Chapter 4 Comments and Coordination

Early and continuing coordination with the general public and appropriate public agencies is an essential part of the environmental process to determine the scope of environmental documentation, the level of analysis, potential impacts and mitigation measures, and related environmental requirements. Agency consultation and public participation for this project have been accomplished through a variety of formal and informal methods, including project development team meetings, and interagency coordination meetings. This chapter summarizes the results of Caltrans' efforts to fully identify, address, and resolve project-related issues through early and continuing coordination.

Throughout the development of the alternatives presented in this document, an emphasis has been placed on keeping the community and local stakeholders informed of the scope and potential impacts of this project. Numerous meetings, both formal and informal, have been held to gather input and assist in formalizing these studies.

Open house public meetings were held in Weaverville (Trinity County) and Redding (Shasta County) in December 2000. Displays at these meetings included maps of the highway realignment alternatives, a geometric layout on an aerial photo base map, and a three dimensional topographic model that made it easier for community members to locate their properties and visualize the project alternatives. Comments received in these workshops were primarily related to how the proposed project would impact specific properties and commute times. In general, the majority of the comments were in favor of the project and its improvements to the safety and reliability of the highway.

A committee was formed to further analyze possible alignment and profile alternatives. The committee included members from Trinity and Shasta Counties, as well as various Caltrans functional units. The team reduced the numerous proposed alternatives down to the four described in this document. Meetings were held in September 2000 and May 2002 to update partners on the purpose and status of the project. In addition, a committee was formed to study erosion control, drainage and geotechnical issues. This group met regularly to discuss slope ratios and treatments for the decomposed granite slopes of the Buckhorn Grade.

Public Participation

A Draft Environmental Impact Report/Environmental Assessment was completed for the Buckhorn Grade Improvement Project and was circulated for public review and comment from October 14, 2008 – December 1, 2008. Caltrans held three open house-style public workshops in October 2009: in Eureka (October 20), in Redding (October 22), and in Weaverville (October 23). Announcements for these workshops were published in the Eureka Times, Trinity Journal, and Redding Record Searchlight newspapers. Total attendance was approximately 48 and consisted of residents, property owners, and local government representatives.

Displays included maps of the proposed alternatives, information on the project history, and a three dimensional topographic model of the project area. Public input was encouraged and comment cards were provided to solicit written comments.

Caltrans received 13 comments during the Draft Environmental Impact Report/Environmental Assessment circulation (October 14 to December 1, 2008). Of these, six comments were submitted during the open house workshops, three comments were sent by e-mail, and four comments were sent by public agencies. Eight respondents expressed support of the project and of these, one preferred Alternative BH5 and one preferred Alternative BH12.

In April 2009, the Buckhorn Grade Improvement Project Development Team identified the BH12 alignment as the preferred alternative. This recommendation was approved by the Buckhorn Grade Improvement Project management team on July 8, 2009.

Consultation and Coordination

Consultation and coordination occurred with the following individuals, organizations, and agencies during development of the project. Correspondence regarding Caltrans' consultation with federal and state agencies can be found at the end of this chapter.

Native American Consultation

Native American organizations and individuals within the project area were contacted in advance of the cultural resource inventory. On June 23, 2005, initial consultation letters describing the project and seeking input were sent to the following contacts:

- Ms. Carol Y. Bowen
- Ms. Barbara Murphy, Chair – Redding Rancheria
- Ms. Tracy Edwards, Chief Executive Officer – Redding Rancheria

- Mr. Gene Malone – Wintu Tribe and Toyon-Wintu Center
- Mr. Robert Burns – Wintu Educations and Cultural Council
- Mr. John W. Hayward – Nor-Rel-Muk Nation

On December 4, 2007, a letter was sent to the Native American Heritage Commission in order to obtain an updated list of Native American individuals or organizations that might have concerns regarding additional work at two multiple component sites located within the project's area of direct impact. Letters were sent to the following contacts:

- Ms. Barbara Murphy, Ms. Tracy Edwards and Mr. James Hayward, Sr. - Redding Rancheria
- Mr. Eugene Jamison, Jr. - Round Valley Reservation/Covelo Indian Community
- Ms. Kelli Hayward - Wintu Tribe of Northern California
- Ms. Marilyn Delgado - Mor-Rel-Muk Nation
- Ms. Sharon Elmore - Pit River Tribe
- Mr. Robert Burns – Wintu Educational and Cultural Council
- Ms. Caleen Sisk-Franco - Winnemem Wintu Tribe
- Ms. Gloria Gomes and Mr. John Castro - United Tribe of Northern California
- Carol Sinclair
- Matthew Root
- Loretta Root

Efforts to consult and seek input from the local Native American community have occurred throughout the planning and development of the project and are still ongoing.

State Historic Preservation Officer

Caltrans identified five archaeological sites within the area of potential effects that are eligible for, or assumed eligible for, listing in the National Register of Historic Places. The State Historic Preservation Officer concurred with Caltrans' findings in letters dated August 28, 2008 and February 3, 2009.

Caltrans determined that all four alternatives for the proposed project would adversely affect one historic property. Caltrans prepared a Finding of Effects to assess the effects of the proposed project on the eligible property. The eligibility determination and findings were submitted to the State Historic Preservation Officer, who concurred with the findings of adverse effect in a letter dated August 28, 2008.

The State Historic Preservation Officer and Caltrans have negotiated a Memorandum of Agreement, which includes stipulations to take into account the proposed project's effects on historic properties. The Memorandum of Agreement ensures that adverse effects of the undertaking are resolved by implementing Data Recovery and Environmentally Sensitive Area Action Plans.

U.S. Fish and Wildlife Service

On May 28, 2009, the U.S. Fish and Wildlife service concurred with Caltrans' determination that the proposed project is not likely to adversely affect the federally threatened northern spotted owl (*Strix occidentalis caurina*).

Public Comments

The following comments were received during the October 15, 2008 – December 1, 2008 public circulation and comment period. A response from Caltrans follows each comment.

STATE OF CALIFORNIA

GOVERNOR'S OFFICE *of* PLANNING AND RESEARCH

STATE CLEARINGHOUSE AND PLANNING UNIT

ARNOLD SCHWARZENEGGER
GOVERNOR

CYNTHIA BRYANT
DIRECTOR

December 2, 2008

Sandra Rosas
Department of Transportation, District 3
403 B Street
Marysville, CA 95901

Subject: Buckhorn Grade Improvement Project
SCH#: 2002052057

Dear Sandra Rosas:

The State Clearinghouse submitted the above named Joint Document to selected state agencies for review. The review period closed on December 1, 2008, and no state agencies submitted comments by that date. This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act.

Please call the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process. If you have a question about the above-named project, please refer to the ten-digit State Clearinghouse number when contacting this office.

Sincerely,

Terry Roberts

Terry Roberts
Director, State Clearinghouse

1400 10th Street P.O. Box 3044 Sacramento, California 95812-3044
(916) 445-0613 FAX (916) 323-3018 www.opr.ca.gov

Response to Comments from State Clearinghouse and Planning Unit

The State Clearinghouse letter acknowledges that Caltrans has complied with review requirements for draft environmental documents, pursuant to the California Environmental Quality Act.

State of California **The Resources Agency**

Memorandum

To: Ms. Sandra Rosas,
Senior Environmental Planner
Department of Transportation - District 3
703 B Street
Marysville, California 95901

Date: December 10, 2008

From: **GARY B. STACEY**, Regional Manager
Northern Region
Department of Fish and Game
601 Locust Street
Redding, California 96001

Subject: **Buckhorn Grade Improvement Project, Draft Environmental Impact Report/Environmental Assessment (SCH #2002052057)**

The Department of Fish and Game (DFG) has reviewed the draft environmental document for the above referenced Buckhorn Grade Improvement Project. The project proposes to realign a 4.8- to 5.11-mile segment of State Route (SR) 299 in Shasta County west of Redding, California. Four construction alternatives are under consideration to improve the safety and efficiency of the highway by realigning the roadway along the existing alignment. Improvements will include standard roadway and shoulder widths, a new alignment with a 40-miles per hour to 50-miles per hour design speed (depending on the alternative) an 8 percent maximum grade, passing/climbing lanes, and improved roadway superelevations and transition distances. Depending on the alternative selected, the area of physical disturbance will range from 101 acres to 147 acres; proposed earthwo will range from 3.4 to 5.0 million cubic yards of material. DFG offers the following commer on the project in our role as both a trustee and responsible agency.

The draft environmental document identifies potential adverse effects and specifies avoidance and minimization measures for impacts to natural communities, including alkali seep, wetlands, riparian and oak woodlands; water quality; special status species such as Pacific fisher; and wildlife migration corridors. Significant effects are identified for riparian habitat, oak woodlands, and wetlands. DFG has the following specific concerns regarding the discussion of resource impacts and proposed mitigation measures.

