Hecker Pass Safety Improvement Project
State Route 152 in Santa Clara County, California

04-SCL-152-PM 0.1/5.2
EA 04-2A250

SECTION 4(f) DE MINIMIS FINDING
April 2013

Prepared by the State of California Department of Transportation

The environmental review, consultation, and any other action required in accordance with applicable Federal laws for this project is being, or has been, carried-out by Caltrans under its assumption of responsibility pursuant to 23 USC 327.

Submitted Pursuant to:
(Federal) 49 USC 303

\[\text{\underline{4/5/13}}\]
Date of Approval

\[\text{\underline{Cristin Hallissy, Branch Chief}}\]
Environment Analysis
Caltrans, District 4
Introduction
Changes since the Draft Section 4(f) De Minimis Finding are indicated by a line in the outside margin.

Section 4(f) of the Department of Transportation Act of 1966, codified in federal law at 49 United States Code (USC) 303, declares that “it is the policy of the United States Government that special effort should be made to preserve the natural beauty of the countryside and public park and recreation lands, wildlife and waterfowl refuges, and historic sites.”

Section 4(f) specifies that the Secretary [of Transportation] may approve a transportation program or project . . . requiring the use of publicly owned land of a public park, recreation area, or wildlife and waterfowl refuge of national, state, or local significance, or land of an historic site of national, state, or local significance (as determined by the federal, state, or local officials having jurisdiction over the park, area, refuge, or site) only if:

- there is no prudent and feasible alternative to using that land; and
- the program or project includes all possible planning to minimize harm to the park, recreation area, wildlife and waterfowl refuge, or historic site resulting from the use.

Section 4(f) De Minimis Impact Evaluation Requirements
Section 6009(a) of SAFETEA-LU amended Section 4(f) legislation at 23 United States Code (USC) 138 and 49 USC 303 to simplify the processing and approval of projects that have only de minimis impacts on lands protected by Section 4(f). This revision provides that once the U.S. Department of Transportation (USDOT) determines that a transportation use of Section 4(f) property, after consideration of any impact avoidance, minimization, and mitigation or enhancement measures, results in a de minimis impact on that property, an analysis of avoidance alternatives is not required and the Section 4(f) evaluation process is complete. FHWA’s final rule on Section 4(f) de minimis findings is codified in 23 Code of Federal Regulations (CFR) 774.3 and CFR 774.17.

Responsibility for compliance with Section 4(f) has been assigned to the Department pursuant to 23 USC 326 and 327, including determinations and approval of Section 4(f) evaluations, as well as coordination with those agencies that have jurisdiction over a Section 4(f) resource that may be affected by a project action.

Project Description
The proposed project is located on a section of State Route 152 known as Hecker Pass that crosses the Santa Cruz Mountain Range in western Santa Clara County. Hecker Pass links coastal Santa Cruz County and Watsonville on the west with rural Santa Clara County and Gilroy on the east. Most of State Route 152 in this area is a narrow, winding two-lane mountain road. The proposed project would make improvements at five separate locations within a five-
mile stretch of the highway from just east of the Santa Cruz County line to just east of Watsonville Road near Gilroy (See Figure 1).

The purpose of the project is to reduce the number of head-on collisions and prevent vehicles from running off the road. Improvements include minor road widening to add 8-foot shoulders, curve improvements, retaining walls to prevent hillsides from slipping, a left-turn lane at Location 5, drainage improvements, and permanent warning signs. In addition the project would remove fixed objects close to the road, such as trees, poles and signs, to give drivers who go off the road room to recover.

A Final Environmental Impact Report/Environmental Assessment (FEIR/EA) for the project was approved on November 5, 2010. Since the approval of the FEIR/EA, there have been modifications to the project design, necessitating the preparation of an addendum to the FEIR, a re-validation of the EA, and a new Section 4(f) de minimis finding.

