

# **TRI-1 TRIBAL RESOURCE STUDY PLAN**

**KERN RIVER No. 3 HYDROELECTRIC PROJECT**  
***FERC PROJECT No. 2290***



March 2022

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## 1.0 POTENTIAL RESOURCE ISSUE

SCE along with a Technical Working Group (TWG) of Stakeholders, including the federal land-managing agency, Sequoia National Forest (SQF), Tribes, and other interested parties identified the need to conduct Tribal Resource ethnographic and ethnohistoric research. Technical professionals of the relicensing team have further acknowledged that to date there has been no investigation of the Project Area American Indian ethnography, the potential for American Indian Traditional Cultural Properties (TCPs), or the potential for other American Indian resources, some of which may be eligible for listing in the National Register of Historic Places (NRHP). This *TRI-1 Tribal Resource Study Plan* is presented to address the need to conduct this baseline research. Potential resource areas include TCPs; tribal economic ventures; resources of traditional, cultural, or religious importance; and environmental considerations of importance to the American Indian community

Research has indicated there are no American Indian federal trust lands/allotments in the proposed Area of Potential Effects (APE), although formerly a least one federal trust allotment existed in the proposed Study Area. The Tejon Indian Tribe is the sole federally recognized Tribe in Kern County, but is as yet without federal trust land. The Tule River Indian Tribe is the only federally recognized Tribe in Tulare County, with reservation lands of nearly 50,000 acres located roughly 25 miles northwest of the Project. Several other Tribes, as discussed in the Tribal Resource Section of the Pre-Application Document (PAD), also have an interest in the Project Area.

Each Tribe may have resources of value in the Study Area. There may be Tribal gathering, fishing, or hunting areas in the Project Vicinity, as the local American Indian community continues to access medicine plants, food plants, materials for tools, and many other items as part of their ongoing traditional cultural lifeways. The communities also have a connection with certain biological species, which may not be currently present in the area, but nonetheless have value to heritage, stories, and traditional ecological knowledge (TEK). Ceremonies and cultural transmission of values (teaching youth and others) among at least one local Tribe also appears to be ongoing. Some of these places may be TCPs or other properties eligible for inclusion in the NRHP based on associations with the cultural practices, traditions, beliefs, lifeways, arts, crafts, or social institutions. Some of the resources may not be TCPs because they are not associated with the ongoing community values, but may have other ethnographic or Tribal values, and may also be eligible for NRHP listing. There is potential for both American Indian TCPs and other historic properties to be located in the Project. Located in the region there are potentially other Tribal Resources that have values other than those traditionally investigated in historic property surveys. The Federal Energy Regulatory Commission (FERC) recognizes these values. The National Historic Preservation Act (NHPA) implementing regulations from the Code of Federal Regulations, Title 36, Part 800 (36 CFR 800) apply Section 101(d)(6)(B) of NHPA by stating that when properties of religious and cultural significance to Tribes may be affected by an undertaking, consultation with the Tribes is required, and that the Tribe shall be a consulting party. To date, neither new

research nor interviews have been conducted to identify or discuss such places of religious or cultural significance specific to this Project.

## **2.0 PROJECT NEXUS AND HOW THE RESULTS WILL BE USED**

The FERC decision to issue a new license is considered a federal undertaking pursuant to 36 CFR 800.16(y). The NHPA requires federal agencies to take into account the effect of its undertakings on historic properties and allow the Advisory Council on Historic Preservation (ACHP) an opportunity to comment.

Continued Project operation and maintenance (O&M) and other activities, including public recreation activities, may have an effect on Tribal Resources, which may include historic properties. The effect may be direct (e.g., result of ground-disturbing activities), indirect (e.g., public access to Project areas), or cumulative (e.g., caused by a Project activity or public access in combination with other past, present, and reasonably foreseeable future projects). Tribal consultants have indicated they would like to have an understanding of previous effects, and the Tribal resource study will focus on the identifying potential effects to Tribal resources.

