

**PROGRAMMATIC AGREEMENT
BETWEEN THE CLEVELAND NATIONAL FOREST
AND
THE CALIFORNIA STATE HISTORIC PRESERVATION OFFICER
REGARDING SAN DIEGO GAS & ELECTRIC COMPANY'S
MASTER SPECIAL USE PERMIT AND
POWER LINE REPLACEMENT PROJECTS**

WHEREAS, this Programmatic Agreement (hereinafter "Agreement") is developed under the authority of Section 106 of the National Historic Preservation Act (NHPA) at 54 USC 306108 (Section 106) and its implementing regulations found at Title 36 Part 800 of the Code of Federal Regulations (36 CFR Part 800); specifically 36 CFR 800.14(b), which provides the Cleveland National Forest (hereinafter "the Forest") with the authority to negotiate this Agreement to govern the resolution of adverse effects from complex project situations or multiple undertakings and 36 CFR 800.4(b)(2) which provides for a phased approach to historic property identification and evaluation efforts through such a Programmatic Agreement; and

WHEREAS, San Diego Gas & Electric Company (hereinafter "SDG&E") owns and operates approximately 102 miles of existing electric lines, and approximately 34 miles of existing access roads on lands administered by the Forest, and would replace certain power lines within the SDG&E system totaling approximately 149 miles both on and off the Forest in San Diego County, California, as part of the Power Line Replacement Projects; and

WHEREAS, SDG&E has applied to the Forest for a Master Special Use Permit (MSUP) for areas on the Forest within which it operates and maintains existing electric transmission and distribution facilities and existing access roads (hereinafter, "the facilities") in accordance with the Federal Land Policy and Management Act (FLPMA) (P.L. 94-579); and

WHEREAS, the Forest has determined that granting a Master Special Use Permit to SDG&E to operate and maintain existing facilities on public lands administered by the Forest, for an initial period of up to 50 years with the option to renew, and the associated removal and replacement of existing electric transmission and distribution lines included in the Power Line Replacement Projects constitutes an "Undertaking," as defined at 36 CFR §800.16(y) (hereinafter, "the Undertaking"); and

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

WHEREAS, pursuant to 36 CFR 800.14(b)(1)(i) and (ii), the effects on historic properties are likely to be similar and repetitive, across multiple regions, and cannot be fully determined prior to approval of the undertaking, the Forest seeks to phase final identification and evaluation of historic properties in accordance with 36 CFR 800.4(b)(2); and

WHEREAS, The Forest is the Lead Federal Agency (delegated by BIA on May 20, 2013; delegated by BLM on January 22, 2016), responsible for ensuring that all stipulations of this Agreement are carried out, and is a signatory to this Agreement; and

WHEREAS, the California State Historic Preservation Officer (SHPO), per 36 CFR 800(c)(2) reflects the interests of the State and its citizens in the preservation of their cultural heritage. In accordance with section 101(b)(3) of the National historic Preservation Act of 1966, as amended, the SHPO advises and assists Federal agencies in carrying out their section 106 responsibilities and cooperates with such agencies, local governments and organizations and individuals to ensure that historic properties are taking into consideration at all levels of planning and development. In that role, the SHPO is a Signatory to this Agreement; and

WHEREAS, the Forest has notified the Advisory Council on Historic Preservation (hereinafter “the Council”) per 36 CFR §800.6(a)(1)(C), to address the potential for effects of the Undertaking on historic properties. The Council has elected not to participate in this Agreement at this time (per 36 CFR §800.6(b)(1), but reserves the right to participate in consultation to resolve any adverse effects to historic properties per 36 CFR §800.6(a)(1) and §800.6(b)(2) and Appendix A to 36 CFR §800, should it be necessary; and

WHEREAS, the Forest has invited the following federal government agencies to participate in development of this agreement: Bureau of Land Management (South Coast Field Office) and the Bureau of Indian Affairs (Southern California Agency), as well as California Department of Parks and Recreation (Cuyamaca Rancho State Park), a state agency; and has invited them to sign this Agreement as Concurring Parties; and

WHEREAS, the Forest has consulted with the SHPO pursuant to 36 CFR 800.14(b)(3), and is in the process of considering alternatives for the Undertaking that have the potential to adversely affect historic properties and may reach a decision regarding approval of the Undertaking before the effects on historic properties have been fully determined, the Forest chooses to continue its assessment of the Undertaking’s potential adverse effects and to resolve any such effects through the implementation of this Agreement; and

