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Table 4.1-1. SCE Six-Monthly Progress Reports Filed with the Commission

4.0 CONSULTATION

Southern California Edison Company (SCE), with active participation by representatives of state and federal resource agencies, Native American tribes, local and regional authorities, non-government organizations, and the public has been engaged in a consultation process associated with the relicensing of the four Big Creek ALP Projects for the past six years. The consultation activities were undertaken by SCE to comply with the Federal Energy Regulatory Commission (Commission or FERC) regulations, Clean Water Act (CWA), Endangered Species Act (ESA), and National Historic Preservation Act (NHPA).

4.1 BIG CREEK ALP CONSULTATION PROCESS

The consultation process for the four Big Creek ALP Projects consisted of six phases: 1) formalizing the collaborative process; 2) conducting initial Upper San Joaquin River Basin planning; 3) developing study plans; 4) preparing reports based on the study plans; 5) identifying potential resource issues and preliminary enhancement measures; and 6) negotiating appropriate environmental measures. A summary of the key consultation elements conducted during this process is provided below. As required by 18 CFR 4.34(i)(6), SCE filed progress reports with the Commission summarizing the ALP activities every six months (Table 4.1-1). These reports include agendas, meeting minutes, lists of attendees, final documents, newsletters, and formal correspondence between participants that were developed during the process. The progress reports are available on SCE's website and on the FERC eLibrary at the following locations:

<http://www.sce.com/PowerandEnvironment/PowerGeneration/BigCreekHydro/>
<http://www.ferc.gov/docs-filing/elibrary.asp>

Table 4.1-1. SCE Six-Monthly Progress Reports Filed with the Commission.

Progress Report No.	Date Filed with the Commission
Progress Report No. 1	September 27, 2000
Progress Report No. 2	March 29, 2001
Progress Report No. 3	September 27, 2001
Progress Report No. 4	March 28, 2002
Progress Report No. 5	October 2, 2002
Progress Report No. 6	April 3, 2003
Progress Report No. 7	October 22, 2003
Progress Report No. 8	May 13, 2004
Progress Report No. 9	October 7, 2004
Progress Report No. 10	June 29, 2005
Progress Report No. 11	November 21, 2005

4.1.1 Formalization of the Collaborative Process for the Big Creek ALP (December 1999 through June 2000)

- On December 9, 1999, SCE filed a formal request with FERC to use the ALP to obtain new licenses for the four Big Creek ALP Projects. The request followed collaboration, input, and support from many stakeholders regarding the appropriateness and design of the ALP and development of Draft Communication Protocols.
- A Draft Communication Protocol, developed in consultation with the resource agencies and stakeholders, was submitted to FERC on December 9, 1999, as part of the request to use the ALP to relicense the Projects.
- SCE developed several communication tools to be utilized during the collaborative process. These included a quarterly newsletter and SCE's hydro relicensing website. Additionally, as described above, SCE prepared six month progress reports that were submitted to the FERC and are available on the Commission's eLibrary and SCE's website.
- On March 15, 2000, FERC formally approved SCE's request to follow the ALP for the licensing of the four Big Creek ALP Projects and identified SCE as the non-federal designee for Section 7 Consultation.
- SCE held a publicly noticed meeting with interested stakeholders and issued the Initial Information Package (IIP) for the four Projects in May 2000 (SCE 2000; Volume 4, SD-A (Books 6 and 21)). The purpose of this meeting was to outline the ALP goals and objectives; identify process protocols; provide an overview of the four Big Creek ALP Projects and associated resources; identify early stakeholder resource interests and issues; and identify opportunities for the public to participate and provide comment.
- In May 2000, the Plenary was established. The Plenary, which consists of representatives of the state and federal resource agencies, Native American tribes, local and regional authorities, non-government organizations, and members of the public, received training regarding the "mutual gains" style of negotiation.
- SCE held an additional publicly noticed meeting and a site tour of the four Big Creek ALP Projects with interested stakeholders in June 2000.

4.1.2 Initial Basin Planning (May 2000 through October 2000)

- SCE conducted initial information gathering in the Upper San Joaquin River Basin (Basin) from May 2000 through October 2000. This included a review of existing information and conducting preliminary field surveys.
- The Plenary held a meeting in July 2000 to identify resource interests, and discuss the relicensing process, schedules, and relicensing study area.

