



**PECHANGA CULTURAL RESOURCES**  
*Temecula Band of Luiseño Mission Indians*

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Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street NE  
Washington, DC 20246

**Re: Pechanga Tribe Comments on the Historic Properties Management Plan for the Lake Elsinore Advanced Pumped Storage Project (FERC Project Number 14227-003)**

Dear Secretary Bose:

This comment letter is written on behalf of the Pechanga Band of Luiseño Indians (hereinafter, “the Tribe”), a federally recognized Indian tribe and sovereign government. The Tribe submits these comments for the official record concerning the Draft Historic Properties Management Plan (“HPMP”) for the Lake Elsinore Advanced Pumped Storage (“LEAPS”) Project prepared by Garcia and Associates dated August 2018. It is the obligation of the Tribe to protect and preserve invaluable Luiseño traditional cultural places, tribal cultural resources, and its cultural teachings and traditions. Please note that because the Section 106 process required by federal law has not yet begun for this Project, these comments may only be construed as the Tribe’s initial comments on the HPMP and are based on the limited information available at this point in the proceedings. Further, because these comments are not being submitted pursuant to the Section 106 consultation process, which guarantees the confidentiality of sensitive tribal information and safeguards the use and disclosure of such data, please note that the Tribe has additional information to provide and will do so once proper Section 106 consultation is initiated by the responsible agency. **As such, the Tribe expressly reserves its rights to continue consulting under Section 106 (once properly initiated) and provide information, including the identification of historic properties and impacts thereto, for the duration of this process.**

Based on the information presented to the Tribe at this early stage of the process, including the Area of Potential Effect (“APE”) as currently defined, the Tribe hereby notifies the Federal Energy Regulatory Commission (“FERC” or “Commission”) that the instant Project will impact at least four Traditional Cultural Properties (“TCPs”); two of which make up a Traditional Cultural Landscape (“TCL”). The Tribe has very serious concerns with the process to date, including

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compliance with the National Historic Preservation Act, inadequate tribal consultation pursuant to Section 106, as well as the draft HPMP itself. It is the Tribe's position that FERC, and to the extent that the Commission can delegate certain responsibilities to applicants, the Applicant, has not yet complied with the mandates of federal law. Specifically, the Project APE has not been properly delineated or defined at this stage<sup>1</sup>; the identification of historic properties has not been completed, thus making it impossible to complete the necessary steps required by federal law; and direct consultation by the Applicant with the Tribe has occurred only once, and absolutely no consultation by the responsible agency, FERC. For these reasons, the Tribe specifically requests that the Commission not accept the Applicant's Final Licensing Application (FLA) until the Commission has obtained adequate information from the Section 106 process through consultation on a government-to-government basis with the Tribe to make any informed decisions. **Please consider these comments as the Tribe's official request pursuant to our rights under federal law for consultation with FERC.**

As an initial matter, the Tribe believes the Commission understands that the HPMP is only a small part of what FERC must complete under Section 106.<sup>2</sup> One of the cornerstones of Section 106 is consultation with Native American tribes or Native Hawaiian organizations that attach traditional religious or cultural significance to historic properties.<sup>3</sup> The Tribe expects that FERC will conduct appropriate consultation with the Tribe and abide by the Section 106 process in determining whether to license the instant Project. It is impossible for FERC to leap ahead in the process to determining the resolution of adverse effects without having done an adequate job of identifying historic properties in the first place, and then properly evaluating such properties pursuant to federal law. FERC has missed several key and mandated steps in the process, a potentially fatal flaw with respect to the proceedings and this HPMP. The Project has changed from that which was proposed nearly fifteen years ago and the Area of Potential Effects for the Project has not yet been finalized. In fact, as we point out below, the current APE does not adequately include all the possible areas of direct and indirect effects. At a minimum, as discussed above and in more detail, *infra*, the Project as based on the current APE will now impact at least four TCPs and a TCL.<sup>4</sup> Finally, consultation and the preparation of an HPMP is an iterative process and cannot be considered complete merely by allowing for one brief comment period. Rather, on-

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<sup>1</sup> This stage being the review of a draft HPMP without initiation of Section 106 consultation.

<sup>2</sup> 16 U.S.C. §470f, also known as Section 106 ("Section 106") of the National Historic Preservation Act ("NHPA"). It is also important to note that while an agency may delegate some of its obligations under Section 106 to an applicant, it is the agency which is ultimately responsible for assuring the process is completed in an adequate and appropriate manner. 36 C.F.R. §800.2.

<sup>3</sup> 16 U.S.C. §470a(d).

<sup>4</sup> FERC itself acknowledges that this is not the "run of the mill" historic properties. "Where historic properties of particular importance...have been identified in the APE, the plan should provide for their consideration, **avoidance of adverse effects,...**" *Guidelines for the Development of Historic Properties Management Plans for FERC Hydroelectric Projects* ("FERC HPMP Guidelines").

going consultation must occur in order to meet the legislative mandate and intent of Section 106 consultation.

With this background, the Tribe offers these comments on the first draft of the HPMP, with the understanding that the Tribe, FERC, the Applicant, and its consultants will initiate the appropriate Section 106 process (consultation, identification, determining impacts, and resolution of adverse effects) and continue to work together to refine the proposed HPMP to ensure it meets the requirements of federal law.

## **I. THE TRIBE FORMALLY REQUESTS CONSULTATION DIRECTLY WITH FERC ON THIS PROJECT**

Pursuant to FERC's Regulations, the Commission has committed to "promote a government-to-government relationship between itself and federally-recognized Indian tribes."<sup>5</sup> In order to do so, FERC recognizes that "consultation should involve *direct* contact between agencies and tribes..."<sup>6</sup> While the Tribe understands that it is common practice for FERC to delegate much of the Section 106 consultation responsibilities to the applicant, given the significant nature and number of resources affected by this Project, the Tribe hereby formally requests direct consultation with FERC on the Project.

## **II. FERC MUST FOLLOW THE SECTION 106 PROCESS**

Not only is following the Section 106 process required by federal law, but from the Tribe's standpoint it is critical that such follow through be assured because it is the intent of Section 106 to provide the Tribe input into Projects that will effect traditional and cultural resources. Federal law requires the responsible agency to consult on several key points in the process: determining the APE; identifying historic properties; evaluating historic significance; and resolving adverse effects. At this point in the process, FERC (and the Applicant) has not completed these required steps.

