

***(draft ver.9/12)***

**Proposed**

***Record of Decision***

***California Pacific Electric Company***

***625 and 650 Electrical Line Upgrade Project***

***U.S. Forest Service***

***Lake Tahoe Basin Management Unit***

***and***

***Tahoe National Forest***

***Placer County, California***

**Background**

The US Forest Service (USFS), Lake Tahoe Basin Management Unit (LTBMU) and Tahoe National Forest (Tahoe NF); the Tahoe Regional Planning Agency (TRPA); and the California Public Utilities Commission (CPUC) have prepared a joint environmental document for the California Pacific Electric Company (CalPeco) 625 and 650 Electrical Line Upgrade Project. The document is an environmental impact statement (EIS) for the LTBMU and Tahoe NF prepared pursuant to the National Environmental Policy Act (NEPA) (42 U.S. Code 4321-4347), the Council on Environmental Quality (CEQ) Regulations Implementing NEPA (40 Code of Federal Regulations 1500-1508), Forest Service Manual 1950, and Forest Service Handbook 1909.15; an EIS for TRPA pursuant to the Tahoe Regional Planning Compact (Public Law 96-551), Code of Ordinances, and Rules of Procedure; and an environmental impact report (EIR) for CPUC pursuant to the California Environmental Quality Act (CEQA) (Public Resources Code Section 21000 et seq.) and the State CEQA Guidelines (California Code of Regulations Section 15000 et seq.). In addition, the US Army Corps of Engineers (USACE), as a federal cooperating agency, is responsible for the scope and content of the NEPA portion of the environmental document as it pertains to lands within its jurisdictional boundaries in Martis Valley. CalPeco is the project applicant.

The proposed 625 and 650 Electrical Line Upgrade Project would consist primarily of an upgrade of CalPeco's existing 625 and 650 electrical power lines and associated substations from 60 kilovolt (kV) to 120 kV to allow the entire North Lake Tahoe Transmission System to operate at 120 kV. The entire project proposes to include six primary components: 1) removal of the existing 625 Line and construction of a new, rerouted 625 Line; 2) rebuild of the existing 650 Line with potential for realignments based on the action alternatives considered; 3) realignment of two short segments of the 650 Line and removal of the replaced segments; 4) rebuild of the Northstar Tap into a fold (a "fold" allows for service to be maintained at a substation in the event of an interruption in service on either side of the power line feeding it); 5) rebuild of a 1.6-mile long section of the existing 132 Line in the Town of Truckee; and 6) upgrade, modification, and/or decommissioning of six substations. These improvements would increase the ability to maintain the current maximum system loads during an outage on any one of the four sections of the system, and decrease reliance on the Kings Beach Diesel Generation Station. In addition, rebuilding and realigning the power lines would reduce the likelihood of outages associated with high winds, downed trees, snow loading, and forest fires, and would improve access to the lines for maintenance, emergency outage response, and repair activities.

The entire project encompasses about 24 miles<sup>1</sup> of power lines. Of that, approximately 14 miles is on National Forest System (NFS) lands, located in the LTBMU and Tahoe NF. The remainder of the project is located in the Town of Truckee and the unincorporated Placer County communities of Kings Beach and Tahoe City, on lands within the Martis Creek Lake lands owned by USACE, and Burton Creek State Park, and on private lands.

## Decision

Based on our review of the analysis as documented in the Final EIS/EIS/EIR we have decided to authorize the construction, operation and maintenance of the 625 and 650 Electrical Line Upgrade Project on NFS lands under our jurisdiction (Nancy Gibson, Forest Supervisor for the LTBMU and Tom Quinn, Forest Supervisor for the Tahoe NF). The approved route is described in detail by Alternative 4, Proposed Alternative, in the Final EIS/EIS/EIR (Chapter 3). It includes the construction or reconstruction of power lines on approximately 12.1 miles of NFS lands within the jurisdiction of the LTBMU and approximately 1.7 miles within the jurisdiction of the Tahoe NF. (Overall this alternative includes a total of 24.1 miles on all ownerships.) The proposed line will use about 19 miles of existing FS road, and require the construction of approximately 4.6 miles of new road on NFS lands (mostly as short spur roads to access the line). In general the permanent ROW is 40 feet for the single circuit sections and 65 feet for the double circuit sections. (see Table ES-1a and 1b for a detailed segment by segment comparison)

Authorization of this project will be via an amendment to the existing Special Use Permit(s) or issuance of new Special Use Permit(s) that will authorize CalPeco's facilities on NFS lands and be appropriate to

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<sup>1</sup> Length varies from 23.8 miles to 27.2 miles depending on alternative.

the LTBMU and the Tahoe NF. Temporary Special Use Permits will be issued as appropriate to authorize the construction of the power line. These permits will include proposed temporary construction sites such as temporary access, staging areas, and pulling sites. Any Special Use Permit(s) will be issued under the authorities and policies governing utility and occupancy on NFS lands.