- Two additional meetings were held in August and September 2000 to finalize the resource interests and the relicensing study area, and to discuss Basin management objectives. Stakeholders identified and developed Basin management goals and objectives during these meetings.
- The Draft Communication Protocol was revised by the Plenary and formally approved on September 11, 2000.
- In October 2000, the Plenary continued to review and discuss stakeholder management goals and objectives, and SCE presented an overview of operations and maintenance activities for the four Big Creek ALP Projects.

4.1.3 Study Plan Development (October 2000 through August 2001)

- The Big Creek ALP stakeholders (also known as the Big Creek Collaborative) participating in the Plenary were organized into five working groups in October 2000: Combined Aquatics Working Group (CAWG); Cultural Resources Working Group (CRWG); Land Management (LAND); Recreational Resources (REC); and Terrestrial Resources (TERR). Stakeholders could participate in more than one working group.
- SCE developed draft technical study plans and obtained consensus (“willing to live with”) on the study plans within each Working Group. The Draft Technical Study Plan Package (DTSPP) was the culmination of 82 collaborative meetings/conference calls conducted between May 2000 and May 2001.
- The DTSP was distributed to the Plenary and the public for review and comment on May 17, 2001.
- During the comment period, a publicly noticed meeting was held on June 13, 2001, to provide interested parties with an overview of the study plans and to receive verbal comments.
- The Plenary met on June 13 and 14, 2001, to review the DTSP and to discuss and resolve comments. Under the direction of the Plenary, the working groups met individually between July 2 and July 11, 2001, to review, revise, and draft responses to comments on the DTSP. A total of 11 collaborative meetings (Plenary, public, and working groups) were conducted in June and July 2001 to receive and address comments on the DTSP.
- On July 12, 2001, the Plenary approved the revised DTSP. SCE distributed an approved Final Technical Study Plan Package (FTSP), which consisted of 67 Technical Study Plans, to the Plenary on August 3, 2001 (SCE 2001; Volume 4, SD-B (Books 6 and 21)). The FTSP was a culmination of input from 94 collaborative meetings/conference calls conducted between May 2000 and July 2001.

4.1.4 Study Implementation (April 2001 through November 2006)

Implementation of the 67 approved technical study plans was initiated in 2001 and was completed in August 2005. Results of the technical studies were provided to the stakeholders as described below. Supplemental studies were conducted, and results presented, to provide additional information during the settlement negotiation phase through November 2006.

- On October 10, 2003, the 2002 Draft Technical Study Report Package (2002 DTSRP) was distributed to the Plenary and public for review and comment. The 2002 DTSRP provided the results of technical study elements completed in 2001–2002. The Plenary approved the 2002 DTSRP in December 2003 (SCE 2003; Volume 4, SD-C (Books 7-10, 21 and 22)).
- The results of technical studies performed during 2002–2003 were documented in the 2003 DTSRP. Eighty-one collaborative meetings/conference calls were conducted between September 2003 and December 2004 during the preparation of the 2003 DTSRP.
- On August 12, 2004, the Technical Working Groups approved the first distribution of 2003 DTSRs (32 reports) for submittal to the Plenary. The second distribution (15 reports) was approved by the Technical Working Groups in November 2004, and both distributions were provided to the Plenary and public for review and comment. The 2003 DTSRP was approved by the Plenary in December 2004 (SCE 2004a; Volume 4, SD-D (Books 11-17 and 23)).
- The results of technical studies performed during 2003–2005 were documented in the 2004 Final TSRs (FTSR) and 2005 Supplemental Reports (SCE 2004b; SCE 2005a; Volume 4, SD-E (Books 18, 19 and 24)). The 2004 reports represent studies that were reviewed and approved by the Working Groups by May 2005. The 2005 studies were conducted, in part, to support the negotiation of environmental measures to address Project impacts. The 2004/2005 Reports contained 13 Technical Study Reports and Supplemental Reports.
- The results of supplemental technical studies performed during 2006 were documented in the 2007 Supplemental Reports. The 2006 studies were conducted, in part, to provide additional information to support the negotiation of environmental measures to address specific Project impacts in certain targeted locations. The 2007 Supplemental Reports contained four studies (SCE 2007a; Volume 4, SD-E (Books 19 and 24)).

