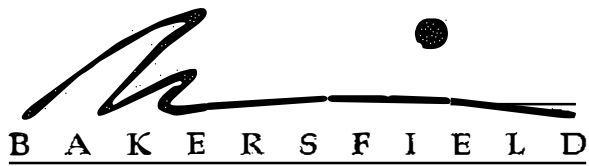


APPENDIX G: SECTION 4(F) CONCURRENCE LETTERS

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Fax

To: Mark McLoughlin From: Dianne Hoover
email: mark.mcloughlin@hsr.ca.gov Pages: 5
Fax: mark.mcloughlin@hsr.ca.gov
Phone: 916-324-1541 Date: 9/17/18
Re: HSR - Bakersfield - Section 4(F) cc: 1

Urgent For Review Please Comment Please Reply Please Recycle

• Comments:



September 4, 2018

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Dr. Joaquín Arambula

Honorable Jim Beall

Dianne Hoover
Director of Recreation and Parks
City of Bakersfield
City Hall North, 1600 Truxtun Avenue, 3rd Floor
Bakersfield, California 93309

Subject: Request for a *De Minimis* Concurrence on a Section 4(f) Resource

To Whom It May Concern,

The California High-Speed Rail Authority (Authority) and the Federal Railroad Administration (FRA) are currently preparing a supplemental environmental impact statement/environmental impact report (EIS/EIR) for the Fresno to Bakersfield Locally Generated Alternative (F-B LGA) portion of the statewide High-Speed Rail program in accordance with the National Environmental Policy Act (NEPA) and the California Environmental Quality Act (CEQA). This Supplemental EIS/EIR involves engineering, environmental analysis, public and agency involvement, and ensuring compliance with state and federal environmental laws and regulations. One federal law, Section 4(f), is the subject of this concurrence request.

Section 4(f) of the United States Department of Transportation (USDOT) Act of 1966, as amended, and codified in 49 United States Code (USC) §303, declares that “it is the policy of the United States Government that special effort should be made to preserve the natural beauty of the countryside and public park and recreation lands, wildlife and waterfowl refuges and historic sites.”

In general, Section 4(f) specifies that the USDOT agencies may only approve a project that “uses” the resources mentioned above, if (1) there is no prudent and feasible alternative that completely avoids Section 4(f) resources and (2) the project includes all possible planning to minimize harm to those resources. In lieu of making these findings, the USDOT also can approve the use of a Section 4(f) resource if the USDOT determines that the project will have a “de minimis” impact on that resource and the official with jurisdiction over the resource concurs in that determination. For historic properties, the official with jurisdiction generally is the State Historic Preservation Officer (SHPO). For parks, recreation areas, and refuges, the official with jurisdiction is the agency (or agencies) that owns or administers the property.

The FRA has determined that the Kern River Parkway and Weill Park are Section 4(f) resources, are within the resource study area of the F-B LGA, and that your agency is the official with jurisdiction with respect to these resources. The purpose of this letter is request your agency’s concurrence in a finding of de minimis impact that FRA has made with respect to the Kern River Parkway and Weill Park. The basis for this finding is set forth below.

Edmund G. BROWN JR.
GOVERNOR



Kern River Parkway

The F-B LGA section of the HSR project would cross above the Kern River Parkway on a viaduct (guideway) at a height of approximately 40 feet (from surface elevation to the bottom of the guideway) in an area of the Kern River Parkway that contains a pathway available for use by bicyclists and pedestrians and features that serve floodway purposes.

The HSR would be on an elevated structure spanning a portion of the parkway that is undeveloped except for the bicycle and pedestrian pathway. Footings for the columns that would support the guideway would be constructed within the Kern River Parkway, permanently impacting 0.66 acre, and the completed guideway would span the bicycle and pedestrian pathway. Except for the footings, no portion of the Kern River Parkway would be purchased by the California High Speed Rail Authority (Authority) because the guideway would completely span the property and the park underneath the elevated guideway would remain available for park use.

Temporary closure of the parkway would be required during construction. The bicycle/pedestrian pathway would not be closed during the entire construction period, and no physical impacts on the bicycle pathway itself would occur. No physical changes would occur to the resource; following construction of this segment of the viaduct, the pathway would be reopened for use. The Authority and the FRA would coordinate with the City of Bakersfield prior to project construction to develop an alternate route for bicycle pathway users during the temporary closure. Areas in proximity to construction would be closed temporarily. The bicycle pathway would be restored to the pre-project construction condition, and following construction of this segment of the viaduct, these facilities would be reopened for use. Permanent impacts to the Kern River Parkway would therefore be de minimis.