Alkali Seep and Howell's Alkali Grass

The Draft Environmental Impact Report (DEIR) recognizes the importance of an existing mineral spring complex on the south side of SR 299 adjacent to the Crystal Creek Road intersection. This spring system supports the only known occurrence of Howell's alkali grass (*Puccinellia howellii*). While this plant species is not currently listed as "threatened or endangered" by either the State or federal government, it is listed as rare 1

Ms. Sandra Rosas
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and endangered in California by the California Native Plant Society (CNPS List 1B.1). Based upon the best available information, DFG has concluded that the species meets the criteria for State listing as outlined in CEQA Guidelines Section 15380(b) and must therefore be considered as an "endangered species" as required under Section 15380(d).

Although no project activities other than traffic control and construction signage are proposed adjacent to the spring complex, the DEIR indicates that the mineral springs will be identified and protected as an environmentally sensitive area (ESA) during construction. DFG supports this measure. In addition to the spring complex itself, the large pullout on the south side of the highway at Post Mile 7.8 should also be included within the ESA. Working under an interagency ***Conservation Agreement for Puccinellia howellii***, Caltrans, DFG and the National Park Service recently completed a project to restore the hydrology of the mineral springs in this portion of the right-of-way. As part of this work, an underdrain was constructed to re-convey spring discharge that had been intercepted by an earlier highway construction project to spring number 1. The collection area for the underdrain is located within the pullout adjacent to the highway. Although an impermeable membrane was installed to protect the collection area, the site remains vulnerable to contamination from vehicles, equipment or construction materials stored at this location. The pullout area should be off limits to construction equipment and personnel and should not be used as a staging area for the project.

Riparian and Wetland Habitats

Chapter 2 of the DEIR identifies permanent impacts to riparian and wetland habitats associated with each of the construction alternatives. Up to 0.45-acre of riparian vegetation will be removed at Yankee Gulch, Trail Gulch and Water Gulch. Depending on the alternative selected, up to an additional 1.40 acres of wetlands and stream channel habitat will be subject to direct, permanent impacts. The document proposes to mitigate riparian losses through a combination of replacement and enhancement of existing riparian areas (page 74). Replacement is proposed at a ratio of 1:1 while enhancement would be accomplished at a 2:1 ratio. The document does not define what is meant by enhancement, nor does it describe the location of replacement or enhancement activities, indicating only that a revegetation and restoration plan will be prepared during final project design. Similarly, the discussion of wetland mitigation (page 78) indicates only that "potential impacts to federally jurisdictional wetlands would be mitigated at a ratio to be determined in consultation with the U.S. Army Corps of Engineers." DFG recommends that the DEIR be revised to provide a more detailed analysis of the measures that will be implemented to mitigate wetland and riparian impacts. This discussion should evaluate the feasibility of accomplishing the mitigation onsite (e.g., within the portions of the alignment that will be decommissioned) or whether impacts will require offsite mitigation. Because of the temporal habitat loss associated with replacing woody riparian habitat, DFG typically recommends a replacement ratio of at least 3:1 for this habitat type. 2

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Oak Woodlands

Direct impacts to oak dominated woodlands are projected to range from 69.1 acres to 95.1 acres, depending on the alternative selected for construction. An additional area up to 443 acres could be subject to indirect effects, presumably resulting from unstable soils and the potential for slope failures during and after construction. The DEIR proposes to compensate for potentially significant impacts to oak woodlands by in-kind creation/restoration and preservation of oak woodlands on abandoned sections of the existing roadway alignment, as well as on newly acquired parcels as needed (page 109). Replacement plantings are proposed at a ratio of five new trees for each oak removed, with a goal of at least 3 surviving trees for each tree lost at the end of a ten-year monitoring period. 3

It is unclear from the discussion in the DEIR how much suitable acreage for oak woodland replacement will be available within the portions of the abandoned alignment and how many acres will be required from additional parcels. It is likely that much of the decommissioned portions of the right-of-way, particularly the cut slopes, will be poorly suited for the establishment of oaks. Moreover, on past projects Caltrans has had difficulty identifying and acquiring suitable mitigation parcels for oak woodland impacts. DFG recommends that the DEIR include a more detailed analysis of restoration opportunities provided by the old alignment and also identify suitable areas for off-site habitat establishment. In both cases, mitigation lands will need to be protected and managed as oak woodland habitat in perpetuity.

Water Quality

Major portions of the alignment traverse areas of steep slopes and highly erosive soils that have developed from decomposed granite parent materials. These soils are notoriously subject to rill and gully erosion as well as slope failures when vegetative cover is removed. The DEIR correctly identifies a substantial potential for erosion of slopes and siltation of downstream waterways (page 55) as a project impact. Mitigation measures call for the development and implementation of a Storm Water Pollution Prevention Plan (SWPPP) as well as following Best Management Practices (BMPs) to minimize erosion and water quality impacts. DFG is concerned that standard measures may not be adequate to stabilize highway slopes and control erosion under these conditions. The DEIR should describe what additional measures will be used if standard BMPs prove inadequate to prevent the mobilization and transport of sediment from project slopes. Without state of the art erosion control measures, DFG believes the project could become a chronic source of sediment, degrading water quality and damaging habitat for species of special concern such as the foothill yellow-legged frog. 4

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Species of Special Concern and Migration Corridors

The DEIR identifies potential impacts to several species of special concern including but not limited to ringtail, Pacific fisher, northwestern pond turtle, California horned lizard, and foothill yellow-legged frog. The document acknowledges that increased vehicle speeds associated with the improved alignment may contribute to an increase in vehicle-related mortality for wildlife. Recent observations have documented vehicle-related mortality of species of special concern in the general project area. Two road-killed Pacific fishers were observed along SR 299 just west of Buckhorn Summit by a UC Davis researcher on September 4, 2008. DFG recommends increased monitoring of road-kill along this portion of SR 299 and elsewhere to document vehicle strikes on fishers. Caltrans has a key role in improving our understanding of the effects of vehicle-related mortality on fisher populations; this information will contribute to the ongoing development of a statewide fisher conservation strategy. 5

Wildlife underpasses and fencing (pages 89-90) are proposed to reduce road-kill and the potential for habitat fragmentation by creating opportunities for animals to safely cross the highway. The DEIR provides no information regarding the number, placement, size, or design of these structures, other than to suggest the use of stream crossings or other natural features. DFG supports the development of wildlife crossing structures as part of the proposed project. However, for these features to be effective, careful consideration needs to be given to the species under consideration, existing wildlife movement patterns, the number and spacing of crossing structures needed, the size and type of structures to be used, and the type of fencing that will be required given the species to be accommodated. It is particularly important to carefully select the end points of any fencing system so that roadway mortality is not increased at these locations. Monitoring should also be an integral part of assessing the effectiveness of any wildlife crossing system. Motion sensing digital cameras provide a convenient and cost-effective way of documenting wildlife use of crossing structures. DFG staff can provide assistance with the design and placement of wildlife crossing structures for this project.

Streambed Alteration

A Lake or Streambed Alteration Agreement is required for activities that will substantially obstruct or divert the natural flow of, or substantially change or use any material from the bed, channel, or bank of, any river stream or lake. From the project description, it appears that a streambed alteration agreement will be required for crossings, including, but not limited to, Water Gulch, Trail Gulch, Sawpit Gulch, and Yankee Gulch. Upon receiving notification pursuant to Fish and Game Code §1602, DFG will prepare a streambed alteration agreement. In issuing a streambed alteration agreement, DFG will be acting as a "responsible agency" under CEQA. As such, DFG

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will be required by CEQA Guidelines Section 15096 to review the CEQA docume
certified by Caltrans and to make certain findings concerning the activity's potenti
cause significant adverse environmental effects. It is therefore important that the
adequately address both potential impacts to fish and wildlife resources resulting
project activities within watercourses and the measures that may be needed to m
project effects.