This decision applies only to NFS lands. This decision is conditioned on the terms of the Special Use Permit(s) and implementation of the applicant proposed measures (APMs) to avoid and minimize environmental effects, mitigation measures, and monitoring programs identified in the Final EIS/EIS/EIR. It is also contingent on CalPeco securing all necessary additional permits required by TRPA and other state and federal agencies.

Construction of the project may be phased at the discretion of CalPeco. As required by the standard terms of the Special Use Permit(s), initiation of construction is conditioned upon final Forest Service approval of the detailed construction plans and operating plans. Construction would occur according to a proposed development schedule provided by CalPeco and made part of the Special Use Permit(s).

### **Overall Decision Rationale**

Our decision to authorize the construction of the 625/650 Upgrade Project on NFS lands is based on the analysis presented in the Final EIS/EIS/EIR which shows that Alternative 4 best balances meeting the purpose and need for the project while having an acceptable level of impact to the environment. Several of the alternatives are the same on NFS lands or vary only slightly, but in selecting Alternative 4 we recognize this alternative is also preferred by the controlling agencies for private, state, and federal land outside of our jurisdiction.

In accordance with USFS regulations for processing special use applications, (36CFR251.54(g)(2)(iii)), we have concluded occupancy of NFS lands for this power line continues to be appropriate and the project is in the public interest. We understand that some commenters do not believe that an upgrade is warranted at this time. We defer to the CPUC for determination on the need for an upgrade to meet national and state electric reliability standards and our decision is based on locating the line, when it is built, in an environmentally acceptable location when it is constructed.

### **LTBMU Rationale (Nancy Gibson, Forest Supervisor)**

On the LTBMU the selected alternative (Alternative 4) places most of the 625 line in proximity to roads which reduces the necessity for new access roads and the removal of trees along the alignment. Along much of the line the road will serve as part of the necessary vegetation clearance corridor. While I recognize there is a tradeoff with respect to seeing the line along the Fiberboard Freeway (FH71) the reduced road and vegetation impacts outweigh the visual impact. The APMs outline a number of actions, such as the color of the poles that will help offset the visual impacts to some degree. Upgrading the line in its current location, mostly some distance from FH71, would result in a greater impact to vegetation and wildlife resources and require more road building in the Lake Tahoe basin.

Much of my attention was focused on NFS lands along SR267 for about 2 miles from Brockway Summit to near Kings Beach. The selected alternative would remove segments 625-9 and 625-10 and double circuit this portion of the line combining the 625 and 650 lines on the same poles along SR267. To meet the TRPA Environmental Threshold for visual quality the double circuited line would be set back off of SR267 from its current location adjacent to the road, to reduce the visual impact of the new lines and larger poles. My decision involves a number of tradeoffs. First, by double circuiting the line, sections 625-9 and 625-10 would be removed and the current corridor (approx. 25 acres of permanent disturbance (Table ES-1a)) will be restored so that the native vegetation can return. This will allow the abandoned corridor to become productive forest habitat again.

In order to meet TRPA visual Thresholds the combined double circuit line along SR 267 must be set back off CalTrans property onto NFS lands paralleling the highway. Overall this will increase the area of disturbance by 7.4 acres and result in the removal of 1,603 additional trees when compared to keeping the double circuit line in the viewshed of SR267, but it moves this overall impact from CalTrans property to NFS lands. This choice is necessary to meet the TRPA visual Threshold. TRPA is not allowed by the Bistate Compact to override an Environmental Threshold. And so to gain the benefit of removing the 625-9 and 625-10, and improvements to TRPA's visual Environmental Threshold the line must be constructed on NFS lands. (see Table F-1 for detailed comparison)

Overall the net effect to the Tahoe Rim Trail will be offset by removing lines over one section of the trail where the old 625 line is abandoned and moving lines that currently cross the trail along SR267.

So in conclusion, while there will be a loss of forest including some large trees, in this case, the benefit to the visual resource of the Lake Tahoe environment outweighs the loss of forest habitat along the newly constructed section of line along SR267.