Noise impacts due to operation of the HSR system over the Kern River Parkway would result in a moderate increase in noise levels (from 56 A-weighted decibels [dBA] equivalent continuous sound level [Leq] to 63 dBA Leq). While evident, this is not a considerable enough increase to substantially impair the attributes that qualify the facility for protection under Section 4(f).

While these visual and noise impacts would be noticeable to parkway users, the preliminary determination is that the impacts would not substantially impair the attributes and features that qualify the parkway for protection under Section 4(f) and, therefore, would not constitute a Section 4(f) constructive use.

Weill Park

The F-B LGA would cross above Weill Park on an elevated structure at a height of approximately 58 feet (from surface elevation to the bottom of the guideway) in an area that contains a grass field. Footings for the columns that would support the guideway would be constructed within Weill Park and would permanently impact 0.099 acre. Except for the footings, no portion of Weill Park would be purchased by the Authority because the guideway would nearly span the property and the park underneath the elevated guideway would remain available for park use.

Construction would require temporary closure of park facilities for safety purposes when construction occurs over the park. Other than the placement of the footings described above, no physical changes would occur to the resource; following construction of this segment of the viaduct, the park under the viaduct would be reopened for use. The Authority and the FRA would coordinate with the city of Bakersfield prior to project construction to develop an alternate route for pathway users during the temporary closure. Areas in proximity to construction would be closed temporarily. The park underneath the viaduct would be restored to pre-construction condition.

Although introduction of the HSR viaduct above Weill Park would introduce a new visual transportation element that did not previously exist, the park is currently in an urban setting with various existing transportation features directly adjacent. The park is adjacent to industrial uses, and the existing BNSF Railway railroad right-of-way is in the vicinity of the park. Additionally, measures to minimize harm (similar to those described above for the Kern River Parkway) would be employed to reduce these impacts. These measures would ensure coordination regarding guideway and column design, alternative routes for bicycles and pedestrians, and opportunities to reduce impacts such as minimizing the vertical clearance of the guideway. Additionally, construction noise would be monitored to ensure that impacts to park users are minimized. A full list of measures is located in Table 4-4 of the Draft Supplemental EIR/EIS. After construction is complete, Weill Park would be revegetated as necessary and restored to preproject construction condition.

Noise impacts due to operation of the HSR system would result in a moderate increase in noise levels (from 62 dBA Leq to 65 dBA Leq). The projected vibration level from the HSR is 74.7 VdB and this vibration level would not exceed the threshold of 75 VdB for Category 3 land uses (Institutional land uses with primary daytime use including parks). While evident, these are not considerable enough increases to substantially impair the attributes that qualify the facility for protection under Section 4(f).

While these visual and noise impacts would be noticeable to parkway users, the determination is that the impacts would not substantially impair the attributes and features that qualify the parkway for protection under Section 4(f) and, therefore, would not constitute a Section 4(f) constructive use.

The FRA's intent to make a de minimis impact determination for the Kern River Parkway and Weill Park was discussed at several coordination meetings between the Authority, FRA, and city of Bakersfield beginning in November 2015. These meetings were established for coordination purposes on the project and have led to the incorporation of specific avoidance, minimization, and mitigation measures (as described above) to reduce the impact to the parks owned or administered by the city of Bakersfield within the proposed project corridor. In addition, the public has been given an opportunity to comment on this determination during the 60-day comment period of the Draft Supplemental EIS/EIR.

Based on information set forth above, the FRA has determined that the project would not adversely affect or otherwise restrict the public's use of the parks nor will it adversely affect the features, attributes, or activities that make the parks eligible for Section 4(f) protection as parks. The FRA seeks your concurrence in this determination. A concurrence clause is provided at the end of this letter for this purpose. If you do not concur in this Section 4(f) de minimis impact determination, the FRA will need to conduct a full Section 4(f) evaluation for one or both of these properties.

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

Please return a scanned copy of this letter by email to mark.mcloughlin@hsr.ca.gov.

If you have any questions, please contact Andrew Bayne, Project Section Environmental Manager, at andrew.bayne@hsr.ca.gov or 916-384-0580.