DFG appreciates the opportunity to provide comments on this project. For
questions or additional information, contact Staff Environmental Scientist Craig M
(530) 225-2281 or via e-mail at cmartz@dfg.ca.gov.

cc: Messrs. Mark Stopher, Eric Haney, Craig Martz, Pete Figura, and
Ms. Jane Vorpagel
Department of Fish and Game
601 Locust Street
Redding, California 96001

Mr. Richard Callas
Department of Fish and Game
1724 Ball Mountain Road
Montague, California 96064

Ms. Esther Burkett and Mr. Dale Steele
Department of Fish and Game
1812 Ninth Street
Sacramento, California 95811

Ms. Jennifer Gibson
National Park Service
Whiskeytown National Recreation Area
Post Office Box 188
Whiskeytown, California 96095-0188

Mr. Keith Paul
U. S. Fish and Wildlife Service
Red Bluff Fish and Wildlife Office
10950 Tyler Road
Red Bluff, California 96080

Responses to Comments from California Department of Fish and Game

Response to comment #1: An Environmentally Sensitive Area will be designated and fencing will be placed around the spring complex and pullout during construction to protect the alkali seep mineral spring complex and Howell's alkali grass *(Puccinellia howellii).* An avoidance measure has been added to Appendix D, "Minimization and/or Mitigation Summary" of this document.

Response to comment #2: The magnitude of the Buckhorn Grade Improvement Project will require the project to be built in constructable and fundable segments. These individual segments will be constructed independently, but together will eventually complete the ultimate project. Each of these segments will consist of stand-alone projects and will undergo environmental review. At this stage of project development, mitigation commitments for wetland and riparian vegetation impacts that will result from the ultimate project are described in conceptual terms, based on regulatory guidelines. Specific mitigation details will be developed during the design and environmental phase for each project.

Response to comment #3: Compensation for potentially significant impacts to oak woodlands will be determined during the design and environmental review of individual projects within the limits of the Buckhorn Grade Improvement Project. Caltrans would compensate for the impacts of the project to oak woodlands by in-kind creation/restoration and preservation of oak woodlands, a monetary contribution to the California Oak Woodlands Conservation Fund administered by the state Wildlife Conservation Board for the purpose of purchasing oak woodland conservation easements, or through a California Department of Fish and Game-established oak woodland mitigation bank. Therefore, if suitable areas for replacement planting are unavailable, two other options would remain for achieving mitigation commitments relating to oak woodland impacts.

Response to comment#4: Measures will be identified to minimize impacts that could degrade water quality during final design of the project. These measures could include the use of engineering fabric in embankments constructed out of decomposed granite to reduce the potential for surface erosion. As fundable and constructable projects are developed on Buckhorn Grade, additional measures will be identified to minimize impacts to water quality and habitats for species of special concern.

Response to comment #5: At the environmental document/project approval stage for the ultimate project, mitigation commitments for impacts to biological resources

are described in conceptual terms, based on regulatory guidelines. The design and location of wildlife crossing structures will be developed during design and environmental review for individual projects within the limits of the Buckhorn Grade Improvement Project. Caltrans will consult with Department of Fish and Game staff regarding the number, location, size, and design of these structures.

United States Department of the Interior
NATIONAL PARK SERVICE
WHISKEYTOWN NATIONAL RECREATION AREA
WHISKEYTOWN-SHASTA-TRINITY NATIONAL RECREATION AREA
P.O. BOX 188
WHISKEYTOWN, CA 96095-0188

IN REPLY REFER TO:
WHIS N1617

December 15, 2008

Sandra Rosas
Senior Environmental Planner
Department of Transportation – District 3
703 B Street
Marysville, California 95901

Dear Ms. Rosas:

The National Park Service (NPS) has reviewed the draft environmental document for the Buckhorn Grade Improvement Project. The project proposes to realign a 4.8 – 5.11 mile segment of State Route 299 just west of Whiskeytown National Recreation Area. Park staff have the following specific concerns regarding resource impacts and proposed mitigation measures:

The Alkali Seep and Howell's Alkali Grass

The mineral springs that support Howell's alkali grass (*Puccinellia howellii*) to the east of the project area are within Whiskeytown National Recreation Area. Whiskeytown is the only known global location of this grass and the U.S. Fish and Wildlife Service has formally stated that it is one of two plant species that are closer to extinction than any other in northern California. In addition, the mineral spring complex that supports *P. howellii* is listed by the State of California as a Significant Natural Area (SHA-41). This plant species is extremely rare and because it is a small population confined to a unique habitat along a major travel corridor it is highly vulnerable to hazardous material spills and traffic accidents. 1

The springs that support Howell's alkali grass have been impacted by the activities associated with a highway realignment in 1992. As a first step towards restoring the hydrology of the springs, the *Puccinellia howellii* Interagency Working Group (which includes Caltrans, the Department of Fish and Game, the U.S. Fish and Wildlife Service, and the National Park Service) recently collaborated on the installation of an underdrain at the pull-out adjacent to the highway at Post Mile 7.8. There is also a small population of this species that grows immediately alongside the highway within the pullout. This population and the mineral spring system on the other side of the underdrain are highly vulnerable to contamination from vehicles, equipment or construction materials stored at this location. Because of this, the staging of materials, vehicles, and personnel should be prohibited within this area.

In addition, during the installation of the underdrain, the Interagency Working Group discussed establishing delineators around this pullout to further demark the site as an Environmentally Sensitive Area and to prevent vehicles from driving over the population along the highway or from parking near the underdrain. Installation of the delineators before construction begins will also greatly assist in protecting this site.

The Draft Environmental Impact Report (DEIR) should also consider Howell's alkali grass as an "endangered species" even though it is not federally or state listed. This species is listed by the California Native Plant Society as CNPS List 1B.1, which means that it is "seriously endangered in California". NPS policy mandates that sensitive species be treated as if they were listed species and this policy is consistent with the statutory duty of the NPS to conserve the scenery, natural and historic objects, and wildlife in national parks and monuments by such means as will leave them unimpaired for future generations (National Park Service Organic Act; 16 U.S.C. 1.)

Under "Avoidance, Minimization, and/or Mitigation Measures" of the DEIR (page 98), the document states that the California Native Plant Society will participate in any planning that may affect this species, including identification of avoidance and minimization measures. The California Native Plant Society is not a signatory on the Interagency Conservation Agreement. Because the springs are located on NPS property and along the Caltrans right-of-way, we request that Caltrans consult with the NPS directly so that avoidance and minimization measures can be approved by the *Puccinellia howellii* Interagency Working Group.

Invasive Species

Invasions by non-native plant species are generally considered to be one of the greatest threats to biological diversity in natural areas and there are several significant infestations of high priority invasive plant species along Highway 299 and Willow Creek. The mechanism of disturbance has been demonstrated to enhance the probability of non-native plant establishment in native plant communities. Concern of non-native plant species is greater in that these activities may favor invasions by transporting propagules, disturbing the soil surface, and by creating an open canopy that allows for the spread of invasives into uninfested areas.

The NPS is gravely concerned that the ground disturbing activities of mechanized equipment may exacerbate existing infestations to a point in which they become too unwieldy to treat cost-effectively. Also, there are a number of species listed by the California Department of Food and Agriculture (CDFA) that are limited to Trinity County (e.g., Dalmatian toadflax and Dyer's woad) and the CDFA has been working diligently to prevent the spread of such species into Shasta County. Infested areas in which fill material, equipment and personnel are staged, increases the probability in which invasive plant seeds become attached to equipment, shoelaces, and pants and hence, transported into Shasta County. Because riparian and road corridors often act as vectors of invasive plant spread, infestations within the project area can quite easily spread down stream and along the highway into NPS lands. Because of this threat, the NPS requests that Caltrans develop the Invasive Weed Eradication Plan (page 100 of the DEIR) and effectively treat infestations along the Highway 299 and riparian corridor BEFORE construction begins. 2

Specific NPS policy that supports this concern includes:

- The NPS's mission to conserve the scenery, natural and historic objects, and wildlife in national parks and monuments by such means as will leave them unimpaired for future generations (National Park Service Organic Act; 16 U.S.C. 1.)
- Non-native species will not be allowed to displace native species if displacement can be prevented (NPS Management Policies 2006, 4.4.4).
- New non-native species will not be introduced into parks, except in specific rare situations (NPS Management Policies 2006, 4.4.4.1).

- Activities may not be categorically excluded from NEPA if they contribute to the introduction, continued existence, or spread of federally listed noxious weeds (DO-12 Handbook 3.5N, Federal Noxious Weed Control Act).
- Activities may not be categorically excluded from NEPA if they contribute to the introduction, continued existence, or spread of non-native invasive species or actions that may promote the introduction, growth, or expansion of the range of non-native invasive species (DO-12 Handbook 3.5O, Executive Order 13112).
- Protection of the chemical, physical, and biological integrity of the Nation's waters (Clean Water Act of 1972, as amended, 33 USC 1251-1387).

Regarding the Invasive Weed Eradication Plan, Caltrans should use the invasive plant list provided by the California Invasive Plant Council (http://www.cal-ipc.org/) which is more widely used by land management agencies.