### **Tahoe National Forest Rationale (Tom Quinn, Forest Supervisor)**

There are three short sections of the project on lands administered by the Tahoe NF. A short portion of the 625 line crosses the Tahoe NF in segments 625-3 and 625-4A. One section of the 650-4 segment crosses a 40 acre parcel of NFS lands in Martis Valley. On this segment the line will be upgraded in its current alignment. Another short ¼ mile section of the 132/650 (Seg. 650-6) line is on NFS lands in Truckee, CA. Overall there is about 1.7 miles of line within the Tahoe NF including the use of about 2.5 miles of existing FS road and the construction of about 0.2 miles of new road. I concur that Alternative 4 represents the best location for the 625 line as it crosses the Tahoe NF in that Alternative 4 reduces the amount of road building and removal of trees on NFS lands as a whole along the Fiberboard Freeway, including the small portion on the Tahoe NF. In the other two instances where the line crosses the Tahoe NF, it will be upgraded in the current alignment which offers the least new disturbance to NFS lands.

## Purpose and Need

As stated by CalPeco and CPUC, national and state electric reliability standards require that CalPeco ensure that the North Lake Tahoe Transmission System perform safely under normal and contingency conditions. For example, the North American Electric Reliability Corporation Reliability Standard TPL-002-0b requires that CalPeco's transmission system have the capability to supply peak loads at adequate voltage levels without overloading the system components with any one component out of service. The CPUC regulations related to system reliability are contained in California Public Utilities Code Section 399, which implements the California Legislature's "Reliable Electric Service Investments Act," stating that it is the policy of the state, and the intent of the Legislature, that each electrical corporation operate its electric distribution grid in its service in a safe, reliable, efficient, and cost-effective manner [399.2(a)(1)] and that prudent investments continue to be made to protect the integrity of the electric distribution grid [399(c)(1)]. As stated in the Final EIS/EIS/EIR the 625 and 650 Electrical Line Upgrade Project is designed to fulfill five primary purposes.

1. Provide normal capacity for current and projected loads.
2. Provide reliable capacity to assure adequate service to all customers during single-contingency outages.
3. Reduce dependence on the Kings Beach Diesel Generation Station.
4. Reduce the risk of fire hazards and outage durations associated with wooden poles and encroaching vegetation.
5. Provide more reliable access to the 625 Line for operation and maintenance activities.

## Required Mitigation

The EIS/EIS/EIR includes a suite of measures, termed (APMs, that are designed to reduce and avoid, to the extent feasible, the potential environmental consequences of project implementation. Table 3-8 in Chapter 3 of the FEIS, lists the APMs that will be followed during project planning, construction, and operations and maintenance activities. We are adopting the APMs in our decision to the extent they apply to NFS lands and conform to Forest Service authorities. We are satisfied that all practicable measures to avoid or minimize environmental harm from the proposed actions have been adopted.

## Other Required Permits and Approvals

Our decision is only one part of the regulatory approvals needed for this project to go forward. In addition to approving access and occupancy of NFS lands, other Federal and State approvals are required as described in Section 3.6, Required Permits and Approvals, of the Final EIS/EIS/EIR.

CalPeco will be seeking the following permits and approvals from the lead agencies:

- Special Use Authorization from the USFS, both the LTBMU and the Tahoe NF units, for implementation of the project on NFS land managed by the USFS.
- Authority to construct on USACE land.
- Land Use and Development Permit from TRPA for implementation of all project components that fall within the Lake Tahoe Basin boundaries. TRPA is responsible for ensuring that the project is consistent with the Tahoe Regional Planning Compact, the TRPA Rules of Procedure, and the TRPA Code of Ordinances, and that the project would allow for the attainment and maintenance of environmental thresholds established to protect the unique values of the Lake Tahoe Basin.
- Permit to Construct (PTC) from CPUC for implementation of the project.

CalPeco must comply with the CPUC's General Order (GO) 131-D, which contains the permitting requirements for the construction of substations and power line facilities and GO 95, which details the requirements for overhead line design, construction, and maintenance. CalPeco is seeking to obtain a PTC from the CPUC for this project pursuant to GO 131-D, and submitted a Proponent's Environmental Assessment to the CPUC in August of 2010 as required by the Public Utilities Code.

Because the CPUC has preemptive jurisdiction over the construction, maintenance, and operation of CalPeco's facilities, as outlined in Section XIV.B of GO 131-D, no local discretionary permits are required. However, the applicant would still have to obtain all ministerial building and encroachment permits from local jurisdictions, and GO 131-D requires that the applicant comply with local building, design, and safety standards to the greatest degree feasible to minimize project conflicts with local conditions.