WHEREAS, pursuant to the special relationship between the federal government and Indian Tribes, and Section 101(d)(6)(B) of the NHPA, 36 CFR 800.2(c)(2)(ii), the American Indian Religious Freedom Act (AIRPA), Executive Orders including but not limited to 13007, and 13175, and Section 3(c) of the Native American Graves Protection and Repatriation Act (NAGPRA), the Forest is responsible for Government-to-Government consultation with federally recognized Indian Tribes and is the lead federal agency for all Native American consultation and coordination; and

WHEREAS, the Forest has formally notified and invited the following Indian Tribes: Barona Band of Mission Indians, Campo Band of Mission Indians, Ewiiapaayp Band of Kumeyaay Indians, Iipay Nation of Santa Ysabel, Inaja/Cosmit Reservation, Jamul Indian Village, Juaneño Band of Mission Indians Acjachemen Nation, Kwaaymii Laguna Band of Mission Indians, La Jolla Band of Luiseño Indians, La Posta Band of Mission Indians, Los Coyotes Band of Cahuilla and Cupeño Indians, Manzanita Band of Mission Indians, Mesa Grande Band of Mission Indians, Pala Band of Mission Indians, Pauma Band of Luiseño Indians, Pechanga Band of Luiseño Indians, Ramona Band of Cahuilla Indians, Rincon Band of Luiseño Indians, San Luis Rey Band of Luiseño Indians, San Pasqual Band of Mission Indians, Soboba Band of Luiseño Indians, Sycuan Band of the Kumeyaay Nation, Viejas Band of Kumeyaay Indians, to consult on the proposed Undertaking and its possible effects on historic properties throughout the project area that may be of religious and cultural significance; and to sign this Agreement as Concurring Parties. The Forest has documented its effort to consult with Tribes and a summary is provided in Attachment 4 to this Agreement; and

WHEREAS, the Forest will continue to consult with the Tribes throughout the implementation of this Agreement regarding the adverse effects to historic properties to which they attach religious and cultural significance. The Forest will carry out its responsibilities to consult with Tribes that request such consultation with the further understanding that, notwithstanding any decision by these Tribes to decline concurrence, the Forest shall continue to consult with these Tribes throughout the implementation of this Agreement; and

WHEREAS, the Forest has invited the following organizations and individuals to participate in the development of this Agreement: Kumeyaay Cultural Repatriation Committee (KCRC), San Diego Archaeological Society; and

WHEREAS, for the purposes of this Agreement, “Consulting Parties” collectively refers to the Signatories, Invited Signatories, and Concurring Parties who have signed this Agreement; and

WHEREAS, the terms used in this Agreement are consistent with the definitions found in 36 CFR 800.16; and

WHEREAS, the Forest in consultation with the SHPO, has defined the Undertaking’s area of potential effects (APE) as described in Stipulation 1.0 below; and

WHEREAS, SDG&E has specific responsibilities for avoiding potential effects to historic properties within the APE for the Master Special Use Permit and Power Line Replacement Projects, including preparing and implementing Historic Properties Management and Historic Properties Treatment Plans (HPMP and HPTP); and

WHEREAS, the Forest, until the HPMP is finalized shall ensure SDG&E’s operations and maintenance shall be implemented consistent with the *Programmatic Agreement Among the USDA Forest Service, Pacific Southwest Region (Region 5) California State Historic Preservation Officer and the Advisory Council on Historic Preservation Regarding the Processes for Compliance with Section 106 of The National Historic Preservation Act For*

Management of Historic Properties by the National Forests of the Pacific Southwest Region (R5 PA), located at: http://www.fs.usda.gov/detail/r5/recreation?cid=fsbdev3_049081; and

WHEREAS, SDG&E has participated in consultation per 36 CFR §800.2(c)(4), will carry out certain stipulations of this PA, and is an Invited Signatory to this PA; and

WHEREAS, in developing this PA, the Forest has consulted with and will continue to consult with all parties who may be interested in the granting of approval for the Master Special Use Permit or the Power Line Replacement Projects (see Attachment 4, Parties Consulted), and has invited interested parties to concur in this PA, including, but not limited to:

- federally recognized California Indian tribes (per 36 CFR §800.2(c)(3); 36 CFR §800.2(d); 36 CFR §800.14(b)(2); and 36 CFR §800.14(f),
- non-federally recognized California Indian tribes (per 36 CFR §800.2(c)(5)),
- Native American organizations (per 36 CFR §800.2(c)(5)), and
- groups interested in the history of the lands on which the project facilities are located (per 36 CFR §800.2(c)(5)); and