### **A. Area of Potential Effect Must Be Determined**

The first step in the Section 106 process is identifying the Area of Potential Effects (APE) for a project.<sup>7</sup> The definition of the Area of Potential Effects is, "the geographic area or areas within which an undertaking may directly or indirectly cause alterations in the character or use of historic properties..."<sup>8</sup> It is imperative that the APE be properly defined as this is what guides the next steps in the Section 106 process. Without a clearly defined APE, the Tribe is unable to provide

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<sup>5</sup> Federal Energy Regulatory Commission Policy Statement on Consultation with Indian Tribes in Commission Proceedings (July 23, 2003) at D-2.

<sup>6</sup> 18 C.F.R. §2.1c(a).

<sup>7</sup> 36 C.F.R. §800.4(a).

<sup>8</sup> 36 C.F.R. §800.16(d).

complete information and cannot meaningfully engage in the Section 106 process, a right protected by federal law.

Based on information from the Applicant's consultant, the Applicant is still working with SHPO to determine the proper APE. Further, the Tribe believes that the APE as currently represented fails to capture all of the geographic areas in which the Project may directly or indirectly impact historic properties. The Project will require connecting to existing facilities and those impacts have not been identified or addressed by the Applicant. It is important to know and understand what activities will be required for connecting to such existing facilities and what ongoing maintenance and repair activities will be required in order to properly identify historic properties potentially affected. Because the Applicant has not yet provided final Project APE data to the Tribe so that we can properly assess the areas in which these facilities lie, the actual areas of impact are unclear. However, based on the Tribe's review of the figures contained on the Applicant's website, the existing facilities may actually impact up to four (4) additional TCPs, including one that is listed on the National Register of Historic Places (the Luiseño Ancestral Origin Landscape, listed on October 14, 2014). Please note that without access to proper data (i.e., KMZ files that can be used to pinpoint exactly where the existing facilities lie within the Tribe's traditional territory), the Tribe is only able to approximate the areas of possible impact and cannot properly identify all of the historic properties that may suffer direct and indirect effects from the Project.

As such, and as is discussed more *infra*, there may be additional properties that could be affected by the Project. The Tribe expressly reserves its rights to identify additional historic properties that may be impacted by the Project as more information becomes available.

#### B. Identify Historic Properties

Once a proper APE has been established, the next step in the Section 106 process is to actively identify potential historic properties within the APE.<sup>9</sup> The Applicant has attempted to circumvent the process by using information from the past version of this Project, which was ultimately rejected. While some of the information is indeed valid and useful, it still does not allow either the Applicant or FERC to pick and choose which portions of 36 C.F.R. Part 800 to follow. Because the Project is still within the identification phase of the process, the Tribe has further input to provide and will continue to have additional information as the Applicant refines and determines the appropriate APE, in consultation with the SHPO. For instance, with the current information provided to the Tribe, it is now aware of additional TCPs and a TCL which will be impacted by the Project. During the one meeting with the Applicant and their consultant that has been held to date, the Tribe indicated that it believed another TCP, in addition to the known Lake Elsinore TCP, might be impacted. At this point the Tribe is aware of several other TCPs and a TCL which will likely be within the final APE. While the discussion on the Lake Elsinore TCP is insufficient in

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<sup>9</sup> 36 C.F.R. §800.4(b).

the draft HPMP, the additional TCP identified by the Tribe previously and those properties which the Tribe has further identified since receiving additional Project information were not identified in the draft HPMP and must be addressed before the document can be approved by FERC. Further, as the Tribe believes the APE is inadequate as currently defined, additional historic properties may be identified as the APE is more appropriately determined. FERC, in its response to the Tribe's additional studies requests, also acknowledged that additional information is expected as the process continues. It is premature to move forward with an HPMP when all the parties know that there are historic properties not yet identified and evaluated as required by federal law.

In addition to the concerns expressed above, FERC's decision on the Tribe's additional studies request – namely that the studies approved may be completed after licensing but prior to construction – flies in the face of the Section 106 process, as well as its own guidance on the development of Historic Properties Management Plans. While the Section 106 process, as FERC pointed out in its decision, does not require the agency to identify every possible historic property, the simple fact is that the agency, and Applicant, have thus far failed to identify a large number of historic properties, including traditional cultural properties and a traditional landscape which the Tribe now knows are impacted by the Project. The Tribe is actively informing both FERC and the Applicant that there are other properties that will be impacted, a fact that cannot be ignored in an effort to push through the HPMP or the FLA. At this stage in the proceedings and with the process as is currently being administered by FERC and the Applicant, the responsibility to identify all historic properties affected by the Project has not been met. Further, FERC's own guidelines state that an HPMP should be based on sufficient studies to predict the likelihood of effects on historic properties (Principle 3). As FERC has deferred not only additional studies that would identify such properties, but also because FERC and the Applicant have not engaged in proper and meaningful consultation with the Tribe, attempting to determine the possible effects this Project will have on historic properties simply cannot even be "predicted" at this stage because of the inadequate identification efforts to date.

### C. Evaluate Historic Significance

The law requires that when historic properties such as TCPs and TCLs are potentially adversely effected by a project, they must be appropriately evaluated for their historic significance (i.e., are they eligible for listing on the National Register of Historic Places).<sup>10</sup> It is important to understand that traditional cultural properties reflect the cultural practices and beliefs of a community which are important to the continuation of that cultural identity.<sup>11</sup> Thus, TCPs are not only religious or ceremonial sites, but other areas of highly significant traditional value to a community. "The existence and significance of such locations often can be ascertained only

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<sup>10</sup> 36 C.F.R. §800.4(c).

<sup>11</sup> National Park Service Bulletin 38, *Guidelines for Evaluating and Documenting Traditional Cultural Properties*, at 1.

through interviews with knowledgeable users of the area...”<sup>12</sup> Much of the information surrounding the significance of these properties is considered highly confidential by the Tribe, and as such cannot be provided in general written comments such as these. Only the Tribe can provide the community and cultural values ascribed to these properties and places, which must be done through a process that ensures the confidentiality of such information and protects traditional tribal knowledge from disclosure and misuse by other parties. Therefore, the Tribe requests more direct (face-to-face) consultation with FERC and the Applicant, so that it can provide sufficient information to begin evaluating the properties as required by federal law. Consultation must continue through the entire Section 106 process.

As indicated, the Tribe is deeply concerned that by beginning the process with a draft HPMP, which presumes that there has been a reasonable and good faith effort to carry out appropriate identification efforts, FERC and the Applicant are side-stepping several crucial steps in the Section 106 process. As noted above, Principle 3 of FERC’s own Guidelines note that an HPMP “should be based on sufficient studies to predict the likely effects of Project activities on historic properties...”<sup>13</sup> Yet the draft HPMP proposes to conduct most of the approved additional studies related to cultural resources and historic properties after licensing but prior to construction. If the purpose of the HPMP is to allow FERC to consider and appropriately manage effects on historic properties (see Introduction and Purpose of this Guidance section), then the purpose is defeated by allowing the identification and evaluation of historic properties to occur *after* FERC has approved the HPMP and the Applicant’s license. It is premature to consider the draft HPMP at this stage given the lack of appropriate consultation, an incomplete APE, and the inadequate identification and evaluation of historic properties that will be affected by this Project.