## Public Involvement

The environmental review process for the CalPeco 625 and 650 Electrical Line Upgrade Project began with a public scoping period. The Notice of Intent (NOI) was published in the Federal Register Volume 77 Issue 69, on April 10, 2012. A NOI and Notice of Preparation (NOP) were also issued to inform agencies and the public that a Draft EIS/EIS/EIR would be prepared for the project, and to solicit views of agencies and the public as to the scope and content of the EIS/EIS/EIR. The NOP/NOI was distributed on March 26, 2012 and the scoping period concluded on April 25, 2012. Scoping notices were mailed to

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governmental agencies, landowners within 300 feet of the project boundaries, interested individuals, and community organizations. Additionally, public notices were placed in both the Tahoe Daily Tribune and the Nevada Appeal on March 28, 2012. Two scoping meetings were held to allow oral expression of opinion regarding the content of the EIS/EIS/EIR, as listed below.

- ▲ April 17, 2012. Public scoping meeting beginning at 6:00 p.m. at the North Tahoe Event Center, Kings Beach, California.
- ▲ April 19, 2012. Public scoping meeting beginning at 6:00 p.m. at the USFS Tahoe NF Offices, Truckee, California.

A public scoping period was set for a 30-day period, between March 26, 2012 and April 25, 2012. Because the NOI was published in the Federal Register after release of the NOP/NOI, the comment period was extended to May 10, 2012.

The scoping process for the 625 and 650 Electrical Line Upgrade Project was designed to solicit input from the public, federal, State, and local agencies, and other interested parties on the scope of issues that should be addressed in the EIS/EIS/EIR. The scoping process was also intended to identify significant issues related to the 625 and 650 Electrical Line Upgrade Project. Scoping comments received are summarized in Appendix A, Notice of Preparation and Scoping Summary Report, of the EIS/EIS/EIR.

### **Review of Draft EIS/EIS/EIR**

A Draft EIS/EIS/EIR was distributed for public review on November 8, 2013 and the public review period ended on January 7, 2014. A Notice of Availability (NOA) for the Draft EIS/EIS/EIR was published in the Federal Register on November 8, 2013. The NOA was mailed to interested parties, agencies, and property owners; and public notices were issued in the local papers and posted onsite.

Two informational meetings were held on December 10, 2013 to inform the public and other interested parties about the project and solicit comments. Oral and written comments were received at meetings held by the TRPA Advisory Planning Commission on December 4, 2013 and the TRPA Governing Board on December 18, 2013.

A 60 day comment period ended on January 7, 2014. A total of 57 letters were received from agencies, organizations and individuals. The response to comments is located in Appendix P.

### **Alternatives Considered**

Through public scoping and agency coordination, four action alternatives were identified for detailed analysis in addition to the No Action Alternative. The action alternatives include the Proponents Environmental Assessment (PEA) Alternative; Modified Alternative; Road Focused Alternative; and

Proposed Alternative. Portions of all action alternative alignments traverse NFS lands. The alternatives are described in detail in Section 3.3 of Chapter 3, Project Alternatives.

***Alternative 1: PEA Alternative***

Alternative 1 was first developed in the Proponent's Environmental Assessment (PEA) prepared by the project applicant (Sierra Pacific Power Company at that time) as part of the original permit application submitted to the CPUC in 2010. Generally, Alternative 1 (PEA Alternative) would locate the 625 Line closer to the Fiberboard Freeway (a paved road between the Mount Watson area north of Tahoe City and the Brockway Summit area) to improve access.

***Alternative 2: Modified Alternative***

Alternative 2 is a modified alternative, which is similar to Alternative 1 (PEA Alternative), but includes rerouting of some portions of the alignment based on public and agency input received during scoping, additional information gathered during detailed field reviews, and further progress on project engineering and design. The intent of the segment reroutes is to avoid or minimize effects on biological, visual, or cultural resources.

***Alternative 3: Road Focused Alternative***

Alternative 3 is a road focused alternative, which re-routes the 625 Line to more closely follow the Fiberboard Freeway and other area roadways and places more of the 650 Line along SR 267. Alternative 3 (Road Focused Alternative) includes a double-circuit option segment option that is referred to as Alternative 3A. Alternative 3 is intended to maximize the proximity of project facilities to existing roadways in order to minimize the need for new access ways, ground disturbance, and associated environmental effects.

***Alternative 4: Proposed Alternative***

Alternative 4 (Proposed Alternative) is a combination of Alternative 3 (Road Focused Alternative) for the 625 Line improvements and elements of Alternative 1 (PEA Alternative) and Alternative 3 (Road Focused Alternative) for the 650 Line improvements. Alternative 4 (Proposed Alternative) allows facilities to be in proximity to existing roadways, while maximizing the use of the already upgraded portion of the 650 Line in Segment 650-5.

