Exhibit B

State Route 99 Auxiliary Lane Project
Between State Route 32 and East 1st Avenue
(Conventional Signalized Intersections)

Statement of Overriding Considerations

Pursuant to Section 21081 of the Public Resources Code and Section 15093 of the California Environmental Quality Act Guidelines

Related Environmental Document:
Draft and Final Environmental Impact Report on the
State Route 99 Auxiliary Lane Project between State Route 32 and East 1st Avenue
SCH No. 2002112002

Prepared for:

Butte County Association of Governments
965 Fir Street
Chico, CA 95928
530/879-2468
Contact: Andy Newsum, Project Manager

Prepared by:

Jones & Stokes
2600 V Street
Sacramento, CA 95818
916/737-3000
Contact: Debbie Loh, Principal-in-Charge

January 2004

The Butte County Association of Governments Board of Directors hereby finds that, for reasons set forth below, the technical (traffic operations and safety) and other beneficial aspects of the project outweigh the significant and unavoidable short-term biological resource impacts, identified in the Findings of Fact as Impacts BR1 (short-term impact) and BR14 (short-term impact):

- The proposed project will improve the safety and traffic operations of southbound and northbound SR 99 traffic within the project limits, thereby reducing the currently high traffic accident rate along this segment. The proposed project will improve traffic operations by providing an auxiliary lane to facilitate weaving movements, by lengthening the ramps and improving sight distance, and by improving the freeway and ramp geometrics. By improving traffic safety conditions along this segment, the project will also reduce Caltrans', BCAG's, and the City of Chico's legal vulnerability from such traffic accidents.
- The proposed project will reduce traffic delays within the project limits by improving access across Bidwell Park, by improving the SR 32 and East 1st Avenue ramp merge areas, and by reducing congestion at the SR 99/East 1st Avenue intersections. These improvements promote safe and efficient vehicle circulation, an important goal of the City of Chico General Plan. These improvements will also result in achievement of the City of Chico's level of service criteria for arterial intersections and Caltrans' concept level of service for SR 99 in 2007 and 2027. Without these improvements, unacceptable levels of service are expected on northbound SR 99 and at the Sheridan Avenue/SR 99 ramp intersections in 2007, and on northbound and southbound SR 99 and at all study intersections in 2027.
- The proposed project implements an improvement identified in the adopted Butte County Regional Transportation Plan, 2001-2005.

The data to support these overriding factors are found in the following chapters of the draft EIR: Chapter 3, "Project Description"; Chapter 4, "Land Use"; and Chapter 5, "Transportation".

RESOLUTION NO. 2003/04-10

RESOLUTION OF THE BUTTE COUNTY ASSOCIATION GOVERNMENTS CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT (SCH# 2002112002) FOR THE STATE ROUTE 99 AUXILIARY LANE PROJECT BETWEEN STATE ROUTE 32 AND EAST FIRST AVENUE IN CHICO, BUTTE COUNTY, CA

WHEREAS, the Butte County Association of Governments (BCAG) is the designated Lead Agency for the development of an Environmental Impact Report (EIR) to address the environmental impacts of the proposed State Route 99 Auxiliary Lane Project between State Route 32 and East First Avenue in Chico.

WHEREAS, on May 29, 2002, a public scoping meeting was conducted at the City of Chico Council Chambers from 6:00 pm to 9:00 pm and comments on the proposed project and the scope of the EIR, were received by the public.

WHEREAS, after obtaining comments in response to the public scoping meeting, a Notice of Preparation of an Environmental Impact Report was prepared on October 28, 2002 and distributed to the State Clearinghouse, responsible agencies, trustee agencies and interested parties.

WHEREAS, after obtaining comments received in response to the Notice of Preparation, and comments received at a public meeting held on March 12, 2003 from 6:00 pm to 9:00 pm, in the City of Chico Council Chambers, BCAG completed the preparation of the Draft Environmental Impact Report (DEIR), dated September 2003, and filed a Notice of Completion with the State Clearinghouse.

WHEREAS, a Notice of Availability was filed with the State Clearinghouse, mailed to owners and occupants of contiguous properties and all interested parties, and published in the Chico Enterprise Record newspaper, and the DEIR was circulated for public review and comment from October 1, 2003 to November 24, 2003 and was available for review at several locations including Butte County public libraries, City of Chico Development Services, the BCAG offices and online at www.bcag.org.

WHEREAS, during the public review period, the BCAG Board of Directors held a public hearing on November 20, 2003 at 9:00 am in the City of Chico Council Chambers, and received and considered public testimony.

WHEREAS, oral testimony, written comments, email messages and phone messages were responded to in Chapter 2, "Comments and Responses to Comments", in the Final Environmental Impact Report (FEIR), dated December 2003.

NOW, THEREFORE BE IT RESOLVED BY the BCAG Board of Directors the following:

SECTION 1. It is hereby certified that the Final Environmental Impact Report was prepared in accordance with the California Environmental Quality Act (CEQA) Guidelines (14 California Code of Regulations, Section 14000 et seq.)

SECTION 2. Consistent with CEQA guidelines Section 15132, the Final EIR for the project is comprised of the Draft EIR and appendices, the comments received on the Draft EIR, the Responses to Comments, the Errata, the Mitigation Monitoring Program, References and Appendix A containing all correspondence received during the course of the preparation of the Final EIR.

SECTION 3. Each fact in support of the findings contained in the attached "Findings of Fact" with respect to significant impacts identified in the Final EIR is true and is based upon substantial evidence in the record, including the Final EIR. The "Findings of Fact" and "Table 1 – Phasing of Mitigation Measures" are attached as Exhibit "A" to this Resolution and incorporated herein by this reference.

SECTION 4. The Final EIR has identified all significant environmental effects of the Project and that there are no known potential environmental impacts not addressed in the Final EIR and all significant effects of the Project are set forth in Exhibit "A" and the Final EIR.

SECTION 5. Although the Final EIR identifies that there are certain significant and unavoidable impacts on the environment, all significant effects which can feasibly be mitigated or avoided have been mitigated or avoided by the incorporation of Project design features, standard conditions and requirements, and by the imposition of mitigation measures on the approved Project. All mitigation measures are included in "Table 4-1 - Mitigation Monitoring Program" contained in Chapter 4 of the final EIR and are attached to this Resolution and incorporated herein by this reference.

SECTION 6. The Final EIR has described reasonable alternatives to the Project that could feasibly obtain the Purpose and Need of the Project. Further, a good faith effort was made to incorporate suggested alternatives in the preparation of the Draft EIR and that a reasonable range of alternatives was considered in the review process of the Final EIR and ultimate decisions on the Project.

SECTION 7. No "substantial evidence" (as that term is defined pursuant to CEQA Guidelines Section 15384) has been presented which would call into question the facts and conclusions in the EIR.

SECTION 8. No "significant new information" (as that term is defined pursuant to CEQA Guidelines Section 15088.5) has been added to the EIR since publication of the draft EIR. No significant new information concerning the Project became known through the public hearings held on the Project, or through the comments on the Draft EIR and Responses to Comments.

SECTION 9. The "Mitigation Monitoring Program" establishes a mechanism and procedures for implementing and verifying the mitigations pursuant to Public Resources Code 21081.6 and BCAG hereby adopts the "Mitigation Monitoring Program". The mitigation measures shall be incorporated into the Project prior to, concurrent with and after Project implementation as required.

SECTION 10. The unavoidable significant impacts, identified in Exhibit "A" have been lessened in their severity by the application of standard conditions, the inclusion of Project design features and the imposition of the mitigation measures. The unavoidable significant impacts are clearly outweighed by the technical (Traffic operations and safety) and other benefits of the Project, as set forth in the "Statement of Overriding Considerations" attached to this Resolution as Exhibit "B", incorporated herein by this reference. The BCAG Board adopts the recitation of overriding considerations which justify approval of the Project notwithstanding certain unavoidable significant impacts which cannot feasibly be substantially mitigated as set forth in the "Statement of Overriding Considerations".

SECTION 11. The Final Environmental Impact Report has been presented to the BCAG Board of Directors, which has reviewed and considered the information and analysis contained therein.

SECTION 12. It is hereby certified that the Final EIR reflects the independent judgment and analysis of the Butte County Association of Governments.

PASSED AND ADOPTED by the Butte County Association of Governments on this 22nd day of January 2004, by the following vote:

AYES: Houx, Beeler, Jarvis, Andoe, White, Paul-Busch

NOES: Delan

ABSENT: Yamaguchi, Josiassen, Cook

ABSTAIN: None.

APPROVED: _____
GORDON ANDOE, CHAIR
BUTTE COUNTY ASSOCIATION OF GOVERNMENTS

ATTEST: _____
JON A. CLARK
EXECUTIVE DIRECTOR

NEPA/CEQA RE-VALIDATION FORM

DIST./CO./RTE.	03-Butte-99
PM/PM	PM 32.3/33.1
E.A. or Fed-Aid Project No.	3A040
Other Project No. (specify)	
PROJECT TITLE	SR 99 Auxiliary Lane Between SR 32 and East 1st Ave.
ENVIRONMENTAL APPROVAL TYPE	EIR/CE
DATE APPROVED	EIR: 1/23/04 CE approved: 8/12/04
REASON FOR CONSULTATION (23 CFR 771.129)	*Check reason for consultation:* ☒ *Project proceeding to next major federal approval* ☐ *Change in scope, setting, effects, mitigation measures, requirements* ☐ *3-year timeline (EIS only)*
DESCRIPTION OF CHANGED CONDITIONS	*Briefly describe the changed conditions or new information on page 2. Append continuation sheet(s) as necessary. Include a revised Environmental Commitments Record (ECR) when applicable.*

NEPA CONCLUSION - VALIDITY

Based on an examination of the changed conditions and supporting information: [*Check ONE of the three statements below, regarding the validity of the original document/determination (23 CFR 771.129). If document is no longer valid, indicate whether additional public review is warranted and whether the type of environmental document will be elevated.]*

☐ **The original environmental document or CE remains valid. No further documentation will be prepared.**

☒ **The original environmental document or CE is in need of updating; further documentation has been prepared and ☐ is included on the continuation sheet(s) or ☒ is attached.**

No Additional public review is warranted (23 CFR 771.111(h)(3))

☐ **The original document or CE is no longer valid.**

YesAdditional public review is warranted (23 CFR 771.111(h)(3))

YesSupplemental environmental document is needed.

YesNew environmental document is needed. (If "Yes," specify type: _____)

CONCURRENCE WITH NEPA CONCLUSION

I concur with the NEPA conclusion above.

Signature: Environmental Branch Chief — Date: 6/29/09 — Signature: Project Manager/DLAE — Date: 7/7/09

CEQA CONCLUSION : *(Only mandated for projects on the State Highway System.)*

Based on an examination of the changed conditions and supporting information, the following conclusion has been reached regarding appropriate CEQA documentation: *(Check ONE of the four statements below, indicating whether any additional documentation will be prepared, and if so, what kind. If additional documentation is prepared, attach a copy of this signed form and any continuation sheets.)*

☐ **Original document remains valid. No further documentation is necessary.**

☒ **Only minor technical changes or additions to the previous document are necessary. An addendum has been or will be ☒ prepared and is ☐ included on the continuation sheets or ☐ will be attached. It need not be circulated for public review. *(CEQA Guidelines, §15164)***

☐ **Changes are substantial, but only minor additions or changes are necessary to make the previous document adequate. A Supplemental environmental document will be prepared, and it will be circulated for public review. *(CEQA Guidelines, §15163)***

☐ **Changes are substantial, and major revisions to the current document are necessary. A Subsequent environmental document will be prepared, and it will be circulated for public review. *(CEQA Guidelines, §15162)***
(Specify type of subsequent document, e.g., Subsequent FEIR:)

____

CONCURRENCE WITH CEQA CONCLUSION

I concur with the CEQA conclusion above.

Signature: Environmental Branch Chief — Date: 6/29/09 — Signature: Project Manager — Date: 7/7/09

NEPA/CEQA RE-VALIDATION FORM

DIST./CO./RTE.	03-Butte-99
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E.A. or Fed-Aid Project No.	3A040
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DESCRIPTION OF CHANGED CONDITIONS	*Briefly describe the changed conditions or new information on page 2. Append continuation sheet(s) as necessary. Include a revised Environmental Commitments Record (ECR) when applicable.*

NEPA CONCLUSION - VALIDITY

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No Additional public review is warranted (23 CFR 771.111(h)(3))

☐ **The original document or CE is no longer valid.**

YesAdditional public review is warranted (23 CFR 771.111(h)(3))

YesSupplemental environmental document is needed.

YesNew environmental document is needed. (If "Yes," specify type: _____)

CONCURRENCE WITH NEPA CONCLUSION

I concur with the NEPA conclusion above.

Signature: Environmental Branch Chief _____ Date _____ Signature: Project Manager/DLAE _____ Date _____

CEQA CONCLUSION : *(Only mandated for projects on the State Highway System.)*

Based on an examination of the changed conditions and supporting information, the following conclusion has been reached regarding appropriate CEQA documentation: *(Check ONE of the four statements below, indicating whether any additional documentation will be prepared, and if so, what kind. If additional documentation is prepared, attach a copy of this signed form and any continuation sheets.)*

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(Specify type of subsequent document, e.g., Subsequent FEIR:)

_____

CONCURRENCE WITH CEQA CONCLUSION

I concur with the CEQA conclusion above.

Signature: Environmental Branch Chief _____ Date _____ Signature: Project Manager _____ Date _____

CONTINUATION SHEET(S)

Address only substantial changes or substantial new information since approval of the original document and only those areas that are applicable. Use the list below as section headings as they apply to the project change(s). Use as much or as little space as needed to adequately address the project change(s) and the associated impacts, minimization, avoidance and/or mitigation measures, if any.

Changes in project design, e.g., substantial scope change; a new alternative; change in project alignment

none

Changes in environmental setting, e.g., new development affecting traffic or air quality;

none

Changes in environmental circumstances, e.g., a new law or regulation; change in the status of a listed species.

On September 23, 2003, NMFS issued a letter of concurrence that the proposed project would not likely adversely affect federally listed endangered Sacramento River winter-run Chinook salmon (Oncorhynchus tshawytscha), threatened Central Valley spring-run Chinook salmon (O. tshawytscha), threatened Central Valley steelhead (O. mykiss), and Central Valley fall/late fall-run Chinook salmon (O. tshawytscha), a federal species of concern, or essential fish habitat (EFH)" (SWR-03-SA-8306:HLB). Since issuance of this letter, Big Chico Creek was designated as critical habitat for Central Valley spring-run and Central Valley steelhead on September 2, 2005 (70 Federal Register 52488). The final rule became effective on January 2, 2006. Therefore, reinitiation of informal consultation was initiated on September 11, 2008. On January 12, 2009, NMFS issued a letter of concurrence that the proposed project would not likely adversely affect Central Valley steelhead or Central Valley spring run Chinook salmon or their critical habitat. The NMFS also concurred that the proposed project would not likely adversely affect EFH.

Changes to environmental impacts of the project, e.g., a new type of impact, or a change in the magnitude of an existing impact.

None. Since more than 2 years had passed since surveys for the valley elderberry longhorn beetle had originally been conducted for the proposed project, additional surveys were conducted. On January 22, 2009, the USFWS issued an amended Biological Opinion under the programmatic consultation permitting projects with relatively small effects on VELB within the jurisdiction of the Sacramento field office.

Changes to avoidance, minimization, and/or mitigation measures since the environmental document was approved.

none

Changes to environmental commitments since the environmental document was approved, e.g., the addition of new conditions in permits or approvals. When this applies, append a revised Environmental Commitments Record (ECR) as one of the Continuation Sheets.

none

State Route 99 Auxiliary Lane Project
NEPA/CEQA Revalidation Form Continuation Sheet, May 1, 2009

The following original NEPA/CEQA approvals are attached to this revalidation form:

- Categorical Exclusion approved on August 4, 2004
- CEQA Notice of Determination dated January 23, 2004

The following additional documentation was prepared and approved by Caltrans for this revalidation and is attached:

Biological Resources

- Natural Environment Study Update, dated January 24, 2008
- Request to National Marine Fisheries Service (NMFS) for reinitiation of informal consultation under Section 7 of the federal Endangered Species Act, dated August 11, 2008
- NMFS' letter of concurrence that the project is *Not Likely to Adversely Affect* Chinook salmon or their designated critical habitat or Essential Fish Habitat, dated January 12, 2009
- Request to the U.S. Fish and Wildlife Service (USFWS) for an amended Biological Opinion for Valley Elderberry Longhorn Beetle (VELB), dated June 30, 2008
- USFWS Amendment to the Programmatic Consultation Permitting Projects with Relatively Small Effects on VELB within the jurisdiction of the Sacramento Field Office, dated August 7, 2008
- USFWS 2nd Amendment to the Programmatic Consultation Permitting Projects with Relatively Small Effects on VELB within the jurisdiction of the Sacramento Field Office, dated January 22, 2009

Cultural Resources

- State Historic Preservation Officer Supplemental Determinations of Eligibility and Notification of No Historic Properties Affected, dated March 5, 2009

Noise

- Supplementary Noise Analysis, dated May 1, 2009

Air Quality

- Supplementary Air Quality Technical Memorandum, dated July 16, 2008
- Completed CE checklist: Air Quality Conformity Questions

U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION
CALIFORNIA DIVISION
650 Capitol Mall, Suite 4-100
Sacramento, CA. 95814

August 12, 2004

IN REPLY REFER TO
HDA-CA
File #: 03-BUT-99, KP R51.9/53.3, PM 32.2/33.1
EA 3A0400
Document #: P50184

Mrs. Jody Jones, District Director
California Department of Transportation
District 3
P. O. Box 911
Marysville, CA 95901

Attention: Jean L. Baler, Chief, Environmental Management, M2 Branch

Dear Mrs. Jones:

SUBJECT: Approval of Categorical Exclusion, State Route 99 Operational Improvements, State Route 32 to East 1st Avenue,

Enclosed for your use and records is the signed, original approval page of the Categorical Exclusion determination for the subject project in Butte County.

This will complete the subject project's National Environmental Policy Act requirements. The project may be advanced accordingly. If you have any questions, please contact Leland W. Dong at (916) 498-5860 or by e-mail at leland.dong@fhwa.dot.gov.

Sincerely,

/s/ ***Leland W. Dong***

For
Gene K. Fong
Division Administrator

Enclosure:
Categorical Exclusion

cc: w/ Enclosure (by E-mail)
Gary Winters, Caltrans HQ
Denise O'Connor, Caltrans HQ
John Webb, Caltrans HQ, NR
Christel Little, Caltrans D-3
Stephanie Stoermer, FHWA

LWDong/at

CATEGORICAL EXEMPTION
CATEGORICAL EXCLUSION/PROGRAMMATIC CATEGORICAL EXCLUSION
DETERMINATION FORM

03-BUT-99	KP R51.9/53.3 (PM 32.2/33.1)	3A0400	
Dist.-Co.-Rte. (or Local Agency)	K.P./K.P.(P.M/P.M.)	E.A. (State project)	Proj. No. (Local project) (Fed.Prog. Prefix Proj. No., Agr. No.)

PROJECT DESCRIPTION: (Briefly describe project, purpose, location, limits, right-of-way requirements, and activities involved.)

Enter project description in this text box. Use Continuation Sheet, if necessary
See attached project description and additional supporting documentation.

CEQA COMPLIANCE *(for State Projects only)*

Based on an examination of this proposal, supporting information, and the following statements (See 14 CCR 15300 et seq.):

- If this project falls within exempt class 3, 4, 5, 6 or 11, it does not impact an environmental resource of hazardous or critical concern where designated, precisely mapped and officially adopted pursuant to law.
- There will not be a significant cumulative effect by this project and successive projects of the same type in the same place, over time.
- There is not a reasonable possibility that the project will have a significant effect on the environment due to unusual circumstances.
- This project does not damage a scenic resource within an officially designated state scenic highway.
- This project is not located on a site included on any list compiled pursuant to Govt. Code § 65962.5 ("Cortese List").
- This project does not cause a substantial adverse change in the significance of a historical resource.