FERC's requirements for involving Tribes outline the need to:

- Describe Tribes, Tribal lands, and Tribal interests that may be affected by the Project;
- Include analysis of existing Project construction and operations that may impact Tribal cultural or economic interests; and
- Identify impacts on Tribes from existing Project construction and operations that may affect Tribal interests (e.g., Tribal fishing practices or agreements between the Tribe and other entities) not necessarily associated with archaeological resources or other historic properties.

The Tribal Resource study proposes to identify:

- Tribal matters that exist because of the Project;
- Project effects on Tribal resources that may be direct, indirect, and/or cumulative;
- Existing agreements Tribes may have with other entities, such as the SQF regarding access to Tribal resources, including but not limited to gathering (and gathering protocols), fishing, hunting, camping, ceremony, or other special uses; and
- Resource management goals of the U.S. Forest Service and take them into account when assessing effects.

Data collected during this study will inform the following:

- *Tribal Resource Technical Study Report (TRI-1).*
- *Tribal Resource Evaluation Report* as needed (may be included in *TRI-1 Tribal Resource Technical Study Report*).

- Technical assistance to the cultural resource team, as needed.
- Tribal resource input for the Historic Properties Management Plan (HPMP) with the goal of managing NRHP-eligible Tribal resources and other resources with identified Native values.

### **3.0 STUDY GOALS AND OBJECTIVES**

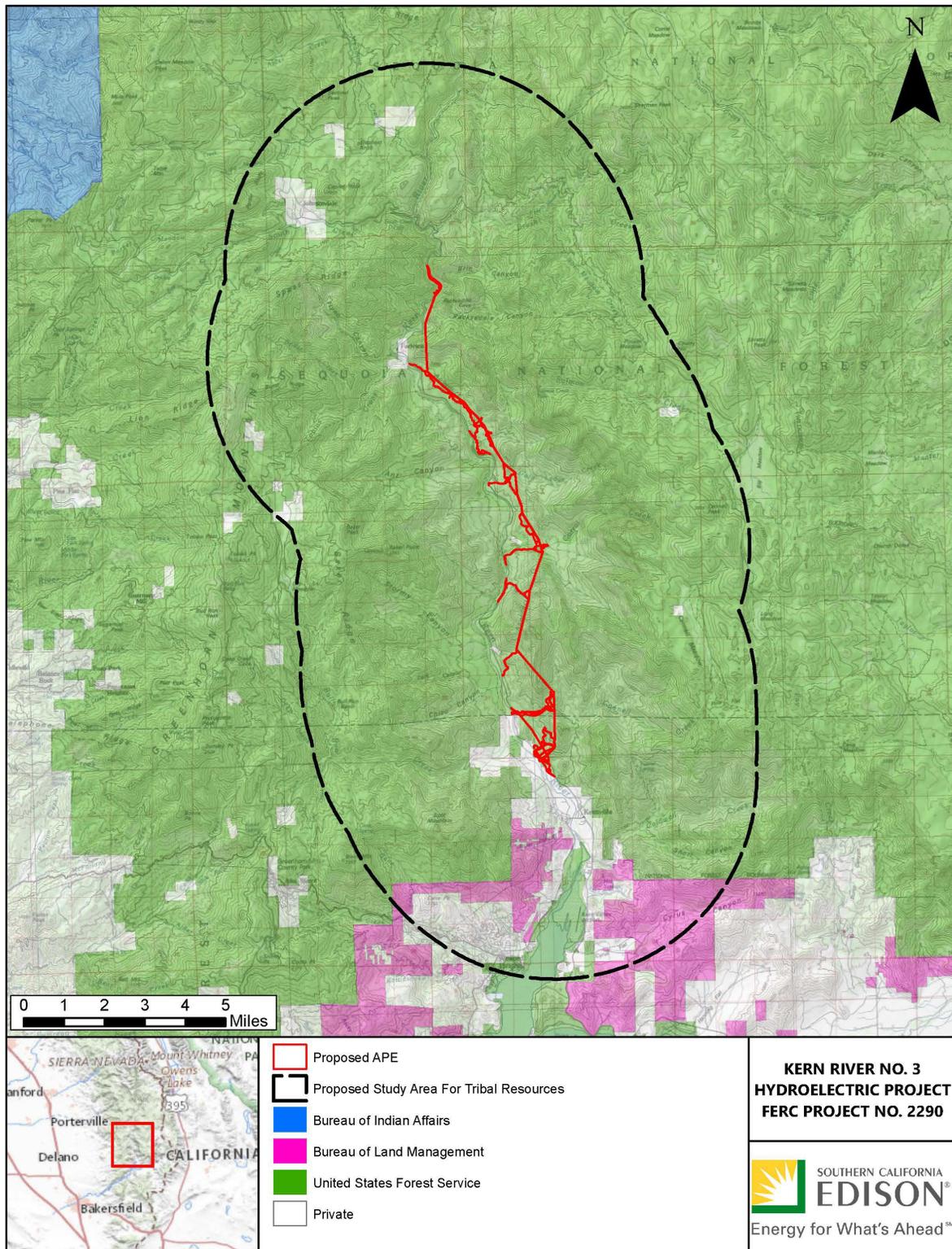
The principal goal of the *TRI-1 Tribal Resource Study Plan* implementation is to assist FERC in meeting compliance requirements identified in its regulations (18 CFR Part 5) along with those requirements subject to NHPA Section 106 (as amended), among other federal laws and regulations, by determining if licensing of the Project would have an effect on Tribal Resources, which may also include historic properties. FERC desires to know to whether and to what extent the existing Project O&M may effect Tribal cultural or economic interests, Tribal cultural sites, and may have cross interests with other technical group studies. In addition to historic properties, which may be a type of Tribal resource, there are other Tribal resources that may be identified through archival research, oral interviews, field inspections, and government-to-government consultation. The study intends to ensure such places are described from a Tribal perspective and to identify options for potential O&M effects.

