North Flynn Road Slipout

On Westbound Interstate 580 East of Livermore

04-ALA-580-R4.9/R5.6

04-0002-0869
SCH No.: 2013122044

Initial Study
with Mitigated Negative Declaration

Prepared by the
State of California Department of Transportation

August 2014

For individuals with sensory disabilities, this document is available in Braille, in large print, on audiocassette, or on computer disk. To obtain a copy in one of these alternate formats, please call or write to Caltrans, Attn: Yolanda Rivas, District 4 Environmental Analysis Branch, 111 Grand Avenue, Oakland, CA 94612; 510-286-6216, or use California Relay Service 1 (800) 735-2929 (TTY), 1 (800) 735-2929 (Voice), or 711.

PROJECT DESCRIPTION AND BACKGROUND

Project Title:	North Flynn Road Slipout
Lead agency name and address:	CA Department of Transportation 111 Grand Ave Oakland, CA 94612
Contact person and telephone number:	Yolanda Rivas, 510-286-6216
Project Location:	Interstate 580 near Flynn Road, Alameda County
Project sponsor's name and address:	Same as Lead
General plan description:	Lands outside of urban growth boundary; wind resource area
Zoning:	Large parcel agriculture
Description of project: (Describe the whole action involved, including but not limited to later phases of the project, and any secondary, support, or off-site features necessary for project implementation.)	• Construct 1200-foot-long tie-back retaining wall • Reconstruct the number one lane • Place concrete barrier • Upgrade an 85-foot-long cross culvert and a 300-foot-long down-drain into Mountain House Creek
Surrounding land uses and setting: (Briefly describe the project's surroundings)	Open grassland; rolling hills
Other public agencies whose approval is required (e.g., permits, financial approval, or participation agreements):	• US Army Corps of Engineers • US Fish and Wildlife Service • CA Department of Fish and Wildlife • Regional Water Quality Control Board

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project. Please see the checklist beginning on page 7 for additional information. Any boxes *not* checked represent issues that were considered as part of the scoping and environmental analysis for the project, but for which no adverse impacts were identified. Regarding boxes not checked, no further discussion of these issues is in this document.

☐	Aesthetics	☐	Agriculture and Forestry	☐	Air Quality
☒	Biological Resources	☐	Cultural Resources	☐	Geology/Soils
☐	Greenhouse Gas Emissions	☐	Hazards and Hazardous Materials	☐	Hydrology/Water Quality
☐	Land Use/Planning	☐	Mineral Resources	☐	Noise
☐	Paleontology		Population/Housing	☐	Public Services
☐	Recreation		Transportation/Traffic	☐	Utilities/Service Systems
☐	Mandatory Findings of Significance				

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project. Please see the checklist beginning on page 8 for additional information. Any boxes *not* checked represent issues that were considered as part of the scoping and environmental analysis for the project, but for which no adverse impacts were identified. Regarding boxes not checked, no further discussion of these issues is in this document.

☐	Aesthetics	☐	Agriculture and Forestry	☐	Air Quality
☒	Biological Resources	☐	Cultural Resources	☐	Geology/Soils
☐	Greenhouse Gas Emissions	☐	Hazards and Hazardous Materials	☐	Hydrology/Water Quality
☐	Land Use/Planning	☐	Mineral Resources	☐	Noise
☐	Paleontology	☐	Population/Housing	☐	Public Services
☐	Recreation	☐	Transportation/Traffic	☐	Utilities/Service Systems
☐	Mandatory Findings of Significance				

DETERMINATION:

On the basis of this initial evaluation, check one of the boxes below:

☐	I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
☒	I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because, although a 2081 permit is required, mitigation will compensate for any impacts, therefore **A MITIGATED NEGATIVE DECLARATION** has been prepared and signed.
☐	I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
☐	I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
☐	I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project.

Signature: Melanie Brent	**Date:** Aug. 29, 2014
Deputy District Director, District 4, California Department of Transportation	
Printed Name: Melanie Brent	

Mitigated Negative Declaration

Pursuant to: Division 13, Public Resources Code

Project Description

The California Department of Transportation (Caltrans) proposes to repair the storm-damaged embankment, pavement and drainage system along eastbound Interstate 580 at approximately 0.1 mile west of Stone Cut Underpass (PM R4.0) east of the city of Livermore in Alameda County.

Determination

Caltrans has prepared an Initial Study for this project and, following public review, has determined from this study that the proposed project would not have a significant effect on the environment for the following reasons:

The project would have no effect on: land use, coastal zone, Wild and Scenic Rivers, parks and recreational facilities, pedestrian and bicycle facilities, growth, farmlands/timberlands, businesses, cultural resources, community character, paleontology, air quality, noise or vibration.

In addition, the project would have no significant effect on: utilities, emergency services, traffic and transportation, visual/aesthetics, hydrology/floodplain, water quality/storm water runoff, geology/soils/seismic/topography, hazardous waste/materials or climate change.

In addition, because the following mitigation measures would reduce potential effects to insignificance, the proposed project would not have a significant adverse effect on biological resources:

- Suitable habitat for each species, or suitable multi-species habitat, will be created, restored, or set aside in perpetuity at a ratio of 3:1 for permanent effects and 1.1:1 for temporary effects. Alternatively, credits will be purchased at a conservation bank approved by the California Department of Fish and Wildlife and the U.S. Fish and Wildlife Service.

