APPENDIX B

Programmatic Agreement and SHPO Concurrence Letters

U.S. Department of Transportation

Federal Railroad Administration

JUN 22 2011

1200 New Jersey Avenue, SE
Washington, DC 20590

Mr. Milford Wayne Donaldson
SHPO
Office of Historic Preservation
California State Department of Parks and Recreation
1725 23rd Street, Ste.100
Sacramento, CA 95816

Charlene Dwin Vaughn, AICP
Assistant Director
Office of Federal Agency Programs, Federal Permitting, Licensing, and Assistance Section, ACHP
1100 Pennsylvania Avenue NW, Ste. 803
Washington, DC 20004

Dan Leavitt
Deputy Assistant Director
California High-Speed Rail Authority
770 L Street, Ste. 800
Sacramento, CA 95814

RE: Programmatic Agreement for Compliance with Section 106 of the National Historic Preservation Act (NHPA) for the Proposed California High-Speed Train System

Dear Mr. Donaldson, Ms. Dwin Vaughn, and Mr. Leavitt:

As you know, the California High Speed Rail Authority (Authority) proposes to construct and operate a Statewide High Speed Train (HST) System comprised of nine project sections between major metropolitan areas of California. The Federal Railroad Administration (FRA) and the Authority are preparing Tier II project-level Environmental Impact Reports (EIR)/Environmental Impact Statements (EIS) for the proposed high speed Train (HST) System.

As the lead agency for compliance with Section 106 of the National Historic Preservation Act, FRA is pleased to say that following extensive consultation among our agency, the Authority, the Advisory Council on Historic Preservation, the California State Historic Preservation Officer, and Native American Tribes, work has been completed on the Programmatic Agreement (PA) for the HST System, The PA establishes procedures for HST undertakings, anticipated to be nine, one for each project section. The PA outlines the common process of completing the identification of cultural resources located within the Area of Potential Effect (APE) as well as the evaluation, assessment of effects and treatment of cultural resources potentially affected by each undertaking. Attached please find four copies of the PA and its attachments for your endorsement. Concurrently, we are sending copies of the PA for signature to two Federally-recognized Tribes who have requested to concur on the Agreement. They are the Soboba Band of Luiseno Indians and the Pechanga Band of Luiseno Indians.

These originals are being sent first to the California High Speed Rail Authority for original signatures. We request that the Authority then send or hand-carry these to the California State Historic Preservation Officer. The Authority will then send all four copies to the FRA for signature. The FRA will deliver them to the Advisory Council for final signature and for distributing copies to the other signatories.

We would like to express our sincere gratitude for the time and effort contributed by all parties in bringing this agreement to fruition. This was a challenging effort for such a large and complex undertaking. We look forward to continued collaboration as we implement the PA for the Central Valley project sections and then the rest of the system. We respectfully request an expedited signature process so that we can include the executed PA in the publication of the Draft

EIR/EIS's for the Merced to Fresno and Fresno to Bakersfield Project Section that will be published in July. For this reason, we request that the signed PA be returned from California to FRA no later than June 30, 2011. FRA will see to it that the PA is quickly delivered to the ACHP for final execution as quickly as possible.

If you have any questions or require any further information please contact Melissa DuMond of my staff, at (202) 493-6366 and Melissa.DuMond@dot.gov or Colleen Vaughn of my staff, at (202) 493-6096 and Colleen.Vaughn@dot.gov.

Sincerely,

David Valenstein
Environment & Systems Planning Division Chief

Enclosures:
4 copies of the Programmatic Agreement and attachments for wet signature

Cc:
Joseph Ontiveros, Cultural Resource Director, Soboba Band of Luiseno Indians
Anna M. Hoover, Cultural Analyst, Pechanga Band of Luiseno Mission Indians

PROGRAMMATIC AGREEMENT AMONG
THE FEDERAL RAILROAD ADMINSTRATION,
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

WHERAS, 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 though 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-federal 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' 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.

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.

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.

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 archaeological 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 archaeological 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 archaeological 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 archaeological 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.

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.

- 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

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

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.

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

- 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:

- Prefabicated 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.

