

# Section 4: Consultation and Coordination

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This section describes the consultation and coordination undertaken for the Channel Islands Telecommunications Project.

## 4.1 Compliance with Federal Executive Orders

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### 4.1.1 EXECUTIVE ORDER 11593

#### **Protection and Enhancement of the Cultural Environment**

This Executive Order instructs all federal agencies to support the preservation of cultural properties. It directs them to identify and nominate cultural properties under their jurisdiction to the NRHP and to “exercise caution to assure that any federally owned property that might qualify for nomination is not inadvertently transferred, sold, demolished, or substantially altered.” Based on the conclusions of the Historical Context (Appendix C) and Archaeological Survey for the Channel Islands Telecommunications Project, the proposed telecommunication infrastructure installation would not significantly impact any known or unknown cultural resources in the project area.

### 4.1.2 EXECUTIVE ORDER 11987

#### **Exotic Organisms**

This Executive Order requires federal agencies to restrict the introduction of exotic species into the natural ecosystems on lands and waters that they own, lease, or administer. The proposed project includes measures to prevent the introduction and spread of exotic organisms, and the project would, therefore, not result in the introduction of exotic species into the Channel Islands National Park.

### 4.1.3 EXECUTIVE ORDER 11988

#### **Floodplain Management**

This Executive Order requires federal agencies to avoid, to the extent possible, adverse impacts associated with the occupancy and modification of floodplains, and to avoid development in floodplains whenever there is a practical alternative. If a proposed project is found to be in an applicable regulatory floodplain, the agency shall prepare a floodplain assessment, known as a Statement of Findings. Four of the 15 proposed project locations are located in floodplains and, therefore, would involve additional development in these floodplains. A Statement of Findings will be required for these four locations (locations 6, 7, 9, and 10), but would not be required for the remaining 11 project locations.

#### **4.1.4 EXECUTIVE ORDER 11990**

##### **Protection of Wetlands**

This Executive Order established the protection of wetlands and riparian systems as the official policy of the federal government. It requires all federal agencies to consider wetland protection as an important part of their policies and take action to minimize the destruction, loss, or degradation of wetlands, and to preserve and enhance the natural and beneficial values of wetlands. The proposed project would not be located within or result in the loss of wetlands. Therefore, no mitigation measures are necessary to ensure compliance with this order.

#### **4.1.5 EXECUTIVE ORDER 12898**

##### **Social/Environmental Justice**

This Executive Order prohibits discrimination against or exclusion of individuals and populations during the conduct of federal activities. It requires all federal agencies to identify and address disproportionately high and adverse human health or environmental effects of its programs and activities on minority and low-income populations. The proposed project would not occur within or have any effect on an identified community or area of minority and low-income populations.

#### **4.1.6 EXECUTIVE ORDER 13007**

##### **Indian Sacred Sites**

This Executive Order requires federal agencies to provide access to and ceremonial use of sacred Indian sites by Indian religious practitioners as well as promote the physical integrity of sacred sites. The proposed project would not affect access to or ceremonial use of sacred sites.

#### **4.1.7 EXECUTIVE ORDER 13112**

##### **Invasive Species**

This Executive Order prevents the introduction of invasive species and directs federal agencies to not authorize, fund, or carry out actions that it believes are likely to cause or promote the introduction or spread of invasive species. The proposed project includes measures to prevent the introduction and spread of invasive species, and the project would, therefore, not result in the introduction of invasive species into the Channel Islands National Park.

## **4.2 Regulatory Compliance Requirements**

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### **4.2.1 FEDERAL LAWS**

#### **National Environmental Policy Act of 1970**

The NEPA process is intended to help public officials make decisions that are based on an understanding of environmental consequences and take actions that protect, restore, and enhance the environment. Regulations implementing NEPA are set forth by the CEQ. This EA serves as the proposed project NEPA compliance.

**Clean Air Act, as Amended**

Section 118 of the Clean Air Act requires all federal facilities to comply with existing federal, state, and local air pollution control laws and regulations. The proposed project's potential effects on air quality are discussed in Section 3.7.5. Project impacts on air quality would be minimal and no mitigation would be required.

**Endangered Species Act of 1973, as Amended**

The ESA protects threatened and endangered species, as listed by USFWS, from unauthorized take, and directs federal agencies to ensure that their actions do not jeopardize the continued existence of such species. Section 7 of the Act defines federal agency responsibilities for consultation with USFWS and requires preparation of a biological assessment to identify any threatened or endangered species that is likely to be affected by a project. A biological evaluation has been performed for the proposed project, and mitigation measures have been incorporated into the proposed project to avoid impacts to threatened or endangered species.