We urge FERC to place a hold on this process, and not accept the Applicant’s Final Licensing Application until Section 106 consultation has begun, the APE is properly determined, and all historic properties within the final APE are identified and evaluated as required by federal law.

#### D. Assessment of Adverse Effects

Once the results of the identification and evaluation phases of the Section 106 process are complete, the agency must then assess any identified adverse effects to such properties.<sup>14</sup> It is the Tribe’s position that the resolution of adverse effects cannot occur at this stage in the proceedings as neither FERC nor the Applicant have completed the required identification and evaluation stages, in consultation with the Tribe. The Tribe cannot, with the information known at this time because of the incomplete Section 106 process, identify adverse effects, nor discuss any possible resolution to such effects. The Tribe expressly reserves its rights to discuss adverse effects and

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<sup>12</sup>*Id.* at 2.

<sup>13</sup> FERC HPMP Guidelines at 11.

<sup>14</sup> 30 C.F.R. §800.5.

their resolution once the APE is determined, and the identification and evaluation of historic properties located within the APE is completed through consultation with the Tribe.

### **III. THE DRAFT HPMP IS DEFICIENT**

As noted throughout these comments, the Tribe is at a serious disadvantage in providing comprehensive comments on the historic properties that will be adversely affected by the Project due to the current lack of information on a final APE. Further, the Tribe's input is limited due to the significance and confidentiality of certain of traditional tribal knowledge. That significance and confidentiality determines the information that can be appropriately shared outside of formal consultation. Thus, the Tribe is providing these initial comments on the content of the draft HPMP based upon the current information available from the Applicant. Additional information and comments from the Tribe will be forthcoming as the Section 106 process unfolds. These initial comments are based on the Tribe's extensive expertise and knowledge of its tribal territory, culture, traditions, cultural resources, and sacred places, as well as its engagement in archaeological and cultural resources assessments for state and federal projects.

#### **A. Area of Potential Effects Inadequate**

The Tribe has several concerns with the Project's proposed APE as presented in the HPMP. Based on our review of the document, and information provided by the consultant that a revised APE was shared with the SHPO (but not the Tribe), it appears that the Project APE has not yet been finalized. Our concerns with the APE generally are discussed above; however, below are the Tribe's concerns with the APE as tied specifically to the historic properties that we know are in the APE at this time, and based on the available information.

First, the APE should include the entire Lake Elsinore shoreline. As expressed to the Tribe in our initial meeting with the Applicant and through the review of the Project's technical documents, the shoreline is expected to fluctuate throughout each day once the Project has been completed and in operation. As the Lake and its surrounding area is a Traditional Cultural Property to the Tribe, it has comprehensive knowledge of existing cultural resources surrounding the lake and is very concerned that the entire shoreline will be impacted by the proposed Project. Therefore, the entire shoreline needs to be included in the APE and addressed in the HPMP so it can be properly evaluated since there are considerably more cultural resources that were not addressed in the HPMP along the Lake Elsinore shoreline and its vicinity, including sacred areas and human remains.

It is the Tribe's position that the impacts to the lake itself, as described by the current project, are immitigable. The *Lake* is a sacred site and the Project will impact the site on a daily basis by removing water continually during the day, thus impacting the very essence of what makes this site sacred. These are impacts to the intangible components of what make this TCP a historic property. In addition, there are absolute impacts to the tangible components of this TCP, namely

the archaeological sites and cultural resources known to exist around the lake, as well as those that may be located in the lake itself and along the shoreline. The continued, daily fluctuation of the water levels in the lake will impact these tangible resources. The Tribe will be prepared to discuss these impacts further during our Section 106 consultation; in order to properly ascertain adverse effects, we must first complete the proper identification and evaluation of this TCP, which requires the provision of sensitive and confidential tribal information in a process that guarantees protection of such data.

The Tribe does not consider the areas of development to be the only areas of concern. For instance, the HPMP does not identify potential staging areas, and access roads were neither identified nor assessed. Further, it is not clear through the document whether the existing transmission lines will have new power lines added to support the Project. If so, as we noted above, the assessment needs to include those existing powerline locations to evaluate the impacts of the equipment, staging areas, and access roads to the surrounding historic properties, and archaeological and tribal cultural resources. Therefore, the HPMP should address all existing powerlines and substations and evaluate them for any indirect, direct, and intangible impacts, including the view shed, and for all aspects of the Project which may have impacts on cultural and Tribal resources. Because many of these impacts will be to the cultural values of historic properties, consultation with the Tribe is imperative to assessing such impacts.

While acknowledging this is a draft HPMP, the Tribe finds that the Project APE as presented within the draft does not adequately reflect the Project and requests that the full Project be added to the APE to allow for proper evaluation, including all possible alternatives, connecting lines, and the entire Lake Elsinore shoreline and its immediate vicinity.

#### B. Research Design

With that in mind, while the Tribe understands that a HPMP is designed to reflect the plan for how impacted sites will be managed, the Tribe is troubled about the proposed research design. Based on the issues identified in this letter, a proper research design is not possible at this stage as there are additional historic properties that should be accounted for in any such protocol. However, we provide these initial comments as they will inform the Applicant and its consultant as the process moves along. A key problem with the research design is the lack of adequate and continuing consultation with the tribes that are affiliated with this area. The research design *must* involve consulting tribes as much as possible from the very beginning to obtain appropriate and accurate data from the proposed research. The proposed Project is located within Pechanga's (Luiseño or 'Atáaxum) Ancestral territory and the evaluation of the sites will never be complete until the tribes' knowledge has been included in the assessment. The Tribe is an expert in presenting our cultural values and Tribal history, which often differs from scientific theories. Tribal information is often passed through the oral tradition, which in many cases is never recorded, thus can only be entered into the record through consultation. Often Tribal information helps to explain or validate archaeological hypotheses. Due to the nature of the known TCPs and



TCL that will be adversely effected by this Project, scientific values alone are insufficient to measure potential impacts. Impacts to the cultural values can only be determined through the lens of the community which holds value in the particular TCP or TCL. The HPMP fundamentally lacks tribal views and perspectives and the only way to insert these views is through consultation.