This document focuses on Location 4, which is 0.6 mile long, because it is the only location with a Section 4(f) resource. See Figure 2 for a map showing this location. The design changes at Location 4 include the following:

- Widen the existing roadway to provide 8-foot-wide shoulders, rather than 15-foot-wide shoulders reported in the FEIR/EA.
- Acquire approximately 2.6 acres of land along both sides of the roadway. The original description called for acquiring approximately 0.55 acre on the westbound side of the roadway only.
- Add barriers at the end of the retaining walls to prevent drivers from crashing into the wall. The barriers will be stained to blend into the natural appearance of the walls.
- Add black vinyl cable railing at the top of retaining walls.
- Add additional drainage systems.
- Add longer transition tapers where the road widening ends to meet new road standards.
- Change the size of the retaining walls as shown in the table below:

<table>
<thead>
<tr>
<th>2010 Retaining Wall Names</th>
<th>Revised Retaining Wall Names</th>
<th>Originally Planned Maximum Height * (feet)</th>
<th>Revised Maximum Height (feet)</th>
<th>Originally Planned Length* (feet)</th>
<th>Revised Length (feet)</th>
</tr>
</thead>
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<tr>
<td>4A</td>
<td>Soil Nail Wall 7</td>
<td>31.2</td>
<td>31.92</td>
<td>292.5</td>
<td>315</td>
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<td>4B</td>
<td>Soil Nail Wall 8</td>
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<td>10.47</td>
<td>321</td>
<td>70</td>
</tr>
<tr>
<td>4C</td>
<td>Soil Nail Wall 9</td>
<td>32.2</td>
<td>30.37</td>
<td>1056.1</td>
<td>1037</td>
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<tr>
<td>4D</td>
<td>Soil Nail Wall 10</td>
<td>23.2</td>
<td>20.03</td>
<td>584.1</td>
<td>568</td>
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<td>4E</td>
<td>Removed</td>
<td>5</td>
<td>Removed</td>
<td>205</td>
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<tr>
<td>4F</td>
<td>Soil Nail Wall</td>
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<td>10.64</td>
<td>345</td>
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<td>Retaining Wall 166</td>
<td>NA</td>
<td>10.64</td>
<td>NA</td>
<td>380</td>
</tr>
</tbody>
</table>

*Design information provided in the 2010 FEIR/EA; NA = Not Applicable
Applicability
Mount Madonna County Park is under the jurisdiction of the Santa Clara County Parks and Recreation Department. It is located in the project area on State Route 152, 10 miles west of Gilroy. The section of the park in the project area north of the highway includes a parking lot, equestrian staging area and access to park trails. The park is open to the public for a variety of recreational uses and is considered a significant resource to the County of Santa Clara. Therefore, Mount Madonna County Park is a Section 4(f) resource.

Use
While improvements are being made at 5 locations along State Route 152, Location 4 is the only location where improvements would affect Mount Madonna County Park. Please see Figure 2. As described in detail above, construction activities at Location 4 would involve building retaining walls (Figure 3), widening shoulders and correcting curves. Figure 4 shows the locations of the retaining walls and three different viewpoints. Figures 5 - 10 show what the changes at the park would look like from the three different viewpoints.

The safety improvements would require the acquisition of 2.6 acres of linear right-of-way from the 3,688-acre park. This right-of-way consists of uphill and downhill slopes. It will be acquired as strips of land along both sides of State Route 152, near the Sprig Recreation Area entrance to the park. The acquisition does not include any park features, such as trails, parking or equestrian staging areas. Land acquired from the park will be permanently incorporated into the transportation facility. This constitutes “use” of park land under Section 4(f) (23 CFR 774.17).

Public Involvement
The public must be afforded the opportunity to review and comment on the effects of the proposed project on Mount Madonna County Park. The public was given the opportunity to comment on the effects of the project to the park resources during the comment period for the environmental document. A public meeting was held on March 24, 2010 at the Gilroy High School library.

The County of Santa Clara Parks and Recreation Department was the only entity to comment on potential impacts to the Section 4(f) resource. The County’s main concerns were the project’s effect on plans for a future trail and the adequate replacement of trees and other forest vegetation. Responses to their letter can be found in Section 4.3 of the FEIR/EA, which is available on the Caltrans website at http://www.dot.ca.gov/dist4/envdocs.htm.

Since the public meeting, there have been changes to the project design as described in the project description above. Therefore, the Draft Section 4(f) De Minimis Finding was circulated from November 16 through December 16, 2012 to give the public the opportunity to review and comment on the effects of the revised project and impacts to the Section 4(f) resource. A public information meeting will also be held in 2013 to discuss changes to the project.
Coordination
Caltrans has met with the Santa Clara County Parks and Recreation Department to discuss the impacts of the proposed project on Mount Madonna County Park; to determine how to best preserve the activities, features, and attributes that make the park a significant resource and qualify the park for protection under Section 4(f); and to discuss the applicability of a de minimis finding.