4.1.5 Identification of Potential Resource Issues and Preliminary Enhancement Measures (August 2004 through March 2005)

- The Technical Working Groups convened between August 2004 and March 2005 to develop Potential Resource Issue Criteria (Criteria), Resource Information Matrices (RIM), and Potential Resource Issue Matrices (PRIM). These materials were used

to assist in identifying potential resource issues from operation or maintenance of the four Big Creek ALP Projects.

- From January 2005 through April 2005, the Technical Working Groups discussed and identified potential avoidance, protection, and enhancement measures to be considered in the settlement negotiations.

4.1.6 Negotiation and Submittal of Settlement Agreement (April 2005 through February 2007)

- In May 2005, SCE engaged in settlement negotiations with interested stakeholders. All stakeholders were invited to participate in discussions that were undertaken to develop a comprehensive settlement agreement of measures for the Big Creek ALP. The Plenary became the forum for the settlement negotiations, although Plenary discussions remained resource-specific to help guide participation and stakeholder time commitments.
- The purpose of the settlement agreement is to resolve among the involved stakeholders all issues regarding the protection, mitigation, and enhancement measures in support of agencies issuing their License Conditions and the Commission issuing new License(s) for the four Big Creek ALP Projects. Two general types of measures are discussed within the settlement agreement: (1) those considered by FERC as proper for inclusion as new License Conditions enforceable by FERC; and (2) those enforceable outside the License under contract law. In the settlement agreement, these two types of measures are referred to as *Appendix A, Big Creek Hydroelectric Projects Settlement Agreement Proposed License Conditions* and *Appendix B, Big Creek Hydroelectric Projects Settlement Agreement Non-License Settlement Terms* (SCE 2007b; Volume 4, SD-H (Books 20 and 25)). The settlement agreement satisfies the requirements of the National Environmental Policy Act (NEPA) and the California Environmental Quality Act (CEQA), in addition to the statutory mandates of the resource agencies.
- SCE, resource agencies, and other parties involved in this process worked together to finalize a settlement agreement, which includes an Appendix A, with measures proposed to the Commission for adoption in new licenses to address Project effects, and Appendix B, with contractual obligations among SCE and various stakeholders to address local issues which are outside Commission jurisdiction and not for inclusion in new licenses.
- On April 12 and 13, 2005, the Plenary received a mutual gains training refresher course and discussed the negotiation process and structure, the roles and responsibilities of the lead negotiators and signatories, communication and information management, and reviewed the revised Settlement Negotiations Communications Protocol.
- The Communications Protocol developed during formalization of the collaborative process was revised to provide guidelines for the negotiation of a settlement

agreement. The Communications Protocol for the negotiations was approved on April 13, 2005, and served as the framework for the settlement agreement negotiation process. The Communications Protocol specified that the details of settlement discussions be confidential, unless the party making the settlement proposal authorizes disclosure. Therefore, details of offers made during the settlement negotiations and detailed notes of the discussions were not distributed outside the Plenary, or placed on SCE's website.

- The Plenary met in settlement negotiation meetings about three days a week, every other week from the end of May 2005 through December 2005. In addition to Plenary meetings, off-line meetings between SCE and individual stakeholders were also convened to help resolve issues of particular concern to specific groups or to solve complex technical issues. Recommendations from these groups were then presented to the Plenary for approval.
- In a letter dated September 15, 2005, CDFG, USDA-FS, the State Water Board, and USFWS provided joint recommendations to SCE for minimum instream flows, channel riparian maintenance flows, decommissioning of diversions, and locations where a Sediment Management Plan should be developed. These recommendations were revised in an e-mail dated November 2, 2005. The resource agencies requested that their revised recommendations be analyzed in the Preliminary Draft Environmental Assessment (PDEA). SCE, the resource agencies, and other interested Plenary members scheduled and attended several focused Flow Negotiation Subgroup meetings to discuss their revised recommendations and to ultimately develop a mutually beneficial flow regime to put forward to the Plenary for approval.
- CDFG filed a letter with the Commission on October 26, 2005, that provided separate recommended measures for certain fish and wildlife resources. Some of these recommendations were expressed to SCE for the first time in that letter, and consequently only the terrestrial resources issues were discussed in the Plenary (November 9, 2005). The additional recommendations were discussed and resolved in focused off-line meetings between SCE and CDFG, and in Plenary meetings with other stakeholders.
- Off-line meetings between CDFG and SCE management occurred on June 27, 2005, February 8, 2006, June 15, 2006, September 28, 2006, and January 9, 2007. Agreement between CDFG and SCE on certain measures for fish and wildlife resources was reached in February 2007. Although CDFG is a Party to the Big Creek ALP Settlement Agreement, the October 26, 2005 recommendations from CDFG were still analyzed and included in the APDEA as the CDFG Alternative, due to the timing of the agreement between CDFG and SCE.
- Through the negotiation phase, SCE and Native Americans, resource agencies and stakeholders met to negotiate agreements pertaining to cultural resources outside of the FERC license. In May 2006, SCE concluded that it needed to further develop the cultural resources proposals and hold one-on-one discussions with each Native