WHEREAS, in accordance with NHPA §110(d) the Forest intends to use this Agreement to advance the purposes of the NHPA by providing for the protection, preservation, and avoidance of effects to historic properties associated with SDG&E's performance of activities included in the Undertaking;

NOW, THEREFORE, the Forest and SHPO (Signatories) and SDG&E and CPUC (Invited Signatories) agree that the Signatories and Invited Signatories, to the extent of their respective legal authorities, shall ensure that the following stipulations of this Agreement are implemented to take into account the potential for effects of the Undertaking on historic properties within the APE of the Master Special Use Permit and Power Line Replacement Projects.

STIPULATIONS

The Forest shall ensure that the following measures are implemented.

Definitions

The definitions for various aspects of cultural resource management found at 36 CFR § 800.16 apply throughout this Agreement. Those definitions are supplemented in the following stipulations, and by the glossary of terms to be used in the HPMP.

1.0 AREA OF POTENTIAL EFFECTS

- A. The Undertaking's APE is depicted in Attachment 1 to this Agreement. The APE is influenced by the scale and nature of the Undertaking and is defined as those lands that are incorporated into the area within the boundaries of the Master Special Use Permit and Power Line Replacement Projects (specific details regarding the APE map included in the HPMP).
- B. The APE shall also include the entire area of spatially discrete historic properties (e.g., archaeological sites), if any part of such a property extends into the boundary of the Master Special Use Permit and Power Line Replacement Projects; except that management of linear cultural resources (e.g., NRHP-eligible roads and trails) shall not cause the APE to be extended beyond the boundaries of the Master Special Use Permit and Power Line Replacement Projects.
- C. The APE shall also include contributing elements of NRHP-eligible historic districts that are within the boundary of the Master Special Use Permit and Power Line Replacement Projects.
- D. The Forest may modify the APE, in consultation with the other Signatories, without amending the Agreement. If it is determined, in the future, that the undertaking may directly or indirectly affect historic properties located outside the currently defined APE, the Forest, in consultation with the other Signatories, shall modify the APE using the following process:
 - i. Any Signatory may propose that the APE established herein be modified. The Forest shall notify all Signatories of the proposal to modify the APE and consult for no more than 30 days to reach agreement on the proposed modification.
 - ii. If Signatories agree to the proposal, then the Forest will prepare a description and a map of the modification to which the Signatories agree. The Forest will keep copies of the description and the map on file for its administrative record and report the modification of the APE as part of the Annual Report (Stipulation 5).
 - iii. If the modification to the APE adds a new geographic area which falls within an area of expected high sensitivity for cultural resources, the Forest shall identify historic properties in the new APE, and consult to

resolve adverse effects to such properties in accordance with the process outlined in Stipulation 4 of this Agreement.

- iv. If the Forest and other Signatories cannot agree to a proposal for the modification of the APE through consultation, then they will resolve the dispute in accordance with Stipulation 11.

2.0 TRIBAL CONSULTATION

- A. The Forest is the lead federal agency responsible for consultation and coordination with Indian Tribes under this Agreement. The Forest was designated as the lead federal agency by the Bureau of Land Management (South Coast Field Office) and the Bureau of Indian Affairs (Southern California Agency), who are serving as Concurring Parties to and have participated in the development of this agreement.
- B. The appropriate federal agencies shall coordinate and consult on a Government-to-Government basis with designated tribal representatives in the identification, evaluation, and treatment of potential historic properties to which the Tribes may attach religious or cultural significance [36 CFR 800.16(1)].
 - i. Specific resources that meet these definitions will be identified through on-going consultation.
- C. Agency and Tribal Points of Contact
 - i. The Forest points of contact (POC) for official correspondence shall be the Forest Supervisor and/or the Heritage Program Manager for the Cleveland National Forest.
 - ii. On behalf of each Tribe, the Tribal chairperson shall be the official point of contact. Representative(s) in addition to the Tribal chairperson should be designated in writing by the Tribal government to represent the Tribe for purposes of Section 106 consultation (36 CFR 800.2(c)(2)).
- D. The Forest shall continue Government-to-Government consultation with Tribes throughout the implementation of this Agreement, notwithstanding any decision by Tribes to decline concurrence to this Agreement.
- E. The Forest will invite and /or coordinate further Tribal participation in the Forest's Section 106 identification, evaluation, and treatment efforts.
- F. Any archaeological materials that are collected during any work undertaken pursuant to this Agreement or the Undertaking shall be curated in accordance with 36 CFR 79.