On May 15, 2012, Caltrans met with the Santa Clara County Parks and Recreation Department to explain changes in the design at Location 4. A follow-up on-site meeting was held on July 10, 2012 to help park officials visualize project impacts. At this meeting, representatives from the Santa Clara County Parks and Recreation Department discussed the location of a proposed trail in their county-wide Trails Master Plan (2005). The County would like this trail be taken into consideration during the design of the proposed project. It was determined during the meeting that retaining walls for the proposed project will not interfere with the future trail crossing. In addition, Caltrans agreed to work with Santa Clara County Parks and Recreation Department on the future trail development within Caltrans’ right-of-way.

In January 2013, following circulation of the Draft Section 4(f) De Minimis Finding, Caltrans and staff from Santa Clara County Parks and Recreation Department coordinated and agreed on additional avoidance, minimization and mitigation measures, which are discussed below.

As the officials with jurisdiction over the property, the Santa Clara County Parks and Recreation Department must provide written concurrence that the project will not adversely affect the activities, features, and attributes that qualify the property for protection under Section 4(f). The letter of concurrence is in Appendix A.

De minimis Impact
The 2.6 acres of land to be acquired from the 3,688-acre park is vegetated terrain that slopes steeply downhill on the north side of the highway and steeply uphill on the south side of the highway. This land is not currently used for hiking or other recreational activities. The park land south of State Route 152 is currently not open to the public. Project impacts are anticipated to be minimal, and include the construction of retaining walls near the Sprig Recreation Area park entrance to accommodate curve corrections and widened shoulders and to reduce the amount of right-of-way required from Mount Madonna County Park. The proposed safety improvements will also contribute to an increase in safety for park users. Parking, equestrian staging and access to trails would not be affected by the project.

It has been determined that the minor project impacts to the park, taking into consideration the avoidance, minimization, and mitigation measures to be implemented, would not adversely affect the activities, features, or attributes qualifying Mount Madonna County Park for protection under Section 4(f). Therefore, it is Caltrans’ determination that the project will have a de minimis impact on Mount Madonna County Park. The final determination was made following the public comment period and concurrence from the Santa Clara County Parks and Recreation Department.
Avoidance, Minimization and/or Mitigation Measures

Caltrans is committed to replacing native trees at a ratio of 3:1, as opposed to the original 1:1 ratio proposed in the Draft Environmental Impact Report/Environmental Assessment (DEIR/EA). Retaining walls will be constructed with a carved rock texture and natural dark color to blend in with the environment.

Through coordination with staff from the Santa Clara County Parks and Recreation Department, the following measures were agreed upon to compensate for impacts to vegetation on the north side of SR 152 at Location 4:

- At Location 4, Caltrans will replace native trees at a ratio of 3 native trees planted for each removed tree that is 4 inches or greater in diameter at breast height. Caltrans will replace any non-native trees at a ratio of 1 native tree planted for each removed non-native tree that is 4 inches or greater in diameter at breast height.
- Caltrans will plant and re-establish native plant species in areas disturbed as a result of the project, including the forest understory and shrubs.
- Caltrans will fund, implement and monitor for a three- to five-year plant establishment period, or as determined by the California Department of Fish and Wildlife (CDFW), compensation for permanent impacts on the north side of SR 152 in the area of the Park open to the public.
- Caltrans will prepare a Mitigation, Monitoring and Reporting Plan (MMRP) that will include, at a minimum, success criteria to meet all goals and monitoring protocols specified by regulatory agencies and Caltrans relating to impacted species and habitat. Prior to preparing the MMRP, if the County agrees to a site on park land, Caltrans will consult with County Parks on an appropriate planting site and the plant palette and will provide County Parks with the final MMRP for their information prior to implementation.
- Caltrans will use best efforts to ensure that all plantings will be of native species locally collected or purchased from the local watershed and found within the immediate project site, if available, to maintain the genetic integrity of the natural communities within the park and project area and to prevent the importation of diseases and fungi. Mixes will be approximately 65 pounds/acre mixture rate (or agreed upon by the County). In addition, the contractor will be asked to save duff from the project area to reuse on the planting site if there is no concern that the duff may carry Sudden Oak Death.
- Caltrans will use best efforts to ensure that planting sites are located within the same watershed where trees and plant species were impacted or removed.
- Caltrans will implement Best Management Practices (BMPs) to prevent the spread of Sudden Oak Death as required by applicable state and federal laws.
- Caltrans will implement BMPs to prevent the spread of invasive plant species in the park. The BMPs will comply with the Executive Order on Invasive Species, E.O. 13112, and subsequent guidance from the Federal Highway Administration, as well as the Streambed Alteration Agreement with the CDFW.
- The project work and activities will be carried out and comply with the Streambed Alteration Agreement from the CDFW, the Biological Opinion from the U.S. Fish and Wildlife Service and the Section 404 Permit from the U.S. Army Corps of Engineers. Caltrans will provide County Parks with the final permits showing the avoidance, minimization and mitigation
measures agreed upon to protect habitat, threatened and endangered species, special-status animal species, wetlands and other waters of the U.S. and migratory birds within the park.

