eligibility or mitigation plan to either accept, accept with required modifications, or reject SCE’s proposed eligibility assumption or mitigation plan. If SCE receives an objection from the CPUC regarding the CRHR eligibility assumption or mitigation plan it will either continue to consult with the CPUC or follow the protocols in Subsection C, below.

(C) When managing cultural resources, historic properties and historical resources per this PA and the Construction Phase Management Plan required in Stipulation IV, or the HP/HRMP required in Stipulation V, SCE will conform to the following protocol.

(1) If the subject resources are listed or eligible for listing on the NRHP, SCE will, at the direction of the ANF, provide all relevant information to and consult with the ANF. The ANF will coordinate its review of all submittals with the CPUC, and with the COE if any properties are on COE administered or regulated lands. Once the ANF and CPUC (and COE, if participating) have come to agreement regarding the management of any affected historic properties, SCE shall compile the record of consultation and agreement, provide it to the ANF, and the ANF will submit it to the SHPO for comment or concurrence. SHPO will have 45 days to respond. The ANF has the authority to determine how any resource on ANF lands will be managed should SHPO not respond within the allotted time.
COE has the authority to determine how any resource on COE administered or regulated lands (except COE regulated lands on the ANF) will be managed should SHPO not respond within the allotted time. The complete record of consultation among the ANF, COE (if participating), SHPO and CPUC shall be provided to all the Signatories and Invited Signatories by SCE within 30 days following any ANF or COE determination.

(2) If the subject resources are determined not listed or eligible for listing on the NRHP but are eligible for the CRHR, SCE will, at the direction of the CPUC, provide all relevant information to and consult with the CPUC. The CPUC will coordinate its review of all submittals with the Signatories and SCE. The CPUC has the authority to make a final determination regarding a cultural resource’s eligibility to the CRHR. The ANF and COE may decline to participate in this review by written notification to the CPUC.

(D) Should any Signatory or Invited Signatory disagree regarding the management of any cultural resource, they will consult to resolve the disagreement per Stipulation X (Objection), below.

IV. CONSTRUCTION PHASE MANAGEMENT PLAN

This PA provides for the preparation and implementation of a Construction Phase Management Plan (CPMP) and a Historic Properties/Historical Resources Management Plan (HP/HRMP) which will define procedures for the management of historic properties during the construction phase (CPMP) and future operation and maintenance phase (HR/HRMP) of the Project.

(A) The CPMP has been prepared by SCE and approved by the ANF, COE and CPUC and is made Attachment 2 to this PA. The CPMP for the Undertaking details a historic preservation program to:

1. identify potential historic properties including any Traditional Cultural Properties in the APE;
2. evaluate cultural resources for eligibility for inclusion on the NRHP;
3. determine ways to avoid, minimize, or mitigate adverse effects on historic properties within the APE;
4. manage previously unidentified archaeological or historic sites discovered during construction of the TRTP;
5. consult and coordinate with government agencies, Indian tribes, and the public with regard to implementation of the CPMP;
6. provide for curation of archaeological and historical items associated with the historic preservation program for the Undertaking;
7. define the roles and responsibilities of the ANF, COE, CPUC, and SCE in any management of historic properties in the APE.

(B) Implementation of the CPMP

ANF will implement the CPMP required to protect values of historic and/or unevaluated properties within the APE on lands administered by the ANF and on lands administered by or regulated by the COE. CPUC will implement the CPMP necessary to protect values of historical resources and/or unevaluated cultural resources situated on lands other than those administered by the ANF and other than those lands administered or regulated by the COE, in consultation with the ANF. The CPMP, including NRHP/CRHR evaluation, determination of effects, review, and consultation processes may be completed in phases and by task, as directed by the ANF and the CPUC. The CPMP shall provide sufficient flexibility to permit Notices to Proceed for portions of
the Undertaking on a phased (tiered) basis. Components of the CPMP may be prepared and implemented prior to completion of the final CPMP, in consultation and with agreement of the Signatories and Invited Signatories.

(C) Changing the CPMP after Its Implementation

Should any Signatory, Invited Signatory or Concurring Party determine that changes to the CPMP are warranted to modify existing elements, or to add or delete some elements, of the historic preservation program defined by the CPMP, all the Parties to the PA shall consult to make the agreed upon changes. The ANF shall then consult in writing with the SHPO to determine if proposed changes constitute a significant revision of the historic preservation program. The SHPO shall have 45 days to respond in writing to the proposed changes to the CPMP. If the ANF and SHPO concur that the proposed changes do not constitute a significant revision to the CPMP, or if the SHPO fails to respond within the prescribed time, then the ANF and SCE shall proceed to revise and implement the appropriate elements of the CPMP. Should any Signatory or Invited Signatory object regarding proposed changes to the CPMP, the objecting parties shall proceed according to Stipulation X of this PA.