Melanie Brent

Melanie Brent
Deputy District Director, District 4
California Department of Transportation

Aug. 29, 2014
Date

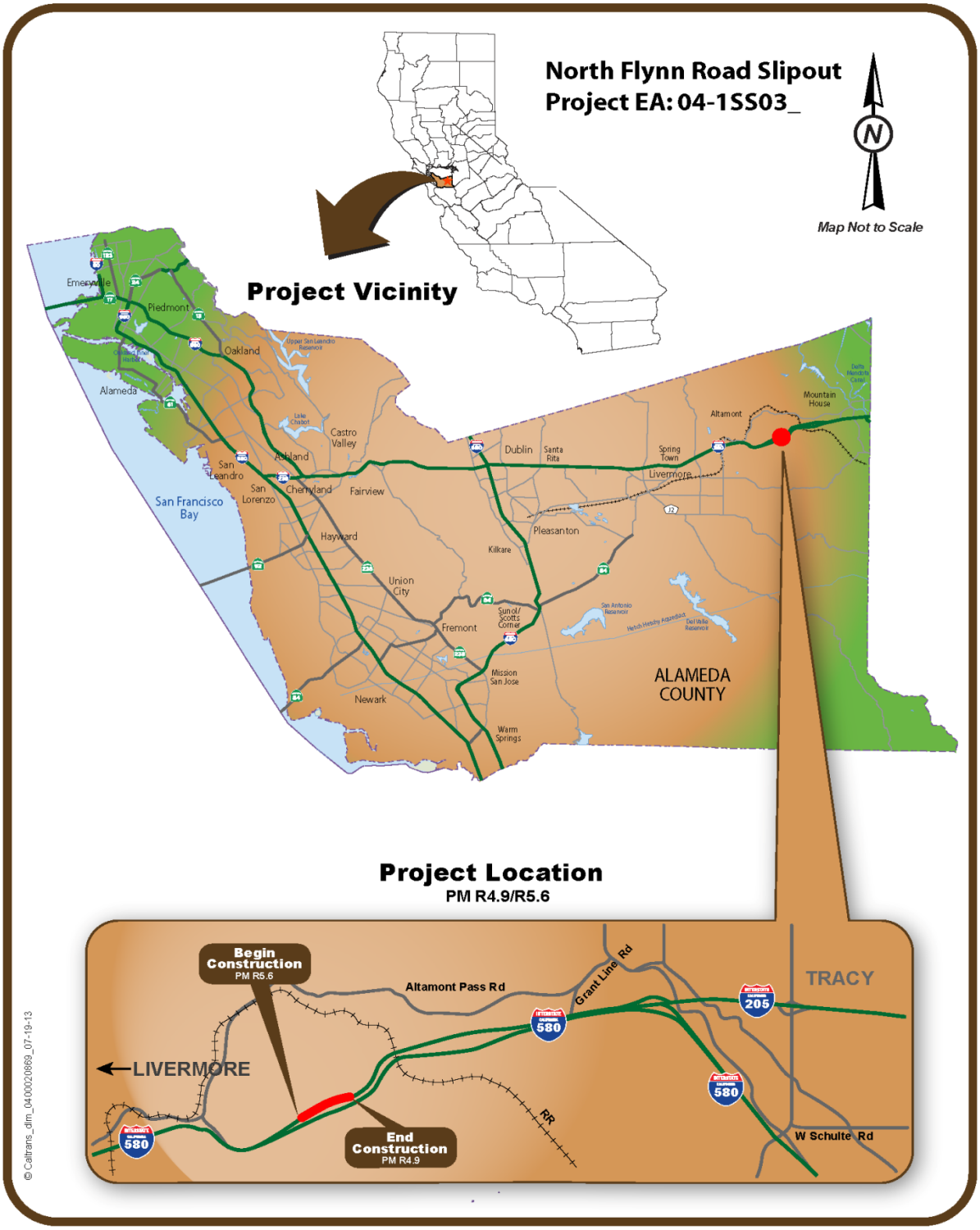


Figure 1 Project Vicinity and Location Map

Section 1 Impacts Checklist

CEQA Environmental Checklist

04-ALA-580	R4.9/R5.6	04-1SS03
Dist.-Co.-Rte.	P.M/P.M.	E.A.

This checklist identifies physical, biological, social and economic factors that might be affected by the proposed project. In many cases, background studies performed in connection with the projects indicate no impacts. A NO IMPACT answer in the last column reflects this determination. Where a clarifying discussion is needed, the discussion either follows the applicable section in the checklist or is placed within the body of the environmental document itself. The words "significant" and "significance" used throughout the following checklist are related to CEQA—not NEPA—impacts. The questions in this form are intended to encourage the thoughtful assessment of impacts and do not represent thresholds of significance.

	Potentially Significant Impact	Less Than Significant with Mitigation	Less Than Significant Impact	No Impact
I. AESTHETICS: Would the project:				
a) Have a substantial adverse effect on a scenic vista	☐	☐	☐	☒
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway	☐	☐	☐	☒
c) Substantially degrade the existing visual character or quality of the site and its surroundings?	☐	☐	☐	☒
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	☐	☐	☐	☒
II. AGRICULTURE AND FOREST RESOURCES: Would the project:				
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	☐	☐	☐	☒
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	☐	☐	☐	☒

	Potentially Significant Impact	Less Than Significant with Mitigation	Less Than Significant Impact	No Impact
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?	☐	☐	☐	☒
d) Result in the loss of forest land or conversion of forest land to non-forest use?	☐	☐	☐	☒
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?	☐	☐	☐	☒