**Concurrence from Officials with Jurisdiction**

In order to fulfill all the requirements of Section 4(f), the officials with jurisdiction (Santa Clara County Parks and Recreation Department) provided written concurrence with the *de minimis* finding following the public comment period from November 16, 2012 to December 16, 2012. The concurrence letter is in Appendix A.
Section 4(f) De Minimis Finding

Figure 1 Project Vicinity Map

Hecker Pass Safety Improvement Project
Section 4(f) *De Minimis* Finding

Figure 2 *De Minimis* Impact Area
Figure 3  Retaining Wall Cross-Section
Figure 4  Locations of Retaining Walls and Viewpoints in Mount Madonna County Park
Figure 5  Existing eastbound view showing location of proposed Retaining Wall 9 from Viewpoint 4A

Figure 6  Simulated eastbound view showing proposed Retaining Wall 9 from Viewpoint 4A
Figure 7  Existing westbound view showing location of proposed Retaining Wall 9 from Viewpoint 4B

Figure 8  Simulated westbound view showing proposed Retaining Wall 9 from Viewpoint 4A
Figure 9  Existing westbound view showing location of proposed Retaining Wall 10 from Viewpoint 4C

Figure 10  Simulated westbound view showing proposed Retaining Wall 10 from Viewpoint 4C
Appendix A: Letter of Concurrence from the Santa Clara County Parks and Recreation Department

County of Santa Clara
Parks and Recreation Department
298 Garden Hill Drive
Los Gatos, California 95032-7669
(408) 355-2200 FAX 355-2290
Reservations (408) 355-2201
www.parkhere.org

California Department of Transportation
Attn: Fariba Zohoury, Project Manager
P.O. Box 23660
Oakland California 94623-0660

January 17, 2013

Subject: Hecker Pass Safety Improvement Project Section 4(f) Determination

Dear Ms. Zohoury,

The County of Santa Clara, Department of Parks and Recreation, owns and operates the Mount Madonna County Park located adjacent to State Route 152 in Santa Clara County. Mount Madonna County Park ("Park") is a park open to the public for a variety of recreational and other uses and is a significant resource to the County of Santa Clara and its residents and visitors. The Park is a Section 4(f) resource. A Caltrans project, referred to as the Hecker Pass Safety Improvement Project, 04-SCL-152-PM 0.1/5.2 and EA 04-2A250 ("Project"), proposes to modify and/or widen State Route 152 for safety reasons, which would involve a taking of a portion of the Park and impacts to the Park use including but not limited to potential temporary impacts to the Park's parking lot, equestrian staging area, and access to park trails and permanent impacts to natural resources (e.g., loss of trees). The description of the property proposed to be taken or used through easement is more particularly described in Attachment A to this letter.

Because of the impact associated with this Park taking, Caltrans is obliged to consider and comply with the California Parks Preservation Act and other state and federal environmental laws and regulations, including but not limited to the California Environmental Quality Act ("CEQA") and the National Environmental Policy Act ("NEPA"). To that end, in addition to compensating the County for the loss of parkland in the amount of $45,000, the County and Caltrans have mutually agreed that the appropriate mitigation for avoiding and/or minimizing the loss of this important County parkland is as follows:

a. Caltrans shall fund and implement for the three- to five-year plant establishment period, or as determined by the California Department of Fish and Wildlife, at its sole cost and expense, the following mitigation for permanent impacts on the westbound side of State Route 152 in the area of Mount Madonna County Park open to the public. Prior to preparing the Mitigation, Monitoring and Reporting Plan (MMRP), Caltrans will consult with the County on an appropriate mitigation site and the plant palette if the County agrees to a mitigation site on Park land;