CALTRANS CEQA DETERMINATION (N/A)

☐ **Exempt by Statute** (PRC 21080)
Based on an examination of this proposal, supporting information, and the above statements, the project is:
☐ **Categorically Exempt**. Class ___ , or **General Rule exemption** (This project does not fall within an exempt class, but it can be seen with certainty that there is no possibility that the activity may have a significant effect on the environment [CCR 15061(b)(3)])

Signature: Environmental Office Chief	Date	Signature: Project Manager	Date

NEPA COMPLIANCE (23 CFR 771.117)

Based on an examination of this proposal, supporting information, and the following statements.

- This project does not have a significant impact on the environment as defined by the NEPA.
- This project does not involve substantial controversy on environmental grounds.
- This project does not involve significant impacts on properties protected by Section 4(f) of the DOT Act or Section 106 of the National Historic Preservation Act.
- In non-attainment or maintenance areas for Federal air quality standards: this project comes from a currently conforming plan and Transportation Improvement Program or is exempt from regional conformity.
- This project is consistent with all Federal, State, & local laws, requirements or administrative determinations relating to the environmental aspects of this action.

CALTRANS NEPA DETERMINATION

Based on an examination of this proposal, supporting information, and the statements above under "NEPA Compliance", it is determined that the project is a:

☐ **PROGRAMMATIC CATEGORICAL EXCLUSION (PCE):** Based on the evaluation of this project and supporting documentation in the project files, all the conditions of the November 18, 2003 Programmatic Categorical Exclusion Agreement have been met.

X **CATEGORICAL EXCLUSION (CE):** For actions that do not individually or cumulatively have a significant environmental effect and are excluded from the requirement to prepare an Environmental Assessment (EA) or Environmental Impact Statement (EIS). Require FHWA determination.

Jean L Baker	8/4/04	Michael Penn	8/3/04
Signature: Environmental Office Chief	Date	Signature: Project Manager/DLA Engineer	Date

FHWA DETERMINATION

Based on the evaluation of this project and the statements above, it is determined that the project meets the criteria of and is properly classified as a Categorical Exclusion (CE).

Signature: FHWA Project Development Engineer	8/12/04 Date

Additional information attached or referenced, as appropriate (e.g. Mitigation commitments for **NEPA only** ; Air Quality studies or documentation of exemption from regional conformity or use of CO Protocol; §106 commitments; §4(f) or Programmatic §4(f); date of COE nationwide permit; § 7 species survey results; Wetlands Finding; Floodplain Finding; additional studies; design conditions. **Rev. 11/2003**

PROJECT DESCRIPTION

The Butte County Association of Governments (BCAG) (project sponsor), in association with Caltrans (owner/operator of the facility) and the Federal Highway Administration (FHWA), are proposing to improve the operational characteristics of State Route (SR) 99 between SR 32 and East 1st Avenue by providing an auxiliary lane in each direction. BCAG analyzed three alternatives: Outside Widening Alternative, Inside Widening Alternative, and the No-Project Alternative. In addition, BCAG evaluated two configurations for the SR 99/East 1st Avenue intersections: conventional signalized intersections and roundabouts. On January 22, 2004, the BCAG Board of Directors adopted the Inside Widening Alternative and conventional signalized intersections, and certified the project environmental impact report (State Clearinghouse number 2002112002) under the California Environmental Quality Act. BCAG filed a Notice of Determination with the State Clearinghouse and the Butte County Clerk on January 26, 2004 (Attachment A).

Under the Inside Widening Alternative, the existing freeway lanes will be realigned into the median to use the existing outer freeway lane as the auxiliary lane. The median will be reduced to 6.8 meters (22.3 feet). Both the Bidwell Park Viaduct and the Palmetto Avenue Undercrossing structures will be widened to the inside to accommodate the auxiliary lanes, resulting in one structure at each bridge location.

The Bidwell Park Viaduct structures will be widened to the inside to provide the auxiliary lane and standard inside shoulders, and will also be widened to the outside for a portion of the structure to accommodate the ramp merges and to provide standard outside shoulders. The inside widening requires removing the inside railings and connecting the two bridges. This new bridge portion will be supported by new single columns constructed between the existing 26 columns (13 columns currently support each bridge); 13 columns on spread footings will be added in the median. A cast-in-place box girder structure will be constructed to connect the two existing bridges. The outside widening necessary to match the ramps and to provide standard outside shoulders on both sides of the structure will be supported by one additional column constructed to the outside of each of the existing columns; the outside widening ranges from 0.8–11.7 meters (2.6–38.4 feet). These new columns will vary in size according to the amount of widening they support. A total of 39 new columns will be constructed.

Construction of six new pier footings and retrofitting the footings of four existing piers will occur within Big Chico Creek's ordinary high water mark (OHWM). Sheet piles will be placed adjacent to the edge of the excavation in order to separate the creek waterway from the active work area. Dewatering of the excavated work areas will be achieved with coffer dams constructed on both sides of the creek; creek flow will be maintained outside of the dewatered area. Construction within the creek bed will require approximately 6–8 weeks. Total construction time in the vicinity of the creek will require approximately 18–24 months.

The Palmetto Avenue Undercrossing structures are each supported by two continuous pier walls. These pier walls will be widened to the outside to provide for ramp merges and standard outside shoulders so that the finished supports will both be one solid wall supporting one finished bridge. The widening will range from 3.0–7.0 meters (9.8–23.0 feet).

The northbound on-ramp from SR 32 and the southbound on-ramp from East 1st Avenue will be widened to provide two ramp lanes that transition to a single-lane on-ramp. The ramp lane will become the freeway auxiliary lane. Both on-ramps will be constructed to accommodate future ramp metering.

The southbound off-ramp to SR 32/East 8th Street will be a two-lane off-ramp that will provide one through lane onto the one-way frontage road and one right-turn lane onto 8th Street (a one-way street). The northbound off-ramp to East 1st Avenue will be a two-lane off-ramp. It will be widened to provide two left-turn lanes and one right-turn lane at the ramp intersection.

East 1st Avenue is proposed to be widened to four westbound lanes (two through lanes and two left-turn lanes) and two eastbound lanes (one through lane and one left-turn lane). The existing ramp intersections are signalized, and the signals will be relocated as needed to match the widened intersection. The cross section on East 1st Avenue will provide six 3.3-meter (11-foot) lanes, two 1.5-meter (5-foot) shoulders, and two 1.5-meter (5-foot) sidewalks. The existing overpass wall (overpass substructure) will not be modified.

SUMMARY OF COMPLIANCE WITH FEDERAL LAWS AND REQUIREMENTS

Biological Resources

Valley Elderberry Longhorn Beetle. On May 22, 2003, FHWA submitted a biological assessment for the federally listed Valley elderberry longhorn beetle (VELB) to the U. S. Fish and Wildlife Service (USFWS) which concluded that the proposed project will adversely affect the beetle. On July 8, 2004, the USFWS issued a biological opinion on the VELB, concluding the USFWS's review of the proposed project under Section 7 of the federal Endangered Species Act (See Attachment B).

The following environmental commitments for the VELB will be implemented:

- Fence elderberry shrubs to be protected
- Inspect buffer area fences during construction
- Water down construction areas to control dust in the vicinity of the elderberry shrubs
- Compensate for direct and indirect effects to VELB by providing a conservation area that is at least 0.62 hectare (1.53 acres) in size to accommodate the transplanted 19 transplanted elderberry shrubs, 161 elderberry cuttings or seedlings, and 200 native plants.

Central Valley Steelhead and Central Valley Spring-Run, Sacramento River Winter-Run, and Central Valley Fall-Run Chinook Salmon. On June 20, 2003, FHWA submitted a biological assessment and Essential Fish Habitat (EFH) assessment for federally listed Central Valley steelhead, Sacramento River winter-run and Central Valley spring-run Chinook salmon, and candidate Central Valley fall/late-fall run Chinook salmon, concluding that the proposed project may affect, but will not likely adversely affect these species. On September 3, 2003, the National Oceanic and Atmospheric Administration-Fisheries (NOAA Fisheries) concurred with this finding, concluding Section 7 and EFH consultation (Attachment C).

The following environmental commitments for fish species will be implemented:

- Conduct a biological resources education program for construction crews prior to construction and enforce construction restrictions
- Require that the contractor designate and fence environmentally-sensitive exclusion areas
- Retain a Caltrans environmental representative or BCAG-hired biologist to monitor construction activities in and near Big Chico Creek and ensure that construction is undertaken in accordance with all conservation measures
- Enhance riparian habitat by developing and implementing a riparian restoration and monitoring plan to compensate for the temporary and permanent loss of riparian vegetation and aquatic habitat along Big Chico Creek; submit an annual implementation and monitoring report to NOAA Fisheries for review
- Limit instream work to July 1 to August 31 of any construction year
- Adhere to Caltrans Standards Specifications for avoidance of water pollution, including prohibiting the use of heavy machinery in Big Chico Creek, limiting the amount of material that enters the stream, and other measures to maintain water quality
- Conform to the water pollution control standards through the development and implementation of a Storm Water Pollution Prevention Plan (SWPPP) and implementation of applicable temporary Best Management Practices, including sediment traps, silt fences, and other erosion control measures
- Keep staging and refueling areas and hazardous substances a minimum of 30 meters (100 feet) away from the active stream channel, and develop a spill prevention plan to keep construction and maintenance material out of the water
- Implement measures to ensure that turbidity levels during construction do not increase by more than 20% above the normal basin condition in accordance with the standards set by the Central Valley Regional Water Quality Control Board
- Ensure that the temporary detour and work pad meet the NOAA Fisheries Southwest Region Guidelines for Salmonid Passage at Stream Crossings

Big Chico Creek Riparian and Aquatic Habitat. The project will disturb 1.3 hectares (3.2 acres) of riparian forest and remove or trim approximately 106 trees 6 inches or greater in diameter at breast height (dbh) in the riparian area adjacent to Bidwell Park. The project will also result in the loss of 0.03 hectare (0.09 acre) of aquatic habitat in Big Chico Creek with construction of the new bridge columns. Project construction will also result in the potential loss of 0.03 hectare (0.09 acre) of aquatic habitat and 0.14 hectare (0.35 acre) of suitable upland habitat for the northwestern pond turtle.

Environmental commitments for riparian and aquatic impacts include:

- Conduct a biological resources education program for construction crews and enforce construction restrictions
- Install construction barrier fencing around the construction area to protect sensitive biological resources that will be avoided
- Retain a biologist to monitor construction activities in and near Big Chico Creek

- Enhance riparian habitat by developing and implementing a riparian restoration and monitoring plan
- Conduct preconstruction surveys for northwestern pond turtle and construct exclusionary fencing, if needed

Nesting Migratory Birds and Bats. The project will result in the loss of trees that may provide suitable nesting habitat for the following special-status species: Swainson's hawk, Cooper's hawk, oak titmouse, and Nuttall's woodpecker, as well as swallows and other non-special status nesting migratory birds and raptors. The project will also potentially disturb Yuma myotis and pallid bats.

Environmental commitments for these species include:

- Conduct a biological resources education program for construction crews and enforce construction restrictions
- Install construction barrier fencing around the construction area to protect sensitive biological resources that will be avoided
- Retain a biologist to monitor construction activities in and near Big Chico Creek
- Conduct a preconstruction survey for nesting Swainson's hawks and begin construction activities and remove trees during the Swainson's hawk nonbreeding season (September 15 to March 1)
- Begin construction activities and remove trees and shrubs during the nonbreeding season for most birds (generally, August 15 to March 1)
- Avoid construction activities that could disturb nesting swallows
- Conduct preconstruction surveys for special-status species bats and avoid construction activities, if maternity colonies are found within the project area, until after migration

Trees Six Inches or Greater in Diameter at Breast Height. The project will result in the removal of approximately 308 trees 6 inches or greater dbh located within the Caltrans right-of-way along SR 99.

The environmental commitment for this impact is:

- Implement project landscaping plan to replace trees that are removed, using the specified guidelines

Invasive Species. Pursuant to Executive Order 13112, the impacts of the project on the introduction of new noxious weeds and the spread of existing noxious weeds were evaluated.

The following environmental commitment will be implemented:

- Avoid the introduction of new noxious weeds or the spread of existing noxious weeds by educating the construction contractor on weed identification, cleaning construction equipment at designated wash stations, seeding disturbed areas with certified weed-free native and nonnative mixes, using certified weed-free mulch, and conducting a follow-up inventory to ensure that new noxious weeds have not been introduced.

U.S. Army Corps of Engineers Waters of the United States. Big Chico Creek is the only other water of the U.S. that occurs on the project site. There are no adjacent, contiguous, or isolated wetlands or roadside channels in the project area. The total area of stream channel within the ordinary high water mark in the project area is approximately 0.10 hectare (0.25 acre). BCAG met with Matt Kelley of the U. S. Army Corps of Engineers (Corps) in October 2002. The Corps indicated that the project could be permitted with a nationwide permit 23 (Approved Categorical Exclusions) and 33 (Temporary Construction, Access and Dewatering). During final design, BCAG will apply for these permits, as well as a Section 401 water quality certification from the Central Valley Regional Water Quality Control Board and a Section 1602 streambed alteration agreement from the California Department of Fish and Game.

Cultural Resources

On March 20, 2003, FHWA forwarded the Historic Property Survey Report (HPSR), prepared for this project in compliance with Section 106 of the National Historic Preservation Act, to the State Historic Preservation Officer (SHPO). The HPSR concluded that no historic properties would be affected by the proposed project pursuant to 36 CFR §800.4 (d) (1). On December 5, 2003, the SHPO concurred with this conclusion (Attachment D).

In the event that previously unknown cultural resources are discovered during construction, the following action will be undertaken:

- Implement appropriate procedures, including evaluation of the find by a qualified archeologist and contacting the Native American Heritage Commission, if required.

Air Quality

The project will not violate the National Ambient Air Quality Standards for carbon monoxide. Furthermore, the project is a conforming transportation project under Section 176(c) of the federal Clean Air Act.

For construction-related impacts, the following environmental commitment will be implemented:

- Comply with Butte County Air Pollution Control District requirements for construction-related mitigation measures

Floodplains. Under the proposed project, the Bidwell Park viaduct structure will be widened to accommodate the additional roadway and will require construction of additional piers within the Big Chico Creek floodplain. Under the Inside Widening Alternative, 39 piers will be placed within the floodplain. These pier placements constitute a linear encroachment into the floodplain that is subject to compliance with Executive Order 11988. The Location Hydraulic Analysis prepared for this project documents that this encroachment is not considered significant pursuant to Executive Order 11988 because the change in water surface elevation during flooding will be negligible; there are no planned changes to flood control facilities, and

there will be no significant fill within the floodplain; emergency access or evacuation routes during flooding will not be impacted; and the project does not pose an appreciable increased risk associated with flooding, does not adversely impact floodplain beneficial uses, and does not support base floodplain development.

Environmental Justice. Pursuant to Executive Order 12898, the project was evaluated to determine its effects, if any, on minority and low-income populations. This analysis concluded that the project will not cause disproportionately high or adverse human health or environmental effects on minority or low-income residents.

Section 4(f) of the U.S. Department of Transportation Act of 1966 (23 CFR 771.135). Although construction of this project will require a temporary construction easement within Bidwell Park, Section 4(f) does not apply to this temporary occupancy. Officials having jurisdiction over the protected resource have agreed that the relevant criteria for a minor, short-term occupancy will be met. (See Attachment E)

Land Use. The proposed project will require full acquisitions of three residential parcels. In addition, partial acquisitions will be required from eight residential and three commercial parcels, and temporary easements will be required on 19 residential and one nonresidential parcel.

Environmental commitments related to land use impacts include the following:

- Compensate displaced land uses in conformance with the Uniform Relocation Assistance and Real Property Acquisition Polices Act
- Provide at least 10 additional parking spaces for business at 1078 East 1st Avenue
- Implement a transportation management plan

Noise. Based on 23 CFR 772, a noise impact evaluation was prepared for this project. This evaluation concluded that up to a 3-dB increase over existing noise levels will occur at noise sensitive receivers in 2027 with project implementation. These future noise levels will approach or exceed the federal noise abatement criteria of 67 dB L_{eq} at some receivers.

The following noise abatement is considered reasonable and feasible:

- 4.1-meter-high (14-foot-high) barrier constructed at edge of shoulder adjacent to southbound and northbound SR 99 and near property lines adjacent to East 1st Avenue ramps, between Bidwell Park and East 1st Avenue

Water Quality. The proposed project will result in temporary and permanent water quality impacts.

The following environmental commitments will be implemented for these impacts:

- Implement construction-related Best Management Practices
- Implement permanent post-construction Best Management Practices

Hazardous Materials. The project Initial Site Assessment concluded that the project area and surrounding properties have a low risk of presenting substantial impacts from hazardous materials or wastes and/or petroleum hydrocarbons. The database search contained in this assessment concluded that with the exception of the First Avenue Cleaners on East 1st Avenue, hazardous materials are not used, generated, stored, or disposed of in the project area, and underground storage tanks are not likely located within or adjacent to the project area.

The following environmental commitments will be implemented related to hazardous material impacts:

- If it is necessary to remove soil from the project site, conduct tests of field samples of surface/near-surface soils for soluble lead, pH, and total lead to assess lead concentrations of these soils. If lead levels are considered hazardous, handle lead-contaminated soils in accordance with applicable state and federal regulations.
- Conduct an asbestos survey of any bridge structure within the project area to be disturbed.
- Sample and test yellow pavement stripping that may be removed to determine the presence of lead above regulatory thresholds. If lead content of the yellow pavement stripping is found to be above the regulatory thresholds, develop a mitigation plan to address the safe removal and disposal of lead-impacted paint.
- If construction workers are expected to come into contact with groundwater, sample groundwater in those areas and perform analytical testing to determine the presence of contaminants above the regulatory thresholds. Prepare a mitigation plan to address the safe handling, dewatering, and/or disposal of contaminated groundwater, if needed.
- If leaks from electrical transformers that will either remain within the project construction zone or will require removal and/or relocation are encountered before or during construction, sample the transformer fluid and have it analyzed by qualified personnel for detectable levels of polychlorinated biphenyls (PCBs). If PCBs are detected, remove and dispose of the transformer in accordance with regulatory agency requirements.
- Prepare a health and safety plan to address worker safety and proper handling procedures for the materials identified above.

Visual Resources. The project site will experience temporary and permanent visual changes due to vegetation removal and the addition of 39 new bridge columns in and adjacent to Big Chico Creek.

The following environmental commitments will be implemented for visual impacts:

- Install temporary, visual barriers between construction zones and residences
- Construct walls with low-sheen and non-reflective surface materials
- Implement project landscaping plan to replace trees that are removed, using the specified guidelines
- Implement the specified Best Management Practices for inclusion in the project description of the project report
- Enhance riparian habitat by developing and implementing a riparian restoration and monitoring plan

- Provide aesthetic treatments to the noise barrier

NOTICE OF DETERMINATION

TO: **State Clearinghouse**
P.O. Box 3044
Sacramento, CA 95812-3044
and
County Clerk, County of Butte

FROM: **Butte County Association of Governments**
965 Fir Street
Chico, CA 95928

SUBJECT: Filing of Notice of Determination in compliance with Section 21108 of the Public Resources Code

Project Title: State Route 99 Auxiliary Lane Project between State Route 32 and East First Avenue, in the City of Chico, Butte County, ***Project Number RPSTPL-6092 (014)***.