SCE shall describe any revision to the CPMP, whether determined significant or insignificant, in its annual Historic Preservation Compliance Report (HPCR) as required in Stipulation VI(B).

V. HISTORIC PROPERTIES/HISTORICAL RESOURCES MANAGEMENT PLAN

The purpose of the HP/HRMP is to direct the management of historic properties and historical resources in the post-construction, operations and maintenance (O&M) phase of the TRTP. SCE will notify the ANF of the date when construction is deemed to have been completed and O&M begins for each Segment.

(A) SCE shall develop a HP/HRMP for the Undertaking detailing a historic preservation program to:

1. Outline a process for survey and identification of potential historic properties including any Traditional Cultural Properties in the APE;
2. Outline a process for evaluation of cultural resources for eligibility for inclusion on the NRHP;
3. Determine ways to avoid, minimize, or mitigate adverse effects on historic properties within the APE;
4. Manage previously unidentified archaeological or historic sites discovered during operation and maintenance of the TRTP;
5. consult and coordinate with government agencies, Indian tribes, and the public with regard to implementation of the HP/HRMP;
6. provide for curation of archaeological and historical items associated with the historic preservation program for the Undertaking;
7. support interpretation of historic properties to the public and other public involvement in historic preservation; and define the roles and responsibilities of the ANF, COE, CPUC, and SCE in any long-term management of historic properties in the APE.

(B) Contents of the HP/HRMP

The HP/HRMP shall address, at a minimum and in appropriate detail, the elements defining the historic preservation program. The HP/HRMP may include provisions for the programmatic treatment of adverse effects to historic properties. The HP/HRMP shall be written and organized.
in a manner so that sensitive information (e.g., archaeological site or traditional cultural property locations) regarding historic properties and historical resources is kept confidential.

(C) Preparation of the HP/HRMP

The HP/HRMP may be prepared by SCE as a single document addressing all Segments of the TRTP, compiled incrementally by Segment, or may be completed in phases and by task. The HP/HRMP shall provide sufficient flexibility to permit Notices to Proceed for portions of the Undertaking on a phased (tiered) basis. Any version of the HP/HRMP will be prepared and circulated for review as defined in (C) (1 through 4) below. If the HP/HRMP is prepared incrementally, by phase or by task, SCE will first prepare a basic HP/HRMP that defines the general principles and procedures SCE will follow in the management of historic properties, historical resources and unevaluated resources as outlined in (A) (1 through 7), above. The HP/HRMP will then be supplemented for each TRTP Segment by specific management prescriptions for each historic property, historical resource and unevaluated resource.

(1) Not less than 60 days prior to the estimated date of completing construction on the first TRTP Segment, an Administrative Draft HP/HRMP addressing at least the first to be completed segment shall be prepared and submitted by SCE to the ANF for review and comment. Within 30 calendar days following receipt, the ANF shall provide written comments to SCE. The ANF will direct SCE to make revisions to the Administrative Draft HP/HRMP consistent with the ANF’s written comments. The resulting document will be the Draft HP/HRMP.

(2) The ANF shall distribute the Draft HP/HRMP to the COE, CPUC, SHPO, and Concurring Parties for review and comment. Reviewers of the Draft HP/HRMP will have 45 calendar days from date of receipt to provide their written comments to the ANF. The ANF, at its sole discretion, may extend the review/comment period for any or all of the reviewing parties, but under no circumstances will the review/comment period exceed 60 calendar days.

(3) The ANF shall take into account comments received from the COE, CPUC, SHPO, and Concurring Parties who have participated in reviewing the Draft HP/HRMP. The ANF will direct SCE to make appropriate changes in the Draft HP/HRMP based on reviewer comments. SCE shall make the changes to the Draft HP/HRMP as directed by the ANF. SCE shall submit a revised HP/HRMP to the ANF within 90 calendar days of receipt of the ANF’s directive to make changes. Upon acceptance by the ANF, the resulting document will be the Final HP/HRMP. The Final HP/HRMP shall be provided to the Signatories and Invited Signatories within 10 days of receipt from SCE by the ANF of an acceptable Final HP/HRMP. The ANF, COE, CPUC, and SHPO shall indicate their acceptance of the Final HP/HRMP in letters of concurrence signed by the ANF COE, CPUC, and the SHPO.