Research conducted to date suggests that an ethnographic overview/background of the Project Area has never been conducted. Additional goals of the Study Plan implementation are to ensure that Tribal values and resources are identified and acknowledged from a Tribal perspective, and that an adequate baseline ethnohistory is developed. Similarly, ensuring that the land-managing agencies and any other Stakeholder agencies have their program needs met with respect to the Project APE is a goal of the work. Finally, it is anticipated that management issues will be identified to be described and developed in subsequent planning efforts for the life of the license.

- Identify and document Tribal resources identified within or immediately adjacent to the proposed APE.
- Conduct an American Indian ethnographic/ethnohistoric survey of the proposed APE and Study Area.
- Conduct outreach and contact with Tribal governments and their representatives.

### **4.0 STUDY AREA AND STUDY SITES**

The Tribal resource study will focus upon the FERC Project Boundary, currently coincident with the proposed APE, and a larger Study Area proposed to be a 5-mile radius from the APE. This Study Area is a guide for archival research, development of the historic context and background statements, and general Tribal informant interviews (Figure 4-1).



**Figure 4-1. Proposed Tribal Resource APE with Study Area.**

## 5.0 EXISTING INFORMATION

Section 5.12, *Tribal Resource*, of the PAD describes existing information, partially summarized in the bullets below.

- Native American Heritage Commission (NAHC) Sacred Lands File and Native American Consultation List (NAHC, 2020) identified 13 Tribal groups with affiliation to the Project Area.
- Nineteen cultural affiliations/heritage associations have been identified by extracting data from mid-late 20th century ethnographic work in the vicinity.
- An ethnographic background for the existing license (Blount, 1990; Blount and McCarthy, 1990) provided some information about resources. Other available ethnographic literature includes Davis-King et al., 2010; Stephen Powers, 1976; Smith, 1978; C. Voegelin, 1935a, 1935b; E. Voegelin, 1938.
- Local historian, Bob Powers (1974, 1979, 1980, 1989, 1999, 2003) provided extensive summaries of historic and American Indian issues in the region.
- The Garcés Diary (Coues, 1900) of pre-statehood exploration in the Study Area provided details about lifeways, trade patterns, and cultural affiliations.
- The Project is located in the specific drainage and general vicinity of the 1862 massacre of the Kern River people.
- Numerous named places known in the Study Area have been identified to include villages, gathering locales, sacred areas, burial grounds, fishing locales, hunting grounds, and more.