Name: Butte County Association of Governments for the State of California

State Clearinghouse Number (If submitted to Clearinghouse) 20021122002

Contact Person: **Andy Newsum** **Telephone Number:** **(530) 879-2468**

Project Location: State Route 99 between State Route 32 and East First Avenue in the City of Chico, Butte County, CA.

Project Description: The project consists of roadway improvements to State Route (SR) 99 between the SR 32 and East 1st Avenue interchanges, including a portion of East First Avenue. The proposed project would improve the operational characteristics of SR 99 between SR 32 and East 1st Avenue. Caltrans and the Butte County Association of Governments are proposing this project to 1) alleviate existing safety problems and operational deficiencies, 2) alleviate existing congestion problems, 3) address vehicles that have difficulty entering SR 99 in the northbound and southbound directions, and 4) improve access between the SR 32 and East 1st Avenue interchanges, across Bidwell Park.

This is to advise that the Butte County Association of Governments Board of Directors __X__ Lead Agency or ___Responsible Agency has approved the above-described project on **January 22, 2004** and has made the following determination regarding the above-described project.

1. The project _____ will, __X__ will not, have a significant effect on the environment.
2. __X__ An Environmental Impact Report was prepared and certified for this project pursuant to the provisions of CEQA.

   _____ A Negative Declaration was prepared for this project pursuant to the provisions of CEQA.
3. Mitigation measures __X__ were, _____ were not, made a condition of the approval of the project.
4. A statement of overriding consideration __X__ was, ____ was not, adopted for this project.
5. Findings __X__ were ___ were not made pursuant to Section 15091 of CEQA.

This is to certify that the final **Environmental Impact Report** with comments and responses and record of project approval is available to the general public at the ***Butte County Association of Governments, 965 Fir Street, Chico, CA 95928***.

Date Received for Filing and Posting at OPR _____

FILED
JAN 23 2004
VALLEJO
CANDACE J. GRUBBS, BUTTE CO. CLERK
DEPUTY

Signature

Executive Director, Butte County Association of Governments
Title

JANUARY 23, 2004
Date:

RESOLUTION NO. 2003/04-10

RESOLUTION OF THE BUTTE COUNTY ASSOCIATION GOVERNMENTS CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT (SCH# 2002112002) FOR THE STATE ROUTE 99 AUXILIARY LANE PROJECT BETWEEN STATE ROUTE 32 AND EAST FIRST AVENUE IN CHICO, BUTTE COUNTY, CA

WHEREAS, the Butte County Association of Governments (BCAG) is the designated Lead Agency for the development of an Environmental Impact Report (EIR) to address the environmental impacts of the proposed State Route 99 Auxiliary Lane Project between State Route 32 and East First Avenue in Chico.

WHEREAS, on May 29, 2002, a public scoping meeting was conducted at the City of Chico Council Chambers from 6:00 pm to 9:00 pm and comments on the proposed project and the scope of the EIR, were received by the public.

WHEREAS, after obtaining comments in response to the public scoping meeting, a Notice of Preparation of an Environmental Impact Report was prepared on October 28, 2002 and distributed to the State Clearinghouse, responsible agencies, trustee agencies and interested parties.

WHEREAS, after obtaining comments received in response to the Notice of Preparation, and comments received at a public meeting held on March 12, 2003 from 6:00 pm to 9:00 pm, in the City of Chico Council Chambers, BCAG completed the preparation of the Draft Environmental Impact Report (DEIR), dated September 2003, and filed a Notice of Completion with the State Clearinghouse.

WHEREAS, a Notice of Availability was filed with the State Clearinghouse, mailed to owners and occupants of contiguous properties and all interested parties, and published in the Chico Enterprise Record newspaper, and the DEIR was circulated for public review and comment from October 1, 2003 to November 24, 2003 and was available for review at several locations including Butte County public libraries, City of Chico Development Services, the BCAG offices and online at www.bcag.org.

WHEREAS, during the public review period, the BCAG Board of Directors held a public hearing on November 20, 2003 at 9:00 am in the City of Chico Council Chambers, and received and considered public testimony.

WHEREAS, oral testimony, written comments, email messages and phone messages were responded to in Chapter 2, "Comments and Responses to Comments", in the Final Environmental Impact Report (FEIR), dated December 2003.

NOW, THEREFORE BE IT RESOLVED BY the BCAG Board of Directors the following:

SECTION 1. It is hereby certified that the Final Environmental Impact Report was prepared in accordance with the California Environmental Quality Act (CEQA) Guidelines (14 California Code of Regulations, Section 14000 et seq.)

SECTION 2. Consistent with CEQA guidelines Section 15132, the Final EIR for the project is comprised of the Draft EIR and appendices, the comments received on the Draft EIR, the Responses to Comments, the Errata, the Mitigation Monitoring Program, References and Appendix A containing all correspondence received during the course of the preparation of the Final EIR.

SECTION 3. Each fact in support of the findings contained in the attached "Findings of Fact" with respect to significant impacts identified in the Final EIR is true and is based upon substantial evidence in the record, including the Final EIR. The "Findings of Fact" and "Table 1 – Phasing of Mitigation Measures" are attached as Exhibit "A" to this Resolution and incorporated herein by this reference.

SECTION 4. The Final EIR has identified all significant environmental effects of the Project and that there are no known potential environmental impacts not addressed in the Final EIR and all significant effects of the Project are set forth in Exhibit "A" and the Final EIR.

SECTION 5. Although the Final EIR identifies that there are certain significant and unavoidable impacts on the environment, all significant effects which can feasibly be mitigated or avoided have been mitigated or avoided by the incorporation of Project design features, standard conditions and requirements, and by the imposition of mitigation measures on the approved Project. All mitigation measures are included in "Table 4-1 - Mitigation Monitoring Program" contained in Chapter 4 of the final EIR and are attached to this Resolution and incorporated herein by this reference.

SECTION 6. The Final EIR has described reasonable alternatives to the Project that could feasibly obtain the Purpose and Need of the Project. Further, a good faith effort was made to incorporate suggested alternatives in the preparation of the Draft EIR and that a reasonable range of alternatives was considered in the review process of the Final EIR and ultimate decisions on the Project.

SECTION 7. No "substantial evidence" (as that term is defined pursuant to CEQA Guidelines Section 15384) has been presented which would call into question the facts and conclusions in the EIR.

SECTION 8. No "significant new information" (as that term is defined pursuant to CEQA Guidelines Section 15088.5) has been added to the EIR since publication of the draft EIR. No significant new information concerning the Project became known through the public hearings held on the Project, or through the comments on the Draft EIR and Responses to Comments.

SECTION 9. The "Mitigation Monitoring Program" establishes a mechanism and procedures for implementing and verifying the mitigations pursuant to Public Resources Code 21081.6 and BCAG hereby adopts the "Mitigation Monitoring Program". The mitigation measures shall be incorporated into the Project prior to, concurrent with and after Project implementation as required.

SECTION 10. The unavoidable significant impacts, identified in Exhibit "A" have been lessened in their severity by the application of standard conditions, the inclusion of Project design features and the imposition of the mitigation measures. The unavoidable significant impacts are clearly outweighed by the technical (Traffic operations and safety) and other benefits of the Project, as set forth in the "Statement of Overriding Considerations" attached to this Resolution as Exhibit "B", incorporated herein by this reference. The BCAG Board adopts the recitation of overriding considerations which justify approval of the Project notwithstanding certain unavoidable significant impacts which cannot feasibly be substantially mitigated as set forth in the "Statement of Overriding Considerations".

SECTION 11. The Final Environmental Impact Report has been presented to the BCAG Board of Directors, which has reviewed and considered the information and analysis contained therein.

SECTION 12. It is hereby certified that the Final EIR reflects the independent judgment and analysis of the Butte County Association of Governments.

PASSED AND ADOPTED by the Butte County Association of Governments on this 22nd day of January 2004, by the following vote:

AYES: Houx, Beeler, Jarvis, Andoe, White, Paul-Busch

NOES: Dolan

ABSENT: Yamaguchi, Josiassen, Cook

ABSTAIN: None.

APPROVED: _____
GORDON ANDOE, CHAIR
BUTTE COUNTY ASSOCIATION OF GOVERNMENTS

ATTEST: _____
JON A. CLARK
EXECUTIVE DIRECTOR

Jones & Stokes

Memorandum

Date: January 24, 2008

To: Sandra Rosas and Christel Little, Caltrans District 3 Environmental

cc:

From: Debbie Loh, Project Manager
Jennifer Haire, Wildlife Biologist

Subject: **State Route 99 Auxiliary Lane Project between State Route 32 and East 1st Avenue in the City of Chico: Natural Environment Study Update**

Introduction

On behalf of Butte County Association of Governments (BCAG), this technical memorandum has been prepared to provide Caltrans with updated information in support of the Final Natural Environment Study (NES) (April 2003) for the State Route 99 Auxiliary Lane Project between State Route 32 and East 1st Avenue. The 2003 NES was prepared to support the Categorical Exclusion approved for the Inside Widening Alternative in August 2004. BCAG is currently constructing Phase 1 of the project involving improvements to East 1st Avenue, and is commencing final design of Phase 2 of the project (Inside Widening Alternative) entailing construction of the northbound auxiliary lane. As the project is proceeding to the next major federal approval for Phase 2 of the project, this memorandum updates the NES with regard to the following:

- Wetland delineation
- Protocol-level surveys for valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*) (VELB)

All other biological resources evaluations contained in 2003 NES remain current.

Wetland Delineation

A wetland delineation was conducted in 2002 identifying Big Chico Creek as the only waters of the U.S. that occur on the project site. A request for verification of 0.25 acre of Big Chico Creek, within the project site, was submitted to the U. S. Army Corps of Engineers (Corps) on November 18, 2003. On March 23, 2004, the Corps requested additional information regarding the delineation. A letter providing the requested information was forwarded to the Corps on July 8, 2004. To date, no verification has been received from the Corps. The pre-construction

notification (PCN) for the nationwide permit application submittal must show the extent of jurisdiction to illustrate project elements that will be placed in Corps regulated waters.

As of May 30, 2007, the Corps requires that an Approved Jurisdictional Determination Form be completed for all delineations. In order to complete this new form, confirmation of the jurisdictional limits of Big Chico Creek, an other waters of the United States, was conducted.

Methods. Jones & Stokes wetland ecologist/botanist Joy Nishida conducted a site visit on November 12, 2007 to delineate other waters of the United States. The jurisdictional boundary of Big Chico Creek, an "other waters" feature, was based on the ordinary high water mark (OHWM) as defined in 33 Code of Federal Regulations (CFR) 328.3(e) and other evidence as defined in recent regulatory guidance (U.S. Army Corps of Engineers 2005). Resource-grade global positioning system (GPS) units were used to record the location of the OHWM of Big Chico Creek. Where satellite reception was poor, aerial photographs and topographic base map interpretation were used to supplement GPS data. The GPS data were downloaded and corrected in the office using the nearest available base-station data. The corrected data were superimposed onto a topographic base map, supplied by Quincy Engineering, which was combined with a relatively recent (2003) digital orthophotograph quarter quadrangle (DOQQ) to generate a wetland delineation map for the project area.

Results. Big Chico Creek continues to be the only waters of the U.S. feature in the project area. Big Chico Creek is considered a relatively permanent water, where flow is year-round or continuous at least seasonally (see jurisdictional determination form at end of memo). Big Chico Creek is connected to Mud Creek, which is connected to the Sacramento River, a traditional navigable water as illustrated in Figure 1. As a tributary to the Sacramento River, Big Chico Creek is within the scope of the Corps jurisdiction under Section 404 of the Clean Water Act. Initially in 2002, the area of Big Chico Creek was estimated to be 0.25 acres within the project area. Utilizing GPS, a more accurate determination of area for the other waters feature of 0.30 acres was generated during the recent site visit of November 12, 2007 (Figure 2). Site conditions have not changed appreciably since the original site visit in 2002.

Valley Elderberry Longhorn Beetle Protocol-level Surveys

Protocol-level surveys for VELB were originally conducted within the entire project area and within 100 feet of the project area in Bidwell Park in September and October 2002. Based on these surveys, the Federal Highway Administration (FHWA) submitted a Biological Assessment (BA) for VELB to the U.S. Fish and Wildlife Service (USFWS) in May 2003. FHWA received a Biological Opinion of the proposed project's effects on VELB from USFWS on July 8, 2004. Because the survey results are only valid for a period of 2 years, additional surveys were conducted. This memo documents the methods and results of these surveys. Caltrans intends to submit a letter to the USFWS to reinitiate formal consultation for VELB for this project and

request an amended biological opinion.

Methods. Jones & Stokes wildlife biologist, Jennifer Haire, and botanist, Joy Nishida, conducted VELB surveys on November 12, 2007. Maps showing the locations of elderberry shrubs that were previously surveyed were used to re-locate elderberry shrubs within the project area and within 100 feet of the project area in Bidwell Park. Surveys were conducted in accordance with the 1999 *Conservation Guidelines for the Valley Elderberry Longhorn Beetle* (Guidelines) (U.S. Fish and Wildlife Service 1999). During the survey, elderberry stems were measured at ground level with calipers to determine the diameter of each of the stems. The diameter of each stem 1-inch or greater in diameter was recorded. The approximate height and canopy size was noted. Elderberry stems were visually examined for the presence of VELB exit holes. The presence or absence of potential VELB exit holes was recorded for each shrub.

Results. A total of 20 elderberry shrubs (*Sambucus* sp.) and one elderberry clump were located within the project area along SR 99 during the 2002 surveys (Figure 3). A clump is defined as a large group of shoots/stems/trunks where individual shrubs cannot be identified. Six additional elderberry shrubs and two elderberry clumps were located within approximately 100 feet of the Caltrans right-of-way within Bidwell Park during these surveys.

During the 2007 surveys, we found that one shrub (#16) had been cut down and removed within the project area. In addition, during the 2002 survey, we could only view shrubs 14 and 14a from a distance because of dense blackberry surrounding the shrubs, and they appeared to be separate shrubs. In 2007, the blackberry had been trampled such that it was possible to approach and view the shrubs up close. What appeared to be two shrubs in 2002 is actually one shrub (labeled 14 in this memorandum and in Figure 3). Therefore, the total number of elderberry shrubs within the project area is 18 shrubs and one clump. Within the 100-foot buffer area, we were unable to locate one shrub (#27). There was very dense periwinkle (*Vinca* sp.) in this area and it is possible that the shrub may have been removed or fallen over and then was covered over by periwinkle. Therefore, the total number of elderberry shrubs within the 100-foot buffer area is five shrubs and two clumps.

A total of 60 stems measuring greater than 1.0 inch in diameter at ground level were counted among the 19 shrubs and one clump in the project area (Table 1). Potential VELB exit holes were observed on seven shrubs within the project area (#1, 2, 7, 8, 10, 14, and 18). Fifteen shrubs are located within the Caltrans right-of-way adjacent to Bidwell Park and are found within riparian habitat. Four shrubs/clumps are located adjacent to SR 99 and are considered to be within nonriparian habitat.

A total of 35 stems measuring greater than 1.0 inch in diameter at ground level were counted among the seven elderberry shrubs/clump in the 100-foot buffer area (Table 2). All of these shrubs are located within riparian habitat. Potential VELB exit holes were observed on four shrubs in the buffer area (#15, 24, 25 and 26).

Table 1. Results of the Valley Elderberry Longhorn Beetle Survey within the Project Area

Elderberry Shrub/ Cluster Number	Number of Stems ≥1" and ≤3"	Number of Stems >3" and <5"	Number of Stems ≥5"	Total Number of Stems	Estimated Height (feet)
Riparian					
1*	5	0	1	6	25
2*	3	0	1	4	20
3	1	1	2	4	22
4	1	0	0	1	22
5	1	1	0	2	16
6	1	0	0	1	25
7*	0	0	3	3	7
8*	1	1	2	4	20
9	0	1	0	1	10
10*	1	0	1	2	20
11	0	1	0	1	15
12	0	1	0	1	15
13	0	0	2	2	25
14*	0	1	1	2	20
16 shrub removed					
21	2	0	0	2	12
Subtotal	16	7	13	36	N/A
Nonriparian					
17	3	1	0	4	15
18*	9	1	1	11	23
19	5	1	0	6	20
20	2	0	1	3	23
Subtotal	19	3	2	24	
Total	35	10	15	60	N/A

* These shrubs contained potential VELB exit holes.

Table 2. Results of the Valley Elderberry Longhorn Beetle Survey within 100 Feet of the Project Area

Elderberry Shrub/ Cluster Number	Number of Stems ≥1" and ≤3"	Number of Stems >3" and <5"	Number of Stems ≥5"	Total Number of Stems	Estimated Height (feet)
Riparian					
15*	10	4	1	15	15
22	0	0	2	2	23
23	2	1	0	3	15
24*	0	0	1	1	20
25*	0	0	2	2	25
26*	10	1	0	11	15
27 couldn't locate					
28	0	0	1	1	20
Total	22	6	7	35	N/A

* These shrubs contained potential VELB exit holes.

Impacts to VELB Associated with the Inside Widening Alternative. Implementation of the Inside Widening Alternative would result in the removal of 17 elderberry shrubs (#1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 17, 18, and 21) that have a combined total of 51 stems measuring 1-inch in diameter or greater. All of these shrubs are within the Caltrans right-of-way and will be directly impacted by the proposed project.

Two elderberry shrubs/clumps in the project area (#19 and 20) and seven elderberry shrubs/clumps within approximately 100 feet of the Caltrans right-of-way could be indirectly affected by increased exposure to dust from construction activities, as described in the final NES report. To reduce or avoid project impacts on VELB, Mitigation Measures 5.3a–5.3c (labeled as Mitigation Measures BR4a, BR4b, and BR4c in the certified EIR for this project) would be implemented as described in the final NES for the project. Because of the change in the number and size of stems impacted (based on the 2007 survey results as compared to the 2002 survey results), compensation for the impacts on elderberry shrubs has been updated. Therefore, Mitigation Measure 5.3d (labeled Mitigation Measure BR4d in the certified EIR for this project), which addresses compensation, would be modified as follows.

Mitigation Measure 5.3d: Compensate for Direct and Indirect Effects on Valley Elderberry Longhorn Beetle Habitat

Before construction begins, BCAG will compensate for direct effects to elderberry shrubs by transplanting the shrubs to an USFWS-approved conservation area. Elderberry seedlings or cuttings and associated native species will also be planted in the conservation area. BCAG is working with the City of Chico to locate possible conservation areas in Bidwell Park in which the shrubs could be transplanted; if the conservation area is located within Bidwell Park, it may be located within the same area as the riparian replacement/enhancement area where mitigation for impacts to riparian vegetation will occur. The River Ranch Conservation Bank is also being considered as a possible conservation area. The relocation of the elderberry shrubs will be conducted according to USFWS-approved procedures outlined in the Guidelines (U. S. Fish and Wildlife Service 1999). USFWS will be provided with a map and written details identifying the conservation area before the mitigation program is initiated. BCAG and Caltrans must receive approval from USFWS that the conservation area is acceptable. Elderberry shrubs within the project area that cannot be avoided will be transplanted during the plant's dormant phase (November through the first two weeks of February). A qualified biological monitor will remain onsite while the shrubs are being transplanted.

Evidence of VELB occurrence in the conservation area, the condition of the elderberry shrubs in the conservation area, and the general condition of the conservation area itself will be monitored over a period of 10 consecutive years or for 7 years over a 15-year period from the date of transplanting. BCAG will be responsible for funding and providing monitoring reports to Caltrans, the City of Chico, and USFWS in each of the years in which a monitoring report is required. As specified in the Guidelines, the report will include information on timing and rate of irrigation, growth rates, and survival rates and mortality.