***Alternative 5: No Action/No Project Alternative***

Under Alternative 5 (No Action/No Project Alternative), no upgrade of the existing power lines would occur as part of this project, however appropriate access to the existing lines would continue for maintenance and operation. Components of the system such as poles and line would be maintained and replaced as deemed necessary, conditioned by the terms of a Special Use Permit. The ROW would be cleared to meet established standards.



## Alternatives Eliminated from Detailed Study

An additional twelve alternatives were considered in a screening process and eliminated from detailed consideration as described in Section 3.5, Alternatives Considered but Eliminated from Further Detailed Evaluation, in Chapter 3, Project Alternatives, of the EIS/EIS/EIR. The alternatives were evaluated against the following three criteria:

- Does the alternative meet the project purpose and need/objectives?
- Is the alternative feasible (i.e., legal, regulatory, technical)?
- Does the alternative avoid or substantially lessen any significant effects of the proposed project (including consideration of whether the alternative itself could create significant effects potentially greater than those of the proposed project)?

In total, the alternatives screening process culminated in the identification and screening of 16 potential alternatives for the proposed project, the four action alternatives described above, and 12 additional alternatives considered but eliminated from detailed evaluation. These alternatives range from a different substation location and power line alignments and designs, to various expansions of existing system options, as well as “non-wires alternatives.” “Non-wires alternatives” include methods of meeting project objectives that do not require major electrical lines (e.g., development of renewable energy supplies, conservation and demand side management to reduce electrical usage and prevent the need for facility upgrades).

Most of the additional alternatives are feasible from a legal, regulatory, and technical standpoint, but do not satisfy the project purpose and need or have the potential to eliminate significant environmental effects. Of the 12 alternatives to the proposed project, none meet all three screening criteria listed above, but two alternatives meet two out of three of the criteria. The alternative to install lines underground meets consistency with project purpose and need/objectives and feasibility, but does not meet the criterion for the potential to eliminate environmental effects. The alternative to utilize distribution backup for single-contingency outages in the North Lake Tahoe Transmission System meets criteria for feasibility and potential to eliminate environmental effects, but does not satisfy the purpose and need/objectives of the project

## Environmentally Preferable Alternative

Alternative 4 (Proposed Alternative) is identified in the EIS/EIS/EIR as the environmentally preferred alternative based on review of the relative potential for effects. As discussed in the EIS/EIS/EIR, the four action alternatives analyzed in detail would result in nearly identical impact conclusions; the clearest distinction is the lack of a significant biological resources impact after mitigation for Alternative 3 (Road Focused Alternative) and Alternative 4 (Proposed Alternative). To distinguish between the alternatives,

the relative potential for effects was analyzed numerically (see Section 5.7 and Table ES-1 a, b, c) for key areas of concern (e.g., road construction and habitat disturbance). Through this analysis, the EIS/EIS/EIR concludes that Alternative 4 would have the lowest, or the second lowest, values in many categories (including acreage of permanent disturbance) of the feasible alternatives. Based on this conclusion and the absence of impacts to biological resources that cannot be mitigated to a less-than-significant level, Alternative 4 is the environmentally preferred alternative.

## **Findings Required by Other Laws and Regulations**

The Final EIS/EIS/EIR considered a range of reasonable alternatives. In addition to the five alternatives considered in detail in the EIS/EIS/EIR, 12 additional alternatives were considered over the course of analysis, but were eliminated from detailed study for various reasons, as described in Section 3.5 of the Final EIS/EIS/EIR. Alternatives presented in the EIS/EIS/EIR encompass a broad range of responses to issues. The public involvement component of the project provided concerned members of the public with the opportunity to give input at the scoping stage and to provide formal comments on the Draft EIS/EIS/EIR. Responses to substantive comments made on the Draft EIS/EIS/EIR are included in Appendix P. Changes made in response to the comments include clarifying explanations and are reflected in the Final EIS/EIS/EIR. The Final EIS/EIS/EIR discloses cumulative effects of the alternatives by evaluating past, present, and reasonably foreseeable future actions in the planning area.

### **National Forest Management Act**

The National Forest Management Act (NFMA) requires projects and permits to be consistent with the Land Management Plan (LMP) (16 USC § 1604(i)). If a proposed site specific decision is not consistent with the applicable plan, I may modify the proposed decision to make it consistent with the plan, reject the proposal; or amend the plan to authorize the action.

Consistency with the Land and Resource Management Plans for the LTBMU and Tahoe NF is discussed in Section 4.2, Land Use, and in Appendix G of the Final EIR/EIS. Appendix G provides a table that addresses consistency of the project with specific goals, policies, and objectives of the forest management plans.