These background data are applicable to a broader territory than the Project APE, and to date there has not been an investigation of the main stem of the Kern River. Previous ethnographies have focused on nearby and related Tribal groups but not on the specific Project Area Tribal group, the Palawan.

## 6.0 STUDY APPROACH

### 6.1. GENERAL CONCEPTS

- Personal safety is an important consideration of each fieldwork team. If SCE determines the information cannot be collected in a safe manner, SCE will notify FERC and relicensing participants via email to discuss alternative approaches to perform the study.
- SCE shall obtain permission to access private property where needed. If access is not granted, or if it is not feasible or safe, SCE will notify FERC and relicensing participants via email to discuss alternative approaches to perform the study.
- SCE shall treat all information regarding the specific locations of Tribal resources as privileged and confidential if the Tribes express this need.

## **6.2. STUDY METHODS**

The methods proposed to meet study goals are listed below.

## **6.3. ARCHIVAL RESEARCH**

As needed during the implementation of the studies, archival research will be conducted at most of the repositories listed below to obtain additional information specific to the prehistory, ethnography, and history of the Project Area. The results of the archival research will (1) provide primary data to create a background American Indian ethnohistory of the proposed Study Project Area, and (2) inform the Tribal resource historic context against which such resources may be evaluated for the NRHP.

The Tribal resource expert will conduct background archival research of the Study Area. This will involve visits to many repositories, which may include:

- Annie Mitchell Local History Research Room, Tulare County Library, Visalia
- Autry Museum of the American West, Los Angeles
- California State Archive
- California State Library, California History Room
- Fort Tejon Historical Association
- Fort Tejon State Historic Park, Fort Tejon
- Hulse and Essene (Berkeley and elsewhere)
- Harrington (n.d.) fieldnotes (available online?)
- Huntington Library
- Kern County Museum, Bakersfield
- Kern Valley Historical Society and Museum, Kernville
- Kern County Historical Society, Bakersfield
- Tulare County Historical Society, Visalia
- California State University Bakersfield Archives
- Maturango Museum, Ridgecrest
- National Archive and Records Administration (Riverside and San Bruno)
- Pomona Public Library, Pomona
- SQF
- Southern California Edison Archive (Huntington Library)

- University of California, Berkeley, Bancroft Library (Waterman, n.d.)
- University of California, Davis, C. Hart Merriam Collection
- University of California, Riverside, J. P. Harrington Field Notes

Background research will be conducted as needed throughout the life of the Project.

## **7.0 ASSIST OTHER RESOURCE SPECIALISTS**

Other resource areas may have a connection to Tribal resources. This includes various biological areas, water, trails and recreation, among other areas. As needed, the Tribal resource expert will work to assist other resource experts. Assistance to the cultural resource team is anticipated to aid field identification and documentation of historic American Indian resources, potential gathering areas, and other places that may have value to Tribes.

## **8.0 MEETINGS WITH TRIBAL GOVERNMENTS**

Meetings with Tribal governments or administrators and/or attendance at Tribal Council meetings are proposed to provide Project data to Tribal groups, elicit areas of interest, identify appropriate Tribal informants, and establish protocols for conveying information. To date, 13 Tribes have been identified as having potential interests in the Project. These are:

- Big Pine Paiute Tribe of Owens Valley
- Chumash Indian Council of Bakersfield
- Fort Independence Indian Community of Paiute Indians/Fort Independence Reservation
- Kawaiisu Tribe
- Kern Valley Indian Community
- Kitanemuk & Yowlumne Tejon Indians
- Lone Pine Paiute-Shoshone Tribe
- Santa Rosa Indian Community of The Santa Rosa Rancheria
- Tejon Indian Tribe
- Tübatulabals Of Kern Valley
- Tule River Indian Tribe
- Wuksache Indian Tribe/Eshom Valley Band
- Yak Tityu Tityu Yak Tihini - Northern Chumash Tribe

One Tribe has participated in TWG meetings to date and is expected to participate further in this study. Another Tribe responded to FERC's release of the draft PAD and requested information from the cultural resource team. All Tribal groups will be contacted via telephone or email at a minimum to elicit their interest. At least three Tribal government meetings are anticipated.