The draft HPMP does not clearly identify how the goals will be met for the data requirements needed for the listed 12 research topics. Much of the proposed research is based upon studies of archaeological sites and artifacts. It is unclear if the data will be gathered from previously excavated collections housed in institutions or from potential excavations or testing of sites for cultural resources that will be impacted by the proposed Project. In addition, it is also unclear how much data is needed to achieve the research objectives. It is imperative to note that the Tribe is against any form of testing on human remains and burial goods; additionally, the Tribe must be consulted prior to any proposed testing on cultural resources. The draft HPMP needs to be revised to reflect these standards and clarifying details need to be added to the research topic requirements.

The Tribe noticed that throughout the Research topic discussions there was a lack of the identification and inclusion of the Traditional Cultural Properties (TCP). Due to lack of Tribal consultation, the report does not contain adequate information on the number of and the impacts to the TCPs. Due to the high sensitivity of the area and the Project being located within a Traditional Cultural Landscape (TCL), as well as having a direct impact to four TCPs, it is imperative that the TCL and TCPs are understood and addressed before creation of any regional research questions for the HPMP. While TCPs represent high-density areas of traditional use, they also include archaeological resources and data that may be included in the evaluation and study of the Project area. However, discussion of how these archaeological sites contribute to the importance of the TCPs and TCL is not addressed in the Research Design. Every single research topic, as identified in the draft HPMP, should include the TCPs and TCL that fall within their research scope.

#### C. Traditional Cultural Properties within the Entire Project APE

The LEAPS Project APE, as currently defined, will impact four Traditional Cultural Properties (TCPs) of cultural importance to the Pechanga Band and all Luiseño Bands (which include the Soboba, Pala, Pauma, Rincon, La Jolla, and San Luis Rey Bands). A TCP is a type of Historic Resource and the *National Register Bulletin 15: How to Apply the National Register Criteria for Evaluation* (Bulletin 15) states that information and guidance on traditional cultural values and their associations to historic properties should be sought from Bulletin 38 (NPS 1997:13 n.5.).<sup>15</sup> Bulletin 38 was established under the authority of the NRHP and authored by anthropologists Patricia L. Parker and Thomas F. King in 1990 (with key revisions in 1992 and 1998) and is widely utilized as the primary guidance in the identification, NRHP evaluation, and

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<sup>15</sup> National Park Service (NPS) National Register Bulletin #15 How to Apply the National Register Criteria for Evaluation. U.S. Department of the Interior, National Park Service, Washington D.C. 1997

consideration of adverse effects of Federal decisions on historic properties with traditional cultural significance (i.e., TCPs), including those of traditional religious and cultural importance to Indian tribes (54 U.S.C. 302706).<sup>16</sup> According to Bulletin 38:

A traditional cultural property ... can be defined generally as one that is eligible for inclusion in the National Register because of its association with cultural practices or beliefs of a living community that (a) are rooted in that community's history, and (b) are important in maintaining the continuing cultural identity of the community [Parker and King 1998:1].<sup>17</sup>

Traditional knowledge always holds a referent and relation to material components and elements of the ancestral territory. That is, oral tradition and tribal knowledge is tied intrinsically to the land itself. In this, the Luiseño worldview and its system of knowledge directly accounts for the formulated definition and historic property significance logic of TCPs found in Bulletin 38, including how integrity of association and condition must be acutely understood to endure – and how the significance of properties of traditional religious and cultural importance can be accessibly approached – from a Luiseño worldview perspective.

However, due to a lack of meaningful Tribal consultation with an appropriate APE, the draft HPMP only includes one of the four TCPs currently identified by the Tribe. The substations and power lines that are part of the APE, which extends to the north and south from the core lake project, will impact three TCPs. The draft HPMP only references one TCP, *Páayahchi*, which encompasses all of Lake Elsinore, the entire shoreline, and the area extending up to two miles around the circumference of the lake. The HPMP needs to fully assess the Project's full impacts (direct, indirect, and cumulative) to all four of the TCPs. Further, as mentioned previously, depending on the final APE with regard to existing lines and structures, the Tribe believes there may be additional TCPs affected.

Tribal cultural identity is tied intrinsically to the land, and severing that tie through the destruction of resources, view sheds and landscapes harms the Tribe's ability to pass on cultural knowledge through the experience of time and place. As such, it is imperative that the impacts to the cultural values of the resources are assessed, which necessitates consultation with the Tribe.

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<sup>16</sup> Bulletin 15 parallels Bulletin 38 in explaining that “[t]raditional cultural significance is derived from the role a property plays in a community's historically rooted beliefs, customs, and practices. Properties may have significance under Criterion A if they are associated with events, or series of events, significant to the cultural traditions of a community” (NPS 1997:13). It then refers any further questions related to the traditional cultural significance of a property to Bulletin 38 (NPS 1997:13 n.5).

<sup>17</sup> Patricia L. Parker and Thomas F. King. National Register Bulletin 38, Guidelines for Evaluating and Documenting Traditional Cultural Properties 1998.

## 1. Traditional Cultural Property: *Páayaxchi* (Lake Elsinore and its surroundings)

*Páayaxchi* is highly culturally significant area, drawing its importance from the Creation account of the 'Atáaxum (Luiseño people). This area signifies much more than just the lake and the cultural sites surrounding the shoreline as recorded by archaeologists. The lake and nearby 'Iténgvu Wumówmu (Lake Elsinore Hot Springs) is tied directly to events that occurred during the creation of the World. An abbreviated version of the Creation account is included in the draft HPMP discussion about this TCP; however, when looking at the overall Project APE which extends into the Temescal Valley, another TCP, *Páayaxchi Nivé'wuna* (Alberhill region), will be impacted by a substation and power lines. The cultural importance of this TCP is directly tied to *Páayaxchi* and the Creation account. These two TCPs are connected and considered to be a Traditional Cultural Landscape (TCL).

For the 'Atáaxum, history begins with the creation of all things at 'Éxva Teméeku, known today as Temecula, which derives its etymology from this physical place where the Murrieta and Temecula Creeks converge to form the Santa Margarita River which flows to the Pacific Ocean. This is where our Origin account and ancestral songs say *Túukumit* (Father Night Sky) and *Tamáayawut* (Mother Day Earth) created the world. Their children were known as the first people or *Káamalam* and were all things, including trees, rocks, fog, mammals, and birds.