American Tribe. SCE tried several times to contact representatives from the three federally recognized tribes involved in the Big Creek Collaborative (Big Sandy Rancheria, Cold Spring Rancheria, and North Fork Rancheria) between May and September 2006 to arrange an off-line meeting to discuss their settlement agreement proposals. The federally recognized tribes did not respond to these requests for a meeting and as a result Plenary negotiation meetings were reinitiated in October 2006. The federally recognized tribes attended these meetings and were asked for feedback and comments on the proposals.

- The Big Sandy Rancheria, Cold Springs Rancheria, and North Fork Rancheria, provided SCE and the Commission with letters dated November 8, 2006; December 19, 2006; and November 13, 2006, respectively, regarding their involvement in the Big Creek ALP settlement negotiations. Big Sandy Rancheria and North Fork Rancheria indicated that they would provide SCE and the Commission with their comprehensive mitigation package proposal on or about March 1, 2007. Cold Springs Rancheria indicated that they would submit counter proposals to the Settlement Agreement by February 1, 2007. Due to the regulatory timeframe associated with the submission of the license applications, and the unwillingness of three federally recognized tribes to negotiate with SCE, the three federally recognized tribes are not Party to the Big Creek ALP Settlement Agreement.
- A great number of issues were resolved through the settlement agreement negotiation process. As a result, the Big Creek ALP Settlement Agreement was filed with the FERC in February 2007 and posted on SCE's website and FERC's eLibrary.

4.1.7 Submittal of Applications for New License(s) and Amended Preliminary Draft Environmental Assessment (APDEA) (November 2005 and February 2007)

The Application for New License for the Mammoth Pool Project (FERC Project No. 2085), which included the PDEA for the four Big Creek ALP Projects, was filed with the FERC on November 29, 2005. Applications for New License(s) for the other remaining three Big Creek ALP Projects, Big Creek Nos. 1 and 2 (FERC Project No. 2175); Big Creek Nos. 2A, 8, and Eastwood (FERC Project No. 67); and Big Creek No. 3 (FERC Project No. 120); containing the APDEA was filed with the FERC in February 2007. These documents are posted on SCE's website and FERC's eLibrary.

4.2 OTHER CONSULTATION

SCE conducted additional consultation under the CWA, ESA, and NHPA. Each of these is summarized below.

4.2.1 Section 401 CWA Water Quality Certification

FERC regulations require SCE to file an application for a CWA Section 401 Water Quality Certificate for the continued operation and maintenance of each of the four Big Creek ALP Projects.

- SCE intends to file an application for Water Quality Certification with the State Water Board for the Mammoth Pool Project within 60 days of the date that FERC issues its Notice that the Mammoth Pool License Application has been accepted for filing per FERC regulations (18 CFR Section 4.34 (B)(5)(ii)).
- For the remaining Big Creek ALP Projects (Big Creek Nos. 1 and 2; Big Creek Nos. 2A, 8, and Eastwood; and Big Creek No. 3); the applications for a Water Quality Certification will be filed with the State Water Board within 60 days of the date that FERC issues a Notice that the application for each specific Project has been accepted for filing.