(4) The ANF shall notify the Concurring Parties that the Final HP/HRMP has been completed. The ANF shall, within 30 calendar days of the ANF’s and SHPO’s acceptance of the Final HP/HRMP, provide copies of the Final HP/HRMP to the Concurring Parties. The ANF shall provide copies, or provide access to copies, of the Final HP/HRMP to members of the public who request copies, subject to applicable confidentiality provisions.
Should any Signatory, Invited Signatory or Concurring Party object to the content of the Draft or Final HP/HRMP, the ANF will proceed to resolve the objection(s) consistent with Stipulation X, below.

(D) Implementation of the Final HP/HRMP

Upon written acceptance by the Signatories, the Final HP/HRMP shall be implemented under the authority of this PA as ANF’s historic preservation program for compliance with NHPA Section 106 for the post-construction operations and maintenance phase of the Undertaking.

(E) Historic Preservation Compliance Report

An HPCR will be prepared consistent with Stipulation VI(B), below.

(F) Changing the HP/HRMP after Its Implementation

Should any Signatory, Invited Signatory or Concurring Party determine that changes to the HP/HRMP are warranted to modify existing elements, or to add or delete some elements, of the historic preservation program defined by the HP/HRMP, the ANF shall consult with the COE, CPUC, SCE and Concurring Parties (and with SHPO if that agency wishes to participate) to make the agreed upon changes. The ANF shall then request a determination in writing from the SHPO whether any proposed changes constitute a significant revision of the historic preservation program. The SHPO shall have 45 days to respond in writing to the proposed changes to the HP/HRMP. If the ANF and SHPO concur that the proposed changes do not constitute a significant revision to the HP/HRMP, or if the SHPO fails to respond within the prescribed time, then the ANF and SCE shall proceed to revise and implement the appropriate elements of the HP/HRMP. Should any Signatory or Invited Signatory object regarding proposed changes to the HP/HRMP, the objecting parties shall proceed according to Stipulation X of this PA.

SCE shall describe any revision to the HP/HRMP, whether determined significant or insignificant, in its annual HPCR.

VI. REPORTING

(A) SCE will submit draft reports of any cultural resource work undertaken pursuant to this PA to the ANF and the CPUC within 60 days of completion of fieldwork unless otherwise agreed to by the ANF, CPUC and SCE. Reports for Historic Properties/Historical Resources that cannot be avoided will include management recommendations that may include but not be limited to avoidance and mitigation measures, monitoring, data recovery methods, and long-term management goals. ANF will notify the COE and Concurring Parties that draft reports are available for their review and comment subject to Stipulation XIII (Confidentiality of Records and Information). The COE and any Concurring Party wishing to comment must do so in writing to the ANF within 30 days of receipt of any report. Any draft reports pertaining to the evaluation of NRHP significance of cultural resources or treatment of historic properties will be provided to the SHPO by the ANF for comment within 30 days of receipt. The ANF will share any relevant comments with the other Signatories and Invited Signatories and take into account the relevant comments when directing SCE to prepare either a revised draft report or a final report to be submitted to the ANF and CPUC within 60 days unless otherwise agreed to by the ANF, CPUC and SCE. Reports will be submitted electronically unless otherwise stipulated by the ANF or CPUC. The number of hard copies to be submitted will be determined by the ANF and CPUC as appropriate. Any extensions to complete reports must be approved by the ANF or CPUC. Copies of all final reports prepared during a calendar year will be submitted to all Signatories and Invited Signatories with the annual HPCR.
(B) ANF will direct SCE to compile an HPCR of cultural resource management activities conducted pursuant to this PA. A draft HPCR will be provided to the ANF and CPUC by SCE not less than 30 days prior to the anniversary date of the execution of this PA. The ANF and CPUC will review the draft HPCR and cause SCE to make such changes as the ANF and CPUC require. Within not more than 45 days following the anniversary date of the execution of this PA the ANF will submit to the SHPO, COE and Concurring Parties the HPCR. An HPCR will be required of SCE annually for the first 5 years following completion of construction on all segments of the Project. After 5 years the reports will be filed every three years unless the ANF directs otherwise.