### **Endangered Species Act**

Under Section 7 of the Endangered Species Act, a federal agency that authorizes, funds, or carries out a project that “may affect” a listed species or its critical habitat must consult with U.S. Fish and Wildlife Service (USFWS). The USFS and National Marine Fisheries Service (NMFS) are charged with oversight of species designated as threatened or endangered under the federal Endangered Species Act of 1973 (Title 50, Part 17 of the Code of Federal Regulations [i.e., 50 CFR 17]), as amended under the USFWS Mitigation Policy of 1956 (Title 16, Chapter 35, Section 1531 of the United States Code [16 USC 1531 et seq.]), as well as those species that are designated by the USFWS as species of concern.

USFWS has authority over projects that may result in take of a federally listed species. Under the ESA, “take” is to “harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect or to attempt to engage in any such conduct” (Public Law 93-205, as amended by Section 3 of Public Law 107-136 [16 USC 1532]). The loss of habitat can also be considered “take” under the ESA. For projects with a federal nexus, such as this project, the process is accomplished through consultation under ESA Section 7 (16 USC 1536[a][2]), which produces a biological assessment (BA) to describe the impact mechanisms and any adverse effects on the listed population. Information within the BA is used to prepare the biological opinion (BO).

A draft BA has been prepared and is included in the project record. Consultation requirements under Section 7 of the ESA, as amended, are ongoing with the USFWS. A final BA will be published concurrent with the final ROD, after the objection resolution process is complete.

*The information provided for this project specific analysis on Sierra Nevada Yellow Legged Frog (SNYLF) is discussed in detail in the project’s aquatic species BA/BE and the associated project effects description in this NEPA document are an accurate portrayal for this species at this time with the information obtained to date. Since this project was identified as having up to 19 acres of suitable SNYLF habitat (as defined by FWS and the Region as all areas within 25 meters of perennial or intermittent streams, lakes, meadows, and ponds), this project was included in the Forest Service Regional programmatic batching for Section 7 ESA consultation on SNYLF. The programmatic effort includes projects containing suitable habitat across all forests in Forest Service Region 5. The final determination of effects for SNYLF will be based on the programmatic consultation efforts and thus may differ from what is stated in this project specific analysis. Once the consultation process with FWS is complete, the information will be incorporated into this project NEPA, BA/BE, and final decision documents.*

### **Clean Air Act**

Section 176(c) of the Clean Air Act prohibits federal agencies from, among other things, issuing licenses or permits or approving any activity which does not conform to an approved State Implementation Plan (SIP).

Federal conformity regulations presume conformity with state plans where project emissions are below applicable thresholds (the “*de minimis* thresholds”), and where no “regionally significant” emissions would occur. Some project-related construction activity would occur in the Sacramento Federal Ozone Nonattainment Area, which includes the portion of Placer County in the Mountain Counties Air Basin (MCAB) and under the jurisdiction of Placer County Air Pollution Control District (PCAPCD). The Sacramento Federal Ozone Nonattainment Area is classified as severe with respect to the National Ambient Air Quality Standards (NAAQS) for ozone. Section 176(c)(4) of the CAA prohibits federal entities from taking actions in nonattainment or maintenance areas if those actions do not conform to the

applicable SIP for the attainment and maintenance of NAAQS. The project area is in attainment or unclassified with respect to the NAAQS for all other criteria air pollutants (CAPs).

General conformity is the federal regulatory process for preventing major federal actions or projects from interfering with air quality planning goals. Conformity provisions ensure that federal funding and approval are given only to those activities and projects that are consistent with air quality SIPs. Conformity with the SIP means that major federal actions will not cause new air quality violations, worsen existing violations, or delay timely attainment of the NAAQS.

Because ozone is a secondary pollutant, the applicability analysis is based on primary emission of its precursors, reactive organic gas (ROG) and oxides of nitrogen (NO<sub>x</sub>). If the net emissions levels for either ROG or NO<sub>x</sub> exceed the *de minimis* levels for ozone, then the federal action is subject to a general conformity evaluation for ozone. The *de minimis* level for an area designated as severe nonattainment with respect to the NAAQS for ozone is 25 tons per year in any calendar year (PCAPCD [no date]).

Analysis presented in the FEIR (Impact 4.13-2, Chapter 4.13, Air Quality) shows that project-related emissions of ROG and NO<sub>x</sub> in the Sacramento Federal Ozone Nonattainment Area during any calendar year in the construction schedule would not exceed the *de minimis* level of 25 tons per year. Because project-generated emissions of ozone precursors would not exceed the *de minimis* emission levels, the General Conformity Rule would not apply to the proposed project.

Additionally, where, as here, the Federal action is a permit, license, or other approval for some aspect of a nonfederal undertaking, the relevant activity for conformity purposes is the part, portion, or phase of the nonfederal undertaking that requires the Federal permit, license, or approval. The USFS does not have any practical control over emissions resulting from activities on non-National Forest System lands. As a result, this conformity evaluation is limited to direct and indirect emissions associated with construction activity on National Forest System lands.