III. AIR QUALITY: Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:

a) Conflict with or obstruct implementation of the applicable air quality plan?	☐	☐	☐	☒
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	☐	☐	☐	☒
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non- attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?	☐	☐	☐	☒
d) Expose sensitive receptors to substantial pollutant concentrations?	☐	☐	☐	☒
e) Create objectionable odors affecting a substantial number of people?	☐	☐	☐	☒

IV. BIOLOGICAL RESOURCES: Would the project:

a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service? Source: Natural Environment Study, October 2013	☐	☒	☐	☐
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service? Source: Natural Environment Study, October 2013	☐	☐	☒	☐
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	☐	☐	☐	☒
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites? Source: Natural Environment Study, October 2013	☐	☐	☒	☐
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	☐	☐	☐	☒
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	☐	☐	☐	☒

V. CULTURAL RESOURCES: Would the project:

a) Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5?	☐	☐	☐	☒
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?	☐	☐	☐	☒
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	☐	☐	☐	☒
d) Disturb any human remains, including those interred outside of formal cemeteries?	☐	☐	☐	☒

VI. GEOLOGY AND SOILS: Would the project:

a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:				
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42?	☐	☐	☐	☒
ii) Strong seismic ground shaking?	☐	☐	☐	☒
iii) Seismic-related ground failure, including liquefaction?	☐	☐	☐	☒
iv) Landslides?	☐	☐	☐	☒
b) Result in substantial soil erosion or the loss of topsoil?	☐	☐	☐	☒
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	☐	☐	☐	☒
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	☐	☐	☐	☒
e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?	☐	☐	☐	☒

VII. GREENHOUSE GAS EMISSIONS: Would the project:

a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment? b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	An assessment of the greenhouse gas emissions and climate change is included in the body of environmental document. While Caltrans has included this good faith effort in order to provide the public and decision-makers as much information as possible about the project, it is Caltrans determination that in the absence of further regulatory or scientific information related to GHG emissions and CEQA significance, it is too speculative to make a significance determination regarding the project's direct and indirect impact with respect to climate change. Caltrans does remain firmly committed to implementing measures to help reduce the potential effects of the project. Additional information is located in Technical Studies Bound Separately (Volume II) of this document.

VIII. HAZARDS AND HAZARDOUS MATERIALS: Would the project:

a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	☐	☐	☐	☒
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	☐	☐	☐	☒
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	☐	☐	☐	☒
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	☐	☐	☐	☒
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?	☐	☐	☐	☒
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?	☐	☐	☐	☒
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	☒
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	☐	☐	☐	☒

IX. HYDROLOGY AND WATER QUALITY: Would the project:

a) Violate any water quality standards or waste discharge requirements?	☐	☐	☐	☒

b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?	☐	☐	☐	☒
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?	☐	☐	☐	☒
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?	☐	☐	☐	☒
e) Create or contribute runoff water which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff?	☐	☐	☐	☒
f) Otherwise substantially degrade water quality?	☐	☐	☐	☒
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	☐	☐	☐	☒
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?	☐	☐	☐	☒
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	☐	☐	☐	☒
j) Inundation by seiche, tsunami, or mudflow	☐	☐	☐	☒

X. LAND USE AND PLANNING: Would the project:

a) Physically divide an established community?	☐	☐	☐	☒
b)Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	☐	☐	☐	☒
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?	☐	☐	☐	☒

XI. MINERAL RESOURCES: Would the project:

a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	☐	☐	☐	☒
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	☐	☐	☐	☒

XII. NOISE: Would the project result in:

a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	☐	☐	☐	☒
b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?	☐	☐	☐	☒
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☐	☐	☒
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☐	☐	☒
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	☒
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	☒

XIII. POPULATION AND HOUSING: Would the project:

a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	☐	☐	☐	☒
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☒
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☒

XIV. PUBLIC SERVICES:

a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:				
Fire protection?	☐	☐	☐	☒
Police protection?	☐	☐	☐	☒
Schools?	☐	☐	☐	☒
Parks?	☐	☐	☐	☒
Other public facilities?	☐	☐	☐	☒

	Potentially Significant Impact	Less Than Significant with Mitigation	Less Than Significant Impact	No Impact
XV. RECREATION:				
a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	☐	☐	☐	☒
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	☐	☐	☐	☒
XVI. TRANSPORTATION/TRAFFIC: Would the project:				
a) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?	☐	☐	☐	☒
b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?	☐	☐	☐	☒
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	☐	☐	☐	☒
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	☐	☐	☐	☒
e) Result in inadequate emergency access?	☐	☐	☐	☒
f) Conflict with adopted policies, plans or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?	☐	☐	☐	☒
XVII. UTILITIES AND SERVICE SYSTEMS: Would the project:				

a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	☐	☐	☐	☒
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	☐	☐	☐	☒
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	☐	☐	☐	☒
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	☐	☐	☐	☒
e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	☐	☐	☐	☒
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	☐	☐	☐	☒
g) Comply with federal, state, and local statutes and regulations related to solid waste?	☐	☐	☐	☒

XVIII. MANDATORY FINDINGS OF SIGNIFICANCE

a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	☐	☒	☐	☐
b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	☐	☐	☐	☒
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	☐	☐	☐	☒

Additional Explanations for Questions in the Impacts Checklist

IV. Biological Resources (checklist questions a and b)

Threatened and Endangered Species

California tiger salamander and California red-legged frog

The California tiger salamander is a large terrestrial salamander (amphibian) with a black body and white or yellow spots and bars. It is listed as threatened under the federal and California endangered species acts. This salamander mainly inhabits lowland grasslands, mixed woodland habitats, and the edges of oak savannahs. The salamander needs vernal pools, seasonal ponds, or semi-permanent calm waters that pond for a minimum of 3 to 4 months during breeding and larval maturation. California tiger salamanders also require nearby upland habitat with small mammal burrows for summer aestivation (a kind of hibernation).