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

Establish Programmatic Approach

- FRA initiates Govt. to Govt. consultation and invites Federally recognized Native American Tribes to participate in the 106 process
- Authority initiates consultation with Native American groups and consulting parties and invites them to participate in the Section 106 process, notifies SHPO
- Authority initiates information gathering, for each Undertaking
- Develop Draft Programmatic Agreement
- **CONSULTATION POINT** Consultation with Native American Tribes or groups, and other parties
- Execute Programmatic Agreement

Approach for Each Undertaking

Initiate Section 106 Process

Identify Historic Properties

- **CONSULTATION POINT** Define the APE in consultation with SHPO, THPO or other official from Federally recognized Native American Tribes
- Identify potentially eligible historic properties by survey or site testing, as appropriate.
- Evaluate properties for eligibility
- **CONSULTATION POINT** Confirm historic properties : Provide requested List of Historic Properties

Assess Adverse Effects

- Identify historic properties that will be adversely affected by the Undertaking
- **CONSULTATION POINT** Provide requested Site Records for review to Native American Tribes and other applicable parties per 36 CFR Part 800 .11(c)

  Determine when and where Tribal Monitors may be needed during ground disturbing activities in previously identified sensitive areas or known sites

  Develop Avoidance, Minimization, and Treatment Measures for Adverse Effects to both archaeological and built resources

Resolve Adverse Effects

- Develop Treatment Plans for Archaeology and Built Resources
- **CONSULTATION POINT** Determine Native American Tribes or groups and other parties who will participate in the development of and sign as concurring parties to the Memorandum of Agreement

  Determine when and where Tribal Monitors may be needed during Treatment Plan Implementation or Construction
- Finalize Treatment Plans
- Execute Memorandum of Agreement

Implement Treatment Plans & Construction

- **CONSULTATION POINT** Include Native American Tribes or groups and other parties who are participating as concurring parties in implementation of treatment as defined in the Treatment Plans

  Provide for Tribal Monitors during Treatment Plan Implementation or Construction, where agreed upon

  Review and comment on Programmatic Agreement Annual Report

ATTACHMENT F- FEDERALLY RECOGNIZED NATIVE AMERICAN TRIBES

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

ATTACHMENT F- NON-FEDERALLY RECOGNIZED NATIVE AMERICAN GROUPS

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

U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION
CALIFORNIA DIVISION
980 Ninth Street, Suite 400
Sacramento, CA. 95814-2724
September 17, 2002

IN REPLY REFER TO
HDA-CA
File # 06-MAD-BNSF-Kismet
PM 1,025.9
Document # P41765

CERTIFIED RETURN RECEIPT REQUESTED #7000-0520-0016-9118-6910

Dr. Knox Mellon
State Historic Preservation Officer
Office of Historic Preservation
Department of Parks and Recreation
P.O. Box 942896
Sacramento, CA 94296-0001

Dear Dr Mellon:

SUBJECT: **KISMET PRIVATE RAIL CROSSING CLOSURE PROJECT, SOUTH OF AVENUE 20 ½, MADERA COUNTY**

The California Department of Transportation (Caltrans), in cooperation with the Federal Highway Administration (FHWA), and the Burlington Northern Santa Fe Railroad (BNSF) proposes this safety project in rural Madera County. Find enclosed for your use and information the Historic Property Survey Report (HPSR), with appended Historic Study Report and Archaeological Survey Report.

The purpose of this project is to remove the existing uncontrolled crossing of the BNSF main line, which serves as the only access to a single family dwelling, and replace it with a 2000-ft. gravel road connecting to Avenue 20 ½. This BNSF main line carries daily freight and Amtrak passenger train traffic. Currently the resident must enter and leave his property via the uncontrolled railroad crossing. Constructing this proposed gravel road would disturb the soil within the Area of Potential Effects (APE) to a depth of approximately three inches.

The APE for this proposed undertaking is approximately 2,000-ft. long by 15-ft. wide. A portion (i.e. cesspit) of the former Kismet station section house may be present under the proposed APE. When Kismet station was closed in 1959, all of its buildings, including the tower, separate living quarters, and several utility buildings, were removed. During the April 2002 site survey, the only signs remaining of the buildings were a partially exposed concrete cellar and water basin. In the absence of any evidence that the Kismet station site is associated with any persons or events of significance, FHWA has determined that the Kismet station site is not eligible for the National Register of Historic Places and is not a historic property.