PCAPCD and Northern Sierra Air Quality Management District (NSAQMD) do not recommend mass emission thresholds for CO. Most construction-related CO emissions would be generated by off-road equipment, followed by helicopter activity, haul truck trips, and worker trips. CO emissions disperse rapidly with distance from the source under normal meteorological conditions. Because CO emissions from off-road equipment would be spread out among the different sites where construction activity would occur; because haul truck trips, worker commute trips, and helicopter activities are also non-stationary in nature; and because both the MCAB and Lake Tahoe Air Basin are designated as attainment for CO, it is not anticipated that CO emissions would contribute to CO concentrations that exceed the NAAQS or California Ambient Air Quality Standard (CAAQS).

The emissions from construction of the 625 and 650 Electrical Line Upgrade Project would be below the General Conformity threshold. As a result, no conformity determination is required. I am requiring compliance with the air quality APMs as a condition of this decision.

### **Clean Water Act**

The Federal Water Pollution Control Act of 1977 or Clean Water Act (CWA) requires states to set standards to protect, maintain, and restore water quality through the regulation of point source and certain non-point source discharges to surface water. All projects that have a federal component and may affect state water quality (including projects that require federal agency approval, such as issuance of a Section 404 permit) must also comply with CWA Section 401. Point source discharges are regulated by the National Pollutant Discharge Elimination System (NPDES) permit process, outlined in CWA Section 402. NPDES permitting authority is delegated to, and administered by, California's nine Regional Water Quality Control Boards. California's State Water Resources Control Board regulates the NPDES storm water program. In addition, Section 404 of the CWA authorizes the USACE to regulate the discharge of dredged or fill materials into navigable waters of the U.S., including certain wetlands and other waters of the U.S. USACE issues individual site-specific or general (nationwide) permits for such discharges.

Section 303(d) of the CWA requires states to identify impaired waters and establish the Total Maximum Daily Load (TMDL) of pollutants for those waters to protect water quality for beneficial uses. Lake Tahoe is currently on the 303(d) list for deep water transparency (Lake clarity), because it has not achieved the standard of 29.7 meters (97.4 feet) average annual Secchi disk visibility depth (depth at which a disk of standard size and markings remains visible as it is lowered into the water) since the early 1970s. With a goal to restore Lake Tahoe's historic deep water transparency through programs and policies aimed at reducing the amount of fine sediment and nutrients entering the lake, the Lake Tahoe TMDL was adopted by the LRWQCB and Nevada Division of Environmental Protection (NDEP) and approved by the EPA in August 2011. TMDL analysis showed runoff from urban land uses as the primary source of fine sediment loading to the Lake and, therefore, the TMDL plan emphasizes actions by the jurisdictions (i.e., cities, counties, and state departments of transportation) to reduce fine sediment sources from entering urban stormwater runoff and to treat urban runoff before it reaches the Lake.

The Truckee River from the Lake Tahoe outlet to the California/Nevada state line is the other large water body potentially affected by the project, and is listed under Section 303(d) for excess sedimentation. At higher stream flows that result from summer thunderstorms, snow melt, and dam releases, the suspended sediment concentrations in the Truckee River exceed what is recommended for aquatic life protection. To combat this, the Middle Truckee River TMDL established a 20 percent annual sediment load reduction through erosion control and sedimentation limiting practices and was adopted by the LRWQCB and approved by the EPA in 2009.

All the action alternatives traverse some land designated as SEZ (i.e., TRPA Land Capability District 1b) in the Lake Tahoe Basin and Montane Riparian outside of the Lake Basin. In addition to the waterways

named herein, several smaller creeks and unnamed drainages that run through and adjacent to the wetlands and SEZs within these watersheds, the most significant in the lower lying areas of Martis Valley where the various branches of Martis Creek converge.

Construction of the project would result in temporary soil disturbance along the upgraded utility alignment, new access ways and improved road sections, and staging areas. Soil disturbance associated with these construction activities could cause accelerated soil erosion and sediment loss that could be transported to nearby water bodies. Use of hazardous materials during construction (e.g., fuels, lubricants) could result in the release of these materials into nearby water bodies. Construction dewatering could also provide a mechanism for contaminant discharges. Implementing the project would result in direct removal and disturbance of waters of the U.S., waters of the state, riparian habitat, and SEZs.