The California red-legged frog, listed as threatened only under the federal Endangered Species Act, is distributed throughout 26 counties in California, though is most abundant in the San Francisco Bay area. California red-legged frogs mostly inhabit permanent water sources such as streams, lakes, marshes, or ponds up to elevations of 4,900 feet. California red-legged frogs breed between November and April in standing or slow- moving water at least 2.5 feet deep with emergent vegetation such as cattails (*Typha* spp.), tules (*Scirpus* spp.), or overhanging willows (*Salix* spp.).

Environmental Consequences: California tiger salamander

Suitable aquatic breeding habitat identified near the project site could provide suitable upland refuge habitat for California tiger salamander. The species could be present where construction activities would take place.

The project would result in 1.54 acres of temporary and 0.15 acre of permanent impacts to California tiger salamander upland habitat. Temporary construction impacts such as clearing, equipment access, noise, and vibrations could lead to disturbance and trampling. Permanent impacts associated with shoulder widening

and retaining wall construction could result in loss of upland habitat. A biological opinion was obtained from the United States Fish and Wildlife Service through formal section 7 consultation for a *may affect, likely to adversely affect* determination of impacts to California tiger salamander.

Environmental Consequences: California red-legged frog

Although a level field survey did not identify suitable aquatic or breeding habitat for California red-legged frog within or next to the project site, a biological database identified sightings of the animal within a 2-mile radius. It was determined, however, that the project site could provide suitable upland aestivation and dispersal habitat for this frog. The project would result in the temporary loss of 1.54 acres and permanent loss of 0.15 acre of California red-legged frog dispersal and upland habitat consisting primarily of nonnative grassland. Temporary impacts would include disturbance associated with clearing and equipment staging areas. Permanent impacts include habitat loss from shoulder widening and retaining wall construction. A biological opinion was obtained from the United States Fish and Wildlife Service through formal section 7 consultation for a *may affect, likely to adversely affect* determination of impacts to California red-legged frog.

Avoidance, Minimization, and/or Mitigation Measures for California tiger salamander and California red-legged frog

- Work window: Because California tiger salamanders and California red-legged frogs leave aquatic areas more frequently during the wet season, construction during the dry season (April 15th to October 15th) is required.

- Construction activities, including staging, laydown, and vehicle parking, will occur within the paved area, a small, undisturbed area of grassland habitat, and coyote brush scrub habitat

- The project footprint, construction access, staging, storage, and parking areas will be located within the right-of-way and outside of any environmentally sensitive areas.

- Best Management Practices (BMPs): Construction and erosion control BMPs will be implemented, including a Storm Water Pollution Prevention Plan (SWPPP)

- Environmental awareness program: An environmental awareness education program would be taught by a biologist approved by the United States Fish and Wildlife Service and California Department of Fish and Wildlife (approved biologist) to all construction personnel including contractors and subcontractors.

- Preconstruction surveys: Preconstruction surveys would be conducted by a Service-approved biologist within 14 days prior to the start of ground-disturbing activities such as vegetation clearing, grubbing, or slope excavation. If California tiger salamanders or California red-legged frogs are observed, the biologist would notify the United States Fish and Wildlife Service and California Department of Fish and Wildlife to determine the appropriateness of relocating the species. If the agencies approve relocation, the approved biologist would be allowed sufficient time to move the species from the work site before work activities begin. Only agency-approved biologists would participate in activities associated with the capture, handling, and monitoring of both species.

- Construction area fencing: Prior to any ground disturbance, the boundaries of the disturbance area would be clearly delineated with wildlife exclusion and environmentally sensitive area fencing. The exclusion fencing would be a minimum of 3 feet high with the bottom strand buried in the soil or formed into a tight seal with the pavement. The wildlife exclusion fencing would prevent listed amphibian species (red-legged frog and tiger salamander) from entering the project area. The environmentally sensitive area fencing would prevent construction crew or equipment from inadvertently straying from the project footprint.

- Discovery of listed species on-site: If an amphibian species is encountered that construction personnel believes may be a California tiger salamander or a California red-legged frog, or if any contractor, employee, or agency personnel

inadvertently kills or injures one of these species, the following protocol would be followed:

a. All work that could result in direct injury, disturbance, or harassment of the individual animal would immediately stop.

b. The resident engineer would be immediately notified.

c. The resident engineer would notify the approved biologist.

d. The approved biologist would capture and immediately transport the animal in a cool, moist container to a suitable location outside the project area. The relocation site would be determined in advance by the approved biologist in consultation with the agencies. The relocated species would be monitored until the animal was no longer in danger.

e. The approved biologist would notify the United States Fish and Wildlife Service and California Department of Fish and Wildlife within 24 hours of the animal's relocation.

f. If a California tiger salamander or California red-legged frog is killed or injured, the biologist would contact the United States Fish and Wildlife Service and California Department of Fish and Wildlife within 24 hours.

- Entrapment avoidance: At the end of each work day, all excavated, steep-walled holes or trenches more than 2 feet deep would be covered with plywood or similar material. If holes or trenches cannot be covered, escape ramps of earthen fill or wooden planks would be built inside the excavation. Before such holes or trenches are filled, they would be thoroughly inspected for trapped animals. If at any time a trapped California tiger salamander or California red-legged frog is discovered, the United States Fish and Wildlife Service and California Department of Fish and Wildlife would be contacted.