3.0 PARTICIPATION OF CONSULTING PARTIES AND THE PUBLIC

- A. Throughout the duration of this Agreement, the Forest will seek, discuss, and consider the views of the Consulting Parties, and will seek input from them [36 CFR 800.16(f)] when making decisions under the stipulations of this Agreement.
- i. The Consulting Parties are responsible for providing updated contact information to the Forest.
 - ii. Unless otherwise agreed, Consulting Parties shall have 30 calendar days to respond to a review of documents and deliverables associated with this Agreement, from receipt of formal request for review. The Forest shall make reasonable attempts to contact Consulting Parties to confirm the participation of the Consulting Party in review. Reasonable attempts include contacting the Tribal Chairperson, designated staff or representatives of the Consulting Parties by Certified Letter, email and/or follow-up phone call. Where the period for review or comment has passed after reasonable attempts, the Forest shall assume that the Consulting Party has elected not to comment and will proceed with the proposed course of action.
 - iii. The Forest will continue to use the NEPA process to notify the Public regarding the activities of this Agreement. The Forest shall clearly state to the public that the NEPA process includes compliance with Section 106. The Forest shall ensure that any comments received from members of the public are taken under consideration and incorporated where appropriate.

4.0 IDENTIFICATION, EVALUATION AND TREATMENT OF HISTORIC PROPERTIES

- A. On behalf of Forest, SDG&E is developing a Historic Properties Management Plan (HPMP) for the Undertaking detailing the manner in which they will:
- i. inventory, identify, avoid, mitigate, monitor, and report any effects of the Undertaking on known or inadvertently discovered historic properties within the APE of the Undertaking;
 - ii. consult and coordinate with government agencies, tribes, and the public, as appropriate;
 - iii. provide for curation of all archaeological and historical items associated with the implementation of the Historic Properties Management or Treatment Plans for the Undertaking;
 - iv. support the Forest Section 110 program for interpretation of historic properties to the public and other public involvement in historic preservation; and
 - v. define the roles and responsibilities of the land management agencies

and SDG&E in the long-term management of historic properties within the Undertaking APE.

- B.** The HPMP addresses, in appropriate detail, the elements defined in the HPMP outlined in Attachment 2. The HPMP shall be formatted and distributed in a manner such that sensitive information (e.g., archaeological site or traditional cultural property locations) regarding historic properties is kept confidential.
- C.** The Forest shall distribute the Draft HPMP to the Consulting Parties and Tribes for review and comment. The Forest will pursuant to Stipulation 3.0 notify the public of the availability of the Draft HPMP. The Forest will accept comments from concurring parties on the Draft HPMP made within 30 days following its distribution and notification of availability.
- D.** The Forest shall take into account comments received from the Consulting Parties in the preparation of a Draft Final HPMP. The Forest will direct SDG&E to make appropriate changes in the Draft HPMP based on reviewer comments. The resulting document will be the Draft Final HPMP. The Forest shall provide the Draft Final HPMP to the SHPO, Tribes, and other concurring parties within 10 calendar days of receipt from SDG&E. The Forest will accept comments on the Draft Final HPMP made within 30 days following its distribution and notification of availability. The Forest will document and report the written comments received and their proposed responses. Should any of the Signatories to this Agreement object to the content of the Draft or Final HPMP, the Forest will proceed to resolve the objection consistent with Stipulation 8.0, Resolving Objections, below
- E.** The Forest and SHPO shall indicate their acceptance of the Final HPMP in signed letters of concurrence filed in the project record.
- F.** The Forest shall notify the public and Tribes that the Final HPMP has been completed. This notification will be made to the parties originally consulted regarding the Agreement. The Forest shall, within 30 calendar days of acceptance of the Final HPMP, provide copies of the Final HPMP to the Signatories and any concurring parties to this Agreement. The Forest shall provide copies, or provide access to copies, of the HPMP to members of the public who request copies, while following the measures detailed at Section 12.0: Confidentiality of Records and Information.
- G.** The HPMP shall be implemented as follows. Upon written concurrence by the Forest and the SHPO, the HPMP shall be implemented under the authority of this Agreement as the Forest's HPMP for compliance with NHPA §106 and fulfillment of its 36 CFR Part 800 compliance requirements for the Undertaking.
- H.** Any changes made to the HPMP after its implementation will be made as follows.