To meet the success criteria specified in the Guidelines, a minimum survival rate of 60% of the original number of elderberry replacement plantings and associated native plants must be maintained throughout the monitoring period.

Under the Inside Widening Alternative, 17 elderberry shrubs will be transplanted to the conservation area according to USFWS-approved procedures outlined in the Guidelines. Based on the Inside Widening Alternative affecting 17 elderberry shrubs having a combined total of 51 stems measuring 1.0 inch or greater in diameter, an additional 200 elderberry seedlings or cuttings would be planted at the conservation area (Table 3). Elderberry cuttings or seedlings and native plants will be obtained from local sources or from an approved plant donor site. A mix of native plants associated with the elderberry shrubs at the project site will be planted in the conservation area at a ratio of 1:1 or 2:1 native tree/elderberry seedling or cutting. A mixture of native grasses and forbs from local stock should also be planted along with the native trees. The conservation area will be at least 2.3 acres in size to accommodate the 17 elderberry shrubs, 200 elderberry cuttings or seedlings, and 352 native plants. The conservation area in which the transplanted elderberry shrubs and seedlings are planted will be protected in perpetuity as habitat for the VELB.

Table 3. Required Compensation for VELB for the Inside Widening Alternative

Habitat	Stem Diameter	Number of Stems	Exit Holes (Y/N)	Seedling Ratio	Native Plant Ratio	Total Seedling	Total Native Plants
Riparian	Stems ≥1" to ≤3"	6	N	2:1	1:1	12	12
	Stems ≥1" to ≤3"	10	Y	4:1	2:1	40	80
	Stems >3" to <5"	5	N	3:1	1:1	15	15
	Stems >3" to <5"	2	Y	6:1	2:1	12	24
	Stems ≥5"	4	N	4:1	1:1	16	16
	Stems ≥5"	9	Y	8:1	2:1	72	144
Nonriparian	Stems >1" to <3"	3	N	1:1	1:1	3	3
	Stems >1" to <3"	9	Y	2:1	2:1	18	36
	Stems >3" to <5"	1	N	2:1	1:1	2	2
	Stems >3" to <5"	1	Y	4:1	2:1	4	8
	Stems >5"	0	N	3:1	1:1	0	0
	Stems ≥5"	1	Y	6:1	2:1	6	12
Total		51				200	352

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Flex your power!
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August 11, 2008

Ms. Maria Rea, Area Supervisor
NOAA – National Marine Fisheries Service, Sacramento Office
Endangered Species Consultation
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Sacramento, CA 95814-4708

03-BUT-99
PM 32.2/33.1
EA 03-3A040

Subject: Request for reinitiation of consultation for the State Route 99 Auxiliary Lane Project in Butte County

Dear Ms. Rea:

Caltrans is requesting reinitiation of Section 7 consultation for the State Route 99 Auxiliary Lane Project as the NEPA lead agency under the provisions of the Memorandum of Understanding (MOU) between the Federal Highway Administration and the California Department of Transportation Concerning the State of California's Participation in the Surface Transportation Project Delivery Pilot Program, which became effective on July 1, 2007. The MOU was signed pursuant to Section 6004 of the 2005 Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) which allows the Secretary of Transportation to assign, and the State of California to assume, responsibility for FHWA's responsibilities under NEPA as well as consultation and coordination responsibilities under other Federal environmental laws. As the Pilot Program MOU covers this project, FHWA has assigned and Caltrans has assumed FHWA responsibility for environmental review, consultation, and coordination on this project. Please direct all future correspondence on this project to Caltrans.

On September 3, 2003, a concurrence letter was issued by the National Marine Fisheries Service to the Federal Highway Administration stating that this proposed project "is not likely to adversely affect federally listed endangered Sacramento River winter-run Chinook salmon (*Oncorhynchus tshawytscha*), threatened Central Valley spring-run Chinook salmon (*O. tshawytscha*), threatened Central Valley steelhead (*O. mykiss*), and Central Valley fall/late fall-run Chinook salmon (*O. tshawytscha*), a federal species of concern, or essential fish habitat (EFH)" (SWR-03-SA-8306:HLB). This letter of concurrence covered both project designs that were being considered at that time: the Inside Widening and Outside Widening Alternatives. On January 22, 2004, the BCAG Board of Directors adopted the Inside Widening Alternative. BCAG is now entering the final design phase for this alternative. The area proposed for construction activities under

the Inside Widening Alternative has not changed since issuance of the September 23, 2003 letter of concurrence from NMFS.

Reinitation of informal consultation is being requested since, subsequent to NMFS' letter of concurrence, Big Chico Creek was designated as critical habitat for Central Valley spring-run and Central Valley steelhead on September 2, 2005 (70 Federal Register 52488). The final rule became effective on January 2, 2006.

Description of the Proposed Action (Inside Widening Alternative)
The proposed project is located on SR 99 between the SR 32 and East 1st Avenue interchanges and on East 1st Avenue in the vicinity of the SR 99/East 1st Avenue interchange, in the City of Chico, in Butte County (see attached Figure 1). SR 99 is an important interregional route that runs north to south, connecting Bakersfield to Red Bluff and other points north. For the Chico area, SR 99 serves as one of the few crossings through Bidwell Park and over Big Chico Creek, and serves as a local connection between the northern and southern halves of the city.

Under the proposed action, the existing freeway lanes would be realigned into the median to use the existing outer (#2) freeway lane as the auxiliary lane. The median would be reduced to 22.3 feet and a concrete barrier at the centerline of the median would be constructed. Both the Bidwell Park Viaduct and the Palmetto Avenue Undercrossing structures would be widened to the inside to accommodate the auxiliary lanes, resulting in one structure, rather than two structures (as currently exists), at each bridge location. The existing Bidwell Park Viaduct structures are each supported by 13 columns (total of 26 existing columns). A total of four columns border the banks of Big Chico Creek (see attached Figure 2). The Bidwell Park Viaduct structures would be widened to the inside to provide for the auxiliary lane and standard inside shoulders, but would also be widened to the outside for a portion of the structure to accommodate the ramp merges and to provide for standard outside shoulders. The inside widening requires removing the inside railings and connecting the two bridges. This new bridge portion would be supported by new single columns constructed between the existing columns; 13 columns on spread footings or piles would be added in the median. A cast-in-place box girder structure would be constructed to connect the two existing bridges. The outside widening necessary to match the ramps and to provide standard outside shoulders on both sides of the structure would be supported by one additional column constructed to the outside of each of the existing columns; the outside widening ranges from 2.6 to 38.4 feet. These new columns would vary in size according to the amount of widening they support. A total of 39 new columns would be constructed.

Widening of the Bidwell Park viaduct is the only aspect of the project that would occur below the ordinary high water mark (OHWM) of Big Chico Creek. Construction of six new pier footings and retrofitting the footings of six existing piers would occur within Big Chico Creek's OHWM (Figure 2).

Sheet piles would be placed adjacent to the edge of the excavation in order separate the creek waterway from the active work area. Dewatering of the excavated work areas would be achieved with cofferdams constructed on both sides of the creek; creek flow would be maintained outside of the dewatered area. Water removed from the excavated area would be pumped into a settling basin. The existing bridge overhangs would be demolished with measures taken to minimize debris falling into the creek. Temporary falsework that clear spans the creek would be erected to support the new bridge members as they are being constructed. A temporary creek crossing would also be constructed to provide equipment and worker access from one side of the creek to the other. This crossing would span the creek with structural bridge elements, such as steel beams or railroad flatcars, and would not affect the creek channel. Construction within the creek bed would require approximately 6 to 8 weeks. Total construction time in the vicinity of the creek would require approximately 18 to 24 months.

Proposed Avoidance and Minimization Measures
As part of the project, BCAG would implement the following measures, as specified in NMFS' September 3, 2003 letter of concurrence for this project. Except as specified below, these measures are included as mitigation measures in the project biological assessment and adopted by BCAG on January 22, 2004, as described below:

1. *Instream work will be limited to July 1- August 31 of any construction year*.
   This measure is included in Minimization Measure 4: Implement Measures to Protect Fish Species and Water Quality of Big Chico Creek.

2. *Construction personnel will participate in a biological resource education program prior to working on the project.*
   This measure is included in Minimization Measure 1: Conduct a Biological Resources Education Program for Construction Crews and Enforce Construction Restrictions.

3. *A riparian habitat restoration and monitoring plan will be developed and implemented to compensate for the temporary and permanent loss of riparian vegetation and aquatic habitat along Big Chico Creek. An annual implementation and monitoring report will be submitted to NOAA Fisheries for review*.
   This measure is included in Minimization Measure 5: Enhance Riparian Habitat by

Developing and Implementing a Riparian Restoration and Monitoring Plan.

4. *The project will adhere to Caltrans Standard Specifications for avoidance of water pollution. These specifications include prohibiting the use of heavy machinery in Big Chico Creek, limiting the amount of material that enters the stream, and other measures to maintain water quality.*
   This measure is included in Minimization Measure 4: Implement Measures to Protect Fish Species and Water Quality of Big Chico Creek.

5. *The project will conform to the water pollution control standards through the development and implementation of a Storm Water Pollution Prevention Plan and implementation of applicable temporary Best Management Practices, including sediment traps, silt fences, and other erosion control measures.*
   This measure is included in Minimization Measure 4: Implement Measures to Protect Fish Species and Water Quality of Big Chico Creek.

6. *Staging and refueling areas, and hazardous substances will be kept a minimum of 100 feet away from the active stream channel, and a spill prevention plan will be developed to keep construction and maintenance material out of the water.*
   This measure is included in Minimization Measure 4: Implement Measures to Protect Fish Species and Water Quality of Big Chico Creek.

7. *During construction, turbidity levels will not be increased by more than 20% above the normal basin condition in accordance with the standards set by the Central Valley Regional Water Quality Control Board.*
   BCAG would implement this measure as part of the proposed project.

8. *The temporary detour and work pad will meet the NOAA Fisheries Southwest Region Guidelines for Salmonid Passage at Stream Crossings (http://swr.ucsd,edu/hcd/NMFSSCG/PDF).*
   As described above, the proposed temporary creek crossing would span the Big Chico Creek with structural bridge elements and would not affect the creek channel. Therefore, it would comply with these guidelines.

9. *The contractor will designate and fence environmentally-sensitive exclusion areas.*
   This measure is included in Minimization Measure 2: Install Construction Barrier Fencing around the Construction Area to Protect Sensitive Biological Resources That Will be Avoided.

10. *A Caltrans environmental representative will monitor construction activities to ensure*

the construction is in accordance with all conservation measures.
This measure is included in Minimization Measure 3: Retain a Biologist to Monitor Construction Activities in and near Big Chico Creek.

Critical Habitat
Critical habitat was designated for Central Valley spring-run Chinook salmon and Central Valley steelhead by NMFS on September 2, 2005 (70 FR 52488-52627). The final rule became effective on January 2, 2006.

Critical habitat for a listed species is based on physical and biological factors that are essential to the conservation of that species (70 FR 52521). Physical constituent elements (PCEs) that are essential features of critical habitat for threatened California Central Valley spring-run Chinook salmon and steelhead include:

- Freshwater spawning sites with water quantity and quality conditions and substrate supporting spawning, incubation, and larval development;
- Freshwater rearing sites with water quantity and floodplain connectivity to form and maintain physical habitat conditions and support juvenile growth and mobility; water quality and forage supporting juvenile development; and natural cover such as shade, submerged and overhanging large wood, log jams and beaver dams, aquatic vegetation, large rocks and boulders, side channels, and undercut banks; and
- Freshwater migration corridors free of obstruction with water quantity and quality conditions and natural cover, such as submerged and overhanging large wood, aquatic vegetation, large rocks and boulders, side channels, and undercut banks, supporting juvenile and adult mobility and survival.

Fish Use and Existing Habitat Conditions in Big Chico Creek at the SR 99 Crossing
Big Chico Creek is a perennial stream with flowing water during most years. The stream flow is regulated by a water diversion structure upstream of the project area near the One Mile Recreation Area of Bidwell Park, so that flows are at a similar level year-round.

At the project site, Big Chico Creek is used by adult spring-run Chinook salmon and steelhead as a migration corridor to upstream spawning and rearing habitat, and by juveniles during their downstream migration to the Sacramento River. During late fall and winter, Big Chico Creek also provides non-natal rearing habitat for Sacramento River winter-run Chinook salmon, spring-run Chinook salmon, and steelhead, as well as spawning and rearing habitat for fall-run Chinook salmon (Maslin et al. 1999). At the project site, water temperatures are too warm to support spring-run Chinook salmon spawning and summer rearing of juvenile salmonids, typically by mid-June.

On June 19, 2008, a fish biologist visited the project site to ensure that habitat conditions had not changed substantially since 2003, when the site was first evaluated. Based on the June 19, 2008, site visit, habitat conditions in Big Chico Creek at the SR 99 crossing were determined to be relatively unchanged relative to conditions observed in 2003. The following habitat conditions were observed in Big Chico Creek at the SR 99 crossing during the June 19, 2008, site visit:

- Riparian vegetation was observed mostly on the upper channel banks away from the water and growing adjacent to or between the viaduct bridge structures. Little vegetation occurs directly under the viaduct bridge structures. Shading from the viaduct inhibits plant growth and the ground under the viaduct consists largely of bare soil.
- Rock riprap occurs along the creek banks under the viaduct to protect the bridge piers. On the north bank of Big Chico Creek, the rock riprap extends along the bank at the water's edge. In contrast, a large gravel bar was present along the south bank of the creek in the upstream half of the project area under the viaduct.
- Substrate consisted mostly of 2- to 3-inch diameter gravels. Larger substrate material (e.g., boulders) was generally absent from the creek channel, except for the riprap along the north bank and downstream of gravel bar.
- Potential spawning habitat for steelhead and fall-run Chinook salmon was present and was mostly confined to the upstream end of the project site under the viaduct supporting the northbound lanes of SR 99. Slower water velocities in the lower portions of the project area probably limit salmonids from utilizing this area for spawning. Because spring-run Chinook salmon typically migrate to holding habitat that is located farther upstream than the SR 99 crossing, it is unlikely that spring-run Chinook salmon use this potential spawning habitat.
- Instream habitat consisted of a riffle at the upstream end of the project area under viaduct supporting the northbound lanes of SR 99 before transitioning into a relatively shallow run that initially contains relatively fast water velocities. Further downstream, water velocities are considerably slower.
- The abundance of instream cover is generally low and is primarily limited to substrate cover. Nearshore vegetation and instream woody material are generally absent and contributes to the relatively low abundance of this cover type in the project area.

Potential Effects on Critical Habitat for Central Valley Spring-Run Chinook Salmon and Central Valley Steelhead

Effects on Freshwater Spawning Sites. As described above, potential spawning habitat for steelhead occurs in the project area. However, this habitat is largely confined to the upstream end of the project area under the viaduct bridge structure that supports the

northbound lanes of SR 99. Although this spawning habitat would potentially be affected by project construction, BCAG would address any affects through implementation of an additional minimization measure, described below:

11. *Any affected gravels in Big Chico Creek would be retained on site and returned to the creek channel immediately after all in-channel work completed. This minimization measure would ensure that there would be no net loss of gravels and potential spawning habitat in the project area.*

Effects on Freshwater Rearing Sites. Overhead shaded riverine aquatic (SRA) cover, such as riparian canopy cover and overhanging vegetation, and instream woody material, provide fish with protection from predators, maintains shade necessary to reduce thermal input, and provides nutrients to the stream in the form of fallen leaves and insects. Riparian vegetation is also important in controlling streambank erosion, contributing to instream structural diversity, and maintaining undercut banks.

Construction activities associated with bridge widening would remove up to 225 linear feet of overwater vegetation. In addition, construction of the new bridge pier footings would result in the loss of approximately 3,920 square feet (0.09 acres) of aquatic habitat.

BCAG would compensate for the temporary and permanent loss of riparian vegetation, including SRA cover, by planting riparian vegetation within the Big Chico Creek riparian corridor at a minimum 2:1 ratio (Minimization Measure 5). Restoration and enhancement would include removing non-native vegetation and planting native trees and shrubs.

The loss of shade associated with the temporary and permanent loss of riparian vegetation is not expected to result in a measurable change in water temperature. The amount of shading that would be lost from vegetation removal would be relatively minor and would be offset by the concomitant increase in stream shading afforded by the widened bridge.

Effects on Freshwater Migration Corridors. Placement and removal of the cofferdam and associated stream dewatering would be limited to the July 1 – August 31 period. Six new pier footings would be constructed below the OHWM. These pier footings would be permanent and would occur adjacent to and within the flow alignment of existing pier footings for the Bidwell Park viaduct. In addition, construction of the project would not result in substantial changes to the channel bed or the creation of any new obstructions to fish movement. Therefore, existing passage conditions that support migration of adult and juvenile Chinook salmon and steelhead would not be adversely affected.

Effects Determination for Designated Critical Habitat

The proposed project is expected to have short- and long-term effects on the designated critical habitat of Central Valley winter-run Chinook salmon, spring-run Chinook salmon, and Central Valley steelhead in Big Chico Creek. Potential project effects include short- to long-term water quality degradation from localized increases in turbidity and suspended sediment, and potential discharges of contaminants in Big Chico Creek during bridge widening and operation (e.g., from increased impervious surfaces). Potential water quality impacts from increased sediment and turbidity or contaminant spills would be avoided or minimized through implementation of approved BMPs, compliance with water quality standards, and implementation of an approved spill prevention and response plan. Long-term effects on designated critical habitat include the removal or disturbance of vegetation, the addition of artificial shade from the widened bridge structure, and the removal of substrate and living space from the addition of new bridge footings.

These modifications would result in little change to freshwater rearing PCEs because of the relatively disturbed condition of habitats under the existing bridge spans. To the maximum extent practicable, disturbance of riparian habitat on the creek banks would be minimized. In addition, native riparian vegetation would be planted on disturbed or exposed soils to control erosion and offset losses of affected vegetation. Any in-channel gravels affected by project construction would be retained onsite and returned to the creek immediately following completion of all in-channel work. The project area would continue to function as a freshwater migration corridor by providing adequate passage for adults and juvenile salmonids and as seasonal freshwater rearing habitat for fry and juveniles.

For these reasons, construction and operation of the State Route 99 Auxiliary Lane Project would not result in adverse modification of Central Valley spring-run Chinook salmon and steelhead critical habitat in Big Chico Creek.

If you have any questions or require additional information, please contact Jennifer Olah at (530) 740-4807, or Jennifer_Olah@dot.ca.gov.

Sincerely,

SANDRA E. ROSAS, Branch Chief
Environmental Management, M2 Branch

Enclosures

c: C. Little, California Department of Transportation
D. Loh, Jones and Stokes

Literature Cited

Maslin, P., et al. 1999. Intermittent Streams as Rearing Habitat for Sacramento River Chinook Salmon (*Oncorhynchus tshawytscha*): 1999 Update. Internet Version: http://www.csuchico.edu/~pmaslin/rsrch/Salmon99/abstrct.html.

UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Southwest Region
501 West Ocean Boulevard, Suite 4200
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January 12, 2009 In response refer to:
2008/05201

Sandra E. Rosas
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California Department of Transportation, District 3
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Dear Ms. Rosas:

This letter is in response to your August 11, 2008, request for re-initiation of section 7 consultation with NOAA's National Marine Fisheries Service (NMFS), pursuant to the Endangered Species Act (ESA) and the Magnuson-Stevens Fishery Conservation and Management Act (MSA), concerning the State Route 99 Auxiliary Lane project, located in Butte County, California. NMFS recognizes that the California Department of Transportation (Caltrans) is acting in conjunction with the Federal Highway Administration (FHWA) for this project and has assumed FHWA's responsibilities under Federal environmental laws as allowed by the Memorandum of Understanding between FHWA and Caltrans which became effective on July 1, 2007, and was referenced in your previous letter. The designation of critical habitat for Central Valley steelhead (*Oncorhynchus mykiss*) and Central Valley spring-run Chinook salmon (*Oncorhynchus tshawytscha)* and the potential for the proposed project to affect these designated critical habitats is the reason for your request for re-initiation of consultation.