- Potentially harmful erosion control materials: Plastic monofilament netting (erosion control matting) or similar material would not be used at the project site since protected amphibian species may become entangled and trapped in it. Tightly woven fiber netting or similar material would be used for erosion control or other purposes.

- Handling of listed animals: Biologists would take all precautions to prevent the spread of amphibian diseases when handling listed species. All equipment and clothing would be disinfected according to protocol standards.

- Biological monitoring**:** A Service-approved biologist(s) will be onsite during all activities that may result in a take of California tiger salamanders and California red-legged frogs, as determined by the service. A minimum of one Service-approved biologist will be onsite throughout the project duration. Should either of these animals be identified, construction would be stopped and the United States Fish and Wildlife Service and California Department of Fish and Wildlife would be contacted.

- Weekly Site Inspections: The approved biologist would conduct weekly surveys within the work area and along its boundaries to assess that wildlife exclusion fencing and environmentally sensitive area fencing are installed and functioning properly. Should these fences be damaged in a way that could allow impacts to California tiger salamanders or California red-legged frogs, the resident engineer would be immediately notified and repairs to the fencing would be made.

- To offset permanent effects to California red-legged frog and Central California tiger salamander, suitable habitat for each species, or suitable multi-species habitat, will be created, restored, or set aside in perpetuity at a ratio of 3:1 for permanent effects and 1.1:1 for temporary effects, as shown in the table below. Alternatively, credits will be purchased at a Service-approved mitigation bank.

Species	Effects						Total Compensation (acres)
	Temporary (acres)			Permanent (acres)			
	Impact	Compensation		Impact	Compensation		
		Ratio	Need		Ratio	Need	
California red-legged frog	1.54	1.1:1	1.69	0.15	3:1	0.45	2.14
California tiger salamander	1.54	1.1:1	1.69	0.15	3:1	0.45	2.14

San Joaquin kit fox

The San Joaquin kit fox is found in the southern half of California but can range as far north as Contra Costa County. These kit foxes prefer habitat consisting of annual grasslands or open grassy portions of vegetation with mixed scrub and small brush. Adapted to dry conditions, San Joaquin kit foxes derive most of their water from their prey and may not always need to den near water. San Joaquin kit foxes are most active at night but are also active at cool times during the day. San Joaquin kit foxes may range as far as 20 miles during the breeding season (December to February) and up to 6 miles during the pup-rearing season (February to August).

Environmental Consequences: San Joaquin kit fox

No dens were observed within the project area during reconnaissance surveys. Although suitable foraging habitat is present within the project area, no suitable kit fox denning habitat is present. The most recent known occurrence was 1.5 miles away. The project itself lies in the median of a 12-lane freeway. Although unlikely, it is possible San Joaquin kit foxes could forage in the project area.

A biological opinion was obtained from the United States Fish and Wildlife Service through formal section 7 consultation for a *may affect, not likely to adversely affect*

determination of impacts to San Joaquin kit fox. The Service concurs with the determination that the project is not likely to adversely effect, as the project effects will be discountable.

Wetlands and Other Waters of the U.S.