Should, the Forest, or SHPO determine that changes to the HPMP are warranted, the parties shall consult to make the agreed upon changes. The Forest shall then give formal notice to the SHPO. The SHPO shall have 30 calendar days to respond in writing to the Forest's proposed changes to the HPMP. If the Forest and SHPO concur that the proposed changes do not constitute a significant revision to the HPMP, then the Forest shall proceed to revise and implement the appropriate elements of the HPMP. If the Forest or the SHPO believes the proposed changes to the HPMP constitute a significant revision to the historic preservation program, the signatories shall proceed to consult according to Stipulation 3.0 of this Agreement. Should the Forest or the SHPO object regarding proposed changes to the HPMP, the objecting party shall proceed according to Stipulation 11.0 of this Agreement. Amendment of the HPMP shall not require amendment of the PA.

- I. SDG&E Operations and Maintenance activities are ongoing. Until the Final HPMP is executed and implemented, the Forest will continue to comply with the stipulations of the R5 PA to fulfill its NHPA Section 106 compliance responsibilities for SDG&E Operations and Maintenance activities on existing facilities on Forest lands, as codified in 36 CFR §800.4–800.6. Construction activities proposed under the Power Line Replacement Projects are defined in the HPMP and are not covered by the R5 PA; such activities will not be authorized by the Forest until the HPMP is finalized.

5.0 ANNUAL REPORTING AND ON-GOING CONSULTATION MEETINGS

- A. The Forest will report annually to the Consulting Parties, a written summary of activities carried out under this Agreement during the previous fiscal year. The report should be provided by December 31 of each year.
 - i. Annual reports shall be programmatic summaries of data and significant findings. At a minimum the report will include:
 - a. Total acreage and road mileage inventoried.
 - b. Total number of condition assessments.
 - c. Descriptions, as appropriate, of historic properties recommended eligible for the NRHP.
 - d. Summaries of consultation efforts.
 - e. Summaries of inadvertent effects or unanticipated discoveries with appropriate considerations for confidentiality/sensitivity.
- B. The Forest acknowledges the complexity and scale of the Undertaking and will continue to facilitate meaningful consultation throughout the life of this Agreement. The Forest will coordinate and facilitate Consulting Party meetings annually for the duration of this Agreement. The meeting purpose is to discuss the annual report, update the Consulting Parties on the progress of the Agreement implementation, and to receive feedback and information from the Consulting Parties regarding significant issues or resources.

- i. The Forest POC identified in Stipulation 2.0(C)(i) is responsible for scheduling meetings. The Forest will provide telephone and web-based access to any in-person meetings when available.
- ii. The Forest will schedule meetings generally on the anniversary of the execution of this Agreement.

6.0 FINAL DOCUMENTATION

- A. In the final year of this Agreement, the Forest will produce a synthesis report of all findings and activities associated with this Undertaking.

7.0 STANDARDS

- A. **PROFESSIONAL QUALIFICATIONS.** The Forest shall ensure that all actions carried out pursuant to this Agreement are completed by or under the direct supervision of a person or persons meeting the Secretary of Interior's Professional Qualifications Standards (48 FR 44738-44739, September 29, 1983) in the appropriate discipline. However, nothing in this Stipulation may be interpreted to preclude any party qualified under the terms of this paragraph from using the services of persons who do not meet the above standards so long as the work of such persons is directly supervised by someone who meets the Standards.
- B. **DOCUMENTATION.** The Forest shall ensure that all final cultural resources reports and records resulting from actions pursuant to this Agreement meet the documentation requirements under 36 CFR 800.11 and the Secretary of Interior's Standards and Guidelines for Archeology and Historic Preservation, applicable ACHP guidance, and the current California Department Parks and Recreation (DPR 523) Forms. All associated digital Geographic Information Systems (GIS) data shall be collected, stored, and managed to current Forest standards. All DPR 523 records and all reports will be filed with the appropriate California Historic Resource Information Center. In areas of potential overlap with lands managed by other federal and state agencies, the Forest will file GIS data and site forms with the appropriate agency in addition to the above mentioned Information Centers.
- C. **CURATION.** The Forest will avoid historic properties to the extent possible during the implementation of this Agreement. Any archaeological materials that are collected during any work undertaken pursuant to this Agreement or the Undertaking shall be curated in accordance with federal law and regulations, including 36 CFR 79, in repositories that meet federal standards and have no policies or conditions that violate federal laws or regulations.