Under the State Route 99 Auxiliary Lane project, the existing freeway lanes would be realigned and expanded into the median between the north and south-bound lanes and the existing outer (#2) freeway lane would become the new auxiliary lane. The median would be reduced to 22.3 feet and a concrete barrier at the centerline of the median would be constructed. Both the Bidwell Park Viaduct and the Palmetto Avenue Undercrossing structures would be widened to the inside to accommodate the auxiliary lanes, resulting in one structure, rather than two structures (as currently exists), at each bridge location. The Bidwell Park Viaduct structures would be widened to the inside (which requires removing the inside railings and connecting the two bridges) to provide room for the new auxiliary lane and standard inside shoulders, but would also be widened to the outside for a portion of the structure to accommodate the ramp merges and to provide for standard outside shoulders. A portion of this work would occur below the ordinary high water mark (OHWM) of Big Chico Creek. This new bridge portion would be supported by new single columns constructed between the existing columns; 13 columns on spread footings or piles that would be added in the median. A cast-in-place box girder structure would be constructed to connect the two existing bridges. The outside widening (ranging from 2.6 to 38.4 feet) will provide standard outside shoulders on both sides of the structure and will be supported by one additional column constructed to the outside of the existing columns. A total

of 39 new columns would be constructed. The six new pier footings and retrofitting of the footings (of the six existing piers) would occur within the OHWM of Big Chico Creek. In order to retrofit the in-water pier footings, sheet piles will be placed adjacent to the edge of the excavation to separate the creek waterway from the active work area. Dewatering of the excavated work areas will be achieved with cofferdams on both sides of the creek (creek flow will be maintained outside of the dewatered area). Water removed from the excavated area will be pumped into a settling basin.

The existing bridge overhangs would be demolished with measures taken to minimize debris falling into the creek. Construction within the creek bed would require approximately 6 to 8 weeks and instream work will be limited to the period from July 1 through August 31. The project will adhere to Caltrans Standard Specifications for avoidance of water pollution. These specifications include prohibiting the use of heavy machinery in Big Chico Creek, limiting the amount of material that enters the stream, and other measures to maintain water quality. In addition, the project will conform to the water pollution control standards through the development and implementation of a Storm Water Pollution Prevention Plan and implementation of applicable temporary Best Management Practices (including sediment traps, silt fences, and other erosion control measures). Staging, refueling areas, and hazardous substances will be kept a minimum of 100 feet away from the active stream channel, and a spill prevention plan will be developed to keep construction and maintenance material out of the water. During construction, turbidity levels will not be increased by more than 20 percent above the normal basin condition in accordance with the standards set by the Central Valley Regional Water Quality Control Board. The temporary detour and work pad will meet the *NOAA Fisheries Southwest Region Guidelines for Salmonid Passage at Stream Crossings*. Construction personnel will participate in a biological resource education program prior to working on the project. Since there will be no opportunity for restoration for the disturbed riparian vegetation, Butte County Association of Governments (BCAG) will purchase riparian credits at a 3:1 ratio from Wildlands, Inc. for the Fremont Landing Anadromous Fish Conservation Bank to offset the construction activities from this project. Lastly, a Caltrans environmental representative will monitor construction activities to ensure the construction is in accordance with all conservation measures.

Endangered Species Act (ESA) Section 7 Consultation

Based on our review of the material provided with your request and the best scientific and commercial information currently available, NMFS concludes that the State Route 99 Auxiliary Lane Project is not likely to adversely affect Central Valley steelhead and Central Valley spring-run Chinook salmon or their designated critical habitats. NMFS has reached this determination for the following reasons:

1.) Instream water work will be limited to July 1 through August 31, when listed fish are least likely to be present in the channel of Big Chico Creek.

2.) The project will adhere to Caltrans Standard Specifications for avoidance of water pollution, Best Management Practices (including sediment traps, silt fences, and other erosion control measures), and a Storm Water Pollution Prevention Plan to maintain

proper water quality for fish. In addition, staging, refueling areas, and hazardous substances will be kept a minimum of 100 feet away from the active stream channel, and a spill prevention plan will be developed to keep construction and maintenance material out of the water. This will help keep any foreign materials from entering the channel and causing adverse effects to fish. In addition, a Caltrans environmental representative will monitor construction activities to ensure the construction is in accordance with all conservation measures.

3.) The temporary detour and work pad will meet the *NOAA Fisheries Southwest Region Guidelines for Salmonid Passage at Stream Crossings*. Following these guidelines will assist the recovery of threatened and endangered salmon species.

4.) Construction personnel will participate in a biological resource education program prior to working on the project. Educating construction personnel will minimize environmental mistakes and impacts towards threatened and endangered fish.

5.) The contractor will designate and fence environmentally-sensitive exclusion areas at the construction site. This will protect sensitive biological resources during construction activities. However, the riparian vegetation that will be disturbed during construction will not be replaced due to the new shading from the new widened bridge. To offset this measure, BCAG will purchase riparian credits at a 3:1 ratio through Wildlands, Inc. for the Fremont Landing Conservation Bank (FLCB) in Yolo County. The FLCB is in pre-restoration status, thus the credits purchased will go towards improving the riparian vegetation at this site. The restoration measures at FLCB will improve suitable habitat and migration corridors for listed fish.

This concludes ESA consultation for the State Route 99 Auxiliary Lane project. NMFS' determination that the State Route 99 project is not likely to adversely affect Central Valley steelhead and Central Valley spring-run Chinook salmon, or their designated critical habitats, does not provide incidental take authorization pursuant to section 7(b)(4) and section 7(o)(2) of the ESA. Re-initiation of the consultation is required where discretionary Federal agency involvement or control over the action has been retained (or is authorized by law), and if: (1) new information reveals effects of the action that may affect listed species or critical habitat in a manner or to an extent not considered; (2) the action is subsequently modified in a manner that causes adverse effects to listed species or critical habitat; or (3) a new species list or critical habitat designated that may be affected by this action.

Essential Fish Habitat (EFH) Consultation

With regards to EFH consultation, the proposed project area has been identified as EFH for Chinook salmon, in Amendment 14 of the Pacific Salmon Fishery Management Plan pursuant to the MSA. Federal action agencies are mandated by the MSA (section 305(b)(2)) to consult with NMFS on all actions that may adversely affect EFH, and NMFS must provide EFH conservation recommendations to those agencies (section 305(b)(4)(A)). Based on the previously described conservation and habitat preservation/restoration measures integrated into the proposed project, NMFS has determined that the proposed project is not likely to adversely affect EFH, and

additional EFH Conservation Recommendations are not being provided at this time; however, if there is substantial revision to the action, the lead Federal agency will need to re-initiate EFH consultation.

Fish and Wildlife Coordination Act (FWCA)

The purpose of the FWCA is to ensure that wildlife conservation receives equal consideration and is coordinated with other aspects of water resources development (16 U.S.C. 661). The FWCA establishes a consultation requirement for Federal departments and agencies that undertake any action that proposes to modify any stream or other body of water for any purpose, including navigation and drainage (16 U.S.C 662(a)). Consistent with this consultation requirement, NMFS provides recommendations and comments to Federal action agencies for the purpose of conserving fish and wildlife resources. The FWCA allows the opportunity to offer recommendations for the conservation of species and habitats beyond those currently managed under the ESA and MSA. Because the proposed project is designed to avoid environmental impacts to aquatic habitat within the action area, NMFS has no additional FWCA comments to provide.

Please contact Monica Gutierrez at (916) 930-3657, or via e-mail at Monica.Gutierrez@noaa.gov if you have any questions or require additional information concerning this project.

Sincerely,

for Rodney R. McInnis
Regional Administrator

cc: Copy to File ARN # 151422SWR2008SA00320
NMFS-PRD, Long Beach, CA
Bryant Chesney, Long Beach, California

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Flex your power!
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June 30, 2008

Mr. Peter Cross, Chief of Endangered Species (Central Valley)
U. S. Fish and Wildlife Service
Sacramento Fish and Wildlife Service
2800 Cottage Way, Room W-2605
Sacramento, CA 95825-1846

03-BUT-99
PM 32.2/33.1
EA 03-3A040

Subject: Request for Reinitation of Section 7 Consultation for the State Route 99 Auxiliary Lane Project in Butte County

Dear Mr. Cross:

Caltrans is requesting reinitiation of Section 7 consultation for the State Route 99 Auxiliary Lane Project as the NEPA lead agency under the provisions of the Memorandum of Understanding (MOU) between the Federal Highway Administration and the California Department of Transportation Concerning the State of California's Participation in the Surface Transportation Project Delivery Pilot Program, which became effective on July 1, 2007. The MOU was signed pursuant to Section 6005 of the 2005 Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) which allows the Secretary of Transportation to assign, and the State of California to assume, responsibility for FHWA's responsibilities under NEPA as well as consultation and coordination responsibilities under other Federal environmental laws. As the Pilot Program MOU covers this project, FHWA has assigned and Caltrans has assumed FHWA responsibility for environmental review, consultation, and coordination on this project. Please direct all future correspondence on this project to Caltrans.

The original Biological Opinion for this project was issued July 8, 2004, and the Service Ref. No. is 1-1-03-F-0201. According to the U. S. Fish and Wildlife Service (USFWS) 1999 *Conservation Guidelines for the Valley Elderberry Longhorn Beetle* (Guidelines), valley elderberry longhorn beetle survey results are valid for a period of 2 years. Valley elderberry longhorn beetle surveys conducted in 2002 for the original Biological Assessment have since expired. New valley elderberry longhorn beetle surveys were conducted for this project in November 2007.

The original Biological Opinion addressed the Butte County Association of Governments (BCAG) Board-adopted alternative, the Inside Widening Alternative. BCAG is now entering the final design phase for the Inside Widening Alternative. The area proposed

for construction activities under the Inside Widening Alternative has not changed since issuance of the original Biological Opinion. Figure 1 shows the location of the project.

Survey Results

A total of 20 elderberry shrubs (*Sambucus* sp.) and one elderberry clump were located within the Project Area during the 2002 surveys. Six additional elderberry shrubs and two elderberry clumps were located within the 100-foot buffer area of the Project Area, within Bidwell Park, during the 2002 surveys.

During the 2007 surveys, one elderberry shrub (#16) had been cut down and removed within the Project Area. In addition, during the 2002 survey elderberry shrubs #14 and #14a were covered with dense blackberry shrubs and appeared to be separate shrubs. In 2007 it was possible to approach and view the shrubs up close. Elderberry shrubs #14 and #14a are actually one shrub, which is now referred to as #14 in this letter and in Figure 2. Therefore, the total number of elderberry shrubs within the project area is 19 shrubs and one clump. Elderberry shrub #27, located within the 100-foot buffer area of the Project Area, was not observed during the November 2007 surveys. The location of that shrub is covered with very dense periwinkle (*Vinca* sp.). The total number of elderberry shrubs within the 100-foot buffer area is five shrubs and two clumps, not including shrub #27. Figure 2 maps the results of the 2007 surveys.

A total of 60 stems measuring 1 inch or greater in diameter at ground level were counted among the 19 shrubs and one clump in the Project Area (Table 1). Potential valley elderberry longhorn beetle exit holes were observed on 7 shrubs within the Project Area (#1, 2, 7, 8, 10, 14, and 18). Fifteen shrubs are located within the Project Area adjacent to Bidwell Park and are found within riparian habitat. Four shrubs/clumps are located adjacent to State Route 99 and are considered to be within nonriparian habitat.

Table 1. Results of the 2007 Valley Elderberry Longhorn Beetle Survey within the Project Area

Elderberry Shrub/ Cluster Number	Number of Stems ≥1" and ≤3"	Number of Stems >3" and <5"	Number of Stems ≥5"	Total Number of Stems	Estimated Height (feet)
Riparian					
1*	5	0	1	6	25
2*	3	0	1	4	20
3	1	1	2	4	22
4	1	0	0	1	22
5	1	1	0	2	16
6	1	0	0	1	25
7*	0	0	3	3	7
8*	1	1	2	4	20
9	0	1	0	1	10
10*	1	0	1	2	20
11	0	1	0	1	15
12	0	1	0	1	15
13	0	0	2	2	25
14*	0	1	1	2	20
16 shrub removed					
21	2	0	0	2	12
Subtotal	16	7	13	36	N/A
Nonriparian					
17	3	1	0	4	15
18*	9	1	1	11	23
19	5	1	0	6	20
20	2	0	1	3	23
Subtotal	19	3	2	24	
Total	35	10	15	60	N/A

* These shrubs contained potential valley elderberry longhorn beetle exit holes.

A total of 35 stems measuring 1 inch or greater in diameter at ground level were counted among the 7 elderberry shrubs/clump in the 100-foot buffer area (Table 2). All of these shrubs are located within riparian habitat. Potential valley elderberry longhorn beetle exit holes were observed on four shrubs in the buffer area (#15, 24, 25, and 26).

Table 2. Results of the 2007 Valley Elderberry Longhorn Beetle Survey within the 100-foot Buffer of the Project Area

Elderberry Shrub/ Cluster Number	Number of Stems ≥1" and ≤3"	Number of Stems >3" and <5"	Number of Stems ≥5"	Total Number of Stems	Estimated Height (feet)
Riparian					
15*	10	4	1	15	15
22	0	0	2	2	23
23	2	1	0	3	15
24*	0	0	1	1	20
25*	0	0	2	2	25
26*	10	1	0	11	15
27 couldn't locate					
28	0	0	1	1	20
Total	22	6	7	35	N/A

* These shrubs contained potential valley elderberry longhorn beetle exit holes.

Project Effects

Implementation of the Inside Widening Alternative would result in the removal of 17 elderberry shrubs (#1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 17, 18, and 21) that have a combined total of 51 stems measuring 1 inch in diameter or greater. All of these shrubs are located within the Project Area and will be directly impacted by the proposed action. Two elderberry shrubs/clumps in the Project Area (#19 and 20) and 7 elderberry shrubs/clumps in the100-foot buffer area of the Project Area (#15, 22, 23, 24, 25, 26, 28) could be indirectly affected by the proposed action.

Mitigation

To avoid and minimize project effects on the valley elderberry longhorn beetle and its habitat, Conservation Measures 1–4 would be implemented as described in the original Biological Assessment. Conservation Measure 5 would also be implemented, but because of the change in the number and size of stems affected (based on the 2007 survey results), compensation for the effects on elderberry shrubs has increased over what was presented in the original Biological Assessment. Table 3 describes the required compensation for impacts to the valley elderberry longhorn beetle and its habitat based on the results of the 2007 surveys.

Table 3. Required Compensation for Impacts to the Valley Elderberry Longhorn Beetle

Habitat	Stem Diameter	Number of Stems	Exit Holes (Y/N)	Seedling Ratio	Native Plant Ratio	Total Seedling	Total Native Plants
Riparian	Stems ≥1" to ≤3"	6	N	2:1	1:1	12	12
	Stems ≥1" to ≤3"	10	Y	4:1	2:1	40	80
	Stems >3" to <5"	5	N	3:1	1:1	15	15
	Stems >3" to <5"	2	Y	6:1	2:1	12	24
	Stems ≥5"	4	N	4:1	1:1	16	16
	Stems ≥5"	9	Y	8:1	2:1	72	144
Nonriparian	Stems >1" to <3"	3	N	1:1	1:1	3	3
	Stems >1" to <3"	9	Y	2:1	2:1	18	36
	Stems >3" to <5"	1	N	2:1	1:1	2	2
	Stems >3" to <5"	1	Y	4:1	2:1	4	8
	Stems >5"	0	N	3:1	1:1	0	0
	Stems ≥5"	1	Y	6:1	2:1	6	12
Total		51				200	352

Before the start of construction, 17 elderberry shrubs that cannot be avoided will be transplanted to an USFWS-approved conservation area. The relocation of the elderberry shrubs will be conducted according to the procedures described in the Guidelines. USFWS will be provided with a map and written details identifying the conservation area before the transplanting occurs. Elderberry shrubs will be transplanted during the plant's dormant phase (November through the first two weeks of February). A qualified biological monitor will be onsite while the shrubs are being transplanted. Bidwell Park and the River Ranch Conservation Bank are being considered as conservation areas.

To compensate for direct and indirect effects to the valley elderberry longhorn beetle and its habitat, an additional 200 elderberry seedlings or cuttings would be planted at the conservation area. A mix of native plants associated with the elderberry shrubs at the project site will be planted in the conservation area at a ratio of 1:1 or 2:1 native tree/elderberry seedling or cutting, for a total of 352 native plants. Elderberry cuttings or seedlings and native plants will be obtained from local sources or from an approved plant donor site. A mixture of native grasses and forbs from local stock will also be planted in the conservation area. The conservation area will be at least 2.3 acres in size to accommodate the 17 elderberry shrubs, 200 elderberry cuttings or seedlings, and 352 native plants. The conservation area in which the transplanted elderberry shrubs and seedlings are planted will be protected in perpetuity as habitat for the valley elderberry longhorn beetle.

Evidence of valley elderberry longhorn beetle occurrence in the conservation area, the condition of the elderberry shrubs in the conservation area, and the general condition of the conservation area itself will be monitored over a period of 10 consecutive years or for 7 years over a 15-year period from the date of transplanting. As specified in the Guidelines, the report will include information on timing and rate of irrigation, growth rates, and survival rates and mortality. To meet the success criteria specified in the Guidelines, a minimum survival rate of 60% of the original number of elderberry replacement plantings and associated native plants must be maintained throughout the monitoring period.

If you have any questions or require additional information, please contact Jennifer Olah at (530) 740-4807, or Jennifer_Olah@dot.ca.gov.

Sincerely,

Original signed by
SANDRA E. ROSAS, Chief
Environmental Management, M2 Branch

Attachments

c: C. Little , California Department of Transportation
D. Loh, Jones and Stokes

United States Department of the Interior

FISH AND WILDLIFE SERVICE
Sacramento Fish and Wildlife Office
2800 Cottage Way, Room W-2605
Sacramento, California 95825-1846

In reply refer to:
81420-2008-F-1714-R001-1

AUG 7 2008

Ms. Sandra Rosas
Chief, Environmental Management, M2 Branch
California Department of Transportation
P.O. Box 911
Marysville, California 95901-0911

Subject: Amendment to the Programmatic Consultation Permitting Projects with Relatively Small Effects on the Valley Elderberry Longhorn Beetle Within the Jurisdiction of the Sacramento Field Office, California, for the State Route 99 Auxiliary Lane Project, Butte County, California (Service File Number 1-1-03-F-0201)

Dear Ms. Rosas:

This letter responds to the California Department of Transportation's (Caltrans) June 30, 2008, request for an amendment of the programmatic consultation for the proposed State Route 99 Auxiliary Lane Project (proposed project). The U.S. Fish and Wildlife Service (Service) analyzed the proposed project's effects on the federally-threatened valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*) (beetle) and issued a biological opinion on July 8, 2004 (Service file number 1-1-03-F-0201). Caltrans is requesting re-initiation for the proposed project because the beetle surveys which were identified in the Biological Assessment for this project were conducted in 2002. These surveys have since expired, and new surveys conducted in November 2007 have identified additional stems. This response is in accordance with section 7 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) (Act).