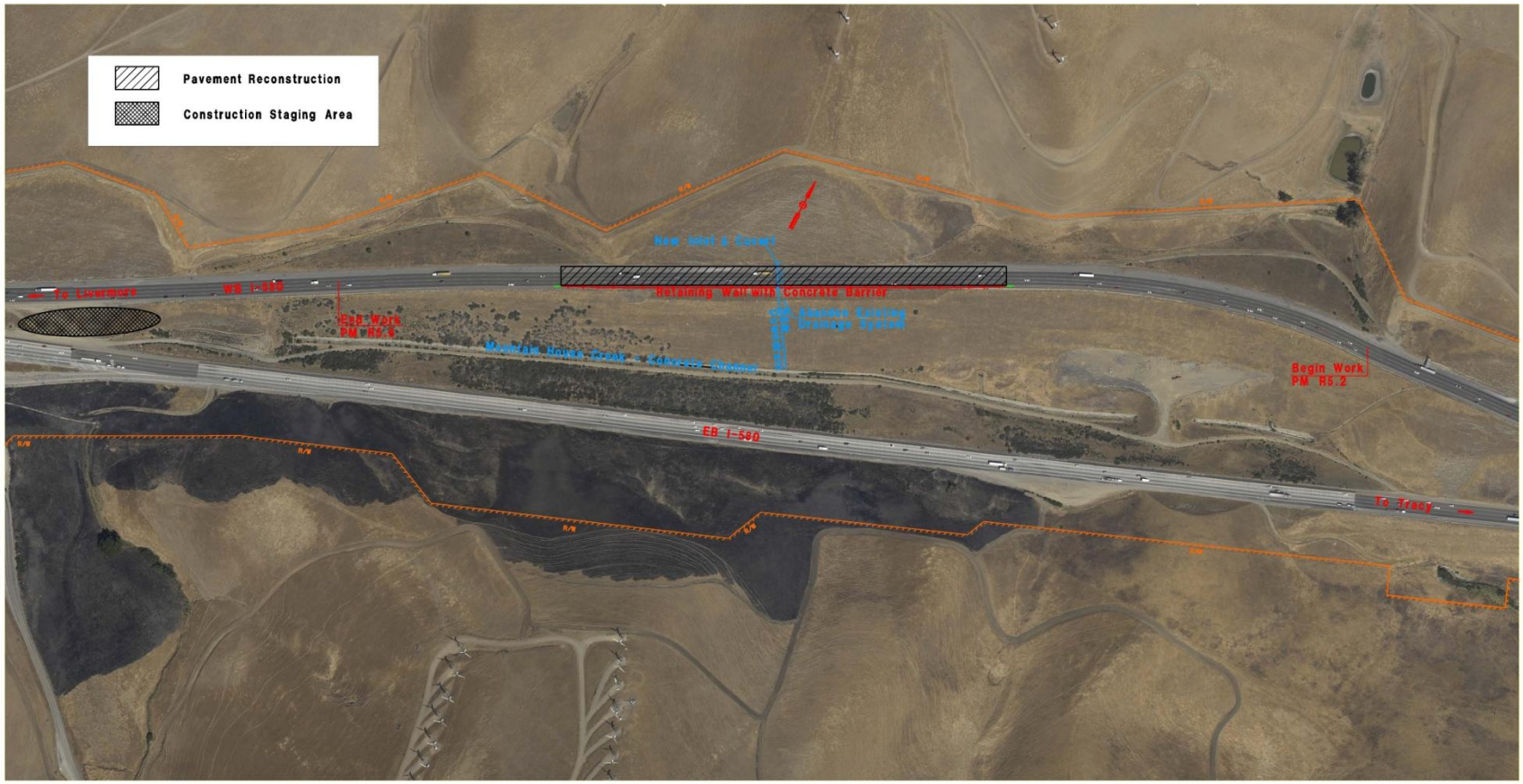
Waters of the United States

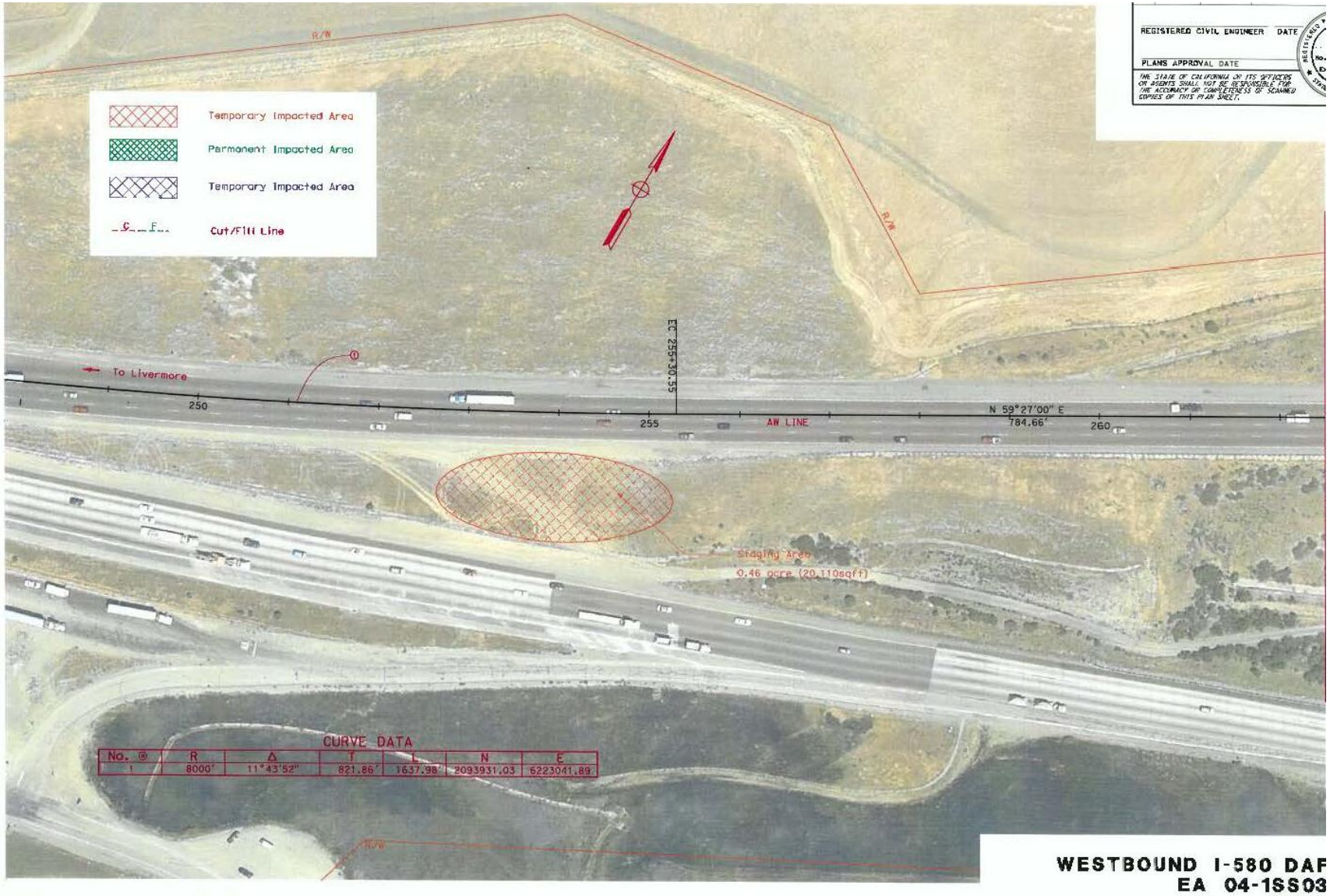
Mountain House Creek, the main drainage feature of the area, is an intermittent stream that flows in a southeasterly direction and discharges into Old River, then eventually into the San Joaquin River. The stream channel within the project limits is unvegetated and concrete lined.