8.0 TREATMENT OF HUMAN REMAINS

- A.** In the event of an inadvertent discovery of human remains on federal lands, the Forest Service (as lead Federal Agency) and the appropriate Federal Agency (if on non-Forest federal lands) must be notified immediately by telephone and with written confirmation [43 CFR 10.4(a)]. Notification will be made to the Forest Supervisor (in the case of Forest Service), or Field Manager (in the case of BLM), or equivalent. No additional disturbance may take place and all work in the area must cease immediately within a 100-foot radius of the discovery. The 100-foot radius must be secured and all personnel and equipment will be excluded from this area until a determination is made of the next action. All human remains, burial sites, and funerary objects will be treated with dignity and respect.
- B.** The Federal Agency shall notify the County Coroner's Office of the county where the remains are located, requesting, if possible, the remains be examined in place. The Coroner has two working days to examine the remains after notification. The Coroner must determine if the remains are related to a crime scene or a recent burial. For human remains determined by the Coroner to be related to a crime scene or recent burial, the Agency will follow the protocols determined by the appropriate law enforcement agents for resolving such findings.
- C.** For inadvertent discoveries of human remains determined by the Coroner to not be related to a recent burial or crime scene, the Agency will be immediately notified of this determination. The Agency will be responsible for determining if the human remains are Native American. Inadvertent discoveries of human remains on federal lands determined to be Native American and any associated funerary objects shall be treated in accordance with the provisions of the Native American Graves Protection and Repatriation Act of 1990 (NAGPRA) and its implementing regulations at 43 CFR Part 10.

 - i.** Pursuant to 43 CFR 10.4(d), as soon as possible, but no later than 3 working days after receipt of written confirmation of notification of the inadvertent discovery, the Agency Official will:

 - a.** Certify receipt of the notification [43 CFR 10.4(d)(1)(i)];
 - b.** Take immediate steps to further secure and protect the human remains and associated objects [43 CFR 10.4(d)(1)(ii)];
 - c.** Notify any lineal descendants or culturally affiliated Tribes by telephone with written confirmation [43 CFR 10.4(d)(1)(iii)];
 - d.** Initiate consultation on the inadvertent discovery pursuant to 43 CFR 10.5 [43 CFR 10.4(d)(1)(iv)];

- e. If any part of the discovery must be excavated or removed, follow the requirements and procedures outlined in 43 CFR 10.3(b) [43 CFR 10.4(d)(1)(v)]; and
 - f. Ensure that disposition of all inadvertently discovered human remains, funerary objects, sacred objects, or objects of cultural patrimony is carried out following 43 CFR 10.5 [43 CFR 10.4(d)(1)(vi)].
- D.** Once it has been determined the remains are not recent and subject to the authority of the County Coroner and are Native American, and if the identified human remains could be disturbed by the proposed work, the SDG&E, in consultation with the Forest Service (as lead Federal Agency) will re-design the proposed activity to the extent practicable and permitted by law to avoid any further disturbance.
- E.** Pursuant to 43 CFR 10.4(d)(2), the activity that resulted in the inadvertent discovery may resume 30 days after the Forest certifies receipt of the written confirmation of notification of inadvertent discovery, if the resumption of the activity is otherwise lawful. The activity may also resume, if otherwise lawful, at any time that a written, binding agreement is executed between the Federal agency and the affiliated Indian tribe(s) that adopt a plan for the treatment of the human remains, funerary objects, sacred objects, or objects of cultural patrimony following 43 CFR 10.3 (b)(1).
- F.** If human remains are discovered on non-federal lands, the California Public Utilities Commission (CPUC) shall ensure that the human remains will be treated in accordance with California Health and Safety Code Section 7050.5 and any other applicable state law. No construction activities will be allowed within 100 feet of the discovery until a Notice to Proceed is provided by the CPUC.