Therefore, please replace the following paragraphs of the July 8, 2004 biological opinion:

Replace:

Inside Lane Widening Alternative

Implementation of the Inside Lane Widening Alternative would result in the removal of 19 elderberry shrubs (1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 14a, 16, 17, 18, and 21) that have

a combined total of 51 stems measuring 1.0 inch in diameter or greater at ground level. All of these shrubs are located within the Caltrans right-of-way and will be directly affected by the proposed project. Two elderberry shrubs/clumps in the project area (#19 and 20) and eight elderberry shrubs/clumps within approximately 100 feet of the Caltrans right-of-way could be indirectly affected by increased exposure to dust from construction activities, as described above.

With:

Implementation of the Inside Lane Widening Alternative would result in the removal of 17 elderberry shrubs (1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 17, 18, and 21) that have a combined total of 51 stems measuring 1.0 inch in diameter or greater at ground level. All of these shrubs are located within the Caltrans right-of-way and will be directly affected by the proposed project. Two elderberry shrubs/clumps in the project area (#19 and 20) and seven elderberry shrubs/clumps within approximately 100 feet of the Caltrans right-of-way could be indirectly affected by the proposed action.

Replace:

Conservation Measure 4: Compensate for Direct and Indirect Effects on Valley Elderberry Longhorn Beetle Habitat

Before construction begins, BCAG would compensate for direct effects to elderberry shrubs by transplanting the shrubs to a Service-approved conservation area. Elderberry seedlings or cuttings and associated native species will also be planted in the conservation area. BCAG is working with the City of Chico to locate possible conservation areas in Bidwell Park in which the shrubs could be transplanted; if the conservation area is located within Bidwell Park, it may be located within the same area as the riparian replacement/enhancement area where conservation for adverse effects to riparian vegetation will occur. The Wildlands Mitigation Bank in Sheridan is also being considered as a possible conservation area. The relocation of the elderberry shrubs would be conducted according to Service-approved procedures outlined in the Guidelines (U. S. Fish and Wildlife Service 1999). The Service would be provided with a map and written details identifying the conservation area before the mitigation program is initiated. BCAG and Caltrans must receive approval from the Service that the conservation area is acceptable. Elderberry shrubs within the project area that cannot be avoided would be transplanted during the plant's dormant phase (November through the first two weeks of February). A qualified biological monitor would remain onsite while the shrubs are being transplanted.

Evidence of VELB occurrence in the conservation area, the condition of the elderberry shrubs in the conservation area, and the general condition of the conservation area itself would be monitored over a period of 10 consecutive years from the date of transplanting. BCAG would be responsible for funding and providing monitoring reports to Caltrans, the City of Chico, and USFWS in each of the years in which a monitoring report is required. As specified in the Guidelines, the report would include information on timing and rate of irrigation, growth rates, and survival rates and mortality. To meet the success criteria specified in the Guidelines, a

minimum survival rate of 60% of the original number of elderberry replacement plantings and associated native plants must be maintained throughout the monitoring period.

With:

Before construction begins, BCAG would compensate for direct effects to elderberry shrubs by transplanting the shrubs to a Service-approved conservation area. Elderberry seedlings or cuttings and associated native species will also be planted in the conservation area. BCAG has proposed to buy credits (2.3 acres) at the River Ranch Conservation Bank.

The relocation of the elderberry shrubs would be conducted according to Service-approved procedures outlined in the Guidelines (U. S. Fish and Wildlife Service 1999). Elderberry shrubs within the project area that cannot be avoided would be transplanted during the plant's dormant phase (November through the first two weeks of February). A qualified biological monitor would remain onsite while the shrubs are being transplanted.

Replace:

Habitat	Stem Diameter	Number of Stems	Exit Holes (Y/N)	Seedling Ratio	Native Plant Ratio	Total Seedling	Total Native Plants
Riparian	Stems ≥1" to ≤3"	29	N	2:1	1:1	58	58
	Stems ≥1" to ≤3"	4	Y	4:1	2:1	16	32
	Stems >3" to <5"	4	N	3:1	1:1	12	12
	Stems >3" to <5"	1	Y	6:1	2:1	6	12
	Stems ≥5"	12	N	4:1	1:1	48	48
	Stems ≥5"	1	Y	8:1	2:1	8	16
Non-riparian	Stems >1" to <3"	4	N	1:1	1:1	4	4
	Stems >1" to <3"	2	Y	2:1	2:1	4	8
	Stems >3" to <5"	1	N	2:1	1:1	2	4
	Stems >3" to <5"	0	Y	4:1	2:1	0	0
	Stems >5"	1	N	3:1	1:1	3	6
	Stems ≥5"	0	Y	6:1	2:1	0	0
Total		59	N			161	200

With:

Habitat	Stem Diameter	Number of Stems	Exit Holes (Y/N)	Seedling Ratio	Native Plant Ratio	Total Seedling	Total Native Plants
Riparian	Stems ≥1" to ≤3"	6	N	2:1	1:1	12	12
	Stems ≥1" to ≤3"	10	Y	4:1	2:1	40	80
	Stems >3" to <5"	5	N	3:1	1:1	15	15
	Stems >3" to <5"	2	Y	6:1	2:1	12	24
	Stems ≥5"	4	N	4:1	1:1	16	16
	Stems ≥5"	9	Y	8:1	2:1	72	144
Non-riparian	Stems >1" to <3"	3	N	1:1	1:1	3	3
	Stems >1" to <3"	9	Y	2:1	2:1	18	36
	Stems >3" to <5"	1	N	2:1	1:1	2	2
	Stems >3" to <5"	1	Y	4:1	2:1	4	8
	Stems >5"	0	N	3:1	1:1	0	0
	Stems ≥5"	1	Y	6:1	2:1	6	12
Total		51	N			200	352

This concludes formal consultation for the proposed State Route 99 Auxiliary Lane project outlined in your request. As provided in 50 CFR 402.16, reinitiation of formal consultation is required where discretionary Federal agency involvement or control over the action has been maintained (or is authorized by law) and if: (1) the amount or extent of incidental take is exceeded; (2) new information reveals effects of the agency action that may affect listed species or critical habitat in a manner or to an extent not considered in this opinion; (3) the agency action is subsequently modified in a manner that causes an effect to the listed species or critical habitat that was not considered in this opinion; or (4) a new species is listed or critical habitat designated that may be affected by the action. In instances where the amount or extent of incidental take is exceeded, any operations causing such take must cease pending reinitiation.

If you have any questions regarding this amendment to the biological opinion on the proposed State Route 99 Auxiliary Lane Project, please contact Jason Hanni, staff biologist, or the Sacramento Valley Branch Chief, at (916) 414-6645.

Sincerely,

Peter A. Cross

Peter A. Cross
Deputy Assistant Field Supervisor

United States Department of the Interior

FISH AND WILDLIFE SERVICE
Sacramento Fish and Wildlife Office
2800 Cottage Way, Room W-2605
Sacramento, California 95825-1846

In reply refer to:
81420-2008-F-1714-R001-2

JAN 22 2009

Ms. Sandra Rosas
Chief, Environmental Management, M2 Branch
California Department of Transportation
P.O. Box 911
Marysville, California 95901-0911

Subject: 2nd Amendment to the State Route 99 Auxiliary Lane Project, Butte County, California (Service File Number 1-1-03-F-0201) project under the Programmatic Consultation Permitting Projects with Relatively Small Effects on the Valley Elderberry Longhorn Beetle Within the Jurisdiction of the Sacramento Field Office, California

Dear Ms. Rosas:

This letter responds to the California Department of Transportation's (Caltrans) November 17, 2008, request for an amendment of the programmatic consultation for the proposed State Route 99 Auxiliary Lane Project (proposed project). The U.S. Fish and Wildlife Service (Service) analyzed the proposed project's effects on the federally-threatened valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*) (beetle) and issued a biological opinion on July 8, 2004 (Service file number 1-1-03-F-0201). Caltrans is requesting re-initiation for the proposed project because since the previous amendment was issued, Caltrans has determined that several of the elderberries (*Sambucus* sp.) shrubs originally identified as needing to be removed can be protected by minimization and avoidance measures. Aditionally, the previous reinitiation request contained an error for elderberry shrub #5: the one stem for this shrub should have been >5 inches rather than in the >1 and <3 inch category. This response is in accordance with section 7 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) (Act).

Therefore, please replace the following paragraphs of the August 7, 2004 amendment:

Replace:

Implementation of the Inside Lane Widening Alternative would result in the removal of 17 elderberry shrubs (1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 17, 18, and 21) that have a combined total of 51 stems measuring 1.0 inch in diameter or greater at ground level. All of

these shrubs are located within the Caltrans right-of-way and will be directly affected by the proposed project. Two elderberry shrubs/clumps in the project area (#19 and 20) and seven elderberry shrubs/clumps within approximately 100 feet of the Caltrans right-of-way could be indirectly affected by the proposed action.

With:

Implementation of the Inside Lane Widening Alternative would result in directly affecting six elderberry shrubs and indirectly affecting eleven elderberry shrubs which have a combined total of 51 stems measuring 1.0 inch in diameter or greater at ground level. The six shrubs directly impacted will be transplanted to the River Ranch Conservation Bank in Yolo County, California. Eleven shrubs (4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 17) will be protected. However these shrubs are within 20 feet of the proposed activity and Caltrans has proposed compensation for the impacts related to those eleven shrubs. Two elderberry shrubs/clumps in the project area (#19 and 20) and seven elderberry shrubs/clumps within approximately 100 feet of the Caltrans right-of-way could be indirectly affected by the proposed action.

Replace:

Before construction begins, BCAG would compensate for direct effects to elderberry shrubs by transplanting the shrubs to a Service-approved conservation area. Elderberry seedlings or cuttings and associated native species will also be planted in the conservation area. BCAG has proposed to buy credits (2.3 acres) at the River Ranch Conservation Bank.

The relocation of the elderberry shrubs would be conducted according to Service-approved procedures outlined in the Guidelines (U. S. Fish and Wildlife Service 1999). Elderberry shrubs within the project area that cannot be avoided would be transplanted during the plant's dormant phase (November through the first two weeks of February). A qualified biological monitor would remain onsite while the shrubs are being transplanted.

With:

Before construction begins, BCAG would compensate for the effects to all elderberry shrubs by purchasing credits (2.3 acres) at the River Ranch Conservation Bank. Caltrans also proposes to transplant the six elderberry shrubs which were directly affected by the proposed project to the River Ranch Conservation Bank. Elderberry seedlings or cuttings and associated native species will also be planted in the conservation area.

The relocation of the elderberry shrubs would be conducted according to Service-approved procedures outlined in the Guidelines (U. S. Fish and Wildlife Service 1999). Elderberry shrubs within the project area that cannot be avoided would be transplanted during the plant's dormant phase (November through the first two weeks of February). A qualified biological monitor would remain onsite while the shrubs are being transplanted.

Replace:

Habitat	Stem Diameter	Number of Stems	Exit Holes (Y/N)	Seedling Ratio	Native Plant Ratio	Total Seedling	Total Native Plants
Riparian	Stems ≥1" to ≤3"	6	N	2:1	1:1	12	12
	Stems ≥1" to ≤3"	10	Y	4:1	2:1	40	80
	Stems >3" to <5"	5	N	3:1	1:1	15	15
	Stems >3" to <5"	2	Y	6:1	2:1	12	24
	Stems ≥5"	4	N	4:1	1:1	16	16
	Stems ≥5"	9	Y	8:1	2:1	72	144
Non-riparian	Stems >1" to <3"	3	N	1:1	1:1	3	3
	Stems >1" to <3"	9	Y	2:1	2:1	18	36
	Stems >3" to <5"	1	N	2:1	1:1	2	2
	Stems >3" to <5"	1	Y	4:1	2:1	4	8
	Stems >5"	0	N	3:1	1:1	0	0
	Stems ≥5"	1	Y	6:1	2:1	6	12
Total		51	N			200	352

With:

Habitat	Stem Diameter	Number of Stems	Exit Holes (Y/N)	Seedling Ratio	Native Plant Ratio	Total Seedling	Total Native Plants
Riparian	Stems ≥1" to ≤3"	**5**	N	2:1	1:1	**10**	**10**
	Stems ≥1" to ≤3"	10	Y	4:1	2:1	40	80
	Stems >3" to <5"	5	N	3:1	1:1	15	15
	Stems >3" to <5"	2	Y	6:1	2:1	12	24
	Stems ≥5"	**5**	N	4:1	1:1	**20**	**20**
	Stems ≥5"	9	Y	8:1	2:1	72	144

Non-riparian	Stems >1" to <3"	3	N	1:1	1:1	3	3
	Stems >1" to <3"	9	Y	2:1	2:1	18	36
	Stems >3" to <5"	1	N	2:1	1:1	2	2
	Stems >3" to <5"	1	Y	4:1	2:1	4	8
	Stems >5"	0	N	3:1	1:1	0	0
	Stems ≥5"	1	Y	6:1	2:1	6	12
Total		51	N			**202**	**354**

This concludes formal consultation for the proposed State Route 99 Auxiliary Lane project outlined in your request. As provided in 50 CFR 402.16, reinitiation of formal consultation is required where discretionary Federal agency involvement or control over the action has been maintained (or is authorized by law) and if: (1) the amount or extent of incidental take is exceeded; (2) new information reveals effects of the agency action that may affect listed species or critical habitat in a manner or to an extent not considered in this opinion; (3) the agency action is subsequently modified in a manner that causes an effect to the listed species or critical habitat that was not considered in this opinion; or (4) a new species is listed or critical habitat designated that may be affected by the action. In instances where the amount or extent of incidental take is exceeded, any operations causing such take must cease pending reinitiation.

If you have any questions regarding this amendment to the biological opinion on the proposed State Route 99 Auxiliary Lane Project, please contact Jason Hanni, staff biologist, or Jana Milliken, the Sacramento Valley Branch Chief, at (916) 414-6645.

Sincerely,

Peter A. Cross

Peter A. Cross
Deputy Assistant Field Supervisor

OFFICE OF HISTORIC PRESERVATION
DEPARTMENT OF PARKS AND RECREATION
P.O. BOX 942896
SACRAMENTO, CA 94296-0001
(916) 653-6624 Fax: (916) 653-9824
calshpo@ohp.parks.ca.gov
www.ohp.parks.ca.gov

March 05, 2009 Reply To: FHWA090127A

Sandra Rosas
Chief, Environmental Management M2
Department of Transportation
Office of Environmental Management
730 B Street
Chico, CA 94296-0001

Re: Supplemental Determinations of Eligibility and Notification of No Historic Properties Affected for Proposed Improvements to State Route 99, Butte County, CA

Dear Ms. Rosas:

Thank you for consulting with me about the subject undertaking in accordance with the *Programmatic Agreement Among the Federal Highway Administration, the Advisory Council on Historic Preservation, the California State Historic Preservation Officer, and the California Department of Transportation Regarding Compliance with Section 106 of the National Historic Preservation Act, as it Pertains to the Administration of the Federal-Aid Highway Program in California* (PA).

The California Department of Transportation (Caltrans) and the Federal Highway Administration (FHWA) submitted a Historic Property Survey Report (HPSR) containing findings of archaeological and built environment studies for the proposed project to me in 2003. I concurred with the determinations of eligibility outlined in the HPSR. Since the time of the original study, additional built environment resources within the Area of Potential Effects for the proposed project have reached sufficient age, or will reach sufficient age by the time the project is constructed, to warrant evaluation for inclusion in the National Register of Historic Places (NRHP). Caltrans is requesting my concurrence, pursuant to Stipulation VIII.C.5 of the PA, that the following properties identified during supplemental studies are not eligible for inclusion on the National Register of Historic Places:

- 444 Sheridan Avenue, Chico
- 646 Sheridan Avenue, Chico
- 1074 Sierra Vista Way, Chico
- 836 Sheridan Avenue, Chico
- 997 East 1st Avenue, Chico
- 1147 Neal Dow Avenue, Chico

Based on my review of the submitted documentation, I concur. The project as described will not affect historic resources.

Thank you for considering historic properties during project planning. If you have any questions or comments, please contact Natalie Lindquist or Tristan Tozer of my staff at (916) 654-0631 (Natalie) or (916) 653-8920 (Tristan) or e-mail at nlindquist@parks.ca.gov and ttozer@parks.ca.gov.

Sincerely,

Susan K Stratton for

Milford Wayne Donaldson, FAIA
California State Historic Preservation Officer

ICF Jones & Stokes
an ICF International Company

Memorandum

Date: May 1, 2009

To: Sandra Rosas, Caltrans District 3
Christel Little, Caltrans District 3

cc:

From: Dave Buehler, ICF Jones & Stokes
Debbie Loh, ICF Jones & Stokes

Subject: **State Route 99 Auxiliary Lane Project Supplementary Noise Analysis**

The *Final Noise Study Technical Report for the State Route 99 Auxiliary Lane Project between State Route 32 and East 1st Avenue* (November 2003), the project's certified environmental impact report (EIR) (December 2003), and the project's approved Categorical Exclusion (CE) (August 12. 2004) evaluated construction of the proposed project at full build out i.e. construction of both the SR 99 northbound and southbound auxiliary lanes and associated improvements. On January 22, 2004, the Butte County Association of Governments (BCAG) Board of Directors adopted the Inside Widening Alternative. The *Final Noise Study Technical Report* evaluated the noise attenuation associated with construction of a sound wall on both the east and west sides of SR 99, as mitigation for construction of the entire project.

This technical memorandum evaluates two scenarios: 1) sound wall construction on both sides of SR 99 during a single phase of construction and 2) two phases of construction with sound wall construction on the east side of SR 99 occurring during the first phase followed by a separate phase of construction involving construction of a sound wall on the west side of SR 99. It has been determined that adequate funding is available to implement the first scenarios involving construction of both sound walls on both the east and west sides of SR 99 during a single phase of construction. This memorandum also updates the noise barrier analysis with the most current base allowance.

This memo addresses traffic noise impacts under 23 CFR 772, NEPA, and CEQA.

Sound Wall Construction on Both Sides of SR 99

23 CFR 772

Under 23 CFR 772, noise impacts occur if predicted traffic noise levels in the design year approach or exceed 67 dBA or if the project is predicted to result in a substantial increase in noise (i.e. predicted design year noise levels are 12 dB or more over existing conditions). The 12 dB threshold does not apply to this project because predicted project-related increases are well below 12 dB. Noise levels were predicted to approach or exceed 67 dBA for the Inside Widening Alternative. 23 CFR 772 requires that noise abatement be considered when traffic noise impacts are predicted and that abatement that is "reasonable and feasible" be included in the project design.

Noise barriers were evaluated and were determined to be reasonable and feasible in the *Final Noise Study Technical Report*. The reasonableness analysis has been updated using the most current base allowance of $32,000 (see Barriers 1-4 in Table 1). Table 1 shows that only the 14-foot wall would be reasonable under 23 CFR 772.

Table 1. Summary of Sound Wall Feasibility and Reasonableness Allowances

Noise Barrier	Height (meters [feet])	Provides 5 dB of Noise Reduction?	Number of Benefited Residences	Reasonable Allowance per Residence	Total Reasonable Allowance	Estimated Barrier Cost	Is Barrier Cost Reasonable?
Barrier 1. East of SR 99/ Bidwell Park to East 1st Avenue	2.4 (8)	No	0	$46,000	$0	N/A	No
	3.1 (10)	No	0	$46,000	$0	N/A	No
	3.7 (12)	Yes	22	$48,000	$1,056,000	$1,226,000	No
	4.3 (14)	Yes	42	$48,000	$2,016,000	$1,413,000	Yes
Barrier 2. East of SR 99/ East 8th Street	2.4 (8)	Yes	1	$46,000	$46,000	235,000	No
	3.1 (10)	Yes	1	$48,000	$48,000	297,600	No
	3.7 (12)	Yes	1	$48,000	$48,000	345,600	No
	4.3 (14)	Yes	2	$48,000	$96,000	403,200	No
Barrier 3. West of SR 99/ Bidwell Park to East 1st Avenue	2.4 (8)	No	0	$48,000	$0	N/A	No
	3.1 (10)	No	0	$48,000	$0	N/A	No
	3.7 (12)	Yes	24	$50,000	$1,200,000	$1,226,000	No
	4.3 (14)	Yes	38	$50,000	$1,900,000	$1,413,000	Yes
Barrier 4. West of SR 99/ East 8th Street	2.4 (8)	No	0	$46,000	$0	N/A	No
	3.1 (10)	No	0	$46,000	$0	N/A	No
	3.7 (12)	Yes	1	$48,000	$48,000	282,800	No
	4.3 (14)	Yes	2	$48,000	$96,000	329,900	No

Updated using 2005 base allowance of $32,000 per Caltrans website (http://www.dot.ca.gov/hq/env/noise/)

NEPA

The proposed project would not cause a substantial increase in noise as defined by FHWA (i.e. a12 dB increase clearly would not occur.). Therefore, under NEPA, no mitigation is required.