b. Caltrans shall provide the final MMRP to the Santa Clara County Parks Department prior to MMRP implementation. The MMRP will include, at a minimum, success criteria to meet all regulating agency and Caltrans' success criteria goals and specify monitoring protocols relating to impacted species and habitat;

c. Caltrans shall replace native trees with a 4-inch or greater diameter at breast height (DBH) removed at a 3:1 ratio with native trees. Caltrans will use best efforts to plant trees that are locally collected or purchased from the local watershed, if available, to
Section 4(f) De Minimis Finding

maintain genetic integrity and to prevent the importation of diseases and fungi;

d. Caltrans shall plant and re-establish native plant species in areas disturbed as a result of the project, including the forest understory. Caltrans will use best efforts to ensure that all plantings shall be of native species originating from the local watershed and found within the immediate project site, if available, to maintain the genetic integrity of the natural communities within the park and project area;

e. Caltrans shall replace any non-native trees with a 4-inch or greater DBH (including trees that are not found locally) at a 1:1 ratio (non-native:native);

f. Caltrans will use best efforts to ensure that Mitigation sites are located within the same watershed where trees and plant species were impacted or removed. If mitigation site(s) are located on County land or County parkland, Caltrans shall provide the County Parks Department with success criteria and monitoring protocols for mitigation and monitoring of the site prior to implementation. Caltrans should be fully responsible for mitigation and monitoring activities for the three- to five-year plant establishment period, or as determined by the California Department of Fish and Wildlife;

g. Caltrans shall replace disturbed understory species, including shrubs. Caltrans will use best efforts to ensure vegetation is replaced with a native, locally available mix of species of understory species found within the immediate area, if available. Mixes shall be approximately 65 lbs / ac mixture rate (or agreed upon by the County). In addition, the contractor will be asked to save duff from the project area to reuse on the mitigation site if there is no concern that the duff may carry Sudden Oak Death;

h. Caltrans shall implement Best Management Practices (BMPs) to prevent the spread of Sudden Oak Death;

i. Caltrans shall implement BMPs to prevent the spread of invasive plant species in the Park. The BMPs will comply with the Order on Invasive Species, E.O. 13112, and subsequent guidance from the Federal Highway Administration, as well as the Streambed Alteration Agreement with the California Department of Fish and Wildlife;

j. The project work and activities shall be carried out and comply with the Streambed Alteration Agreement from the California Department of Fish and Wildlife, the Biological Opinion from the U.S. Fish and Wildlife Service and the Section 404 Permit from the U.S. Army Corps of Engineers. Caltrans shall provide County Parks with the final permits showing the avoidance, minimization and mitigation measures agreed upon to protect habitat, threatened and endangered species, special-status animal species, wetlands and other waters of the U.S. and migratory birds within the Park; and,

k. Caltrans has committed to providing comprehensive technical assistance to County Parks during the (1) planning, (2) design, and (3) permit application process (i.e., encroachment permit), as noted in the June 14, 2010 letter from Caltrans Senior Branch Chief Jared Goldfine (see attachment), for the creation of the proposed Regional Trail Alignment crossing Highway 152.

* NOTE: Where noted above by an asterisk (*), these measures are mitigation for vegetation removed from Mount Madonna County Park on the westbound side of SR 152. Vegetation removed on the eastbound creek side of SR 152 will be mitigated per the Streambed Alteration Agreement with the California Department of Fish and Wildlife.

Provided the above-described mitigation is implemented and the scope of the Project and its footprint or
impact on County property does not change, the County finds that the proposed Project will not have an adverse effect on the activities, features, or attributes of the Park; therefore, the County concurs with the De Minimis finding under Section 4(f) of the Department of Transportation Act of 1966 as it relates to the Park.

If you have any questions or comments, please do not hesitate to call me at (408) 355-2244 or email at Robb.Courtney@srk.sccgov.org.

Very Truly Yours,

Robb Courtney,
Director, Parks and Recreation

The California Department of Transportation Concurs with and Accepts the Mitigation Described Above:

AUTHORIZED AGENT:  
TITLE:  Project Manager  
DATE:  1/17/2013

Attachments: As noted.

cc: Ian Champeny, Associate Real Estate Agent.
    Antoinette Romeo, Planner III.