The last of the *Káamalam* born was *Wuyóot* who was innately gifted with knowledge and made the first food, *tóovish* (white clay) to feed the *Káamalam*. It is said *Wuyóot* gave the people ceremonial songs when he lived at 'Éxva Teméeku which are still sung today. *Wuyóot* was poisoned and in an attempt to be cured he went on a journey to all of the hot springs in the 'Atáaxum traditional territory. According to the creation narratives, our people took the dying *Wuyóot* to various hot springs in an attempt to be cured, which included *Churúkumuknu Sákiwuna* (Murrieta Hot Springs) and 'Iténgvu Wumówmu (Lake Elsinore Hot Springs). As he journeyed to these various springs, *Wuyóot* also named the increments of time that had passed, which became the months of the Luiseño calendar. He died after he left 'Iténgvu Wumówmu at *Páayaxchi Nivé'wuna* (Alberhill) which is why the earth there is red, representing *Wuyóot's* blood. His passing was the first death of the World, which frightened the *Káamalam*. There are several songs and stories related to this event. It is said that several of the *Káamalam* went up into the sky and became stars in an attempt to escape death. It is the Luiseño creation account that connects *Páayaxchi* to *Páayaxchi Nivé'wuna* (Alberhill/Southern Temescal Canyon region), and thus to the Pechanga/Luiseño people.

## 2. Traditional Cultural Property: *Páayaxchi Nivé'wuna* (Alberhill/Southern Temescal Canyon region)

This TCP encompasses the area of *Páayaxchi Nivé'wuna* (Alberhill) and the region northwest, which includes Lee Lake and the southern portion of Temescal Valley. The two TCPs, *Páayaxchi* and *Páayaxchi Nivé'wuna* form a Traditional Cultural Landscape (TCL) and are

connected through the Creation account, as told above. This is the place *Wuyóot* died and from here his body was taken back to *Éxva Teméeku* to be cremated. Additional sensitive cultural information will be provided during our Section 106 consultation to ensure the confidentiality and safeguarding of tribal information.

### **3. Traditional Cultural Property: *Paxáavxa***

This TCP encompasses most of the Temescal Valley and it overlaps with the northern portion of *Páayaxchi Nivé'wuna*. The southern portion of *Paxáavxa* will be impacted by this Project. While this TCP does not have a direct tie to *Wuyóot's* death, there is evidence that the *'Atáaxam* lived in this valley and Lee Lake for thousands of years. Large villages are often found near the location of events that occurred during the Creation and other important historic events. The northern portion of Lee Lake is considered to be sacred by the Tribe and has the high potential to impact a location known to contain human remains. According to the current APE maps, this region appears to be directly impacted by the Project. Additional information on this TCP will be provided during the Tribe's confidential consultation in order to protect the sensitive traditional tribal knowledge that explains the cultural and religious importance of this historic property.

### **4. Traditional Cultural Property: Las Tenajas**

This TCP is located in the hills above the town of Murrieta adjacent to the Santa Rosa Plateau, and based on the information provided to the Tribe, will be impacted by one of the proposed substations. The TCP is not directly associated with the other three TCPs but holds cultural and historical importance to the Tribe. The *'Atáaxum* have lived in the region of Las Tenajas for thousands of years and there is one large village site recorded within the APE for this area. Extensive archaeological documentation has occurred for this area; however, it does not provide the cultural information necessary to explain the importance of the area to the Tribe. This large village contains all of the elements found to support a sizable community, including: tool processing areas, ceremonial observance space, rock art associated with girls' puberty rites, and a cemetery. A trail depicting the connectivity from the ocean to inland communities through this village is depicted on historic maps. Impacts to this TCP would not only effect the physical cultural features and items, but most importantly human remains.

While spatial proximity and/or continuous historical occupation are sometimes important components for TCP considerations, the implication of the Luiseño worldview, belief system, and system of knowledge is not the linear and fixed unfolding of time, as based on Western notions of time, but the integrity of Luiseño continued cultural associations to the land. The embedded traditional knowledge throughout and inherent to the Ancestral territory permits and promotes for a viable future for Luiseños and the Pechanga people. The implications of *Wuyóot's* passing and dispersal of (residual) traditional knowledge as material components of the Luiseño Ancestral territory punctuate this. Additional information regarding this TCP will be provided during our confidential Section 106 consultation in order to protect sensitive tribal information.

## 5. Traditional Cultural Landscape (TCL)

Cultural landscapes are a type of TCP and are eligible for both the National Register and the State Register. The NPS *Cultural Resource Management Guidelines* (1998) serves as a helpful guide as it identifies four broad cultural landscape categories through which landscapes may be deemed historically and culturally significant: *Historic designed landscapes*; *Historic vernacular landscapes*; *Historic sites*; and *Ethnographic landscapes*. In our case here, an ethnographic landscape, is defined as:

... associated with contemporary groups and typically are used or valued in traditional ways. In the expansive Alaska parks, Native Alaskans hunt, fish, trap, and gather and imbue features with spiritual meanings. Jean Lafitte National Historical Park and Preserve illustrates the strong interrelationship between the dynamic natural system of the Delta region and several cultural groups through many generations. Numerous cultural centers maintain ties to distinctive, long-established groups with ethnic identities.

In NPS Preservation Brief 36,<sup>18</sup> further clarification of what comprise ethnographic landscapes, explaining that they contain “a variety of natural and cultural resources that associated people define as heritage resources. Examples are contemporary settlements, religious sacred sites and massive geological structures. Small plant communities, animals, subsistence and ceremonial grounds are often components.” Evans et al. expand on the implications of these ethnographic landscape definitions.

“Geographically-defined space that has cultural or social meaning has been variously called “cultural landscapes,” “sacred geography,” “traditional cultural properties,” “heritage areas,” “places,” and other terms. All of these terms encompass “ethnographic landscapes” – areas of geographic space that have been given special and specific cultural or social meaning by people associated with them”<sup>19</sup>

Ethnographic landscapes differ from other NPS landscape categories in a key way that parallels procedures for investigating and accounting for TCPs and echoes guidelines of Bulletin 38: *it is the people for whom ethnographic landscapes hold value and importance who are the primary authorities on them.*

Section 800.4(c)(1) of 36 CFR Part 800, thus, takes a central role in ethnographic landscape identification, NRHP eligibility evaluations, and assessment of potential adverse effects, as it

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<sup>18</sup> Birnbaum, Charles A. ASLA 1994. U.S Department of Interior NPS Cultural Resources, 36 Preservation Briefs, *Protecting Cultural Landscapes: Planning, Treatment and Management of Historic Landscapes.*

<sup>19</sup> Michael J. Evans, Alexa Roberts, and Peggy Nelson. 2001. *Ethnographic Landscapes.* CRM No. 53-56. National Park Service, Washington D.C., pg. 53.