The HPCR will, at a minimum, report the following management activities in sufficient detail to allow the ANF and SHPO to determine that all terms and provisions of the PA have been carried out in the reporting year regarding efforts to:

(1) inventory, evaluate, manage, and treat adverse effects to historic properties within the APE;
(2) consult and coordinate with government agencies, tribes, and the public with regard to implementation of the HP/HRMP;
(3) provide for curation of archaeological and historical items associated with the historic preservation program for the Undertaking;
(4) support interpretation of historic properties to the public and other public involvement in historic preservation; and
(5) any other activities as required of SCE by the ANF to comply with this PA.

VII. STANDARDS

(A) Professional Qualifications: All actions prescribed by this PA that involve the identification, evaluation, analysis, recordation, treatment, monitoring, and disposition of Historic Properties and that involve the reporting and 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 meeting, at a minimum, the Secretary of the Interior’s Professional Qualifications Standards (PQS) for archaeology, history, or architectural history, as appropriate (48 FR 44739). However, nothing in this stipulation may be interpreted to preclude any party qualified under the terms of this paragraph from using the services of properly supervised persons who do not meet the PQS.

(B) Curation and Curation Standards: To the extent permitted under California Public Resources Code § 5097.98 and § 5097.991 the materials and records resulting from the actions cited in paragraph A of this stipulation and located on non-federal lands shall be curated in accordance with 36 CFR Part 79. Where Federal lands are involved, all records and materials resulting from the actions cited in paragraph A of this stipulation shall be curated in accordance with 36 CFR Part 79 and the provisions of the NAGPRA (43 CFR Part 10) as applicable. Unless otherwise agreed to and stipulated in the HP/HRMP, ANF will attempt to have all collections curated at one location appropriate to each county. If cultural materials are recovered from private lands, ANF will seek to have the materials donated through a written donation agreement to be curated with other cultural materials. No human remains will be curated. If any human remains are discovered in the course of the Undertaking, the preferred course of treatment will be identified as provided for in the CPMP and HP/HRMP, in consultation with the most likely descendant and landowner and consistent with state and federal legal requirements.
(C) Documentation Standards reporting on and documenting the actions cited in paragraph (A) of this stipulation shall conform to every reasonable extent with the Secretary of the Interior’s Standards and Guidelines for Archeology and Historic Preservation (48 FR 44716-44740), as well as the California Office of Historic Preservation’s Preservation Planning Bulletin Number 4(a) December 1989, Archaeological Resource Management Reports (ARMR): Recommended Contents and Format for the Preparation and Review of Archaeological Reports, and any specific county or local requirements or report formats as necessary.

VIII. NATIVE AMERICAN CONSULTATION

The ANF shall continue to consult with Indian tribes and other Native Americans with cultural ties to the APE as follows.

1. Indian tribes, Native American groups, organizations and individuals with cultural ties shall, at a minimum, be recognized as those “Native American Contacts” for the counties of Kern, Los Angeles, and San Bernardino identified by the California Native American Heritage Commission, as well as Indian tribes recognized by the Secretary of the Interior per 36 CFR §§ 800.2(c)(3), 800.2(d), 800.3(f)(2), 800.14(b)(2), 800.14(f), and as interested parties per 36 CFR § 800.2(c)(5)). Indian tribal consultation procedures by the ANF per this PA shall be consistent with current regulations and guidance of the ACHP.

2. The ANF will consult with Indian tribes per NHPA, ARPA, AIRFA, and NAGPRA, applicable regulations (e.g., 36 CFR Part 296 and 43 CFR Part 10), and applicable Executive Orders (e.g., 13007 and 13175). Cultural items subject to NAGPRA will be managed according to applicable provisions of NAGPRA.

3. The ANF will consult with the COE, CPUC, Native American Heritage Commission and SCE to develop a list of tribes, organizations, groups, and individuals (“consultation list”) that will be consulted regarding Indian tribe interests in the TRTP. This listing shall be up-dated at least every 2 years following execution of this PA or until the HP/HRMP has been executed. The consultation list will be used by the ANF for all Indian tribe consultations.

4. The ANF and CPUC shall ensure that Indian tribes on the consultation list are included in public notifications regarding the drafting of this PA.

5. The ANF shall not delegate their government-to-government consultation responsibilities pertaining to the Undertaking on Federally administered lands. The ANF will be responsible for keeping the administrative record of all Indian tribe consultation regarding the Undertaking and shall share that record with the other Signatories, Invited Signatories and Concurring Parties as requested. Consultation shall be initiated and maintained by the ANF.