Federal agencies are required to consult with USFWS to ensure their actions will not jeopardize the continued existence of any federally listed or proposed threatened or endangered species, or any designated or proposed critical habitat [ESA, Sec. 7 (a)(2), 16 USC 1531 et seq.]. If listed species are present, the federal agencies must determine if the action will have "no effect," "may affect, [but is] not likely to adversely affect," or "may affect, [but is] likely to adversely affect" those species. The determination in this IS/EA is that the proposed project would have a less than adverse effect on listed species after incorporation of the identified mitigation measures, and after following guidance outlined in the Endangered Species Act Consultation Handbook: Procedures for Conducting Section 7 Consultations and Conferences (USFWS and National Marine Fisheries Service 1998).

**Migratory Bird Treaty Act**

The MBTA regulates or prohibits taking, killing, possession of, or harm to migratory bird species listed in Title 50 CFR Section 10.13. This act is an international treaty for the conservation and management of bird species that may migrate through more than one country and is enforced in the United States by USFWS. The Act was amended in 1972 to include protection for migratory birds of prey (raptors). The proposed project incorporates mitigation measures designed to minimize any potential impacts to migratory birds.

**Porter-Cologne Water Quality Control Act (California Water Code, Section 13020)**

Under the authority of the Porter-Cologne Act and federal CWA, RWQCBs act as regional agencies for the State Water Resources Control Board and are responsible for regional enforcement of water quality laws and coordination of water quality control activities. The proposed project's potential effects on hydrology and water quality are discussed in Section 3.7.1. Project impacts on hydrology and water quality would be minimal and no mitigation would be required.

### **Archaeological Resources Protection Act of 1979**

This act secures the protection of archaeological resources on public or Indian lands and fosters increased cooperation and exchange of information between private citizens, the government, and the professional community to facilitate the enforcement and education of present and future generations. It regulates excavation and collection on public and Indian lands. It requires notification of Indian tribes who may consider a site to have religious or cultural importance prior to issuing a permit. The Act was amended in 1988 to require the development of plans for surveying public lands for archaeological resources and systems for reporting incidents of suspected violations. Mitigation Measure CR-1 has been incorporated into the proposed project to comply with this act.

### **National Historic Preservation Act of 1966, as Amended**

The NHPA requires agencies to take into account the effects of their actions on properties listed in or eligible for listing in the NRHP. The Advisory Council on Historic Preservation has developed implementing regulations (36 CFR 800), which allow agencies to develop agreements for consideration of these historic properties. Based on the conclusions of the Historical Resource Inventory and Evaluation Report (JRP 2012) (Appendix C) and Archaeological Survey prepared for the Channel Islands Telecommunication Project, the proposed telecommunication infrastructure installation would not significantly impact any known or unknown cultural resources in the project area.

## **4.2.2 STATE LAWS**

### **California Environmental Quality Act**

CEQA is a state statute with the basic goal to develop and maintain a high-quality environment now and in the future. The CEQA process is intended to inform California's public agencies and the public about the potential significant environmental effects of proposed activities, and to identify ways that environmental effects can be avoided or significantly reduced. The process also allows for the identification of feasible mitigation measures to prevent significant effects to the environment. Regulations implementing CEQA are set forth in California PRC Division 13. This IS and MND serve as the proposed project's CEQA compliance.

### **California Endangered Species Act**

The CESA expanded upon the original plant protection act and enhanced legal protection for plants and wildlife. The CESA parallels the policies of the federal ESA. The state legislation was written to protect state endangered and threatened plant and animal species whose continued existence in California is in jeopardy. The CESA and Sections 2050 and 2097 of the Fish and Game Code prohibit "take" of plant and animal species designated by the California Fish and Game Commission as either endangered or threatened. The proposed project would be carried out in compliance with the CESA, as outlined in Section 3.7.4.

### **California Fish and Game Code**

Sections 3511 (birds), 4700 (mammals), 5050 (reptiles and amphibians), and 5515 (fish) of the California Fish and Game Code designate certain species as “fully protected.” Fully protected species, or parts thereof, may not be taken or possessed at any time without permission by CDFG. Section 3503 of the California Fish and Game Code affords protection to bird nests and birds of prey (orders Falconiformes and Strigiformes).

Section 1602 of the Fish and Game Code requires a Streambed Alteration Agreement to be granted prior to any action that may affect a river, lake, or stream or its adjacent riparian vegetation. The proposed project does not include alteration to streambeds and, therefore, a permit under Section 1602 would not be required.

### **California Native Plant Protection Act**

State listing of plant species began in 1977 with the passage of the NPPA. The act directed CDFG to carry out the Legislature’s intent to “preserve, protect, and enhance endangered plants in this state.” The act gave the California Fish and Game Commission the power to designate native plants as endangered or rare, and to require permits for collecting, transporting, or selling such plants. When the CESA was passed, it expanded upon the NPPA and enhanced legal protection for plants. To align with federal regulations, the CESA adopted the categories of “threatened” and “endangered” species. It grandfathered all “rare” animals into the Act as threatened species but did not do so for rare plants. Thus, there are three listing categories for plants in California: rare, threatened, and endangered. The proposed project would be conducted in compliance with the California NPPA.