requires acknowledgment on the part of agencies “that Indian tribes and Native Hawaiian organizations possess special expertise in assessing the eligibility of historic properties that may possess religious and cultural significance to them.” Such acknowledgment is especially imperative in the eyes of the ACHP, as:

There are very different views [between Federal agencies and Native American tribes] on *the treatment of effects* to traditional cultural landscapes. Non-native people tend to think in a linear fashion while native peoples tend to think cyclically. *This difference in world view affects not only whether or not the significance of sacred places is understood but also how such places should be treated. These places are part of living communities and are their actual history* [Emphasis ours].<sup>20</sup>

Further, in a recently released guidance paper on cultural landscapes and potential adverse effects to them, the ACHP notes that “[i]n addition to the physical, on the ground components, visual and audio aspects of place are often important to how they are defined. For example, an indigenous landscape used for ceremonial practices could be affected by the presence of structures that impede a view shed or by noise interrupting an otherwise quiet area.”<sup>21</sup>

In order to recognize what properties are eligible for listing on NRHP and the guidance of Bulletin 38 to account for how properties connect to traditional practices and serve as places of traditional religious and cultural importance (i.e., TCPs) for the Pechanga Tribe, it is necessary to conceptually grasp traditional Luiseño values, beliefs, worldviews, and circular notions of time and space and their associated implications for the tangibility and integrity of historic places and landscapes and cultural resources and how such places, landscapes, and resources are essential for Luiseño and the Pechanga people’s historical and geographical identity and ongoing traditional religious and cultural beliefs and practices.

### ***Páayaxchi and Páayaxchi Nivé’wuna***

As discussed above, these two TCPs are directly associated and embody one large Traditional Cultural Landscape (“TCL”). *Wuyóot* travels from *‘Iténgvu Wumúwmu* (Lake Elsinore Spring) at *Páayaxchi* and eventually passes away from his sickness at *Páayaxchi Nivé’wuna*. His blood stains the earth, which is still seen today. This region where he travels is considered sacred, as told in the traditional religious songs that are still sung today. It is within this context of sacred

<sup>20</sup> ACHP (Advisory Council on History Preservation) Native American Traditional Cultural Landscapes Action Plan, 23 November 2011. <https://www.achp.gov/sites/default/files/2018-06/ForumonTraditionalCulturalLandscapesAugust102011SeattleWASummaryNotes.pdf> (last accessed 5 September 2018).

<sup>21</sup> Information Paper on Cultural Landscapes: Understanding and Interpreting Indigenous Places and Landscapes, 11 October 2016. <https://www.achp.gov/sites/default/files/whitepapers/2018-06/InformationPaperonCulturalLandscapes.pdf> (last accessed 5 September 2018).

geography, cultural stories, and territorial uses and associations that this TCL be considered from a Luiseño Tribal perspective; Luiseños hold that the power of *Wuyóot's* traditional knowledge and the geographical significance of his life and death movements are embedded in and expressed through associated place names found throughout the Luiseño Ancestral territory. Chairman Mark Macarro explains that:

For us [Luiseños], the names of places left by *Wuyóot's* [traditional knowledge], imparted by ancestral stories and songs, are not by accident. Neither do they function as western concepts of cities or townships. A place name for us demonstrates our ancestors' sense-of-place and knowledge of the land and all things that inhabit that environment. For us, this is a direct correlation between the oral tradition and the sacred geography, which is the foundation of our history, tribal belief system, and the basis of our living culture.<sup>22</sup>

It is how the inextricable geographical linking of space, time, knowledge, and power through traditional knowledge and material correlations in the Luiseño belief system allows integral cultural and sacred associations with the ancestral territory to both endure and be continually renewed for contemporary Luiseño people. Because residual traditional knowledge can be found *in and as part of any location or resource* of the Ancestral territory, Tribal information regarding places, landscapes, objects, resources, sites, and ethnographic and ethnohistorical narratives must be considered within and through the context of this all-encompassing human-environment relationship. The Tribe will provide additional information regarding this TCL during our confidential Section 106 consultation.

#### **IV. THE TRIBE'S PROPOSED EDITS TO THE HPMP**

While the Tribe believes the HPMP is premature at this stage, we offer the following comments on some of the sections in the document to assist with future revisions. Based on our review of the draft HPMP, it is clear that the consultant lacks a complete understanding of Luiseño culture and history and we request to consult with both FERC and the Applicant regarding these components of the HPMP.

##### **A. "Shoshonean Wedge" Archaeological Hypothesis**

In the "2.3.2 Archaic Period (circa 8,000 to 3,000 BP)" section, found on page 19, the report mentions the "immigration of Shoshonean Speaking groups," the report goes on to discuss the La Jolla Complex and settlement practices of "Shoshonean speaking groups from the Great Basin" in the Late Prehistoric Period (3,300 BP to European Contact). Though the report does correctly state that the Luiseño are a Takic-speaking population, most published work on the Luiseño language often misidentified the Luiseño language and the Shoshonean language as one group of the Uto-Aztecan Language Family. The Luiseño languages are within the Californian

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<sup>22</sup> Pechanga Tribal Chairman Mark Macarro, personal communication 2008.

Uto-Aztecan branch while the Shoshonean languages are in the Numic subclassification of the Northern Uto-Aztecan branch, therefore making them two distinct language sub-groups within in the larger Uto-Aztecan Language Family. For further clarification, the Glottolog organization<sup>23</sup> has language classification charts.

The Luiseño recognize that the world was created in the area now known as Temecula<sup>24</sup>, and the Luiseño People have been in this area since the beginning of time. All anthropologists and historians who have presented boundaries of the Luiseño traditional territory have included the Lake Elsinore area in their descriptions<sup>25</sup>, and such territory descriptions correspond with what was communicated to the Pechanga people by our elders. While historic accounts and anthropological and linguistic theories are important in determining traditional Luiseño territory, the Pechanga Tribe asserts that the most critical sources of information used to define our traditional territories are our songs, creation accounts, and oral traditions. The Luiseño have never migrated into the area from the Great Basin Region. Linguistic theory and archaeological data now support the view that the Luiseño were in California before the “Shoshonean wedge” occurred<sup>26</sup>. Therefore, the Tribe would like to assert that the “Shoshonean wedge” theory is no longer supported by current research and all mention of the “Takic migration” be removed from the cultural report for this Project.