Water Quality

The proposed activities in the DEIR involve the disturbance of decomposed granite parent material on steep slopes along the highway corridor. The NPS agrees with the DEIR in that there is a high probability for erosion of slopes and siltation of downstream waterways during the construction phase (page 55). Although there are mitigation measures established for the proposed activities, there is a long history of past erosion control measures and sediment barriers that have failed along this corridor. The NPS wants to emphasize that Whiskeytown Lake is the inevitable recipient of all upstream sedimentation. In addition, with the presence of Whiskeytown Dam, the lake acts as a catch basin for all upstream material and this material does not ultimately end up in the San Francisco Bay and Pacific Ocean, as stated on page 54 of the DEIR. 3

Willow Creek is listed by the Environmental Protection Agency as impaired under Section 303(d) of the Clean Water Act because of excessive levels of copper and zinc and acid mine drainage due to the Greenhorn Mine. Concentrations of metals are toxic to aquatic life from the Greenhorn Mine to the confluence of Willow Creek and Crystal Creek, which is located 2.6 miles downstream of the mine and within the boundary of Whiskeytown National Recreation Area. Samples taken by park staff from a water quality monitoring station along Willow Creek supports the EPA's findings. In addition, a cooperative project between the National Park Service and the USGS Water Resources Division has documented an adverse impact to aquatic life in Willow Creek at the west boundary of the park.

Because the primary mode of metals transport and contamination is from metal-contaminated sediment, additional ground disturbance and erosion can have a cumulative impact by making metals more soluble during precipitation events. This sediment loading can mobilize contaminated material into Whiskeytown Lake during the rainy season, where it then settles into the lake. Contaminated sediments within the Whiskeytown Lake pose long-term threats to the aquatic ecosystem, including fish-eating birds and mammals, and to human health through fish consumption. Additionally, Whiskeytown Lake provides recreation for approximately 700,000 visitors annually and serves as the domestic water supply for five municipalities and stores water for the Central Valley Project.

cc: Craig Martz, California Department of Fish and Game
Richard Lis, California Department of Fish and Game
Keith Paul, U.S. Fish and Wildlife Service

Response to Comments from National Park Service

Response to comment #1: The mineral springs and Howell's alkali grass located to the east of the project will be protected with Environmentally Sensitive Area fencing during construction. Construction staging will not be allowed in the pullout adjacent to State Route 299 at post mile 7.8. Caltrans will consult with the National Park Service to identify avoidance and minimization measures to protect these resources. The FEIR has been revised and avoidance measures are included in Appendix D, "Minimization and/or Mitigation Summary" to address these comments.

Response to comment #2: Prior to construction of the project, Caltrans will develop and implement an Invasive Weed Eradication Plan. This commitment is discussed in Appendix D, "Minimization and/or Mitigation Summary".

Response to comment #3: Measures to control erosion and protect water quality will be addressed as fundable and constructable segments are developed on the Buckhorn Grade project.

DEPARTMENT OF THE ARMY
U.S. ARMY ENGINEER DISTRICT, SACRAMENTO
CORPS OF ENGINEERS
1325 J STREET
SACRAMENTO CA 95814-2922

REPLY TO
ATTENTION OF

December 31, 2008

Regulatory Division (SPK-2008-1692)

Ms. Sandra Rosas
Office of Environmental Management
703 B Street
Marysville, California 95907-0911

Dear Ms. Rosas:

We are responding to your October 15, 2008 request for comments on the Buckhorn Grade Improvement project. This project is located at Latitude 40°38'47", Longitude 122°44'50", Section 14, Township 32 North, Range 8 West, 2.0 miles West of the Shasta County line to the Western Boundary of the Whiskeytown-Shasta Trinity National Recreation Area, in Shasta and Trinity Counties, California. Your identification number is SPK-2008-1692.

The Corps of Engineers' jurisdiction within the study area is under the authority of Section 404 of the Clean Water Act for the discharge of dredged or fill material into waters of the United States. Waters of the United States include, but are not limited to, rivers, perennial or intermittent streams, lakes, ponds, wetlands, vernal pools, marshes, wet meadows, and seeps. Project features that result in the discharge of dredged or fill material into waters of the United States will require Department of the Army authorization prior to starting work.

To ascertain the extent of waters on the project site, the applicant should prepare a wetland delineation, in accordance with the "Minimum Standards for Acceptance of Preliminary Wetland Delineations", under "Jurisdiction" on our website at the address below, and submit it to this office for verification. A list of consultants that prepare wetland delineations and permit application documents is also available on our website at the same location.

The range of alternatives considered for this project should include alternatives that avoid impacts to wetlands or other waters of the United States. Every effort should be made to avoid project features which require the discharge of dredged or fill material into waters of the United States. In the event it can be clearly demonstrated there are no practicable alternatives to filling waters of the United States, mitigation plans should be developed to compensate for the unavoidable losses resulting from project implementation.

-2-

Please refer to identification number SPK-2008-1692 in any correspondence concerning this project. If you have any questions, please contact Ms. Leah Fisher at our California North Branch Office, 1325 J Street, Room 1480, Sacramento, California 95814-2922, email leah.m.fisher@*usace.army.mil*, or telephone 916-557-7455. You may also use our website: *www.spk.usace.army.mil/regulatory.html*.

Sincerely,

Paul Maniccia for

Nancy A. Haley
Chief, California North Branch

Copy Furnished

Ms. Sandy Morey, California Department of Fish and Game, 1701 Nimbus Road, Rancho Cordova, California 95670-4503
Mr. Peter Cross. U.S. Fish and Wildlife Service, Endangered Species Division, 2800 Cottage Way Suite W2605, Sacramento, California 95825-3901
Mr. Bill Orme, Chief, Water Quality Certification Unit, State Water Resources Control Board, 1001 I Street, Sacramento, California 95814-2828
Ms. Eva Begley, California Department of Transportation, Environmental Planning/Resources Liaison, North Region, 2389 Gateway Oaks Drive, Suite 100, Sacramento, California 95833-4246
Ms. Katrina Pierce, California Department of Transportation, Chief North Region, 2389 Gateway Oaks Drive, Suite 100, Sacramento, California 95833-4246

Response to Comments from the U.S. Army Corps of Engineers

The magnitude of the Buckhorn Grade Improvement Project will require the project to be built in constructable and fundable segments. These individual segments will be constructed independently, but together will eventually complete the ultimate project. Each of these segments will consist of stand-alone projects and will undergo environmental review. Caltrans will prepare wetland delineations for individual segments of the project as they are programmed for construction.

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:
81420-2009-TA-0399-1

MAR 1 1 2009

Ms. Sandra Rosas
Office of Environmental Management
California Department of Transportation
703 B Street
Marysville, California 95907-0911

Subject: Technical Assistance for the Buckhorn Grade Improvement Project in Shasta and Trinity Counties, California

Dear Ms. Rosas:

This is in response to your October 15, 2008 request for comments on the Buckhorn Grade Improvement project. Your letter was received by our Sacramento U.S. Fish and Wildlife Service (Service) on January 9, 2009. We understand that although the comment period is currently closed for this project, the Service is providing comments in regards to the project and its potential affects on threatened and endangered species. The California Department of Transportation (Caltrans) in partnership with Shasta, Trinity, and Humboldt Counties, is proposing to make improvements to 9 miles of the Buckhorn Grade portion of State Route 299 located in Shasta County. Construction activities in Trinity County will be limited to sign placement and traffic control. The project is located on the Whiskeytown and French Gulch USGS quadrangle maps at T32N R7W and R8W, Section 14, Mount Diablo Meridian. This letter is issued under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. §1531 *et. seq.*) (Act).

The Service has analyzed the project area, recovery plans for federally listed species, the California Natural Diversity Database and the Berkeley Museum of Vertebrate Zoology to assess the current and historical ranges of federally listed or candidate species that may be affected by this project. Based on the location, historic records of occurrence and range, suitable habitat and information provided from the project Draft Environmental Impact Report (DEIR), it is the determination of the Service that this project may affect the threatened northern spotted owl (*Strix occidentalis caurina*) (NSO), the threatened California red legged frog (*Rana aurora draytonii*) (CRLF), and the threatened Valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*) (VELB).

The DEIR states that Caltrans will conduct protocol level surveys for NSO 2 years prior to construction. If individuals of the NSO are located within 1,000 feet of the project we 1

TAKE PRIDE IN AMERICA

Ms. Sandra Rosas 2

recommend that Caltrans contact the Service for further guidance.