CEQA

The CEQA analysis is based on City of Chico noise standards. The City's standards for evaluating the significance of traffic noise impacts are stated in Policy N-I-2 of the general plan noise element and state:

- where existing traffic noise levels are less than 60 dB Ldn at the outdoor activity areas of noise-sensitive uses, a +5 dB Ldn increase in noise levels due to a roadway improvement project will be considered significant;
- where existing traffic noise levels range between 60 and 65 dB Ldn at the outdoor activity areas of noise sensitive uses, a +3 dB Ldn increase in noise levels due to a roadway improvement project will be considered significant; and
- where existing traffic noise levels are greater than 65 dB Ldn at the outdoor activity areas of noise sensitive uses, a +1.5 dB Ldn increase in noise levels due to a roadway improvement project will be considered significant.

The noise element further states that analysis of noise increases associated with roadway improvement projects listed above is based on a comparison of future with-project conditions to future no-project conditions.

The CEQA noise analysis is contained in the project's certified EIR. This analysis concludes significant traffic noise increases would occur at three receiver locations west of SR 99. This impact would be reduced to less than significant by implementing one of the following:

- Construction of any of the wall heights (8 to 14 feet) would provide more than the minimum 1 dB noise reduction needed to reduce significant CEQA noise impacts to less than significant (ie below the threshold identified by the City of Chico noise standards as being significant).

  As an option to constructing a sound wall on the Bidwell Park viaduct, an evaluation was also conducted for construction of a 3-foot high safety barrier, only, on the viaduct. This scenario assumes construction of 14-foot sound walls on both sides of SR 99 on the fill sections and on the Palmetto overcrossing. Under this scenario, predicted noise reductions are expected to be in the range of 3 to 10 dB, and all significant noise impacts would be reduced to a less-than-significant level. Those receivers located near the end of the 14-foot high wall, adjacent to Bidwell Park, would experience less noise reduction than those receivers located closer to the center of the barrier, at least several hundred feet from the end of the wall.

- Use of open graded asphalt concrete (OGAC) would provide the minimum 1 dB noise reduction needed.

  As part of the final design process, it has been determined that OGAC cannot be placed on the elevated structure sections of the freeway (the Bidwell Park viaduct and the Palmetto Avenue overcrossing) due to issues related to adherence of the asphalt to the existing concrete on these structures. An analysis was conducted to determine the noise reduction that could be achieved if OGAC was placed on the fill sections of the highway only, with existing pavement retained on the elevated structures. This analysis indicates that noise reduction in the range of 1 to 3 dB would be provided. The reduced benefit from the OGAC would occur at those locations within several hundred feet of structure sections. However, the use of OGAC on the fill sections is predicted to reduce the significant traffic noise impacts to a less-than-significant level.

  Construction of a 14-foot noise barrier per the requirements of 23 CFR 772 would mitigate this impact to a less-than-significant level under CEQA, and the use of OGAC would not need to be considered. It should be noted that FHWA does not allow OGAC to be used as noise abatement under the requirements of 23 CFR 772.

Sound Wall Construction on the East Side of SR 99 Only

23 CFR 772

Noise barriers were evaluated and were determined to be reasonable and feasible in the *Final Noise Study Technical Report*. If funding restrictions preclude building a sound wall on the west side of the SR 99, then under 23 CFR 772, construction of a sound wall on the west side of SR 99 would no longer be “reasonable” from a cost perspective.

NEPA

Construction of a sound wall on one side of the freeway would not cause a substantial increase in noise as defined by FHWA (i.e. a 12 dB increase clearly would not occur.). Accordingly, under NEPA, no mitigation would be required.

CEQA

If a sound wall is built on the east side only, noise reflection impacts could occur for residences on the west side of SR 99. To determine whether significant noise reflection impacts would occur, receiver locations at several distances from the freeway up to 500 feet from the centerline were evaluated. Table 2 summarizes the results of the analysis.

Table 2. Phase 2 Project Noise Levels with Construction of a Sound Wall on the East Side of SR 99

Location*	No Project Condition (Ldn)	Northbound Auxiliary Lane with Sound Wall on East Side (Ldn)	Increase in Noise (dB)
100 feet	72	73	1
150 feet	72	73	1
200 feet	71	73	2
250 feet	70	72	2
300 feet	69	71	2
350 feet	68	70	2
400 feet	66	69	3
450 feet	65	68	3
500 feet	64	67	3

*distance from freeway centerline

The results indicate that construction of a sound wall on the east side only would result in significant impacts on the west side of the freeway that were not previously indicated in the 2003 noise analysis. These impacts are attributed primarily to the reflection of sound from the wall.

To mitigate the reflective noise impacts associated with building a sound wall on the east side of SR 99, one of the following would need to be implemented:

- Use of an acoustically absorptive surface on the inside face of the sound wall on the east side of SR 99 with an absorption coefficient of 0.85 or greater.
- Grind the existing concrete pavement (in both the northbound and southbound directions) to smooth out major discontinuities in the pavement and longitudinally groove the pavement which is expected to reduce tire pavement noise. This type of treatment is expected to provide about 2 dB of noise reduction relative to the existing pavement.

Table 3 presents the results of the noise analysis for each of these options.

Table 3. Noise Levels Associated with Construction of a Sound Wall on the East Side of SR 99 and Implementation of One of the Following Options for Mitigating Noise Reflection Impacts: Wall Absorption or Pavement Treatment

Location*	No-Project Condition on the West Side of SR 99 (Ldn)	Option 1- Wall Absorption (Ldn)	Increase in Noise with Option 1 (Wall Absorption)	Option 2 - Pavement Treatment (Ldn)	Increase in Noise with Option 2 (Pavement Treatment)
100 feet	72	72	0	71	-1
150 feet	72	72	0	71	-1
200 feet	71	72	1	71	0
250 feet	70	71	1	70	0
300 feet	69	70	1	69	0
350 feet	68	68	0	68	0
400 feet	66	67	1	67	1
450 feet	65	66	1	66	1
500 feet	64	65	1	65	1

*distance from freeway centerline

As can be seen, increases in noise under both Options 1 and 2 are less than 1.5 dB where the predicted noise level is greater than 65 dBA. This means that either of these options would reduce the significant impacts on the west side of the freeway to a less-than-significant level.

Grinding and grooving of the existing concrete pavement on the bridge over Bidwell Park and Palmetto Avenue may not be feasible due to the shallow depth of steel reinforcement in the bridge section. This could degrade the benefit from the pavement treatment to residences near those bridges. However, the degradation in benefit is not expected to be more than 1 dB which means that the impact would remain less than significant.

It is highly recommended that absorptive barriers be used in this situation where there could be a single barrier on one side of the freeway for 5 or more years. There is a long history of public controversy associated with constructing a barrier on one side of a freeway. Even though pavement treatment would reduce the noise reflection impact to a less than significant level, residents on the west side of SR 99 are likely to notice a difference in the noise level and how the traffic noise sounds. Absorptive barriers are commonly used in this situation and would be expected to reduce the potential for complaints and controversy associated with constructing the barrier on one side only. In addition, there will be long-term benefits to using absorptive barriers in terms reducing noise between the two walls when they are both in place and maximizing the noise reduction provided to adjacent residents.

ICF Jones & Stokes
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Memorandum

Date: July 16, 2008

To: Sandra Rosas and Christel Little, Caltrans District 3 Environmental

From: Shannon Hatcher, Air Quality Specialist
Debbie Loh, Project Manager

Subject: **Supplementary Air Quality Technical Memorandum for the State Route 99 Auxiliary Lane Project Between State Route 32 and East 1st Avenue in the City of Chico**

Introduction

The *Final Air Quality Technical Report for the State Route 99 Auxiliary Lane Project between State Route 32 and East 1st Avenue* (November 2003) evaluated the two alternatives associated with the proposed SR 99 auxiliary lane project: Inside and Outside Widening Alternatives. On January 22, 2004, the Butte County Association of Governments (BCAG) Board of Directors certified the project EIR and adopted the Inside Widening Alternative. On August 12, 2004, the Federal Highway Administration approved a Categorical Exclusion for the Inside Widening Alternative. BCAG is now entering the final design phase for Phase 2 of this project involving construction of the northbound auxiliary lane, widening of the northbound on-ramp at SR 32 to two lanes and upper half of northbound off-ramp at East 1st Avenue, and construction of the sound wall on the eastern side of SR 99 and associated retaining walls and concrete barriers. The design and scope of the proposed project have not changed from what was analyzed in the 2003 and 2004 reports. This technical memorandum provides a discussion of new air quality regulations and assessment practices that have come into effect since certification of the project EIR and approval of the project CE. These new requirements and practices relate to particulate matter, Mobile Source Air Toxics (MSAT), and greenhouse gas (GHG) emissions.

Regulatory Setting

Attainment Status

U.S. Environmental Protection Agency (EPA) has classified the Chico area of Butte County as a subpart 1 nonattainment area with regards to the federal 8-hour ozone standard. The EPA revoked the federal 1-hour ozone standard on June 15, 2005, and Butte County is no longer subject to the standard. Prior to this policy change, Butte County was classified as a transitional nonattainment area with regards to the federal 1-hour ozone standard. With regards to the federal CO standard, the EPA has classified the Chico area of the County as a moderate (≤ 12.7

ppm) maintenance area, while the rest of Butte County is classified as an unclassified/attainment area. The EPA has classified Butte County as an unclassified/attainment area with regards to the federal PM10 and PM2.5 standards

The ARB has classified Butte County as a moderate nonattainment area with regards to the State 1-hour ozone standard. With regards to the State CO standard, the ARB has classified Butte County as an attainment area. The ARB has classified Butte County as a nonattainment area with regards to the State PM10 and PM2.5 standards. Butte County's attainment status with regards to each of these pollutants relative to the NAAQS and CAAQS is summarized in Table 1.

Table1. Federal and State Attainment Status for Butte County

Pollutant	Federal	State
1-hour O_3	NA[a]	Moderate nonattainment
8-hour O_3	Subpart 1 nonattainment	N/A[b]
CO	Moderate (≤ 12.7 ppm) maintenance area for the urbanized areas of Butte County; unclassified/attainment area for the rest of Santa Clara County	Attainment
PM10	Unclassified/attainment	Nonattainment
PM2.5	Unclassified/attainment	Nonattainment

[a] Previously in nonattainment area; no longer subject to the 1-hour standard because of EPA revocation of the 1-hour standard on June 15, 2005.

[b] The ARB approved the 8-hour ozone standard on April 28, 2005, and it became effective on May 17, 2006. However, the ARB has not yet designated areas for this standard.

Mobile Source Air Toxics

The Clean Air Act identified 188 pollutants as being air toxics, which are also known as hazardous air pollutants (HAPs). From this list, the EPA identified a group of 21 as MSATs in their final rule, *Control of Emissions of Hazardous Air Pollutants from Mobile Sources* (66 FR 17235) in March 2001. From this list of 21 MSATs, the EPA has identified six MSATs, *benzene, formaldehyde, acetaldehyde, diesel particulate matter/diesel exhaust organic gases, acrolein, and 1,3-butadiene*, as being priority MSATs. To address emissions of MSATs, the EPA has issued a number of regulations that will dramatically decrease MSATs through cleaner fuels and cleaner engines. The area of air toxics analysis is a new and emerging issue and is a continuing area of research. Although much work has been done to assess the overall health risk of air toxics, many questions remain unanswered. In particular, the tools and techniques available for assessing project-specific health impacts from MSATs are limited. Given the emerging state of the science and of project-level analysis techniques, there are no established

criteria for determining when MSAT emissions should be considered a significant issue in the National Environmental Policy (NEPA) context. In light of the recent development regarding MSATs, the FHWA has issued interim guidance for the assessment of on MSATs in NEPA documents (Federal Highway Administration 2006)

Climate Change

While climate change has been a concern since at least 1988, as evidenced by the establishment of the United Nations and World Meteorological Organization's Intergovernmental Panel on Climate Change (IPCC), the efforts devoted to GHG[1] emissions reduction and climate change research and policy have increased dramatically in recent years. In 2002, with the passage of Assembly Bill 1493 (AB 1493), California launched an innovative and pro-active approach to dealing with GHG emissions and climate change at the state level. AB 1493 requires the Air Resources Board (ARB) to develop and implement regulations to reduce automobile and light truck GHG emissions; these regulations will apply to automobiles and light trucks beginning with the 2009 model year.

On June 1, 2005, Governor Arnold Schwarzenegger signed Executive Order S-3-05. The goal of this Executive Order is to reduce California's GHG emissions to: 1) 2000 levels by 2010, 2) 1990 levels by the 2020 and 3) 80% below the 1990 levels by the year 2050. In 2006, this goal was further reinforced with the passage of Assembly Bill 32 (AB 32), the Global Warming Solutions Act of 2006. AB 32 sets the same overall GHG emissions reduction goals while further mandating that ARB create a plan, which includes market mechanisms, and implement rules to achieve "real, quantifiable, cost-effective reductions of greenhouse gases." Executive Order S-20-06 further directs state agencies to begin implementing AB 32, including the recommendations made by the state's Climate Action Team.

With Executive Order S-01-07, Governor Schwarzenegger set forth the low carbon fuel standard for California. Under this executive order, the carbon intensity of California's transportation fuels is to be reduced by at least 10 percent by 2020.

Climate change and GHG reduction is also a concern at the federal level; at this time, no legislation or regulations have been enacted specifically addressing GHG emissions reductions and climate change. However, California, in conjunction with several environmental organizations and several other states, sued to force the U.S. Environmental Protection Agency (EPA) to regulate GHGs as a pollutant under the Clean Air Act (Massachusetts vs. Environmental Protection Agency et al., U.S. Supreme Court No. 05–1120. 549 U.S.; Argued November 29, 2006—Decided April 2, 2007). The court ruled that GHGs do fit within the Clean Air Act's definition of a pollutant, and that EPA does have the authority to regulate GHG emissions. Despite the Supreme Court ruling, there are no promulgated federal regulations to date limiting greenhouse gas emissions.

[1] Greenhouse gases related to human activity, as identified in AB 32, include: Carbon dioxide, Methane, Nitrous oxide, Tetrafluoromethane, Hexafluoroethane, Sulfur hexafluoride, HFC-23, HFC-134a*, and HFC-152a

Operational Impact Assessment Methodology

Particulate Matter

The proposed project is located in an unclassified/attainment area for the federal PM10 and PM2.5 standards. Because the area is not classified as a maintenance or nonattainment area for this standard, a conformity determination for PM10 and PM2.5 are not required under the federal transportation conformity requirements.

Mobile Source Air Toxics

The FHWA has issued interim guidance on how MSATs should be addressed in NEPA documents for highway projects (Federal Highway Administration 2006). The FHWA has developed a tiered approach for analyzing MSATs in NEPA documents. Depending on the specific project circumstances, FHWA has identified three levels of analysis:

1. No analysis for exempt projects or projects with no potential for meaningful MSAT effects;
2. Qualitative analysis for projects with low potential MSAT effects; or
3. Quantitative analysis to differentiate alternatives for projects with higher potential MSAT effects

The proposed project qualifies for the first level of analysis since this category includes:

Projects qualifying as a categorical exclusion under 23 CFR 771.117(c);
Projects exempt under the Clean Air Act conformity rule under 40 CFR 93.126; or
Other projects with no meaningful impacts on traffic volumes or vehicle mix

Projects that are categorically excluded under 23 CFR 771.117(c), or are exempt under the Clean Air Act pursuant to 40 CFR 93.126, require no analysis, and no discussion of MSATs is necessary. Documentation sufficient to demonstrate that the project qualifies as a categorical exclusion and/or exempt project will suffice. For other projects with no or negligible traffic impacts, regardless of the class of NEPA environmental document, no MSAT analysis is required[2]. However, the project record must document the basis for the determination of "no meaningful potential impacts" with a brief description of the factors considered. The proposed project is categorically excluded under 23 CFR 771.117(d), and therefore, the basis for the determination of "no meaningful potential impacts" is discussed below.

[2] The types of projects categorically excluded under 23 CFR 771.117(d) or exempt from conformity under 40 CFR 93.127 do not warrant an automatic exemption from an MSAT analysis, but they usually will have no meaningful impact.

Impacts and Mitigation Measures

Impact AQ1: No Meaningful Potential MSAT Impacts

The purpose of this project is to improve existing safety and traffic operations and reduce traffic delays and congestion by providing a northbound and southbound auxiliary lane on SR 99 between SR 32 and East 1st Avenue. The project will not result in any meaningful changes in traffic volumes, vehicle mix, location of the existing facility, or any other factor that would cause an increase in emissions impacts relative to the no-build alternative. As such, Caltrans has determined that this project will generate minimal air quality impacts for Clean Air Act criteria pollutants and has not been linked with any special MSAT concerns. Consequently, this effort is exempt from analysis for MSATs. Moreover, EPA regulations for vehicle engines and fuels will cause overall MSATs to decline significantly over the next 20 years. Even after accounting for a 64 percent increase in VMT, FHWA predicts MSATs will decline in the range of 57 percent to 87 percent, from 2000 to 2020, based on regulations now in effect, even with a projected 64 percent increase in VMT. This will both reduce the background level of MSATs as well as the possibility of even minor MSAT emissions from this project.

Impact AQ2: No Adverse Contribution to Climate Change

According to a recent white paper by the Association of Environmental Professionals, "an individual project does not generate enough greenhouse gas emissions to significantly influence global climate change (Hendrix and Wilson 2007). Global climate change is a cumulative impact; a project participates in this potential impact through its incremental contribution combined with the cumulative increase of all other sources of greenhouse gases

Caltrans and its parent agency, the Business, Transportation, and Housing Agency, have taken an active role in addressing GHG emission reduction and climate change. Recognizing that 98 percent of California's GHG emissions are from the burning of fossil fuels and 40 percent of all human made GHG emissions are from transportation, Caltrans has created and is implementing the Climate Action Program at Caltrans (December 2006). Transportation's contribution to GHG emissions is dependent on 3 factors: the types of vehicles on the road, the type of fuel the vehicles use, and the time/distance the vehicles travel.

One of the main strategies in Caltrans' Climate Action Program to reduce GHG emissions is to make California's transportation system more efficient. The highest levels of carbon dioxide from mobile sources, such as automobiles, occur at stop-and-go speeds (0–25 miles per hour) and speeds over 55 mph; the most severe emissions occur from 0-25 miles per hour. Relieving congestion by enhancing operations and improving travel times in high congestion travel corridors will lead to an overall reduction in GHG emissions.

Caltrans recognizes the concern that carbon dioxide emissions raise for climate change. However, accurate modeling and gauging the impacts associated with an increase in GHG

emissions levels, including carbon dioxide, at the project level is not currently possible. No federal, state or regional regulatory agency has provided methodology or criteria for GHG emission and climate change impact analysis. Therefore, Caltrans is unable to provide a scientific or regulatory based conclusion regarding whether the project's contribution to climate change is cumulatively considerable."