9.0 RESOLVING OBJECTIONS

- A.** Should any Consulting Party to this Agreement object to any action proposed or carried out pursuant to this PA, the Forest shall notify all signatories and consult with the objecting Consulting Party for a period of time not to exceed 30 calendar days to resolve the objection. If the Forest determines that the objection cannot be resolved, the Forest shall forward all documentation relevant to the dispute to the Council. Within 30 calendar days after receipt of all pertinent documentation, the Council shall either:
- i. Provide the Forest with recommendations, which the Forest shall take into account in reaching a final decision regarding the objection; or
 - ii. Notify the Forest that the Council will comment in accordance with the requirements of Section 106 of the NHPA, and proceed to comment. Any Council comment provided in response shall be taken into account by the Forest, pursuant to the requirements of Section 106 of the NHPA.

- B. Should the Council not exercise one of the above options within 30 calendar days after receipt of all pertinent documentation, the Forest may assume the Council's concurrence in its proposed response to the objection.
- C. The Forest shall take into account any Council recommendation or comment provided in accordance with this stipulation with reference only to the subject of the objection; the Forest's responsibility to carry out all actions under this Agreement that are not the subjects of the objection shall remain unchanged.

10.0 AMENDMENT

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

11.0 TERMINATION

- A. Only Signatories and Invited Signatories may terminate this Agreement. If this Agreement is not amended as provided for in Stipulation 12.0, or if the SHPO or Forest proposes termination of this Agreement for other reasons, the Signatory proposing termination shall notify the other Signatories and concurring parties in writing, explain the reasons for proposing termination, and consult for no more than 30 calendar days to seek alternatives to termination.
- B. Should such consultation fail, the signatory proposing termination may terminate this Agreement by promptly notifying the other Signatories in writing.
- C. Prior to work continuing on the Undertaking, the Forest must either execute a Memorandum of Agreement pursuant to 36 CFR 800.6 or Programmatic Agreement pursuant to 36 CFR 800.14(b), or request, take into account, and respond to the comments of the ACHP pursuant to 36 CFR 800.7. The Forest shall notify the Consulting Parties to this Agreement as to the course of action it will pursue.
- D. Beginning with the date of termination, the Forest shall ensure that unless and until a new Agreement is executed for the Undertaking, any Undertaking activity initiated by SDG&E that could have an effect on historic properties is reviewed, in accordance with 36 CFR 800.

12.0 CONFIDENTIALITY OF RECORDS AND INFORMATION

- A. The Signatories shall maintain the confidentiality of records and information pertaining to the location and nature of cultural resources, including historic properties about which

there are culturally sensitive issues, consistent with NHPA 304 and ARPA Section 9. The Forest may determine that certain records and files are appropriate to distribute to parties outside the agency, providing that such parties have personnel that meet the professional qualifications standards identified in *The Secretary of the Interior Standards and Guidelines for Archeology and Historic Preservation* (36 CFR Part 61), i.e., “qualified personnel” that can ensure the confidentiality of such records and files, particularly SDG&E and tribes who have participated in this Agreement.

13.0 DURATION OF THIS AGREEMENT

- A. The duration of this Agreement is a 5 year period beginning on the date it has been executed by the Signatories. The Signatories and Concurring Parties may consult to renew the terms of this Agreement. Renewal may include continuation of the Agreement as originally executed, as amended, or the Agreement may be terminated per the process described in Stipulation 11.0 of this Agreement.

14.0 EFFECTIVE DATE

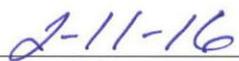
- A. This Agreement will take effect on the date that it has been fully executed by the Signatories. Execution and implementation of the terms of this Agreement by the Forest and the SHPO shall evidence that the Forest has taken into account the effects of the Undertaking on historic properties for the Undertaking and that the Forest has afforded the ACHP a reasonable opportunity to comment on the Undertaking and its effects on historic properties. The Signatories and Invited Signatories to this Agreement represent that they have the authority to sign for and bind the entities on behalf of whom they sign.

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INVITED SIGNATORIES:**

SAN DIEGO GAS & ELECTRIC COMPANY (SDG&E)



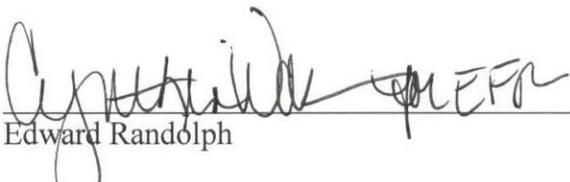
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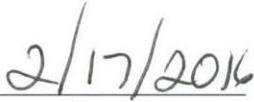
Date