In addition, the project is within the northern most historic range of CRLF and to our knowledge no surveys have been conducted or recent occurrence data been submitted for the area where the project occurs. The Service recommends that Caltrans conduct habitat assessments for suitable breeding habitat for CRLF on all aquatic features within 1 mile of the project area. Protocol level surveys for CRLF should also be conducted 2 years prior to construction on aquatic features determined to have suitable breeding habitat. 2

The project is also within the current range of VELB. The Service recommends that Caltrans utilize the Service's 1999 *Conservation Guidelines for the Valley Elderberry Longhorn Beetle* to accurately assess the effects of the project on VELB. Caltrans may utilize the option to assume presence for CRLF and VELB in which case, the appropriate minimization and avoidance measures should be implemented for the project. For future projects the Service recommends that a species list be obtained for the project area to assess all potential federally listed species that may be affected. A species list can be generated from the Service's website at http://www.fws.gov/sacramento/es/spp_list.htm. 3

Section 9 of the Act prohibits the take of any federally listed animal species by any person subject to the jurisdiction of the United States. As defined in the Act, take is defined as "...to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct." "Harm" has been further defined to include habitat destruction when it injures or kills a listed species by interfering with essential behavioral patterns, such as breeding, foraging, or resting. Thus, not only are listed species protected from such activities as collecting and hunting, but also from actions that damage or destroy their habitat. The term "person" is defined as "...an individual, corporation, partnership, trust, association, or any other private entity; or any officer, employee, agent, department, or instrumentality of the Federal government, of any State, municipality, or political subdivision of a State, or any other entity subject to the jurisdiction of the United States."

Take incidental to an otherwise lawful activity may be authorized by one of two procedures. If a Federal agency is involved with the permitting, funding, or carrying out of the project and a listed species is going to be adversely affected, then initiation of formal consultation between that agency and the Service pursuant to section 7 of the Act is required. Such consultation would result in a biological opinion addressing the anticipated effects of the project to the listed species and may authorize a limited level of incidental take. If a Federal agency is not involved in the project, and federally listed species may be taken as part of the project, then an incidental take permit pursuant to section 10(a)(1)(B) of the Act should be obtained. The Service may issue such a permit upon completion of a satisfactory conservation plan for the listed species that would be taken by the project. There may be ways to implement this development project that would avoid the potential for take and the Service recommends additional future consultation.

Ms. Sandra Rosas 3

Please address any questions or concerns regarding this response on the Buckhorn Grade Improvement Project to Brian Hansen, Endangered Species Biologist or Arnold Roessler, Forest Foothills Branch Chief, at (916) 414-6600.

Sincerely,

Chris Nagano
Deputy Assistant Field Supervisor

Response to Comments from the U.S. Fish & Wildlife Service

Response to Comment #1: Caltrans performed protocol level surveys for northern spotted owl in 2002. It was determined that the project area is foraging habitat and not nesting habitat for the northern spotted owl. As a result of Section 7 consultation with the U.S. Fish and Wildlife Service office in Redding, the Service concurred with Caltrans' determination that construction of the project is "not likely to adversely affect" the northern spotted owl. Caltrans will conduct new protocol level surveys for northern spotted owl one to two years prior to construction. If northern spotted owl are located within 1,000 feet of the project, Caltrans will contact the Service for further guidance.

Response to Comment #2: A herpetofaunal survey (including diurnal surveys) was completed for this project using *"A Standardized Protocol for Surveying Aquatic Amphibians" (Fellers and Freel, 1995).* No California red-legged frogs were discovered during surveys, although other herps including three foothill yellow-legged frogs, were discovered. It was determined that there is no habitat in the project area to support a population of California red-legged frogs. Also, there are no California red-legged frog records in the California Natural Diversity Data Base for either Trinity or Shasta Counties. In addition, the Redding U.S. Fish and Wildlife Service field office has concurred with out finding by issuing a Biological Opinion which states that the only species that might be impacted is the northern spotted owl. The Redding U.S. Fish and Wildlife Service field office has also concurred with our "not likely to adversely affect" determination regarding the northern spotted owl.

Response to Comment #3: Floral surveys have been completed for this project. No elderberry bushes were discovered in the project area; therefore, no habitat for valley elderberry longhorn beetle is present.

"Smith, Jimmy R." <JRSmith@co.humboldt.ca.us >

10/24/2008 11:59 AM

To <sandra_rosas@dot.ca.gov>

cc "Charlie Fielder" <charlie_fielder@dot.ca.gov>, "Julie East" <julie_east@dot.ca.gov>, "Mattson, Tom" <TMattson@co.humboldt.ca.us>

bcc

Subject Buckhorn Grade-Trinity and Shasta Counties

Dear Sandra, thank you for the opportunity to comment on the Caltrans proposal to improve the Buckhorn Grade. I am very familiar with the project area and the transportation problems related to the present road condition. Improvements to Buckhorn have been a consistent priority for Humboldt County and certainly important to my constituents. The area designated for work currently impedes traffic and impacts our ability to move goods at competitive rates. I enthusiastically support your work on this essential transportation link and applaud your effort to date. Thank you for taking the time to pursue this excellent project, if I can provide additional support please let me know. Sincerely, Jimmy Smith 1st District Supervisor, Humboldt County 707-476-2391

Jeremy Mills <jtm10@humboldt.edu>

12/01/2008 12:39 PM

To sandra_rosas@dot.ca.gov

cc

Subject Buckhorn Draft EIS/EA

Thank you for the opportunity to review the Buckhorn Grade Improvement Project Draft Environmental Impact Report/ Environmental Assessment. I appreciate the care with which Caltrans is analyzing the impacts of this project and mitigating the impacts. I especially support the revegetation of the abandoned right of way. This is an improvement over past practices of abandoning rights of way.

I am concerned that the growth inducing impacts of Surface Transportation Assistance Act sized commercial trucks is not fully analyzed. Some questions that are not analyzed are:

1)Will there be greater substitution of imported products for locally produced products?

2) Will more chain retail stores open due to lower transportation costs?

3) Will these potential changes result in blight?

I look forward to seeing further analysis of these potential impacts on the communities served by Highway 299.

Thank you.

Jeremy Mills

Response to Comment from Jimmy Smith

Your support of the project is acknowledged and included in the project record. Thank you for your interest in the project.

Response to Comment from Jeremy Mills

While the lack of Surface Transportation Assistance Act truck access on Buckhorn Grade is not the only factor limiting economic development in the area, removing the restrictions would likely have a positive effect on businesses. However, the removal of these restrictions is not expected to result in an increase in truck traffic but rather, an increase in efficiency. The reduction in the number of trips due to increased efficiency would likely offset any increase in the amount of truck traffic.

Economic activity and subsequent growth faces challenges in the form of distance to markets, with or without the proposed project. There are numerous existing environmental, geographical, and political limitations to growth in Trinity and Humboldt Counties. The proposed project would reduce transportation costs and improve safety for both commercial and local traffic. However, the proposed project is not expected to result in significant increases in overall economic productivity in the region or substantial change to the volume of truck traffic on State Route 299.

Thank you for your comments and interest in the project.

C CARRICK
<carrickc_22@msn.com>
10/19/2008 11:50 AM

To <adele_pommerenck@dot.ca.gov>
cc
bcc
Subject Buckhorn Project EIR feedback

Adele:

I feel that after reading the report, Alternative BH5 makes the most sense. The faster the motoring public can travel from Eureka to Redding, the better. That windy stretch of road needs to be replaced and replaced fast!

Clyde Carrick
Eureka, CA

Name Tim Fleming
Address 2215 Tydd St. #-A
Phone No. 707-616-4712
E-Mail Tim.Fleming@yahoo.com
Comments: Do it! Thank you for your work.

Response to Comment from Clyde Carrick

Your support of Alternative BH5 is acknowledged and included in the project record. Thank you for your interest in the project.

Response to Comment from Tim Flemming

Your support of the project is acknowledged and included in the project record. Thank you for your interest in the project.

Name LANCE MADSEN

Address 3458 Summer St.

Phone No. 707 ~~616 860~~ 5-8606

E-Mail L1325@AOL.COM

Comments: It's No Done Yet!

Name David Ammerman

Address P.O. Box 303, Cutten, CA 95534

Phone No. 707-443-0855

E-Mail ——

Comments: I love Dixon 299 to Redding for both business + recreation. The bottleneck I think can best done by choosing Alternate BH 12, provided you can have a pleasant 45 mph drive and pull over safely for tailgaters. Enviro. impacts some minimal - Done

Response to Comment from Lance Madsen

Your support of the project is acknowledged and included in the project record. Thank you for your interest in the project.

Response to Comment from David Ammermon

Your support of Alternative BH12 is acknowledged and included in the project record. Thank you for your interest in the project.

Name Alice Alleson

Address PO Box 761 Weaverville 96093

Phone No.

E-Mail allesonal@yahoo.com

Comments: just interested in how areas to be done are scheduled. - Just a 40 year driver of the old Buckhorn / Hwy 299

Name Kathleen Dias

Address Po Box 146 Weaverville

Phone No.