IX. COSTS

SCE shall bear the expense of identification, evaluation, and treatment of all cultural properties directly or indirectly affected by TRTP-related activity to the extent that such properties are affected by the Project. Such costs shall include, but not be limited to, pre-field planning, field
work, post-field analysis, research, preparation of reports (including draft and final versions), and costs associated with curation of Project-related documentation and artifact collections.

X. RESOLVING OBJECTION

(A) Should any of the Signatories or Invited Signatories to this PA object, at any time, to the manner in which the terms of this PA are implemented they will make the objection to the ANF. The ANF will immediately notify the other Signatories and Invited Signatories, request comments on the objection within 30 days, and then proceed to consult with the SHPO for a period of no more than 30 days to resolve the objection. The ANF will take any comments provided by the other Signatories and Invited Signatories into account. If the Signatories and Invited Signatories resolve the objection within the consultation period, the ANF may authorize the disputed action to proceed in accordance with the terms of such resolution.

(B) If, at the end of the 30 day consultation period, the Signatories determine that the objection cannot be resolved through such consultation, the ANF will forward all documentation relevant to the objection to the Council pursuant to 36 CFR § 800.2(b)(2). Any comments provided by the Council within 45 days after its receipt of all relevant documentation will be taken into account by the Signatories in reaching a final decision regarding the objection. The ANF shall have the authority per the NHPA to make the final decision resolving the objection if the objection pertains to historic properties in the APE affected by the Undertaking, except for lands administered by the COE in which case the ANF shall receive prior written approval of the COE. The CPUC shall have the authority per CEQA to make the final decision resolving the objection if the objection pertains solely to historical resources subject to CRHR. The ANF or the CPUC, as appropriate, will notify the SHPO, COE, the Council, and SCE in writing of its final decision within 14 days after it is rendered.

(C) The Signatories’ and Invited Signatories’ responsibility to carry out all other actions under this PA that are not the subject of the objection will remain unchanged.

(D) At any time during implementation of the terms of this PA, should a written objection pertaining to the PA be raised by a Concurring Party, the ANF shall immediately notify the SHPO about the objection and take the objection into account. The SHPO may comment on the objection to the other Signatories and Invited Signatories. The ANF or the CPUC shall consult with the objecting party for a period of no more than 30 days from the date of the objection. Within 14 days following closure of consultation, the ANF or the CPUC will render a decision regarding the objection and notify all parties of its decision in writing. In reaching its final decision the ANF or CPUC, subject to COE approval on COE administered land, will take into account all comments from the parties regarding the objection. Any dispute pertaining to the NRHP or CRHR eligibility of historic properties, historical resources, or cultural resources covered by this PA will be addressed by the Signatories pursuant to 36 CFR § 800.4(c)(2). The Signatories shall determine if Stipulation X.A and X.B shall be implemented to resolve a dispute regarding the eligibility of such historic properties, historical resources, or cultural resources.

(E) Any consultation period for resolving an objection may be extended by unanimous consent of the Signatories for such period as the Signatories shall declare in writing and by notification to the Council.
XI. AMENDMENT

(A) Any Signatory, Invited Signatory or Concurring Party to this PA may at any time propose amendments, whereupon all Signatories shall consult among each other to consider such amendments pursuant to 36 CFR § 800.6(c)(7) and § 800.6(c)(8). This PA may be amended only upon written agreement of all the Signatories.

(B) The resource treatment delineated in Appendix B may be amended collectively or by individual resource through consultation among and agreement by the Signatories without requiring amendment of the PA, unless the Signatories through such consultation decide otherwise.

(C) Amendments to this PA shall take effect on the dates that they are fully executed by the Signatories.

XII. TERMINATION

(A) Only Signatories may terminate this PA. If a Signatory proposes to amend this PA, and it is not amended as provided for in Stipulation XI, or if a Signatory proposes termination of this PA for other reasons, the Signatory proposing termination shall notify the other Signatories in writing, explain the reasons for proposing termination, and consult for no more than 30 days to seek alternatives to termination.

(B) Should such consultation result in a written agreement on an alternative to termination, the Signatories shall proceed in accordance with that agreement.

(C) Should such consultation fail, the Signatory proposing termination may terminate this PA by promptly notifying the other Signatories in writing.

(D) Should this PA be terminated, then the Signatories 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 §§ 800.4–800.6. The Signatories may include the Invited Signatories in the consultation.

(E) Beginning with the date of termination, the Signatories shall ensure that until and unless a new PA is executed for the actions covered by this PA, such Undertaking shall be reviewed individually in accordance with 36 CFR §§ 800.4–800.6 or according to applicable state law, depending upon the nature of the action.