Title: Chief Administrative Officer & Chief Environmental Officer

CALIFORNIA PUBLIC UTILITIES COMMISSION



Edward Randolph



Date

Title: Director, Energy Division

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CONCURRING PARTIES**

**CALIFORNIA DEPARTMENT OF PARKS AND RECREATION, CUYAMACA
RANCHO STATE PARK**

Kevin Best

Date

Title: Montane Sector Superintendent

**PROGRAMMATIC AGREEMENT
BETWEEN THE CLEVELAND NATIONAL FOREST
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THE CALIFORNIA STATE HISTORIC PRESERVATION OFFICER
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CONCURRING PARTIES**

BARONA BAND OF MISSION INDIANS

Clifford LaChappa, Chairman

Date

**PROGRAMMATIC AGREEMENT
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CONCURRING PARTIES**

CAMPO BAND OF MISSION INDIANS

Ralph Goff, Chairman

Date

**PROGRAMMATIC AGREEMENT
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CONCURRING PARTIES

EWIIAAPAAYP BAND OF KUMEYAAY INDIANS

Robert Pinto Sr

Robert Pinto, Sr., Chairman

3/4/16

Date

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CONCURRING PARTIES**

IIPAY NATION OF SANTA YSABEL

Virgil Perez, Chairman

Date

**PROGRAMMATIC AGREEMENT
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CONCURRING PARTIES

INAJA/COSMIT RESERVATION

Rebecca Osuna 3-1-16
Rebecca Osuna, Chairwoman Date

**PROGRAMMATIC AGREEMENT
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CONCURRING PARTIES**

JAMUL INDIAN VILLAGE

Kenneth Meza, Chairman

Date

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CONCURRING PARTIES**

JUANEÑO BAND OF MISSION INDIANS, ACJACHEMEN NATION

Teresa Romero, Chairwoman

Date

**PROGRAMMATIC AGREEMENT
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KWAAYMII LAGUNA BAND OF MISSION INDIANS

Carmen Lucas

Date

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CONCURRING PARTIES**

LA JOLLA BAND OF LUISEÑO INDIANS

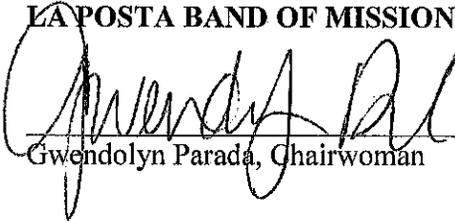
Thomas Rodriguez, Chairman

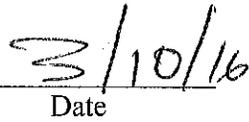
Date

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CONCURRING PARTIES

LA POSTA BAND OF MISSION INDIANS


Gwendolyn Parada, Chairwoman


Date

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CONCURRING PARTIES**

LOS COYOTES BAND OF CAHUILLA AND CUPEÑO INDIANS

Francine Kupsch, Chairwoman

Date

**PROGRAMMATIC AGREEMENT
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CONCURRING PARTIES**

MANZANITA BAND OF MISSION INDIANS

Leroy J. Elliott, Chairman

Date

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CONCURRING PARTIES**

MESA GRANDE BAND OF MISSION INDIANS

Mark Romero, Chairman

Date

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PALA BAND OF MISSION INDIANS

Shasta Gaughen, Tribal Historic Preservation Officer Date

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CONCURRING PARTIES

PAUMA BAND OF LUISEÑO INDIANS



Temet Aguilar, Chairman

3/15/16

Date

**PROGRAMMATIC AGREEMENT
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PECHANGA BAND OF LUISEÑO INDIANS

Mark Macarro, Chairman

Date

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RAMONA BAND OF CAHUILLA INDIANS

Manuel Hamilton, Chairman

Date

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CONCURRING PARTIES**

RINCON BAND OF LUISEÑO INDIANS

Bo Mazzetti, Chairman

Date

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CONCURRING PARTIES**

SAN LUIS REY BAND OF LUISEÑO INDIANS

Mel Vernon, Chairman

Date

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SAN PASCUAL BAND OF MISSION INDIANS

Allen E. Lawson, Jr., Chairman

Date

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CONCURRING PARTIES**

SOBOBA BAND OF LUISEÑO INDIANS

Scott Cozart, Chairman

Date

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CONCURRING PARTIES**

SYCUAN BAND OF THE KUMEYAAAY NATION

Cody Martinez, Chairman

Date

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CONCURRING PARTIES**

VIEJAS BAND OF KUMEYAAAY INDIANS

Robert J. Welch, Jr., Chairman

Date