4.2.2 Endangered Species Act

USFWS, pursuant to the federal ESA, must be consulted with regard to projects that may affect the continued existence of a federally listed species. Species are defined as threatened or endangered by USFWS if they are listed in Title 50 of the Code of Federal Regulations (§§17.11 or 17.12). The following is a brief summary of the consultation conducted.

- SCE requested to be designated as the non-federal representative for the purpose of conducting Section 7 consultation, pursuant to ESA, with the USFWS for the four Big Creek ALP Projects on December 7, 2000. On December 21, 2000, USFWS granted SCE's request to be designated as the non-federal designee.
- In addition to meetings conducted as part of the Plenary and Working Groups discussed above, several additional meetings and conference calls were held between SCE and USFWS. A total of 19 meetings were held between February 2001 and October 6, 2005. When USFWS was unable to attend meetings, their comments and correspondence was received via e-mail. Refer to the Biological Assessment/Biological Evaluation (BA/BE) for a complete summary of Section 7 consultation conducted between SCE and USFWS (SCE 2007c; Volume 4, SD-F (Books 18 and 24)).
- On October 25, 2004, SCE submitted the Preliminary Administrative Draft BA/BE (PAD BA/BE) to the USFWS for review and comment. USFWS provided comments on the PAD BA/BE via e-mail on November 3, 2004.
- On November 21, 2005, SCE submitted a revised BA/BE for the four Big Creek ALP Projects.
- On January 18, 2006, SCE met with USFWS to discuss the Big Creek ALP BA/BE.
- On March 30, 2006, USFWS provided SCE with approval (via e-mail) to implement the Big Creek ALP VELB Management Plan (SCE 2007d; Volume 4, SD-G (Books 19 and 24)).

- On October 24, 2006, SCE met with USFWS and USDA-FS to select a VELB mitigation site in the Project area. USFWS concurred that the elderberry seedlings should be planted at mitigation Site No. 2.
- In February 2007, SCE submitted a letter to USFWS providing additional information regarding the implementation of VELB mitigation.

4.2.3 Section 106 National Historic Preservation Act

Section 106 of the NHPA requires that federal agencies consider the effects of their actions that they may assist, permit, or license, on historical properties, and that those agencies give the Advisory Council on Historic Preservation (ACHP) a reasonable opportunity to comment on such actions. Section 106 applies to properties that have been listed in the National Register of Historic Places (NRHP), properties that have been determined to be eligible for inclusion in the NRHP, and properties that may be eligible but that have not yet been evaluated. The following is a brief summary of consultation conducted. Refer to the Historic Properties Management Plan (HPMP) (SCE 2005b; Volume 4, SD-I (Book 27)) for a complete summary of the consultation.

- In a December 7, 2000 letter, SCE requested that they represent the Commission in consultation with the California SHPO. The Commission granted permission per 36 CFR 800.2(c)(4) in a letter dated January 25, 2001.
- On February 20, 2001, a meeting was attended by SHPO, SCE, and USDA-FS staff to discuss the Section 106 consultation process and the Area of Potential Effects (APE) for the four Big Creek ALP Projects.
- Several CRWG meetings were held between October 2000 and October 2005 to identify and discuss relevant issues, to develop five study plans, and to develop the HPMP. The group focused its attention on the site specific issues and developing the Historic Properties Management Plan, rather than on approving study reports. In October 2005, the group concentrated on finishing the HPMP for submission to SHPO and development of alternative proposals to address issues outside the scope of the HPMP and the FERC licensing process. A technical report, "Final Inventory and Evaluation of Cultural Resources, Southern California Edison Company Big Creek Hydroelectric System Relicensing (FERC Project Nos. 67, 120, 2085, 2175)" addressing two study plans (CUL-1, Prehistoric Cultural Resources, and CUL-2 Historic Era Cultural Resources) was submitted to FERC in May 2006 (SCE 2006). The HPMP addresses the issues relevant to the other three study plans (CUL-3 Native American Places of Cultural Concern, CUL-4, Curation, and CUL-5, Public Involvement in Historic Preservation.
- It is anticipated that formal consultation among FERC, SHPO, other agencies, and other interested parties will begin after FERC submits the Big Creek ALP HPMP to SHPO in preparation for entering into a Programmatic Agreement to implement the HPMP per NHPA Section 106.