We ask for your concurrence with: 1) delineation of the APE; 2) the finding of ineligibility; 3) the undertaking will have no effect on historic properties, per Section 800.16(i); and 4) studies to date have been adequate under 36 CFR 800.3.

If you have any questions, please call Steve Healow at (916) 498-5348 or Larry Vinzant at (916) 498-5048.

Sincerely,

/s/ Steve Healow
For
Gary N. Hamby
Division Administrator

Enclosure

cc:
Gary Winters, Caltrans Headquarters, Environmental Program, (MS27)
Brian Gassner, Caltrans Central Region, California Action Team
Charles Walbridge, Caltrans D6, Environmental Planner

E-mail:
FHWA-CA: Larry Vinzant, Steve Healow, Scott McHenry

STATE OF CALIFORNIA – THE RESOURCES AGENCY GRAY DAVIS, *Governor*

OFFICE OF HISTORIC PRESERVATION
DEPARTMENT OF PARKS AND RECREATION
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26 November 2002

In Reply Refer To
FHWA020919A

Gary N. Hamby
Division Administrator
California Division
Federal Highway Administration
980 Ninth Street, Suite 400
Sacramento, California 95814-2724

RE: HDA-CA, FILE NO. 06-MAD-BNSF-KISMET, PM 1,025.9, DOCUMENT NO. P41765 [SECTION 106 CONSULTATION ON THE CLOSURE OF A PRIVATE CROSSING AT KISMET SIDING, BURLINGTON NORTHERN SANTA FE RAILWAY, MADERA COUNTY]

Dear Mr. Hamby,

This letter is a response to your request that I review the undated Positive Historic Property Survey Report (HPSR) for the subject undertaking. Your request and my comments here are made pursuant to 36 CFR Part 800, the regulations that implement Section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. 470f), as amended.

You request in your letter of 17 September 2002 that I concur that the area of potential effects (APE) for the undertaking is adequately delineated, that the archaeological remnants of Kismet Station are not eligible for inclusion in the National Register of Historic Places (National Register), that "the undertaking will have no effect on historic properties, per Section 800.16(i)," and that "studies to date have been adequate under 36 CFR 800.3."

On the basis of my review of the HPSR, I concur that the FHWA's effort to determine and document the APE for the undertaking is adequate pursuant to 36 CFR § 800.4(a)(1). I understand the undertaking's APE to be the area described in the *2. Area of Potential Effects (APE)* section of the HPSR and not the area depicted in Exhibit C of the HPSR, which excludes the present access road or existing private crossing from the APE. I further concur, pursuant to 36 CFR § 800.4(b), that the FHWA's effort to identify historic properties is adequate.

I concur with the FHWA's determination that

Kismet Station (Temporary Field No. CRM TECH 727-1H)

is *not* eligible for inclusion in the National Register.

And I concur with the FHWA's apparent finding, pursuant to 36 CFR § 800.4(d)(1), that the undertaking will affect no historic properties.

Please direct any questions or concerns that you may have to Project Review Unit archaeologist Mike McGuirt at 916.653.8920 or at mmcguirt@ohp.parks.ca.gov.

Sincerely,

Dr. Knox Mellon
State Historic Preservation Officer

WKM:mdm

STATE OF CALIFORNIA – THE RESOURCES AGENCY

P 31570

GRAY DAVIS, *Governor*

OFFICE OF HISTORIC PRESERVATION
DEPARTMENT OF PARKS AND RECREATION
P.O. BOX 942896
SACRAMENTO, CA 94296-0001
(916) 653-6624 Fax: (916) 653-9824
calshpo@ohp.parks.ca.gov

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OHP

February 29, 2000

Reply To: FHWA000107A

David A. Nicol, Acting Division Administrator
U.S. Department of Transportation
Federal Highway Administration
California Division
980 Ninth Street, Suite 400
Sacramento, CA 95814-2724

Re: Determinations of Eligibility for the Proposed Construction of a Full Diamond Interchange at Mission Avenue of State Route 99, Merced County, CA

Dear Mr. Nicol:

You have provided me with the results of your efforts to determine whether the project described above may affect historic properties. You have done this, and are consulting with me, in order to comply with Section 106 of the National Historic Preservation Act and implementing regulations codified at 36 CFR Part 800.