CALIFORNIA High-Speed Rail Authority

Sincerely,

Mark A. McLoughlin
Director of Environmental Services, California High-Speed Rail Authority

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**Honorable
Dr. Joaquin Arambula**

Honorable Jim Beall

CONCURRENCE:

Based on the information set forth in this letter and on the documents and coordination referenced herein, the city of Bakersfield concurs with FRA's determination that the Fresno to Bakersfield Locally Generated Alternative will not adversely affect the activities, features, or attributes that make the Kern River Parkway and Weill Park eligible for Section 4(f) protection. Therefore, the city of Bakersfield concurs in the FRA's determination that the Fresno to Bakersfield Locally Generated Alternative will have a de minimis impact on the Kern River Parkway and Weill Park in accordance Section 4(f) of the USDOT Act.

Dianne Hoover
Director of Recreation and Parks
City of Bakersfield

9/12/18
Date

EDMUND G. BROWN JR.
GOVERNOR





File Code: 2350
Date: February 16, 2021

Mr. Brett Rushing
Supervising Environmental Planner
California High-Speed Rail Authority
770 L Street, Suite 620
Sacramento, CA 95814

Dear Mr. Rushing:

Please find enclosed the signed letter of concurrence on the *de minimis* finding that the High Speed Rail Authority has made with respect to the Pacific Crest Trail for the Bakersfield to Palmdale Project Section.

If you have any questions please contact Togan Capozza, Acting Pacific Crest Trail Administrator at togan.capozza@usda.gov or (707) 656-6119.

Sincerely,

JAMES BACON
Director of Public Services

Enclosure: CHSRA BP 4f Concurrence PCT

cc: Brett.Rushing@hsr.ca.gov, togan.capozza@usda.gov, csymons@blm.gov



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Ms. Beth Boyst
United States Forest Service (USFS)
1323 Club Drive
Vallejo, CA 94592

Mr. Carl Symons
United States Department of the Interior, Bureau of Land Management (BLM)
Ridgecrest Field Office
300 S. Richmond Road
Ridgecrest, CA 93555

Subject: Request for Concurrence with Section 4(f) Determination

Dear Ms. Boyst and Mr. Symons,

In February 2020, the California High-Speed Rail Authority (Authority) released a Draft Environmental Impact Report/Environmental Impact Statement (EIR/EIS) for the Bakersfield to Palmdale Project Section of the California High-Speed Rail Program in accordance with the requirements set forth by the National Environmental Policy Act (NEPA) and the California Environmental Quality Act (CEQA). The Draft EIR/EIS included engineering and environmental analysis and a summary of public, stakeholder, and agency involvement. The Draft EIR/EIS also detailed preliminary determinations for Section 4(f) resources, including the Pacific Crest Trail (PCT). The Authority has since prepared an Administrative Final EIR/EIS, which includes responses to comments received on the Draft EIR/EIS and updated Section 4(f) evaluations. The Administrative Final EIR/EIS was shared with BLM and USFS on November 10, 2020.

Section 4(f) of the United States Department of Transportation (USDOT) Act of 1966, as amended, and codified in 49 United States Code (USC) §303, declares that “it is the policy of the United States Government that special effort should be made to preserve the natural beauty of the countryside and public park and recreation lands, wildlife and waterfowl refuges and historic sites.” The Authority is responsible for Section 4(f) compliance for the California High-Speed Rail Program as the lead federal agency pursuant to 23 U.S.C. 327 and the terms of the National Environmental Policy Act (NEPA) Assignment Memorandum of Agreement (Federal Railroad Administration [FRA] and State of California 2019) assigning to the Authority responsibility for compliance with NEPA and other federal environmental laws, including Section 4(f) (49 U.S.C. 303) and related U.S. Department of Transportation orders and guidance. In general, Section 4(f) specifies that the USDOT agencies may only approve a project that “uses”

the resources mentioned above, if (1) there is no prudent and feasible alternative that completely avoids Section 4(f) resources and (2) the project includes all possible planning to minimize harm to those resources. In lieu of making these findings, the USDOT also can approve the use of a Section 4(f) resource if the USDOT determines that the project would have a “*de minimis*” impact on that resource and the official with jurisdiction over the resource concurs in that determination. For parks, recreation areas, and refuges, the official with jurisdiction is the agency (or agencies) that owns or administers the property.

The purpose of this letter is to request concurrence on the *de minimis* finding that the Authority has made with respect to PCT. This basis for this finding was originally detailed in the Draft EIR/EIS and has been subsequently revised in the Administrative Final EIR/EIS based on written and oral comments received on the Draft EIR/EIS. A summary of the Authority’s *de minimis* determination is set forth below.