E-Mail dkdias@gmail.com

Comments: I see nothing but good coming from a straighter, safer Hwy 299

Thank you!

Response to Comment from Alice Alleson

Please refer to Chapter 1 of the Final Environmental Impact Report/Environmental Assessment for information on the project schedule. Thank you for your interest in the project.

Response to Comment from Kathleen Dias

Your support of the project is acknowledged and included in the project record. Thank you for you interest in the project.

October 23, 2008

Division of Program/project management
California Department of Transportation
District 2
1657 Riverside Drive
Redding, CA 96001

Subject: Buckhorn Grade Improvement Project Draft EIR?EA

Gentlemen:

As this document is an EA as well as an EIR my comments will deal with the projects general concept and mitigation generalities.

To begin with it is highly suspect that the environmental work is being done after construction work has begun. It also makes it appear that the decisions concerning option to be chosen has already occurred. Caltrans is not noted for either creative or cause effect thinking regarding its projects and still lives in the era of unlimited support from the public and unlimited financing. The withering away of such support can also make for unwise decisions.

The Glossary is deficient. Terms should be, and are required, to be defined for a general public reader. Acronyms are not to be the only legal definer. Definitions of the varying types of habitat, TPZs, the missing environmental checklist, DG, etc should be included and not done as this example. The lack of a proper glossary discourages public input, which may be a document aim.

The geology that is specific to Buckhorn Mt. is inadequately discussed. This geology is unique and presents both problems and possibilities for the project.

The project is being constructed backwards. Realizing financial constraints, it would still be preferable to begin at the eastern foothills for the following reasons:
o The two hairpin curves are rated at 20mph. Their impacts on commercial trucks or vehicles towing boat trailers, which would be a boon to Trinity economy, is high. The vehicles lose momentum and must commence the slow process of gearing up.
O There is need for an escape ramp in this area
o The bottom is quite curvy and dangerous. Straightening out the area will lessen hazard.
O Not only can fill from this area be used for eliminating the two hairpins, but also a small debris dam should be constructed in this area to catch silt from above and mitigate a hazmat situation from entering Crystal or Clear Creeks.
O Further funding for the entire project would be justified if the fill eliminating the two hairpins is already started and the further uphill work will complete it.

Further mitigation should be done offsite in this area. It is obscenely corrupt that Caltrans purchases mitigation easements from the Kern Water Bank, which is a State Project given away to private interests who then sell rights back to the State.
Go away greenmail should not be paid to organizations such as the Sierra Cult, but frivolous suits, or their threat, should be fought and countersuits filed. This is actually cheaper in the long run. Eric Hoffer in "The True Believer" noted that a cause becomes first a movement, then a business and ends

up a racket.

It is hoped that this project will speedily occur, as the through traffic will aid in export of valley products and alleviate the nations negative balance of payments, and contribute to the economy of the area between the coast and the valley.

Thank you for the opportunity to comment on the project and if further clarification is necessary do not hesitate to contact me. I would also appreciate a hard copy of the final document.

Sincerely,

Dennis Fox

Dennis Fox
918 Blossom St.
Bakersfield, CA 93306

(661) 366 4093

Response to Comments from Dennis Fox

Truck Escape Ramps have not been included in the preliminary design for any of the alternatives for this project due to the early stages of the design process. As final design of individual segments progress, consideration of truck escape ramp needs and suitable locations will be further explored.

Thank you for your interest in the project.

Consultation and Coordination Letters

The following correspondence was received as a result of consultation and coordination with federal and state agencies.

STATE OF CALIFORNIA – THE RESOURCES AGENCY

ARNOLD SCHWARZENEGGER, *Governor*

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

August 28, 2008

Sandra Rosas
Department of Transportation
District 3
703 B Street
Marysville, CA 95901

RE: Buckhorn Grade Improvement Project, Shasta and Trinity Counties, California;
EA 02-270310

Dear Ms. Rosas:

Thank you for requesting my comments on the above cited finding. You are initiating this consultation following provisions of the January 2004 *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* and *Memorandum of Understanding between the Federal Highway Administration, California Division and the California Department of Transportation State Assumption of Responsibility for Categorical Exclusions*. Also, my comments are offered pursuant to Public Resource Code 5024. My staff has reviewed the documentation you provided and I would like to offer the following comments.

I concur in your determination that CA-SHA-4169/H and CA-SHA-4172/H are eligible for the National Register of Historic Places under criterion D. In addition, I concur that the portion of CA-SHA-4171H within the ADI, Shasta Weaverville Road, masonry feature, and an additional .25 mile of the Lewiston Turnpike are not eligible for the National Register. Finally, I concur with your determination that the proposed undertaking will have an adverse effect on historic properties.

If my staff can be of any further assistance, please contact Dwight Dutschke, Natalie Lindquist or Susan Stratton at 916-653-6624.

Sincerely,

Susan K Stratton for

Milford Wayne Donaldson, FAIA
State Historic Preservation Officer

STATE OF CALIFORNIA – THE RESOURCES AGENCY ARNOLD SCHWARZENEGGER, *Governor*

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

February 3, 2009

Sandra Rosas
Department of Transportation
District 3
703 B Street
Marysville, CA 95901

RE: Buckhorn Grade Improvement Project, Shasta and Trinity Counties, California;
EA 02-270310

Dear Ms. Rosas:

Thank you for requesting my comments on the above cited finding. You are continuing this consultation following provisions of the January 2004 *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* and *Memorandum of Understanding between the Federal Highway Administration, California Division and the California Department of Transportation State Assumption of Responsibility for Categorical Exclusions.* My staff has reviewed the documentation you provided and I would like to offer the following comments.

I had previously concurred in eligibility for properties associated with CA-SHA-4172/H. You have requested reconsideration of that eligibility determination for those portions of the archaeological property that lie within the Area of Direct Impact and the built environment resources. In doing so, you have provided supplemental information which fully analyzes and describes Phase II archaeological excavations which occurred in June 2008 but not fully reported at the time of your previous determination request. Based on the new supplemental information, you have concluded that due to loss of integrity and clarification as to what should be considered contributing elements to the historic property that those prehistoric and historic archaeological resources that lie within the Area of Direct Impact and the built environment resources associated with the site do not meet the criteria for eligibility to the National Register of Historic Places. I concur with this determination.

If my staff can be of any further assistance, please contact Dwight Dutschke, Natalie Lindquist or Susan Stratton at 916-653-6624.

Sincerely,

Susan K Stratton for

Milford Wayne Donaldson, FAIA
State Historic Preservation Officer

MEMORANDUM OF AGREEMENT
BETWEEN THE CALIFORNIA DEPARTMENT OF TRANSPORTATION AND THE CALIFORNIA STATE HISTORIC PRESERVATION OFFICER REGARDING THE BUCKHORN GRADE IMPROVEMENT PROJECT ON STATE ROUTE 299, SHASTA AND TRINITY COUNTIES, CALIFORNIA

WHEREAS, the Federal Highway Administration (FHWA), has assigned and the California Department of Transportation (Caltrans) has assumed FHWA responsibility for environmental review, consultation, and coordination 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 and applies to this project; and

WHEREAS, Caltrans has determined that the Buckhorn Grade Improvement Project on State Route 299 (Caltrans Expenditure Authorization 02-270310) in Shasta and Trinity Counties, California (Undertaking) will have an adverse affect on archaeological site CA-SHA-4169/H, which Caltrans has determined in consultation with the State Historic Preservation Officer (SHPO) to be eligible for the National Register of Historic Places (National Register) and therefore a historic property as defined at 36 CFR § 800.16(l)(1), and may have an adverse effect on archaeological sites CA-SHA-881, CA-SHA-4170H, CA-SHA-4171H, and CA-SHA-4172/H, which Caltrans is considering, for purposes of the Undertaking, to be eligible for inclusion in the National Register; and

WHEREAS, Caltrans has consulted with the SHPO pursuant to Stipulations X.C, and XI of the January 2004 *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), and, where the PA so directs, in accordance with 36 CFR Part 800, the regulations implementing Section 106 of the National Historic Preservation Act of 1966 (16 USC Section 470f), as amended (NHPA), regarding the Undertaking's effects on historic properties, and has notified the Advisory Council on Historic Preservation (ACHP) of the adverse effect finding pursuant to 36 CFR § 800.6(a)(1); and

WHEREAS, Caltrans has thoroughly considered alternatives to the Undertaking, has determined that the statutory and regulatory constraints on the design of the Undertaking preclude the possibility of avoiding an adverse effect to CA-SHA-4169/H during the Undertaking's implementation, and has further determined that it will resolve the adverse effect of the Undertaking on the subject historic property through the execution and implementation of this Memorandum of Agreement (MOA); and

WHEREAS, Caltrans District 2 has participated in the consultation and has been invited to concur in this MOA; and

WHEREAS, Caltrans has initiated consultation with the Nor-Rel-Muk Nation regarding the Undertaking and its adverse effect on the subject historic properties; will continue to consult with them and will afford them, should they so desire, the further opportunity to more directly and actively participate in the implementation of the Undertaking itself and this MOA; and

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WHEREAS, Caltrans, pursuant to stipulations VIII.C.3 and X.B.2.a(ii) of the PA, finds that implementation and enforcement of the measures set forth in Stipulation II.C of this MOA will satisfactorily avoid potential adverse effects to CA-SHA-881, CA-SHA-4170H, CA-SHA-4171H, and CA-SHA-4172/H;

NOW, THEREFORE, Caltrans and the SHPO agree that, upon Caltrans' decision to proceed with the Undertaking, Caltrans shall ensure that the Undertaking is implemented in accordance with the following stipulations in order to take into account the effect of the Undertaking on historic properties, and further agrees that these stipulations shall govern the Undertaking and all of its parts until this MOA expires or is terminated.