The Federal Highway Administration (FHWA) is requesting our determination that the project's area of potential effect (APE) is defined appropriately, that cultural resource studies conducted to date are adequate, and that none of the properties within the project's APE are eligible for the National Register of Historic Places (NRHP).

Based on review of the submitted documentation, I have the following comments:

- The APE for the undertaking is defined appropriately.
- One hundred and fourteen properties qualify for treatment under the "Memorandum of Understanding (MOU) Regarding Evaluation of Post-1945 Buildings, Moved Pre-1945 Buildings, and Altered Pre-1945 Buildings", and the "Interim Guildelines-Post-45 MOU".
- The following seven bridges have been reevaluated under the Caltrans/FHWA/State Historic Preservation Officer MOU of December 12, 1980, and have again been determined to be not eligible for the NRHP: #39-0006, #39-0007, #39-0057, #39-0058, #39-0099, #39-0100, #39C0050.
- The following properties are not eligible for the NRHP:
  - 207 Parsons Avenue
  - 256 Parsons Avenue
  - 2200 East Gerard Avenue
  - 1456 South State Highway 99/1455 Yale Avenue
  - Segment of the Golden State Highway
  - Koff Lateral Canal (P-24-000085)
  - Farmdale Lateral Canal (P-24-000096)
  - Hartley Lateral Canal (P-24-000086)
  - CA-MER-350H (P-24-000593)
  - CA-MER-352H (P-24-000595)
  - CA-MER-353H (P-24-000596)
  - CA-MER-354H (P-24-000597)
  - CA-MER-355H (P-24-000598)
  - CA-MER-357H (P-24-000600)
  - CA-MER-358H (P-24-000601)
  - CA-MER-359H (P-24-000602)

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- CA-MER-360/H (P-24-000603)
- CA-MER-361H (P-24-000604)
- CA-MER-362H (P-24-000605)
- P-24-000614 – 3318 Harvard Lane
- P-24-000615 – 1383 and 1385 Yale Avenue
- P-24-000616 – 3316 Harvard Lane

- Pages 5 and 6 of the *Historic Architectural Survey Report and Historic Resource Evaluation Report for MER-99 Mission/Healy Interchange Merced, Merced County, California 10-MER-99 P.M. 10.5/12.5 10-363100* discuss the Central Pacific Railroad (currently the Union Pacific Railroad) with reference to an historic context study prepared for the *Historic Resource Evaluation Report for Rehabilitation of the Bear Creek Bridge (#39-95) and the El Capitan Canal Bridge (#39-97), State Route 140, Merced County, 10-MER-140, Post Mile 32.9 and 34.5 (1998).* 36 CFR §800.4(a)(2) and 36 CFR §800.4(b) mandate the use of existing data to identify historic properties. FHWA evidently did not fulfill this requirement nor the requirement in 36 CFR §800.4(c)(1) to apply the NRHP criteria (36 CFR Part 63) to properties identified within the APE that have not been previously evaluated.

  Because of this omission by the FHWA, I cannot concur that the cultural resource studies conducted to date are adequate until the railroad has been evaluated for the NRHP.

Thank you for considering historic properties during project planning. If you have any questions, please call Natalie Lindquist at (916) 654-0631 or e-mail at nlind@ohp.parks.ca.gov.

Sincerely,

Daniel Abeyta, Acting
State Historic Preservation Officer

STATE OF CALIFORNIA – THE RESOURCES AGENCY

GRAY DAVIS, Governor

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31 January 2003

In Reply Refer To
FHWA021021A

Gary N. Hamby
Division Administrator
California Division
Federal Highway Administration
980 Ninth Street, Suite 400
Sacramento, California 95814-2724

RE: HDA-CA, FILE NO. 10-MER-99 PM 0.0/10.6, DOCUMENT NO. P 42275 [SECTION 106 CONSULTATION ON THE UPGRADE OF A PORTION OF STATE ROUTE 99, MERCED COUNTY]

Dear Mr. Hamby,

This letter is a response to your request that I review the June 2002 *Historic Property Survey Report: Freeway Upgrade on State Route 99 between the Chowchilla River and McHenry Road in Southern Merced County* (HPSR). Your request and my comments here are made pursuant to 36 CFR Part 800, the regulations that implement Section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. 470f), as amended.