The Authority has determined that the PCT is a Section 4(f) resource, is within the resource study area of the Bakersfield to Palmdale Project Section, and that your agencies are the officials with jurisdiction with respect to this resource. Under the Preferred Alternative (Alternative 2 with the Refined CCNM Design Option), the HSR project would be immediately adjacent to and in an aerial alignment (1,500-foot-long viaduct) above the PCT, crossing the existing trail at three locations (see Figure 1). The proposed viaduct would require the installation of columns to support the viaduct structure, which would be outside the existing PCT trail alignment.

To minimize impacts to the trail, the Authority has worked with USFS, BLM, and the Pacific Crest Trail Association (PCTA) to develop a mitigation measure that would realign 2,110 linear feet of trail east of the proposed viaduct (see Figure 1). The trail realignment would reduce the number of trail crossings under the viaduct from three crossings (existing trail) to one crossing (realigned trail). The reduction in number of trail crossings and the trail relocation east of the HSR alignment would result in an improved trail for PCT users. Key viewpoints and visual simulations are shown in Figures 2 and 3. This proposed mitigation measure for the PCT realignment would represent a permanent change to the trail and would constitute a permanent use of land under Section 4(f). The Authority, in consultation with the USFS and BLM, would be required to obtain a new easement from the private property owner for the realigned segment of the PCT.

During the public review period for the Draft EIR/EIS, USFS, BLM, and PCTA submitted comments expressing concerns regarding the Authority’s *de minimis* determination under Section 4(f). To address these comments, the Authority has conducted a more detailed evaluation of the project’s impacts to the PCT relative to the provisions of the Section 4(f) statute and confirmed that the project’s impact to the PCT would be a *de minimis* impact as defined under 49 USC 303(d). Additionally, in response to concerns about trail users having to cross under the existing Tehachapi Willow Springs Road in a 80-foot long 15-foot by 15-foot box culvert, the Authority has made several engineering refinements in the vicinity of the PCT. The Authority realigned Tehachapi Willow Springs Road to the west of the Preferred Alternative (including the section of existing Tehachapi Willow Springs Road that crosses Oak Creek), added a new

connection from Tehachapi Willow Springs Road to the existing Oak Creek Road near the creek, and further refined the realignment of the PCT realign. .

The design refinements near the PCT eliminate project impacts to the parking area along Oak Creek Road (including removal of an oak tree). The refinements also increase safety for PCT users because they would no longer have to cross Tehachapi Willow Springs Road, which has a posted speed limit of 55 miles per hour. In addition, with the new design, the PCT will no longer need to go through a box culvert under the HSR viaduct. PCT users would now cross under the HSR viaduct (and the new Tehachapi Willow Springs Road bridge) in an open crossing adjacent to the creek with over 57 feet of vertical clearance which would improve the experience for the trail users as they cross under the HSR and Tehachapi Willow Springs Road viaducts.

In the Administrative Final EIR/EIS, the Authority has reaffirmed its *de minimis* determination that the features and attributes that qualify the PCT for protection under Section 4(f) would not be substantially impaired by the HSR project. During construction and operation of HSR project, the trail would still function as a public trail under the Preferred Alternative. There would be a direct permanent use of the PCT as a result of the trail realignment, the HSR project crossing the PCT once, and the maintenance easement. With the realignment, the trail would still be publicly accessible and impacts resulting from the trail realignment would be addressed by the compensatory mitigation identified in the EIR/EIS for potential impacts to the PCT.

Based on information set forth above, the Authority has determined that the project would not adversely affect or otherwise restrict the public's use of the PCT nor would it adversely affect the activities, features, or attributes that make the PCT eligible for Section 4(f) protection as a recreational resource. Therefore, the Authority has determined that the Preferred Alternative (Alternative 2 with the Refined CCNM Design Option) would result in a *de minimis* impact, as defined by 49 U.S.C. 303(d). The Authority seeks your concurrence in this determination. A concurrence clause is provided at the end of this letter for this purpose.

We respectfully request your reply to this matter by **January 29, 2021**. We look forward to continuing our successful working relationship with you as we work to deliver the nation's first high-speed rail project, while still protecting important national resources such as the PCT.

Sincerely,



Brett Rushing
Supervising Environmental Planner
California High-Speed Rail Authority
Brett.Rushing@hsr.ca.gov

CONCURRENCE:

Based on the information set forth in this letter, and the planned offsite compensatory mitigation, the United States Forest Service and Bureau of Land Management concur with the California High-Speed Rail Authority's determination that the Bakersfield to Palmdale Project Section of the California High-Speed Rail Program would not adversely affect the activities, features, or attributes that make the Pacific Crest Trail eligible for Section 4(f) protection. Therefore, the United States Forest Service and Bureau of Land Management concur with the Authority's determination that the Bakersfield to Palmdale Project Section would have a *de minimis* impact on the Pacific Crest Trail in accordance with Section 4(f) of the United States Department of Transportation Act of 1966.