Environmental Consequences: Waters of the U.S.

The culvert and down-drain across the westbound roadway convey water into Mountain House Creek, a state and federal jurisdictional waterway. These pipes would be replaced in-kind and would not change in design function. Permits under the Clean Water Act would be required from the U.S. Army Corps of Engineers (Section 404) and Regional Water Quality Control Board (Section 401). A Streambed Alteration Agreement from the California Department of Fish and Wildlife would also be required (Section 1602 California Department of Fish and Game Code).

Appendix A Design Maps


Pavement Reconstruction
Construction Staging Area
New Joint & Tower
Retaining Wall With Concrete Barrier
To Livermore
WB I-580
EB Work
PM R5.6
Mountain House Creek
Begin Work
PM R5.2
EB I-580
To Tracy



REGISTERED CIVIL ENGINEER DATE

PLANS APPROVAL DATE

THE STATE OF CALIFORNIA OR ITS OFFICERS OR AGENTS SHALL NOT BE RESPONSIBLE FOR THE ACCURACY OR COMPLETENESS OF SCANNED COPIES OF THIS PLAN SHEET.

CURVE DATA

No.	R	Δ	T	L	N	E
1	8000'	11°43'52"	821.86'	1637.98'	2093931.03	6223041.89

WESTBOUND I-580 DAF
EA 04-1SS03

REGISTERED CIVIL ENGINEER DATE

PLANS APPROVAL DATE

THE STATE OF CALIFORNIA OR ITS OFFICERS OR AGENTS SHALL NOT BE RESPONSIBLE FOR THE ACCURACY OR COMPLETENESS OF SCANNED COPIES OF THIS PLAN SHEET.

CURVE DATA

No. ②	R	Δ	T	L	N	E
2	15000'	2°34'00"	336.03'	671.95'	2074522.59	6235408.30

WESTBOUND I-580 DAF
EA 04-1SS03

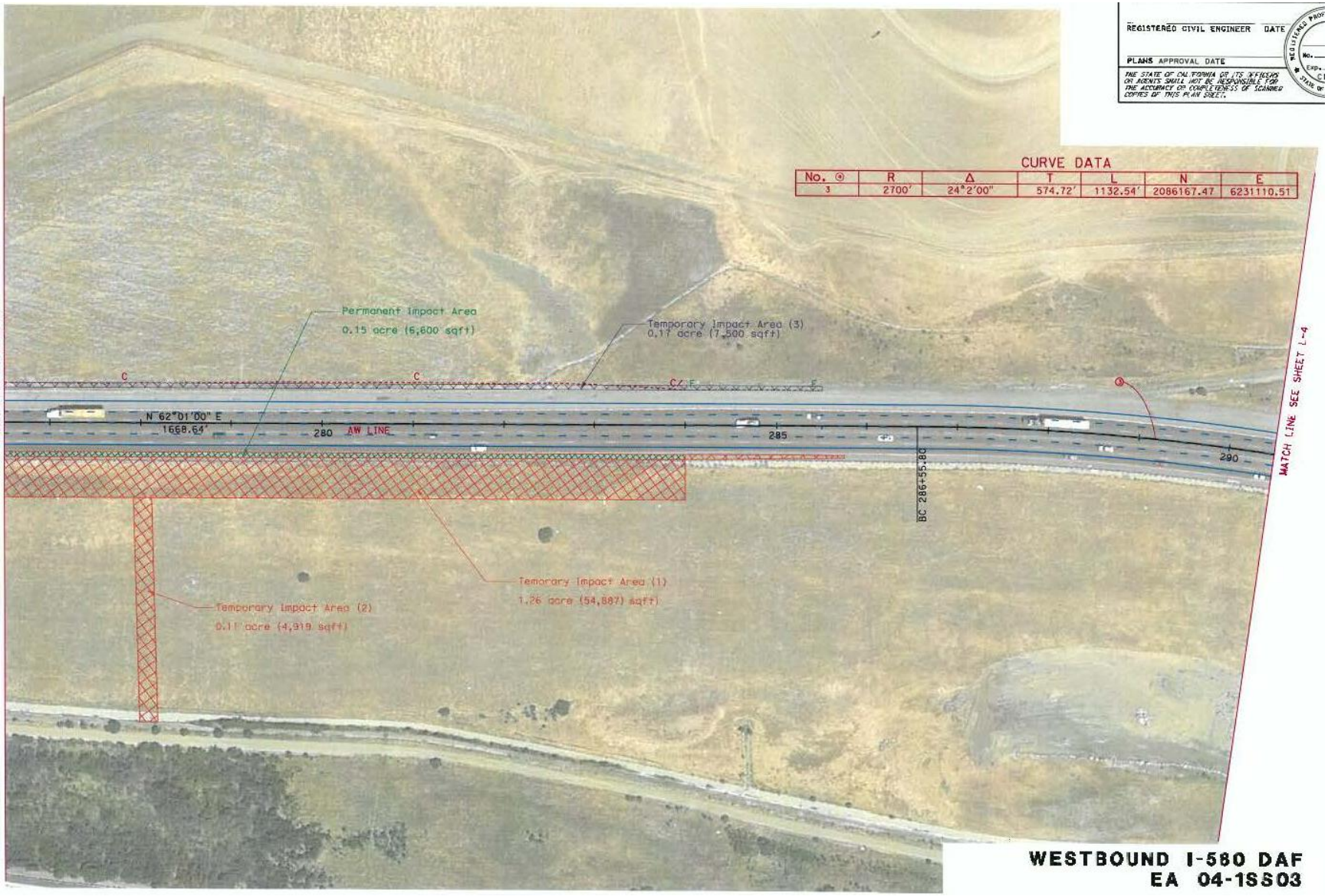
REGISTERED CIVIL ENGINEER DATE

PLANS APPROVAL DATE

THE STATE OF CALIFORNIA OR ITS OFFICERS OR AGENTS SHALL NOT BE RESPONSIBLE FOR THE ACCURACY OR COMPLETENESS OF SCANNED COPIES OF THIS PLAN SHEET.