STIPULATIONS

Caltrans shall ensure that the following stipulations are carried out:

I. AREA OF POTENTIAL EFFECTS

The Area of Potential Effects (APE) for the Undertaking is depicted in Figure 1-2 of the January 2009 *Data Recovery Plan for the Proposed Buckhorn Grade Improvement Project, Shasta and Trinity Counties, California* (Data Recovery Plan) that is Attachment A to this MOA. Attachment A set forth hereunder may be amended through consultation among the MOA parties without amending the MOA proper. The development of a Phase III Proposal constitutes such an amendment to the Data Recovery Plan.

II. TREATMENT OF HISTORIC PROPERTIES

A. Caltrans shall ensure that the adverse effects of the Undertaking on archaeological site CA-SHA-4169/H are resolved by implementing the Data Recovery Plan that is Attachment A of this MOA. Data recovery is prescribed for archaeological deposits contributing to the National Register eligibility of this historic property within the Undertaking's construction area of direct impact (ADI).

B. In order to eliminate or minimize the potential to affect contributing deposits of the site where data recovery is not prescribed, Caltrans will protect those contributing deposits of CA-SHA-4169/H by identifying them as Environmentally Sensitive Areas (ESAs), which shall be described in information included in the final construction plans of the Undertaking, and by enclosing in the temporary fencing the remainder of the site areas located outside the ADI. Caltrans shall further ensure that: 1) construction activities within 50 feet of the property shall be monitored by an archaeologist and Native American monitor; and 2) the integrity of the fence line as installed will be monitored by the archaeologist throughout the duration of the construction activities in the site vicinity. An ESA Action Plan, prepared in accordance with Attachment 5 of the PA, is appended to this MOA as Attachment B.

C. Caltrans shall include provisions to ensure against incidental damage to those unevaluated portions of archaeological sites CA-SHA-881, CA-SHA-4170H, CA-SHA-4171H, and CA-SHA-4172/H that extend outside of the ADI; such provisions will specify the establishment of ESAs around these areas. An ESA Action Plan is appended to this MOA as Attachment B.

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D. Any party to this MOA may propose to amend the Data Recovery Plan. Such amendment will not require amendment of this MOA. Consultation on Data Recovery Plan Amendments will be no longer than 30 days in duration.

E. Caltrans will not authorize the execution of any Undertaking activity that may affect (36 CFR § 800.16(i)) historic properties in the undertaking's APE prior to the completion of the fieldwork that the Data Recovery Plan found in Attachment A of this MOA prescribes.

F. Attachments A and B set forth hereunder may be amended through consultation among the MOA parties without amending the MOA proper.

III. REPORTING REQUIREMENTS AND RELATED REVIEWS

A. Within 30 days after Caltrans has determined that all fieldwork required under stipulation II has been completed, Caltrans will ensure preparation, and concurrent distribution to the other MOA parties, for review and comment, a brief letter report that summarizes the field efforts and the preliminary findings that result from them.

B. Within 12 months after Caltrans has determined that all fieldwork required by stipulation II.A has been completed, Caltrans will ensure preparation, and subsequent concurrent distribution to the other MOA parties, for review and comment, a draft technical report that documents the results of implementing and completing the Data Recovery Plan. The other MOA parties will be afforded 30 days following receipt of the draft technical report to submit any written comments to Caltrans. Failure of these parties to respond within this time frame shall not preclude Caltrans from authorizing revisions to the draft technical report, as Caltrans may deem appropriate. Caltrans will provide the other MOA parties with written documentation indicating whether and how the draft technical report will be modified in accordance with any comments received from the other MOA parties. Unless any MOA party objects to this documentation in writing to Caltrans within 30 days following receipt, Caltrans may modify the draft technical report, as Caltrans may deem appropriate. Thereafter, Caltrans may issue the technical report in final form and distribute this document in accordance with paragraph C of this stipulation.

C. Copies of the final technical report documenting the results of Data Recovery Plan implementation will be distributed by Caltrans to the other MOA parties, to the Northeast Information Center of the California Historic Resources Information System (CHRIS) Regional Information Center, and to the Nor-Rel-Muk Nation.

IV. NATIVE AMERICAN CONSULTATION

Caltrans has consulted with the Nor-Rel-Muk Nation regarding the proposed undertaking and its effect on historic properties and copies of the draft Finding of Effect and Data Recovery Plan documents were submitted to them for their review and comment. Caltrans will continue to consult with the Nor-Rel-Muk Nation, and will afford them, should they so desire, the opportunity to participate in the implementation of this MOA and the Undertaking. Should the Nor-Rel-Muk Nation agree to participate as an MOA party, as herein set forth, Caltrans will make an effort to reach consensus with them regarding the manner in which they may participate in the implementation of this MOA, and regarding any time frames or other

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matters that may govern the nature, scope, and frequency of such participation. Caltrans shall ensure that the Nor-Rel-Muk Nation receive copies of all draft and final technical documents regardless of whether they decline or choose to participate as signatories to this MOA.

V. TREATMENT OF HUMAN REMAINS OF NATIVE AMERICAN ORIGIN

The MOA parties agree that human remains and related items discovered during the implementation of the terms of this MOA and of the Undertaking will be treated in accordance with the requirements of §7050.5(b) of the California Health and Safety Code. If, pursuant to §7050.5(c) of the California Health and Safety Code, the county coroner/medical examiner determines that the human remains are or may be of Native American origin, then the discovery shall be treated in accordance with the provisions of §5097.98 (a)-(d) of the California Public Resources Code. Caltrans shall ensure that, to the extent permitted by applicable law and regulation, the views of the Nor-Rel-Muk Nation and the Most Likely Descendent(s) are taken into consideration when decisions are made about the disposition of other Native American materials and records.

VI. DISCOVERIES AND UNANTICIPATED EFFECTS

If Caltrans determines during the implementation of the Data Recovery Plan or after construction of the Undertaking has commenced, that either the implementation of the Data Recovery Plan or the Undertaking will affect a previously unidentified property that may be eligible for the National Register, or affect a known historic property in an unanticipated manner, Caltrans shall address the discovery or unanticipated effect in accordance with 36 CFR § 800.13(b). Caltrans at its discretion may hereunder and in accordance with 36 CFR § 800.13(c), assume any discovered property to be eligible for inclusion in the National Register.

VII. ADMINISTRATIVE PROVISIONS

A. STANDARDS

1. **Definitions.** The definitions provided at 36 CFR § 800.16 are applicable throughout this MOA.

2. **Professional Qualifications**. Caltrans will ensure that only individuals meeting the Secretary of the Interior's Professional Qualification Standards (48 FR 44738-39) in the relevant field of study carry out or review appropriateness and quality of the actions and products required by Stipulations I, II, III, V, and VI in this MOA. However, nothing in this stipulation may be interpreted to preclude Caltrans or any agent or contractor thereof from using the properly supervised services of persons who do not meet the PQS.

3. **Documentation Standards.** Written documentation of activities prescribed by stipulations I, II, III, and VI of this MOA shall conform to *Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation* (48 FR 44716-44740) as well as to applicable standards and guidelines established by the SHPO.

4

4. **Curation and Curation Standards.** Caltrans shall ensure that, to the extent permitted under § 5097.98 and § 5097.991 of the California Public Resources Code, the materials and records resulting from the activities prescribed by this MOA are curated in accordance with 36 CFR § 79.