#### B. Tribal Territory Boundaries

The third paragraph in the “2.3.4 Protohistoric Period (Late Holocene: European Contact-Present)” section that begins with “The Luiseño subsistence.” is out of context and should be moved to the Luiseño ethnographic setting section on page 24. Based on the paragraphs discussion of the Gabrielino and the Cahuilla in the Protohistoric Period section, the following statement discussing the Luiseño would be more appropriate:

The Luiseño ancestral territory reached as far northeast as the Santa Ana River and Box Springs Mountain Range, as far east as Mount San Jacinto, as far southeast as Lake Henshaw, and to the west including the Southern Channel Islands. Presently, the Pechanga Band of Luiseño Mission Indians has been legally determined culturally affiliated with San Nicholas Island and San Clemente Island by the United States Department of the Navy. The Luiseño territory covered every ecological zone present within southern California (Bean and Shipek, 1978).

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<sup>23</sup> <http://glottolog.org/resource/languoid/id/luis1253>

<sup>24</sup> Masiel-Zamora, Myra, 2016, *Éxva Teméeku: Where We Began*. Great Oak Press, Pechanga, California.

<sup>25</sup> Bean and Shipek 1978; Drucker 1937; Heizer and Whipple 1957; Kroeber 1925; Oxendine 1983; Smith and Freers 1994; Strong 1929.

<sup>26</sup> Sutton, Mark, 2010, *A Reevaluation of Early Northern Uto-Aztecan Prehistory in Alta California*. California Archaeology, Vol. 2, Issue 1.



The report makes the statement that, “The Gabrielino were one of the wealthiest and most populous Native American groups in all of southern California due to access to valuable materials like steatite from Santa Catalina Island and a large territory with access to extensive trade networks that included the San Joaquin Valley, Colorado River, and Baja California (Bean and Smith 1978; Kroeber 1976; Smith and Goralogia 2017).” While this may be true for the Gabrielino, both the Luiseño and Juaneño were coastal peoples who had the same access to resources as the Gabrielino. This above statement is one of only a few sentences discussing the Gabrielino. This information does not seem relevant for this Draft HPMP since the project area does not extend into Gabrielino territory. Likewise, the Gabrielino are not identified as a Tribe participating in the Project comments. It seems this information was added haphazardly and does not contribute to the overall cultural evaluation of the Project APE. We suggest it be removed.

In the paragraph that follows the one discussed above, page 22, the report states “*The Cahuilla are closely related to the Luiseño and Gabrielino, with closer ties to the Gabrielino.*” Linguistically the Cahuilla and Luiseño are within the Cupan language sub-group whereas the Gabrielino (Tongva) is within the Serran language subgroup<sup>27</sup>. This shows that linguistically, and often times culturally, the Cahuilla and Luiseño are more closely related. While it is recognized the inclusion of neighboring Tribal information in the draft HPMP provides a greater understanding of the overarching cultural similarities among the groups, it must be noted again that the Project APE does not extend into Cahuilla Tribal territory and cultural information about this Tribe is not relevant to the Project APE.

Moreover in that same paragraph on page 22, the report claims that, “At the time of Spanish contact in the sixteenth Century, the Cahuilla were occupying the San Bernardino Mountains, Orocopia Mountain, the Chocolate Mountain, the Salton Sea, Borrego Springs, Palomar Mountain, Lake Matthews, and the Santa Ana River.” The San Bernardino Mountains were occupied by the Serrano Peoples, while Palomar Mountain and Lake Matthews was occupied by the Luiseño. Lastly, the Santa Ana River is a little less than 100 miles long and was occupied by the Gabrielino, Serrano, Luiseño, Juaneño, and Cahuilla. No one tribal entity occupied the entire span of the Santa Ana River.

Additionally, the Tribe noticed that the Juaneño were not included in the “2.3.4 Protohistoric Period (Late Holocene: European Contact-Present)” section but were discussed in the “2.4.1 Ethnographic Setting” section. The Luiseño do share the western border with the Juaneño and while the two Tribes are not politically affiliated, they are more closely culturally and linguistically related than any of the other Tribal groups in southern California. The Tribe recommends the archaeological and cultural sections of the HPMP be consistent.

In the “2.4.1 Ethnographic Setting” section, it notes that the Project is along “the boundary of the territories known to have been occupied by the Juaneño and Luiseño Indians.” The Tribe

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<sup>27</sup> <http://glottolog.org/resource/languoid/id/luis1253>

asserts that the entire Project is within the Luiseño ancestral territory. While the Juaneño may claim the Project impacts their traditional territory, the Pechanga Tribe's knowledge of our ancestral boundaries is based on reliable information passed down to us from our elders; published academic works in the areas of anthropology, history and ethno-history; and through recorded ethnographic and linguistic accounts. The Tribe requests that the Luiseño territory information be updated and reflected throughout the HPMP.

It should be noted that several of the Luiseño words/phonetics are spelled incorrectly in the "Lake Elsinore Creation Account" section. The Creation account should read as follows:

According to Luiseño traditional song and oral accounts, the world as we know it began at *'éxva Teméeku* (EXH-vah Teh-MEH-koo), contemporarily known as Temecula. This is where *Túukumit* (TOO-koo-mit) Father Night Sky and *Tamáayawut* (Tah-MY-yah-whut) Mother Earth created the world. Their children were known as the first people or *Káamalam* (KAH-mah-lam) and included all creatures, trees, rocks, fog, mammals, and birds. The last of the *Káamalam* born was *Wuyóot* (We-YOUT); he was gifted with the knowledge and made the first food, *tóovish* (TOH-vish, white clay) to feed the *Káamalam*. *Wuyóot* gave the people ceremonial songs that are still sung today. According to the creation narratives, when *Wuyóot* was dying the Luiseño people took him to various hot springs throughout the traditional territory, including *Churúkuniknu Jákiwuna* (shoe-ROO-koo-nuk-new SHAW-key-woo-nah), the sliding place where hot water boils, which is the Murrieta Hot Springs. As *Wuyóot* traveled to various springs, he named increments of time as they passed, which became months of the Luiseño calendar. The final spring *Wuyóot* visited was *'Iténgvu Wumówmu*, the hot spring at *Páayaxchi* (PIE-yawk-she, Lake Elsinore). *Wuyóot* died at *Páayaxchi* and his passing was the first death of the *Káamalam*. Until *Wuyóot* died the concept of death did not exist.

The Tribe can provide additional information on the Creation account during our confidential Section 106 consultation.

### C. Cultural Resources Assessment

The Tribe identified discrepancies on the cultural resources record search, specifically that the "results indicated that over 204 resources have been recorded within 1-mile radius of the Project, of those 245 are within the APE and two are directly adjacent to the APE." The whole purpose of the HPMP is to assess the historical properties and their management. The HPMP identifies 204 resources within a one-mile radius, yet references 41 additional resources within the Project APE. The Tribe questions the validity of the draft HPMP since it does not accurately define the number of cultural resources included in this assessment. The Tribe requests the draft HPMP

be revised and that the accurate number of resources within the full Project's *final* APE be reflected and addressed in the "2.6 Record Search Results" section.