## **9.0 INTERVIEWS**

Fifteen interviews are proposed with Tribal experts to gain understanding about what is important to them and why. Knowledgeable individuals from each of the participating Tribes will be interviewed. The methods and nature of the interviews are expected to vary from person to person, while some may be held in the field Project Area, others held in private homes, and still others held via telephone or teleconference. Interview records are similarly likely to be variable regarding confidentiality protocols and the Tribal expert's willingness to share. Recording methods (handwritten notes, video, audio tape, etc.) will be determined by consulting with the informant.

## **10.0 DOCUMENTATION AND EVALUATION**

Three main categories of Tribal resources are anticipated. These are: (1) Tribal Places; (2) TCPs; and (3) Tribal Matters. Each is documented in a different manner. Tribal places may be potential historic properties, places associated with the ancestral past, related to current gathering and/or hunting practices, or other resource types. Those that qualify as potential historic properties will be documented on California Department of Parks and Recreation (DPR) 523 forms as appropriate and with Tribal permission, while others will be described in the TRI-1 Study. TCPs will be documented on DPR 523 forms. Tribal Matters may be documented in the TRI-1 Study or may be larger resource types. All resources will be documented and described according to Tribal values and submitted for review to Tribal representatives. NRHP evaluation of Tribal resources suitable for DPR 523 documentation will use site-specific procedures to identify historic context of the resource, the boundaries, the jurisdiction or land ownership, the Tribal significance, integrity from a Tribal perspective, and contributing characteristics. Evaluation of other resource types may occur at the managerial or agency level.

## **11.0 REPORTING AND HISTORIC PROPERTIES MANAGEMENT PLAN**

SCE will file an Initial Study Report (ISR) within 1 year following FERC's Study Plan Determination (estimated August 3, 2023) and an Updated Study Report (USR) no later than 2 years after FERC's Study Plan Determination. The ISR and USR will provide an update on SCE's overall progress in implementing the Study Plan and schedule and the data collected, including an explanation of any variance from the Study Plan and schedule.

In addition, SCE may prepare interim reports during the study to apprise relevant agencies and Tribes on study implementation progress and to support ongoing consultation. Tribal Resource documentation and other sensitive information may be included in a confidential report withheld from public disclosure, in accordance with

Section 304 (United States Code, Title 16, Section 4702-3) of the NHPA. The California Public Records Act similarly exempts site data from disclosure while Public Resources Code Section 21082.3(c) contains provisions specific to confidentiality related to any information submitted by a Tribe during the environmental review process, including, but not limited to, the location, description, and use of the tribal cultural resources. The information provided in the ISR/USR and confidential reports will be summarized in, and appended to, the Application for New License.

SCE anticipates FERC will enter into a programmatic agreement (PA) with the ACHP, California Office of Historic Preservation, and any other agencies or entities FERC elects to include. SCE anticipates that one of the PA stipulations will be the completion and implementation of a HPMP through the new license term.

The HPMP will consider direct and indirect effects of continued Project O&M on NRHP-listed or Tribal resources and will require avoidance and protection of specified resources, whenever possible. Processes and procedures will be developed for general and resource-specific treatment measures, including mitigation measures to be taken should license implementation create unavoidable adverse effects to historic properties.