Caltrans continues to be actively involved on the Governor's Climate Action Team as ARB works to implement AB 1493 and AB 32. As part of the Climate Action Program at Caltrans (December 2006), Caltrans is supporting efforts to reduce vehicle miles traveled by planning and implementing smart land use strategies: job/housing proximity, developing transit-oriented communities, and high density housing along transit corridors. Caltrans is working closely with local jurisdictions on planning activities; however, Caltrans does not have local land use planning authority. Caltrans is also supporting efforts to improve the energy efficiency of the transportation sector by increasing vehicle fuel economy in new cars, light and heavy-duty trucks. However it is important to note that the control of the fuel economy standards is held by the United States Environmental Protection Agency and ARB. Lastly, the use of alternative fuels is also being considered; Caltrans is participating in funding for alternative fuel research at the University of California, Davis.

References Cited

Hendrix, M., and C. Wilson. 2007. Recommendations by the Association of Environmental Professionals (AEP) on How to Analyze Greenhouse Gas Emissions and Global Climate Change in CEQA Documents. March 5. Association of Environmental Professionals.

CE Checklist: Air Quality Conformity Questions

Step 1. Is the project located in a nonattainment or maintenance area for ozone, nitrogen dioxide, carbon monoxide (CO), PM2.5, or PM10 per http://www.epa.gov/oar/oaqps/greenbk/?

☐ If no, go to Step 14. **Transportation conformity does not apply to the project.**

x If yes, go to Step 2.

Step 2. Is the project exempt from conformity per 40 CFR 93.126 or 40 CFR 93.128?

☐ If yes, go to Step 14. **The project is exempt from all project-level conformity requirements (40 CFR 93.126 or 128).** (check one box below and identify the project type, if applicable).

- ☐ 40 CFR 93.126 Project type: _____
- ☐ 40 CRF 93.128

x If no, **go** to Step 3.

Step 3. Is the project exempt from regional conformity per 40 CFR 93.127?

☐ If yes, go to Step 8. **The project is exempt from regional conformity requirements (40 CFR 93.127)** (identify the project type). Project type: _____

x If no, go to Step 4.

Step 4. Is the project located in a region with a currently conforming RTP and TIP?

x If yes, t**he project is included in a currently conforming RTP and TIP per 40 CFR 93.115. The project's design and scope have not changed significantly from what was assumed in RTP conformity analysis (40 CFR 93.115[b])** Go to Step 8.

☐ If no and the project is located in an isolated rural area, go to Step 5.

☐ If no and the project is not located in an isolated rural area, STOP and do not proceed until a conforming RTP and TIP are adopted.

Step 5. For isolated rural areas, is the project regionally significant per 40 CFR 93.101, based on review by Interagency Consultation?

☐ If yes, go to Step 6.

☐ If no, go to Step 8. **The project, located in an isolated rural area, is not regionally significant and does not require a regional emissions analysis (40 CFR 93.101 and 93.109[l]).**

Step 6. Is the project included in another regional conformity analysis that meets the isolated rural area analysis requirements per 40 CFR 93.109, including Interagency Consultation and public involvement?

☐ If yes, go to Step 8. **The project, located in an isolated rural area, has met its regional analysis requirements through inclusion in a previously-approved regional conformity analysis that meets current requirements (40 CFR 93.109[l]).**

☐ If no, go to Step 7.

Step 7. The project, located in an isolated rural area, requires a separate regional emissions analysis.

☐ **Regional emissions analysis for regionally significant project, located in an isolated rural area, is complete. Regional conformity analysis was conducted that includes the project and reasonably foreseeable regionally significant projects for at least 20 years. Interagency Consultation and public participation were conducted. Based on the analysis, the interim or emission budget conformity tests applicable to the area are met (40 CFR 93.109[l] and 95.105).** Go to Step 8.

Step 8. Is the project located in a CO nonattainment or maintenance area?

☐ If no, go to Step 9. **CO conformity analysis is not required.**

x If yes, **hot-spot analysis requirements for CO per the** CO Protocol (or per EPA's modeling guidance, CAL3QHCR can be used with EMFAC emission factors[1]) **have been met. Project will not cause or contribute to a new localized CO violation (40 CFR 93.116 and 93.123)[2].** Go to Step 9.

[1] Use of the CO Protocol is strongly recommended due to its use of screening methods to minimize the need for modeling. When modeling is needed, the Protocol simplifies the modeling approach.

[2] As of October 1, 2007, there are no CO nonattainment areas in California. Therefore, the requirements to not worsen existing violations and to reduce/eliminate existing violations do not apply.

Step 9. Is the project located in a PM10 and/or a PM2.5 nonattainment or maintenance area?

x If no, go to Step 13. **PM2.5/PM10 conformity analysis is not required.**

☐ If yes, go to Step 10.

Step 10. Is the project considered to be a Project of Air Quality Concern (POQAC), as described in U.S. EPA Guidance of March 29, 2006?

☐ If no, **the project is not a project of concern for PM10 and/or PM2.5 hot-spot analysis based on 40 CFR 93.116 and 93.123 and EPA's Hot-Spot Analysis Guidance. Interagency Consultation concurred with this determination on** _____.

Go to Step 12.

☐ If yes, go to Step 11.

Step 11. The project is a POAQC.

☐ **The project is a project of concern for PM10 and/or PM2.5 hot-spot analysis based on 40 CFR 93.116 and 93.123, and EPA's Hot-Spot Guidance. Interagency Consultation concurred with this determination on** _____. **Detailed PM hot-spot analysis, consistent with 40 CFR 93.116 and 93.123 and EPA's Hot-Spot Guidance, shows that the project would not cause or contribute to, or worsen, any new localized violation of PM10 and/or PM2.5 standards.** Go to Step 12.

Step 12. Does the approved PM SIP include any PM10 and/or PM2.5 control measures that apply to the project, and has a written commitment been made as part of the air quality analysis to implement the identified SIP control measures?

☐ If yes, **a written commitment has been made to implement the identified SIP control measures for PM10 and/or PM2.5 through construction or operation of this project (40 CFR 93.117).**

☐ If no, go to Step 13.

Step 13a. Have project-level mitigation or control measures for CO, PM10, and/or PM2.5, included as part of the project's design concept and scope, been identified as a condition of the RTP or TIP conformity determination?
AND/OR

Step 13b. Are project-level mitigation or control measures for CO, PM10, and/or PM2.5 included in the project's NEPA document?

AND

Step 13c (applies only if Step 13a and/or 13b are answered "yes")**.** Has a written commitment been made as part of the air quality analysis to implement the identified measures?

x If yes to 13a and/or 13b and 13c, **a written commitment has been made to implement the identified mitigation or control measures for CO, PM10, and/or PM2.5 though construction or operation of this project. These mitigation or control measures are identified in the project's NEPA document and/or as conditions of the RTP or TIP conformity determination. (40 CFR 93.125(a))**

☐ If no, go to Step 14

Step 14. Does the project qualify for a Section 6004 CE?

x If yes, STOP as all air quality conformity requirements have been met.

☐ If no, go to Step 15.

Step 15. Does the project qualify for a Section 6005 CE?

☐ If yes, attach conformity analysis, request conformity determination from FHWA, and when received, complete CE/CE Determination Form.

Date of FHWA air quality conformity determination: _____

STOP as all air quality conformity requirements have been met.

Name: _____ Date: _____

BUTTE COUNTY ASSOCIATION of GOVERNMENTS

965 Fir Street, Chico, California 95928-6301 • (530) 879-2468 • FAX: (530) 879-2444 • www.bcag.org

January 26, 2004

Terry Roberts, Director
State Clearinghouse
1400 Tenth Street
P.O. Box 3044
Sacramento, CA 95812-3044

Re: SR 99 Auxiliary Lane Project Between SR 32 and East First Avenue, Chico, CA
SCH#: 2002112002

Dear Terry,

Attached please find the Notice of Determination (NOD) for the Environmental Impact Report (EIR) prepared for the above-mentioned project and proof of fees paid for filing the NOD at the Butte County Recorder's Office on January 23, 2004. The Butte County Association of Governments (BCAG) Board of Directors certified the document pursuant to Section 15091 of CEQA on January 22, 2004.

Also attached is the BCAG Board Resolution approving the document and the project.

Should you have any questions or need additional information, please contact me at 530-879-2468.

Sincerely

Andy Newsum
Project Manager

NOTICE OF DETERMINATION

TO: **State Clearinghouse**
P.O. Box 3044
Sacramento, CA 95812-3044
and
County Clerk, County of Butte

FROM: **Butte County Association of Governments**
965 Fir Street
Chico, CA 95928

SUBJECT: Filing of Notice of Determination in compliance with Section 21108 of the Public Resources Code

Project Title: State Route 99 Auxiliary Lane Project between State Route 32 and East First Avenue, in the City of Chico, Butte County, ***Project Number RPSTPL-6092 (014)***.

Name: Butte County Association of Governments for the State of California

State Clearinghouse Number (If submitted to Clearinghouse) 20021122002

Contact Person: **Andy Newsum** **Telephone Number:** **(530) 879-2468**

Project Location: State Route 99 between State Route 32 and East First Avenue in the City of Chico, Butte County, CA.

Project Description: The project consists of roadway improvements to State Route (SR) 99 between the SR 32 and East 1st Avenue interchanges, including a portion of East First Avenue. The proposed project would improve the operational characteristics of SR 99 between SR 32 and East 1st Avenue. Caltrans and the Butte County Association of Governments are proposing this project to 1) alleviate existing safety problems and operational deficiencies, 2) alleviate existing congestion problems, 3) address vehicles that have difficulty entering SR 99 in the northbound and southbound directions, and 4) improve access between the SR 32 and East 1st Avenue interchanges, across Bidwell Park.

This is to advise that the Butte County Association of Governments Board of Directors __X__ Lead Agency or ___Responsible Agency has approved the above-described project on **January 22, 2004** and has made the following determination regarding the above-described project.

1. The project _____ will, __X__ will not, have a significant effect on the environment.
2. __X__ An Environmental Impact Report was prepared and certified for this project pursuant to the provisions of CEQA.

   _____ A Negative Declaration was prepared for this project pursuant to the provisions of CEQA.
3. Mitigation measures __X__ were, _____ were not, made a condition of the approval of the project.
4. A statement of overriding consideration __X__ was, ____ was not, adopted for this project.
5. Findings __X__ were ___ were not made pursuant to Section 15091 of CEQA.

This is to certify that the final **Environmental Impact Report** with comments and responses and record of project approval is available to the general public at the ***Butte County Association of Governments, 965 Fir Street, Chico, CA 95928***.

Date Received for Filing and Posting at OPR _____

FILED
JAN 23 2004
VALLEJO
CANDACE J. GRUBBS, BUTTE CO. CLERK
DEPUTY

Signature

Executive Director, Butte County Association of Governments
Title

JANUARY 23, 2004
Date:

DECLARATION OF FEES DUE
(California Fish and Game Code Section 711.4)

NAME AND ADDRESS OF APPLICANT

Butte County Association of Governments
965 Fir Street
Chico, CA 95928

FILING NO. _____

Project Title/file number: State Route 99 between State Route 32 and East First Avenue in the City of Chico, Butte County, California
APN# n/a – within State of California right of way

CLASSIFICATION OF ENVIRONMENTAL DOCUMENT:

1. NOTICE OF EXEMPTION/STATEMENT OF EXEMPTION
   - ( ) A. Statutorily or Categorically Exempt
     $36.00 Clerk's Documentary Handling Fee
   - ( ) B. De Minimus Impact - Certificate of Fee Exemption
     $36.00 Clerk's Documentary Handling Fee

2. NOTICE OF DETERMINATION - FEE REQUIRED
   - ( ) A. Negative Declaration
     $1,250 State Filing Fee
     $36.00 Clerk's Documentary Handling Fee
   - (X) B. Environmental Impact Report
     $850 State Filing Fee
     $36.00 Clerk's Documentary Handling Fee

3. ( ) OTHER (Specify)
   $36.00 Clerk's Documentary Handling Fee

PAYMENT / NON-PAYMENT OF FEES:

1. (X) PAYMENT: The above fees have been paid.
   See attached receipt(s).

2. ( ) NON-PAYMENT: The above fees are required. Not paid.

By: Jon Clark
Title: Executive Director
Lead Agency: Butte County Association of Governments
Date: January 23, 2004

TWO COPIES OF THIS FORM MUST BE COMPLETED AND SUBMITTED WITH ALL ENVIRONMENTAL DOCUMENTS FILED WITH THE BUTTE COUNTY CLERK'S OFFICE.

THREE COPIES OF ALL NECESSARY DOCUMENTATION ARE REQUIRED FOR FILING.

ALL APPLICABLE FEES ARE DUE AND PAYABLE PRIOR TO THE FILING OF ANY ENVIRONMENTAL DOCUMENT WITH THE BUTTE COUNTY CLERK'S OFFICE. MAKE CHECKS PAYABLE TO THE COUNTY OF BUTTE.

Recorders Office
County Of
BUTTE
CANDACE J. GRUBBS
Recorder
ROSEMARY DICKSON
Assistant

Work Order # 20040123048

1	FISH AND GAME CLERKS	36.00
1	MISCELLANEOUS PAYMEN	850.00
TOTAL		886.00
CHECK		886.00-
TOTAL TENDERED		886.00-
CHANGE		.00

02:24PM 23-Jan-2004 20040123000178
Kathyh BTTREC19

Thank You

Have a Nice Day!

Requested By:
BUTTE COUNTY ASSOCIATION OF GOVERNMENTS

RESOLUTION NO. 2003/04-10

RESOLUTION OF THE BUTTE COUNTY ASSOCIATION GOVERNMENTS CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT (SCH# 2002112002) FOR THE STATE ROUTE 99 AUXILIARY LANE PROJECT BETWEEN STATE ROUTE 32 AND EAST FIRST AVENUE IN CHICO, BUTTE COUNTY, CA

WHEREAS, the Butte County Association of Governments (BCAG) is the designated Lead Agency for the development of an Environmental Impact Report (EIR) to address the environmental impacts of the proposed State Route 99 Auxiliary Lane Project between State Route 32 and East First Avenue in Chico.

WHEREAS, on May 29, 2002, a public scoping meeting was conducted at the City of Chico Council Chambers from 6:00 pm to 9:00 pm and comments on the proposed project and the scope of the EIR, were received by the public.

WHEREAS, after obtaining comments in response to the public scoping meeting, a Notice of Preparation of an Environmental Impact Report was prepared on October 28, 2002 and distributed to the State Clearinghouse, responsible agencies, trustee agencies and interested parties.

WHEREAS, after obtaining comments received in response to the Notice of Preparation, and comments received at a public meeting held on March 12, 2003 from 6:00 pm to 9:00 pm, in the City of Chico Council Chambers, BCAG completed the preparation of the Draft Environmental Impact Report (DEIR), dated September 2003, and filed a Notice of Completion with the State Clearinghouse.

WHEREAS, a Notice of Availability was filed with the State Clearinghouse, mailed to owners and occupants of contiguous properties and all interested parties, and published in the Chico Enterprise Record newspaper, and the DEIR was circulated for public review and comment from October 1, 2003 to November 24, 2003 and was available for review at several locations including Butte County public libraries, City of Chico Development Services, the BCAG offices and online at www.bcag.org.

WHEREAS, during the public review period, the BCAG Board of Directors held a public hearing on November 20, 2003 at 9:00 am in the City of Chico Council Chambers, and received and considered public testimony.

WHEREAS, oral testimony, written comments, email messages and phone messages were responded to in Chapter 2, "Comments and Responses to Comments", in the Final Environmental Impact Report (FEIR), dated December 2003.

NOW, THEREFORE BE IT RESOLVED BY the BCAG Board of Directors the following:

SECTION 1. It is hereby certified that the Final Environmental Impact Report was prepared in accordance with the California Environmental Quality Act (CEQA) Guidelines (14 California Code of Regulations, Section 14000 et seq.)

SECTION 2. Consistent with CEQA guidelines Section 15132, the Final EIR for the project is comprised of the Draft EIR and appendices, the comments received on the Draft EIR, the Responses to Comments, the Errata, the Mitigation Monitoring Program, References and Appendix A containing all correspondence received during the course of the preparation of the Final EIR.

SECTION 3. Each fact in support of the findings contained in the attached "Findings of Fact" with respect to significant impacts identified in the Final EIR is true and is based upon substantial evidence in the record, including the Final EIR. The "Findings of Fact" and "Table 1 – Phasing of Mitigation Measures" are attached as Exhibit "A" to this Resolution and incorporated herein by this reference.

SECTION 4. The Final EIR has identified all significant environmental effects of the Project and that there are no known potential environmental impacts not addressed in the Final EIR and all significant effects of the Project are set forth in Exhibit "A" and the Final EIR.

SECTION 5. Although the Final EIR identifies that there are certain significant and unavoidable impacts on the environment, all significant effects which can feasibly be mitigated or avoided have been mitigated or avoided by the incorporation of Project design features, standard conditions and requirements, and by the imposition of mitigation measures on the approved Project. All mitigation measures are included in "Table 4-1 - Mitigation Monitoring Program" contained in Chapter 4 of the final EIR and are attached to this Resolution and incorporated herein by this reference.

SECTION 6. The Final EIR has described reasonable alternatives to the Project that could feasibly obtain the Purpose and Need of the Project. Further, a good faith effort was made to incorporate suggested alternatives in the preparation of the Draft EIR and that a reasonable range of alternatives was considered in the review process of the Final EIR and ultimate decisions on the Project.

SECTION 7. No "substantial evidence" (as that term is defined pursuant to CEQA Guidelines Section 15384) has been presented which would call into question the facts and conclusions in the EIR.

SECTION 8. No "significant new information" (as that term is defined pursuant to CEQA Guidelines Section 15088.5) has been added to the EIR since publication of the draft EIR. No significant new information concerning the Project became known through the public hearings held on the Project, or through the comments on the Draft EIR and Responses to Comments.

SECTION 9. The "Mitigation Monitoring Program" establishes a mechanism and procedures for implementing and verifying the mitigations pursuant to Public Resources Code 21081.6 and BCAG hereby adopts the "Mitigation Monitoring Program". The mitigation measures shall be incorporated into the Project prior to, concurrent with and after Project implementation as required.

SECTION 10. The unavoidable significant impacts, identified in Exhibit "A" have been lessened in their severity by the application of standard conditions, the inclusion of Project design features and the imposition of the mitigation measures. The unavoidable significant impacts are clearly outweighed by the technical (Traffic operations and safety) and other benefits of the Project, as set forth in the "Statement of Overriding Considerations" attached to this Resolution as Exhibit "B", incorporated herein by this reference. The BCAG Board adopts the recitation of overriding considerations which justify approval of the Project notwithstanding certain unavoidable significant impacts which cannot feasibly be substantially mitigated as set forth in the "Statement of Overriding Considerations".

SECTION 11. The Final Environmental Impact Report has been presented to the BCAG Board of Directors, which has reviewed and considered the information and analysis contained therein.

SECTION 12. It is hereby certified that the Final EIR reflects the independent judgment and analysis of the Butte County Association of Governments.

PASSED AND ADOPTED by the Butte County Association of Governments on this 22nd day of January 2004, by the following vote:

AYES: Houx, Beeler, Jarvis, Andoe, White, Paul-Busch

NOES: Dolan

ABSENT: Yamaguchi, Josiassen, Cook

ABSTAIN: None.

APPROVED: _____
GORDON ANDOE, CHAIR
BUTTE COUNTY ASSOCIATION OF GOVERNMENTS

ATTEST: _____
JON A. CLARK
EXECUTIVE DIRECTOR