In addition, there are incorrect descriptions in the cultural resources reference section. Site PP-33-000271 (CA-RIV-00271/H) is identified as being the "Prehistoric protohistoric village of Temeku." However, the PP-33-00271 is roughly 13 miles from the village of *Temeku*. Further consultation with the Tribe can provide clarification on this issue.

The report states, on page 98, that "despite the assumptions that Paiahche corresponded to RIV-2798, excavations at RIV-2798 have not produced major Late Prehistoric/Ethnohistoric components." This statement is based upon archaeological excavations conducted in the 1990s that did not include Tribal consultation. The Tribe does not agree that the Village of *Páayaxchi* – correct spelling of 'Paiahche' – is RIV-2798 based on Tribal knowledge and ethnographic information. In actuality, the Village is on the northwest shore of Lake Elsinore. Given this inaccurate information, the Tribe must be consulted to obtain the correct cultural information.

The draft HPMP "Technology" section lacks the inclusion of several archaeological sites that are located along the entire Lake Elsinore shoreline. There are number of lithics, cultural resources, sacred sites, and human remains surrounding the lake. In addition, the lithics that have been found all around the lake shore should be included in the research section of the HPMP. Several of these sites contain lithics dating to the Archaic period which do not fit the archaeological theories of lake occupation, which is one of the research design objectives. The Tribe recommends that the "Technology" research focus on those lithics already collected along the Lake Elsinore shoreline that are housed in academic institutions. The Tribe will discuss this further in our consultation.

The Tribe is concerned that section "3.2.1 Lake Elsinore and Surrounding Area" does not address the human remains that have been identified along the Lake Elsinore shoreline. It is not clear what the boundaries of the study include since the mile-radius cultural resources record search did not include the entire lake. Again, it is important that the HPMP include the entire lake shoreline within the APE since it is not only a TCP, but it is also a part of the landscape and due to the proposed Project, the shoreline is expected to fluctuate daily, which will have effects on both the tangible and intangible components of this historic property. The Tribe will discuss this concern further during our confidential consultation.

Additionally, the Pechanga Tribe requests to be included on all archaeological surveys. We also request that a policy of no collection of cultural resources to be applied during all field surveys. The Tribe also recommends that the field surveys include all of the APE, once finalized, including the entire Lake Elsinore shoreline.

The "4.2.4 Geoarchaeological Study" section identifies that the Project may impact cultural resources within the lake and shoreline and proposes future testing. This was one of the concerns

that the Tribe had regarding the Project. To our knowledge, there were no cultural resources assessments completed for the lake and its shoreline, and the draft HPMP report defers the assessment to future date. The identification and evaluation of lake and shoreline sites must be included prior to the approval of the HPMP. Otherwise, the adverse effects to such resources cannot be determined. Further, we note that FERC denied our request for a hydrology study, which the Tribe maintains is imperative for understanding the impacts that the Project will have on resources located in the lake and on the shoreline. The fluctuation of the lake will likely result in erosion, which will expose resources, causing adverse effects. While the geoarchaeological study may assist in determining the possible presence of subsurface cultural resources, it cannot help with identifying impacts to such resources. We renew our request for a hydrology study as part of the Section 106 process in order to ascertain the adverse effects to cultural resources and historic properties in and around the Lake.

#### D. Treatment of Human Remains

Finally, the NAGPRA plan discussion as identified on page 111, is misplaced. The Native American Graves Protection and Repatriation Act of 1990 is limited in its application regarding the treatment of inadvertent finds during construction activities in that the law only applies to federal or tribal land when there is such a discovery.<sup>28</sup> Thus, the HPMP fails to properly address the treatment of human remains if discovered during Project construction because there are other applicable laws/procedures besides NAGPRA and it is unclear at this point what lands may be or are federally owned. Additionally, the HPMP does not address what law applies to lands that are privately owned with respect to the discovery of human remains. In this case, California state law would apply.<sup>29</sup> Finally, the HPMP fails to address the Tribe's preferred treatment of human remains, which is complete avoidance. The Tribe does not relocate or "cap" burials. We note as well that the California Environmental Quality Act maintains a preference for avoidance of impacts to cultural resources, which includes human remains. The Tribe will discuss these practices further in our confidential Section 106 consultation.

#### E. Amendment and Revisions to HPMP

The Project as currently defined spans nearly 6,000 acres; however, with the inclusion of existing facilities, that geographic area may be significantly larger. Given the large geographic scope of the Project, it is likely that even with our best efforts collectively to identify and evaluate historic properties, additional resources will be identified due to natural processes such as fires, floods, and heavy rains, in addition to future information that the Tribe expects to gather from internal sources, as well as our engagement in development projects throughout our ancestral territory. Thus, the HPMP should provide for the ability to amend or revise the document as

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<sup>28</sup> See 25 U.S.C. §3002(d).

<sup>29</sup> See California Public Resources Code §5097.98 and California Health & Safety Code §7050.5.

additional historic properties are identified so that they can be properly managed as is the intent of the HPMP.

## V. CONCLUSION

The Tribe understands that the process is in the beginning stages, but we are very concerned that FERC has instructed the Applicant to draft an HPMP in advance of having the information required pursuant to federal law to identify and evaluate historic properties. The draft HPMP does not have an adequate APE and does not identify and evaluate the variety of historic properties the Tribe knows will be impacted by the Project's new construction, as well as being concerned that connecting to existing facilities will have additional impacts to other known historic properties. We request that FERC not accept the Applicant's Final Licensing Application, and that FERC initiate Section 106 directly with the Tribe. The Tribe has additional information regarding historic properties that will and may be impacted by this Project, which information will be provided under the protective cover of confidential consultation. The Tribe reserves the right to fully participate in the licensing process, as well as to provide further comment on the presence of historic properties, and the Project's impacts thereto.

The Pechanga Tribe looks forward to working together with FERC as our government partner in identifying and protecting the invaluable and non-renewable Luiseño cultural resources located within the Project area. Please contact our Cultural Analyst, Ebru Ozdil at 951-770-6313 or at [ezdil@pechanga-nsn.gov](mailto:ezdil@pechanga-nsn.gov) or our Deputy General Counsel, Michele Fahley at (951) 770-6179 or [mfahley@pechanga-nsn.gov](mailto:mfahley@pechanga-nsn.gov) regarding all Project related questions or concerns. Thank you.

Sincerely,



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Cc Pechanga Tribal Council  
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