2/8/2021

Jim Bacon, Director, Public Services
United States Forest Service

Date

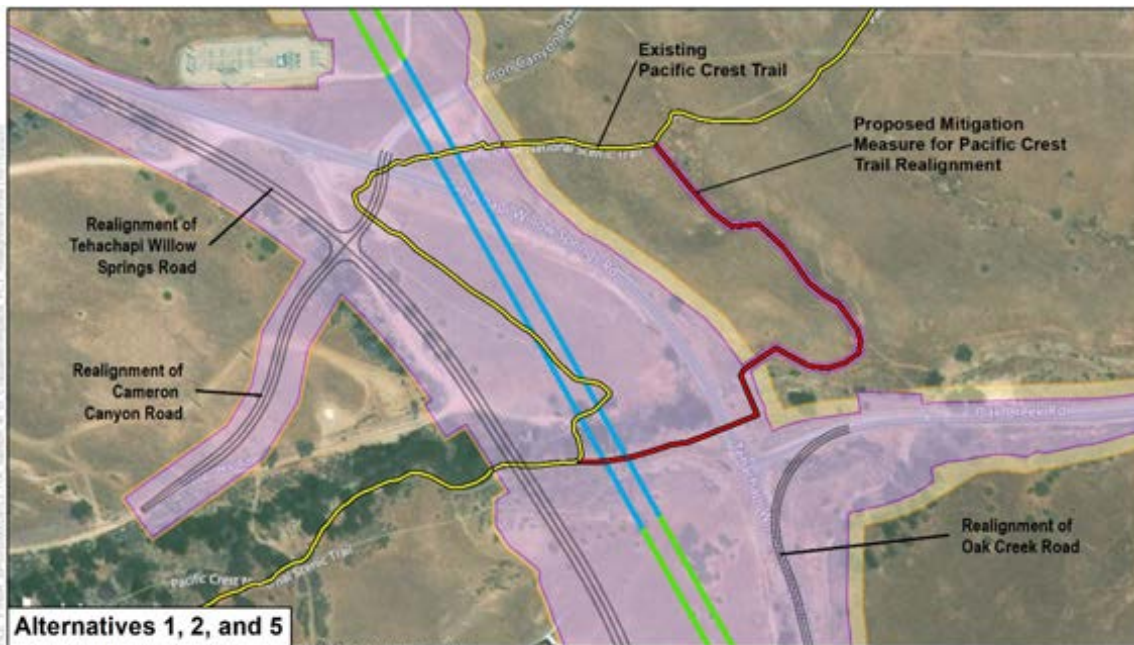


Figure 1 Overview of the HSR PCT Crossing



Figure 2 Key Viewpoint 18a: Existing and Simulated Views of Alternatives 1, 2, and 5 from the Pacific Crest Trail Looking West



Figure 3 Key Viewpoint 18b: Existing and Simulated Views of Alternatives 1, 2, and 5 from the Pacific Crest Trail Looking Southwest



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

Julianne Polanco, State Historic Preservation Officer
1725 23rd Street, Suite 100, Sacramento, CA 95816-7100
Telephone: (916) 445-7000 FAX: (916) 445-7053
calshpo.ohp@parks.ca.gov www.ohp.parks.ca.gov

Lisa Ann L. Mangat, Director

March 8, 2020

Reference Number: FRA_2016_0906_001

Submitted Via Electronic Mail

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

Re: High-Speed Rail Program, Bakersfield to Palmdale Section – Request for Review and Comment on Section 106 Addendum Finding of Effect Report

Dear Mr. Rushing:

The California State Historic Preservation Officer (SHPO) is in receipt of your February 25, 2021 submittal continuing consultation regarding the Bakersfield to Palmdale project section of the California High-Speed Rail Program. This consultation is undertaken in accordance with the 2011 *Programmatic Agreement Among the Federal Railroad Administration, the Advisory Council on Historic Preservation, the California State Historic Preservation Officer, and the California High-Speed Rail Authority (Authority) regarding Compliance with Section 106 of the National Historic Preservation Act, as it pertains to the California High-Speed Train Project (PA)*. In support of this consultation, the Authority has prepared the following documents:

- *Bakersfield to Palmdale Project Section Addendum Finding of Effect Report* (January 2021: JRP Historical Consulting and LSA Associates)

The Section 106 Addendum Finding of Effect Report (Addendum FOE) is an addendum to the *Bakersfield to Palmdale Section: Section 106 Finding of Effect Report* (Authority 2020) The specific purpose of the Addendum FOE is to assess and report adverse effects on historic properties caused by various engineering refinements (“VERs APE Memorandum”) of the Bakersfield to Palmdale Project Section Preferred Alternative. Because these engineering refinements were not analyzed in the original FOE or the Bakersfield to Palmdale Project Section Draft Environmental Impact Report/Environmental Impact Statement (EIR/EIS), which was publicly circulated from February 28, 2020 to April 27, 2020, the Authority prepared the Addendum FOE.

This Addendum FOE presents the effect conclusions for three new built environment historic properties (i.e. 332 W. Lancaster Blvd., 44847 Trevor Ave., and the Cedar Ave Historic District) and two new archaeological sites (i.e. P-15-001042 and P-15-016253) identified in the VERs APE Memorandum and presents the effect conclusions for historic properties previously analyzed in the April 2020 FOE where the VERs APE Memorandum has revised the APE.

As of September 24, 2020, the built environment survey has been 100 percent completed for the properties identified by the VERs APE Memorandum. In sum, there are seven built-environment historic properties analyzed in this Addendum FOE. Three of the properties are newly identified and the remaining 4 were previously evaluated for project effects.

The enclosed addendum FOE assesses seven historic properties within the APE that have the potential to be affected by the proposed Bakersfield to Palmdale Project Section VERs. This addendum FOE follows the guidelines for documentation as required in the PA and 36 C.F.R. § 800.11 and analyzes anticipated effects on seven built-environment historic properties:

- Big Creek Hydroelectric System Historic District
- First Los Angeles Aqueduct
- Lancaster Post Office
- Western Hotel, Lancaster, Kern County
- Residence at 332 W. Lancaster Boulevard, Lancaster, Kern County
- Residence at 44847 Trevor Avenue, Lancaster, Kern County
- Cedar Avenue Historic District, Lancaster, Kern County

The addendum FOE concluded that the Big Creek Hydroelectric System Historic District will be adversely affected. The First Los Angeles Aqueduct, Lancaster Post Office, Western Hotel, 332 W. Lancaster Boulevard, 44847 Trevor Avenue, and the Cedar Avenue Historic District will not be adversely affected. These findings represent no change to the April 2020 FOE as the Authority had previously determined that the project would adversely effect the Big Creek Hydroelectric System and resolution of those effects would be included in the Memorandum of Agreement.

The Addendum FOE also presents the effect conclusions for 2 new archaeological sites, identified in the VERs APE Memorandum as P-15-001042/CA-Ker-1042 (prehistoric site), and P-15-016253/CA-KER-8486H (historic site). These two sites were previously identified by others, records for which are on file at the Southern San Joaquin Valley Information Center. These archaeological resources are currently unevaluated and presumed NRHP-eligible for planning purposes. As stipulated in the Section 106 PA (Stipulations VI.E and VIII.A.1), phased identification will be necessary as property access is granted, and additional archaeological resources may be identified during future phased identification and evaluation efforts.

In sum, there are now 42 archaeological historic properties in the Bakersfield to Palmdale Project Section APE. The effect conclusions for 40 of the archaeological historic properties would not change from what was previously described in the April 2020 FOE. 4(f) of the United States Department of Transportation Act of 1966 requires consultation with the SHPO, the official with jurisdiction over historic properties, as stipulated in 23 CFR § 774.17. The Authority is consequently notifying the SHPO of its intent to make a de minimis impact determination for Residence at 332 W. Lancaster Boulevard in accordance with 23 CFR § 774.5.

For historic properties, a de minimis impact determination under Section 4(f) is based on findings made in the Section 106 consultation process and can be made if the project will have no adverse effect on the historic property. The Authority has determined that 332 W. Lancaster Blvd will not be adversely affected and, therefore, will incur a de minimis use under Section 4(f). By concurring with the Authority's finding of no adverse effect under Section 106, the SHPO also concurs with this 4(f) determination.

Having reviewed your submittal, SHPO concurs with the Authority's Finding of Effect. Furthermore, SHPO also concurs with the Authority's 4(f) determination.

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

Sincerely,



Julianne Polanco
State Historic Preservation Officer