## **4.3 NEPA Project Scoping History**

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The proposed project application was submitted to NPS in September 2009. Due to the nature of the project and the unusually isolated location of the Channel Islands, it was determined that a formal scoping meeting would not be feasible. Instead, formal letters were sent to all private residents and NPS employees residing on the islands, notifying them of the proposed project and requesting comments on the scope and content of the environmental review. The public and private island residents were encouraged to submit scoping comments identifying key issues and potential alternatives that could be evaluated as part of the environmental analysis for the proposed project. This public scoping comment period began with the mailing of these letters between September 3, 2009, and September 25, 2009, and ended on November 2, 2009.

In addition to letters to private and public island residents, direct contact was made via telephone and email with any public agencies that could be considered Responsible Agencies in regard to the proposed project. Also, a website was established to provide updated information to the public regarding the proposed project and to provide another avenue for submitting questions and comments regarding the proposal.

Written public scoping comments were received by mail and email and verbal comments were received by telephone. During the public scoping period, an email was received from Mr. James Roberts, an NPS staff member stationed at the Channel Islands National Park, and a telephone call

was received from Mr. Tim Vail, who at the time lived in a private residence on Santa Cruz Island. All comments received in response to the scoping notices have been considered and will remain in the project record throughout the planning process. A summary and full report on the analysis of the public scoping comments is available to the public and can be obtained through CPUC. Appendix E contains all scoping and public outreach letters, including letters sent in December 2009 to the 22 Native American contacts provided by NAHC. Appendix F contains the written comments received in regard to the scoping process.

#### **4.4 Public Review of this Initial Study/Environmental Assessment and Project Updates**

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In addition to each of the agencies' distribution lists, a Notice of Availability and Intent to Adopt was mailed to interested agencies, groups, and individuals. Hard copies of the IS/EA were mailed to agencies, groups, and individuals who requested it during the public scoping process.

This document is available for a 30-day public review and comment period that begins on November 14, 2012, and ends on December 14, 2012. The availability of the IS/EA is being announced in the Los Angeles Times, Santa Barbara Independent, and Ventura County Star. The IS/EA will also be available at the Santa Barbara County Central Library and Ventura County Library and will be available online at <http://www.cpuc.ca.gov/Environment/info/mha/channelislands/channelislands.htm>.

Comments will be documented and analyzed at the close of the public review period. If no significant impacts from the proposed project are identified, the IS/EA will then be used to prepare a FONSI, which will be sent to the NPS Pacific West Regional Director for approval. Comments on the IS/EA, or requests for additional copies of the IS/EA (please specify CD or printed copy), should be directed to the agencies below.

**California Public Utilities Commission**

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During the public review period, additional consultation will be conducted to affirm determinations of effect (if needed) with FCC, USFWS, SHPO, and CCC. Notice of concurrence with the determinations of effect will be documented in the FONSI, if prepared, for this IS/EA.

## **4.5 Agency and Government Coordination**

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### **4.5.1 U.S. FISH & WILDLIFE SERVICE**

The ESA of 1973, as amended (16 USC 1531 et seq.), requires all federal agencies to consult with USFWS to ensure that any action authorized, funded, or carried out by the agency does not jeopardize the continued existence of listed species or critical habitat. On July 17, 2009, a list of federally listed and other sensitive species that may be affected by the project was acquired from USFWS. This list is provided in Appendix D. With avoidance measures the project would not impact any listed plant or animal species and a formal consultation under Section 7 of the ESA is not anticipated; however, NPS intends to conduct informal consultation with USFWS as part of this project.

### **4.5.2 NATIVE AMERICAN CONSULTATION**

An inventory and evaluation of cultural resources was prepared for the Channel Islands Telecommunication Project area in September 2009. The results of the Historical Resources reports are included in Appendix C and provide an evaluation of the 15 project locations. These sites were evaluated in compliance with applicable sections of the NHPA and the NRHP criteria (36 CFR 60.4). In addition, these resources were evaluated for significance using the criteria outlined in California PRC 5024.1 and in accordance with CEQA Guidelines Section 15064.5.

Formal Section 106 analysis will be conducted by NPS and documented on the park's Preservation Assessment Form and attached to the FONSI form. The Section 106 consultation process will need to be completed before NPS can certify a FONSI. The Chumash Nation is known to have ties to the Channel Islands; however, the inventory and evaluation of cultural resources prepared for the project concluded that none of the telecommunication facilities are located in areas of cultural significance to the local American Indian population (Pacific Legacy, Inc. 2009).

## **4.6 Future Information**

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Information regarding the Channel Islands Telecommunication Project will be periodically distributed via newsletters, mailings, the CPUC website ([www.cpuc.ca.gov/Environment/info/mha/channelislands/channelislands.htm](http://www.cpuc.ca.gov/Environment/info/mha/channelislands/channelislands.htm)), and regional and local news media. Interested individuals, organizations, and agencies may also contact:

**California Public Utilities Commission**

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