You request in your letter of 18 October 2002 that I concur that correspondence with Native American groups and local organizations is adequate, that the area of potential effects (APE) is adequately defined and identification efforts are satisfactory pursuant to 36 CFR §§ 800.1(a) to (b), that cultural resource studies conducted to date are adequate, that archaeological sites CA-Mer-381/H and CA-Mer-383 are eligible for inclusion in the National Register of Historic Places (National Register), that twenty historic architectural properties are not eligible for such inclusion, and that the proposed undertaking would affect historic properties pursuant to 36 CFR § 800.4(d)(2).

On the basis of my review of the HPSR, I concur that the FHWA's efforts to involve the public and to identify other consulting parties, pursuant to 36 CFR §§ 800.3(e) and (f), are adequate.

I concur that the FHWA's effort to determine and document the APE for the undertaking is adequate pursuant to 36 CFR § 800.4(a)(1) provided that the implementation of the undertaking will not disturb the natural ground in the APE below the present depth of the plowed agricultural zone. I understand the undertaking's APE to be the sum of the areas described as the "area considered for direct effects to all cultural resources in the APE" and the "portion of the

APE considered for indirect effects" in the 2. *Area of Potential Effects* section of the HPSR and depicted as "Architectural History APE" and "Archaeological APE" on Maps 3a through 3d of the HPSR (*Merced 99 Freeway—Area of Potential Effects, EA 10-4157000/415800 MER-99 PM 0.0-10.6*).

I concur that the FHWA's effort to identify historic properties is adequate pursuant to 36 CFR § 800.4(b).

I acknowledge and agree that prior consensus determinations between the FHWA and the State Historic Preservation Officer on 29 February and 26 May 2000 found, respectively, CA-Mer-352H and CA-Mer-356 to be ineligible for inclusion in the National Register. I further acknowledge and agree with the FHWA's determinations in the 1986 California Historic Bridge Inventory that Dutchman Creek Bridge [California Department of Transportation (Caltrans) Bridge No. 39 0001L], Deadmans Creek Bridge (Caltrans Bridge No. 39 0002L), Duck Slough Bridge (Caltrans Bridge No. 39 0004), Duck Slough Overflow Bridge (Caltrans Bridge No. 39 0005), Mariposa Creek Bridge (Caltrans Bridge No. 39 0081), South Dutchman Creek Bridge (Caltrans Bridge No. 39 0108L), and South Dutchman Creek Bridge (Caltrans Bridge No. 39 0108R) are not eligible for inclusion in the National Register.

I concur with the FHWA's determinations that

8040 Highway 99, Plainsburg, CA
7560 Highway 99, Plainsburg, CA
7251 Plainsburg Road, LeGrand, CA
6744 Plainsburg Road, LeGrand, CA
5533 Athlone Road, LeGrand, CA
5535 Athlone Road, LeGrand, CA
6464 LeGrand Road, LeGrand, CA
5772 LeGrand Road, LeGrand, CA
5861 Worden Avenue, LeGrand, CA
5525 Worden Avenue, LeGrand, CA
3237 S Pioneer Road, LeGrand, CA
3134 Highway 99, Merced, CA
3311 S Pioneer Road, Merced, CA
3163 S Pioneer Road, Merced, CA
2978 Highway 99, Merced, CA
2530 Highway 99, Merced, CA
Southern Pacific Railroad R.O.W. segment in the APE
Dutchman Creek Bridge (Caltrans Bridge No. 39 0001R)
Deadmans Creek Bridge (Caltrans Bridge No. 39 0002R)
Athlone Road/Deadman Creek Bridge (Caltrans Bridge No. 39C0235)

are *not* eligible for inclusion in the National Register.

I concur with the FHWA's determinations that

CA-Mer-381/H CA-Mer-383

are eligible for inclusion in the National Register under Criterion D.

I concur finally with the FHWA's finding that the subject undertaking will affect historic properties pursuant to 36 CFR § 800.4(d)(2).

Please direct any questions or concerns that you may have to Project Review Unit archaeologist Mike McGuirt at 916.653.8920 or at mmcguirt@ohp.parks.ca.gov.

Sincerely,

Dr. Knox Mellon
State Historic Preservation Officer

WKM:mdm