(F) Any Signatory, Invited Signatory or Concurring Party may terminate their participation in the PA if their roles and responsibilities originally assigned under this PA are no longer appropriate or necessary, by agreement of the Signatories. The PA will otherwise continue in full force and effect following the departure of any party unless the Signatories decide otherwise.

XIII. CONFIDENTIALITY OF RECORDS AND INFORMATION

The Signatories and Invited Signatories shall maintain the confidentiality of records and information pertaining to the location and nature of cultural resources, including historic properties about which there are culturally sensitive issues, consistent with NHPA Section 304, ARPA Section 9, and California Government Code 6254.10, as applicable. The ANF for NRHP
resources or CPUC for CRHR resources may determine that certain records and files are appropriate to distribute to parties outside the agency.

XIV. ANNUAL MEETINGS

The Signatories and Invited Signatories may agree to meet annually, beginning one year from the date of the execution of this PA to discuss implementation of this PA and other items of mutual interest if such a request is made by one of the Signatories or Invited Signatories. These meetings may coincide with delivery of the HPCR and may occur by teleconference or in-person meetings at the discretion of the Signatories and Invited Signatories.

XV. DURATION OF THIS PA

Unless this PA is terminated pursuant to stipulation XII above, another agreement executed for the Undertaking supersedes it, or the Undertaking itself has been terminated, this PA will remain in full force and effect until ANF, in consultation with the other Signatories, determines that all aspects of the Undertaking have been completed and that all terms of this PA and any subsequent tiered agreements have been fulfilled in a satisfactory manner. Upon a determination by ANF that all aspects of the Undertaking have been completed and that all terms of this PA and any subsequent tiered agreements have been fulfilled in a satisfactory manner, ANF will notify the other Signatories, Invited Signatories and Concurring Parties of this PA in writing of the agency’s determination. This PA will terminate and have no further force or effect on the day that ANF so notifies the other Signatories and Invited Signatories to the PA.

This PA will expire if the Undertaking or the stipulations of this PA have not been implemented within five (5) years from the date of its execution. At such time, and prior to work continuing on the Undertaking, the ANF shall either execute a MOA pursuant to 36 CFR § 800.6, or request, take into account, and respond to the comments of the Council per 36 CFR § 800.7. Prior to such time, the ANF may consult with the other Signatories, Invited Signatories, and Concurring Parties to reconsider the terms of the PA and amend it in accordance with Stipulation XI above. The ANF shall notify the Signatories, Invited Signatories, and Concurring Parties as to the course of action it will pursue within 30 days.

This PA expires 25 years from its effective date unless extended by written agreement of the Signatories. The Signatories and Invited Signatories shall consult at year 10 to review this PA. Additionally, the Signatories and Invited Signatories shall consult not less than one year prior to the expiration date to reconsider the terms of this PA and, if acceptable, have the Signatories extend the term of this PA. Reconsideration may include continuation of the PA as originally executed or amended, or termination. Extensions are treated as amendments to the PA under Stipulation XI.

XVI. EFFECTIVE DATE

This PA and any amendments will take effect on the date that it has been fully executed by the Signatories. The PA and any amendments thereto shall be executed in the following order: (1) SCE, (2) CPUC, (3) COE, (4) ANF, and (5) SHPO. Execution and implementation of this PA is evidence that the ANF and COE have afforded the Council a reasonable opportunity to comment on the Undertaking and its effects on historic properties. The Signatories and Invited Signatories to this PA represent that they have the authority to sign for and bind the entities on behalf of whom they sign.
SIGNATORIES:

UNITED STATES DEPARTMENT OF AGRICULTURE – FOREST SERVICE, ANGELES NATIONAL FOREST,
By: Marty Dunsop
Date: 02/05/2010
(As) Jody Noiron
ANF Supervisor

UNITED STATES DEPARTMENT OF THE ARMY, LOS ANGELES DISTRICT, CORPS OF ENGINEERS,
By: Colonel Thomas H. Magness
Date: 2/1/10
District Commander

CALIFORNIA STATE HISTORIC PRESERVATION OFFICER
By: Milford Wayne Donaldson, FAIA
Date: 11 FEB 2010
State Historic Preservation Officer

INVITED SIGNATORIES:

CALIFORNIA PUBLIC UTILITIES COMMISSION
By: Paul Clanon
Date: 1.20.10
Executive Director

SOUTHERN CALIFORNIA EDISON COMPANY
By: Paul L. Multari
Date: 1-13-10
Director SCE Project Management Organization