## **12.0 COORDINATION WITH OTHER STUDIES / WORK WITH OTHER TECHNICAL LEADS TO INTEGRATE TRIBAL CONSIDERATIONS**

To the extent feasible, SCE will coordinate Tribal resource studies with other Project-related environmental studies (e.g., cultural resources and habitat surveys) and conduct them in a manner that does not affect other sensitive natural resources. When conducting Tribal resource investigations, Project sponsors and/or their contractors should consider that Tribes may utilize natural resources for subsistence, medicine, tools, ceremonial uses, and other activities, and should avoid affecting those uses or events while conducting studies.

## **13.0 CONSISTENCY WITH GENERALLY ACCEPTED SCIENTIFIC PRACTICE**

The Tribal resource investigation will make a good-faith effort at proper communication with Tribal leaders as laid out in FERC's *Policy Statement on Consultation with Indian Tribes in Commission Proceedings*, issued July 23, 2003 (Docket No. PL03-4-000; Order No. 635; FERC 2003). The investigation will also follow the FERC regulations at 18 CFR § 2.1c, which added a policy statement on consultation with Tribes in FERC proceedings.

All phases of the Tribal Resource investigation will be conducted in accordance with the American Indian community consultation standards outlined by the implementing regulations of Sections 101 and 106 of the NHPA and discussed in the 2012 ACHP publication *Consultation with Indian Tribes in the Section 106 Review Process: A Handbook*.

Potential TCP documentation, consultation, and any necessary fieldwork will be implemented in accordance with Section 106 of the NHPA, as amended, and shall take into consideration National Register Bulletin No. 38, *Guidelines for Evaluating and*

*Documenting Identification of Traditional Cultural Properties* (Parker and King 1990, 1998).

Tribal Resource documentation will be implemented in accordance with FERC regulations and with Section 106 of the NHPA, as amended, if such resources are potential historic properties, and shall take into consideration National Register Bulletin No. 38 (Parker and King 1998).

NRHP evaluations will be conducted in adherence with National Register Bulletin No. 15, *How to Apply the National Register Criteria for Evaluation* (NPS 1995), and other NRHP Bulletins as appropriate.

#### 14.0 RELATIONSHIP TO OTHER STUDIES

Tribal resources may include animals, plants, the air, the sky, water, archaeological sites, gathering areas, hunting locales, places in stories, and many more categories. Thus, from a Tribal perspective, all of the relicensing studies are investigating some sort of Tribal resource. This will be considered in the study analysis, with several specific aspects listed below:

- The location of culturally important plant species identified by Tribes will be incorporated into the TRI-1 Study, as appropriate, and shared with the botanical resource study team.
- Information about culturally important aquatic species, including fisheries, identified by Tribes will be incorporated into the TRI-1 Study, as appropriate, and shared with the proposed aquatic resource study team.
- Information about culturally important terrestrial animal species identified by Tribes will be incorporated into the TRI-1 Study, as appropriate, and shared with the proposed terrestrial resource study team.
- The locations of culturally important plant and/or animal species will be considered in the Recreation and Land Use Study, to the extent possible without divulging confidential information.
- Information on sites associated with prehistoric and ethnographic-period American Indian occupation and use of the landscape will be identified in both the TRI-1 and CUL-1 Studies.

#### 15.0 SCHEDULE

Date	Activity
Spring 2022	Work with Tribal groups to arrange meetings and establish protocols; Meet with relevant resource agencies and affected Tribes regarding Tribal resource studies; Conduct archival research online and at appropriate repositories
Summer–Fall 2022	Conduct Tribal site visits and assist with cultural resource surveys
Spring–Summer 2023	Continue identification and evaluation of Tribal resources, as needed

Date	Activity
August 2023	Provide study plan progress and schedule update with ISR
August 2024	Provide Tribal Resources Report with USR
Summer–Fall 2024	Prepare and distribute draft HPMP

HPMP = Historic Properties Management Plan; ISR = Initial Study Report; SQF = Sequoia National Forest; USR = Updated Study Report

## 16.0 LEVEL OF EFFORT AND COST

The cost estimate (2022 dollars) for this study through the HPMP is estimated to be \$70,000 to \$95,000, which includes study-specific consultation, field work, data compilation and analysis, and reporting.

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