CalPeco will be required to obtain approvals from the USACE and the State Water Resources Control Board under the CWA, including certification (or a waiver) under Section 401 from the State that the proposed discharge complies with water quality standards. A formal wetland delineation according to USACE criteria would be conducted after selection of a preferred alternative and prior to project permitting under Section 404 of the CWA,

All construction projects in California greater than 1 acre in size are required to prepare and implement a detailed Stormwater Pollution Prevention Plan (SWPPP) that includes a site specific Construction Site Monitoring and Reporting Plan (CSMRP) pursuant to the NPDES 2011 California General Permit for construction or in the case of the Lake Tahoe Basin, the Tahoe Construction Stormwater permit.

### **Flood Plains and Wetlands (E.O.s 11988 and 11990)**

Floodplain Management Executive Order 11988 adopted in May 1977 directs all federal agencies to evaluate potential effects of any actions it may take in the floodplain and to avoid all adverse impacts associated with modifications to floodplains. It also directs federal agencies to avoid encroachment into the 100-year floodplain, whenever there is a practicable alternative and to restore and preserve the natural and beneficial values served by the floodplains (EPA 1977).

There are up to three locations where the project would be located within a 100-year flood hazard area. Given the small footprint of the proposed facilities, placement of poles in the flood hazard area would not appreciably impede or redirect flood flows.

### **Environmental Justice (E.O. 12898)**

Executive Order 12898, *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*, signed in February 1994, requires federal agencies to identify and to address any disproportionately adverse effects on human health or the human environment of minority and/or low-income populations resulting from federal programs, policies, and activities. As described in Final

EIS/EIS/EIR Chapter 5, Section 5.6.7, no adverse environmental effects as they pertain to environmental justice were identified with the project on National Forest System lands.

### **National Historic Preservation Act**

The basis for determining significance of cultural resources is driven by the National Historic Preservation Act (NHPA). In particular, Section 106 requires federal agencies to take into account impacts upon resources listed or eligible for listing on the National Register of Historic Places (NRHP).

Consultation with the State Historic Preservation Officer is on-going. Final letters of concurrence will be published with the final ROD, after the objection resolution process is complete.

### **Implementation Date**

If an objection to this draft decision is filed, implementation may occur on, but not before fifteen business days from the date of objection resolution and issuance of a final decision. If no objection is filed, implementation may begin five business days from the close of the objection period and issuance of a final decision.

### **Objection Opportunities**

This proposed decision is subject to objection pursuant to 36 CFR 218, Subparts A and B. Objections will only be accepted from those who submitted project-specific written comments during scoping or other designated comment period. Issues raised in objections must be based on previously submitted comments unless based on new information arising after the designated comment period(s).

Objections must be submitted within 45 days following the publication of a legal notice in the Tahoe Daily Tribune. The date of the legal notice is the exclusive means for calculating the time to file an objection. Those wishing to object should not rely upon dates or timeframes provided by any other source. It is the objector's responsibility to ensure evidence of timely receipt (36 CFR 218.9).

Objections must be submitted to the reviewing officer: Randy Moore, Regional Forester, USDA Forest Service; Attn: CalPeco Line Upgrade Project; 1323 Club Drive, Vallejo, CA 94592. Phone (707) 562-8737. Objections may be submitted via mail, FAX (707-562-9229), or delivered during business hours (M-F 8:00am to 4:00pm). Electronic objections, in common (.doc, .pdf, .rtf, .txt) formats, may be submitted to: [objections-pacificsouthwest-regional-office@fs.fed.us](mailto:objections-pacificsouthwest-regional-office@fs.fed.us) with Subject: CalPeco Line Upgrade Project. In cases where no identifiable name is attached to an electronic message, a verification of identity will be required. A scanned signature is one way to provide verification.

Objections must include (36 CFR 218.8(d)): 1) name, address and telephone; 2) signature or other verification of authorship; 3) identify a single lead objector when applicable; 4) project name, Responsible Official name and title, and name of affected National Forest(s) and/or Ranger District(s); 5)

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reasons for, and suggested remedies to resolve, your objections; and, 6) description of the connection between your objections and your prior comments. Incorporate documents by reference only as provided for at 36 CFR 218.8(b).

## Contact

For additional information concerning this project or the Forest Service objection process, contact:

Bob Rodman, Lands Program Leader  
Lake Tahoe Basin Management Unit  
35 College Drive  
South Lake Tahoe, CA 96150  
(530) 543-2613

Or

Michael LeFevre, Planning Staff Officer  
Lake Tahoe Basin Management Unit  
35 College Drive  
South Lake Tahoe, CA 96150  
(530) 543-2840

## Responsible Officials:

Nancy J. Gibson  
Forest Supervisor, LTBMU

Tom Quinn  
Forest Supervisor, Tahoe National Forest