B. CONFIDENTIALITY

The MOA parties acknowledge that the historic properties covered by this MOA are subject to the provisions of § 304 of the NHPA and § 6254.10 of the California Government Code (Public Records Act), relating to the disclosure of archaeological site information and, having so acknowledged, will ensure that all actions and documentation prescribed by this MOA are consistent with said sections.

C. RESOLVING OBJECTIONS

1. Should any party to this MOA object at any time in writing to the manner in which the terms of this MOA are implemented, to any action carried out or proposed with respect to implementation of the MOA (other than the Undertaking itself), or to any documentation prepared in accordance with and subject to the terms of this MOA, Caltrans shall immediately notify the other MOA parties of the objection, request their comments on the objection within 15 days following receipt of Caltrans' notification, and proceed to consult with the objecting party for no more than 30 days to resolve the objection. Caltrans will honor the request of the other parties to participate in the consultation and will take any comments provided by those parties into account.

2. If the objection is resolved during the 30-day consultation period, Caltrans may proceed with the disputed action in accordance with the terms of such resolution.

3. If at the end of the 30-day consultation period, Caltrans determines that the objection cannot be resolved through such consultation, then Caltrans shall forward all documentation relevant to the objection to the ACHP, including Caltrans' proposed response to the objection, with the expectation that the ACHP will, within 30 days after receipt of such documentation:

   a. Advise Caltrans that the ACHP concurs in Caltrans' proposed response to the objection, whereupon Caltrans will respond to the objection accordingly. The objection shall thereby be resolved; or

   b. Provide Caltrans with recommendations, which Caltrans will take into account in reaching a final decision regarding its response to the objection. The objection shall thereby be resolved; or

   c. Notify Caltrans that the objection will be referred for comment pursuant to 36 CFR § 800.7(c) and proceed to refer the objection and comment. Caltrans shall take the resulting comments into account in accordance with 36 CFR § 800.7(c)(4) and Section 110(1) of the NHPA. The objection shall thereby be resolved.

4. Should the ACHP not exercise one of the above options within 30 days after receipt of all pertinent documentation, Caltrans may assume the ACHP's concurrence in its proposed response to the objection and proceed to implement that response. The objection shall thereby be resolved.

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5. Caltrans shall take into account any of the ACHP's recommendations or comments provided in accordance with this stipulation with reference only to the subject of the objection. Caltrans' responsibility to carry out all actions under this MOA that are not the subjects of the objection shall remain unchanged.

6. At any time during implementation of the measures stipulated in this MOA, should a member of the public raise an objection in writing pertaining to such implementation to any signatory party to this MOA, that signatory party shall immediately notify Caltrans. Caltrans shall immediately notify the other signatory parties in writing of the objection. Any signatory party may choose to comment in writing on the objection to Caltrans. Caltrans shall establish a reasonable time frame for this comment period. Caltrans shall consider the objection, and in reaching its decision, Caltrans will take all comments from the other signatory parties into account. Within 15 days following closure of the comment period, Caltrans will render a decision regarding the objection and respond to the objecting party. Caltrans will promptly notify the other signatory parties of its decision in writing, including a copy of the response to the objecting party. Caltrans' decision regarding resolution of the objection will be final. Following issuance of its final decision, Caltrans may authorize the action subject to dispute hereunder to proceed in accordance with the terms of that decision.

7. Caltrans shall provide all parties to this MOA, and the ACHP, if the ACHP has commented, and any parties that have objected pursuant to section C.6 of this stipulation, with a copy of its final written decision regarding any objection addressed pursuant to this stipulation.

8. Caltrans may authorize any action subject to objection under this stipulation to proceed after the objection has been resolved in accordance with the terms of this stipulation.

D. AMENDMENTS

Any signatory party to this MOA may propose that this MOA be amended, whereupon all signatory parties shall consult for no more than 30 days to consider such amendment. The amendment will be effective on the date a copy signed by all of the original signatories is filed with the ACHP. If the signatories cannot agree to appropriate terms to amend the MOA, either signatory may terminate the agreement in accordance with Stipulation VII.E below.

E. TERMINATION

1. If this MOA is not amended as provided for in section D of this stipulation, or if either signatory proposes termination of this MOA for other reasons, the signatory party proposing termination shall, in writing, notify the other MOA parties, explain the reasons for proposing termination, and consult with the other parties for at least 30 days to seek alternatives to termination. Such consultation shall not be required if Caltrans proposes termination because the Undertaking no longer meets the definition set forth in 36 CFR § 800.16(y).

2. Should such consultation result in an agreement on an alternative to termination, the signatory parties shall proceed in accordance with the terms of that agreement.

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3. Should such consultation fail, the signatory party proposing termination may terminate this MOA by promptly notifying the other MOA parties in writing. Termination hereunder shall render this MOA without further force or effect.

4. If this MOA is terminated hereunder, and if Caltrans determines that the Undertaking will nonetheless proceed, then Caltrans shall comply with the requirements of 36 CFR 800.3-800.6.

F. DURATION OF THE MOA

1. Unless terminated pursuant to section E of this stipulation, or unless it is superseded by an amended MOA, this MOA will be in effect following execution by the signatory parties until Caltrans, in consultation with the other signatory parties, determines that all of its stipulations have been satisfactorily fulfilled.

2. The terms of this MOA shall be satisfactorily fulfilled within ten (10) years following the date of execution by the signatory parties. If Caltrans determines that this requirement cannot be met, the MOA parties will consult to reconsider its terms. Reconsideration may include continuation of the MOA as originally executed, amendment of the MOA, or termination. In the event of termination, Caltrans will comply with section E.4 of this stipulation if it determines that the Undertaking will proceed notwithstanding termination of this MOA.

3. If the Undertaking has not been implemented within ten (10) years following execution of this MOA, this MOA shall automatically terminate and have no further force or effect. In such event, Caltrans shall notify the other signatory parties in writing and, if it chooses to continue with the Undertaking, shall reinitiate review of the Undertaking in accordance with 36 CFR Part 800.

G. EFFECTIVE DATE

This MOA will take effect on the date that it has been executed by Caltrans and the SHPO.

EXECUTION of this MOA by Caltrans and the SHPO, its filing with the ACHP in accordance with 36 CFR §800.6(b)(1)(iv), and subsequent implementation of its terms, shall evidence, pursuant to 36CFR§800.6(c), that this MOA is an agreement with the ACHP for purposes of Section 110(1) of the NHPA, and shall further evidence that Caltrans has afforded the ACHP an opportunity to comment on the Undertaking and its effects on historic properties, and that Caltrans has taken into account the effects of the Undertaking on historic properties.

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SIGNATORY PARTIES:

California Department of Transportation

By _____ April 13, 2005
Jay Norvell, Chief — Date
Division of Environmental Analysis

California State Historic Preservation Officer

By _____ for 4/14/09
Milford Wayne Donaldson, FAIA — Date
State Historic Preservation Officer

CONCURRING PARTIES:

California Department of Transportation

By _____ 4/21/09
John Bulinski, District Director — Date
District 2, Redding

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United States Department of the Interior

FISH AND WILDLIFE SERVICE
Red Bluff Fish & Wildlife Office
10950 Tyler Road, Red Bluff, California 96080
(530) 527-3043, FAX (530) 529-0292

In Reply Refer To: 81330-2009-I-0005

MAY 28 2009

Jeremy Ketchum
Environmental Branch Chief
Office of Program Project Management
Department of Transportation
District 3 – Sacramento Area Office
2800 Gateway Oaks Drive, Suite 200, MS-19
Sacramento, CA 95833

Subject: Informal Endangered Species Consultation on the Buckhorn Grade Improvement Project, State Route 299, Shasta and Trinity Counties, California

Dear Mr. Ketchum:

This correspondence is in reply to your letter, dated April 2, 2009, and received by this office on April 9, 2009, requesting concurrence with the determination that the proposed Buckhorn Grade Improvement Project, State Route 299, is not likely to adversely affect the federally threatened northern spotted owl (*Strix occidentalis caurina*). We have reviewed the Biological Assessment (BA) transmitted with your request, and concur with your determination.

A new survey protocol for both barred owls and northern spotted owls is currently under development and should be ready to use by the time this project is implemented. Please contact the Service prior to any new surveys for the latest survey protocol. The Service requests that all survey results for northern spotted owls in the project area be provided to us prior to project implementation.

This concludes informal consultation on the action(s) described in the April 2, 2009 BA. Please contact our office if: 1) new information reveals effects of the proposed action that may affect listed or proposed species or designated critical habitat in a manner or to an extent not considered in this consultation, 2) a new species or critical habitat is designated that may be affected by the proposed action, or 3) the highway project is subsequently modified in a manner that causes an effect to listed species or critical habitat not considered in this consultation.

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