CURVE DATA

No. ⊙	R	Δ	T	L	N	E
3	2700'	24°2'00"	574.72'	1132.54'	2086167.47	6231110.51



WESTBOUND I-580 DAF
EA 04-1SS03

REGISTERED CIVIL ENGINEER DATE

PLANS APPROVAL DATE

THE STATE OF CALIFORNIA OR ITS OFFICERS OR AGENTS SHALL NOT BE RESPONSIBLE FOR THE ACCURACY OR COMPLETENESS OF SCANNED COPIES OF THIS PLAN SHEET.

CURVE DATA

No. ③	R	Δ	T	L	N	E
3	2700'	24°2'00"	574.72'	1132.54'	2086167.47	6231110.51
4	2700'	57°30'00"	1481.27'	2709.63'	2091588.24	6231225.07

WESTBOUND I-580 DAF
EA 04-1S803

Appendix B Permits, Reviews, Approvals

Agency	Permit/Approval (federal, state and local)	Status
U.S. Fish and Wildlife Service (Sacramento Office)	Endangered Species Act Section 7 Consultation for federally listed Threatened and Endangered Species – Biological Opinion from the U.S. Fish and Wildlife Service	A Biological Assessment evaluating the project's potential effects to the California red-legged frog and California tiger salamander has been submitted to the U.S. Fish and Wildlife Service, and a Biological Opinion from the U.S. Fish and Wildlife Service has been received.
California Department of Fish and Wildlife (Bay–Delta Region 3 Office)	Fish and Game Code Section 1602 Streambed Alteration Agreement	Temporary impacts to drainage features will require a 1602 Streambed Alteration Agreement. The application will be submitted during final design and the permit obtained prior to the project going out for bidding on the construction contract.
	2081 Agreement	Impacts to California tiger salamander habitat and California red-legged frog, and the potential to "take" (harm) a salamander and/or frog during construction require an Incidental Take Permit. The application will be submitted during final design and the permit obtained prior to the project going out for bidding on the construction contract.
U.S. Army Corps of Engineers (San Francisco Office)	Clean Water Act Section 404 Nationwide Permit for filling or dredging waters of the U.S.	Temporary impacts to drainage features will require a Nationwide 404 permit. The application will be submitted during final design and the permit obtained prior to the project going out for bidding on the construction contract.
Regional Water Quality Control Board Region 2	Clean Water Act Section 402—National Pollutant Discharge Elimination System: Waste Discharge Permit A Storm Water Pollution Prevention Plan required by Caltrans will be prepared and is expected to provide all the necessary temporary pollution and erosion control measures required during construction	Compliance with (1) the Statewide National Pollutant Discharge Elimination System Permit (Order No. 99-06-DWQ NPDES No. CAS000003) and (2) the General Permit, Waste Discharge Requirements for Discharges of Storm Water Runoff Associated with Construction Activity (Order No. 99-08-DWQ, NPDES No. CAS000002).
	Clean Water Act Section 401 Water Quality Certification	Temporary impacts to drainage features will require a 401 permit. The application will be submitted during final design and the permit obtained prior to the project going out for bidding on the construction contract.

Appendix C Climate Change

Climate change refers to long-term changes in temperature, precipitation, wind patterns, and other elements of the earth's climate system. An ever-increasing body of scientific research attributes these climatological changes to greenhouse gas (GHG) emissions, particularly those generated from the production and use of fossil fuels.

While climate change has been a concern for several decades, the establishment of the Intergovernmental Panel on Climate Change (IPCC) by the United Nations and World Meteorological Organization in 1988 has led to increased efforts devoted to GHG emissions reduction and climate change research and policy. These efforts are primarily concerned with the emissions of GHGs generated by human activity including carbon dioxide (CO_2), methane (CH_4), nitrous oxide (N_2O), tetrafluoromethane, hexafluoroethane, sulfur hexafluoride (SF_6), HFC-23 (fluoroform), HFC-134a (s, s, s, 2-tetrafluoroethane), and HFC-152a (difluoroethane).

In the U.S., the main source of GHG emissions is electricity generation, followed by transportation. In California, however, transportation sources (including passenger cars, light-duty trucks, other trucks, buses, and motorcycles make up the largest source of GHG-emitting sources. The dominant GHG emitted is CO_2, mostly from fossil fuel combustion.

There are typically two terms used when discussing the impacts of climate change: “Greeenhouse Gas Mitigation” and “Adaptation.” "Greenhouse Gas Mitigation" is a term for reducing GHG emissions to reduce or "mitigate" the impacts of climate change. “Adaptation" refers to the effort of planning for and adapting to impacts resulting from climate change (such as adjusting transportation design standards to withstand more intense storms and higher sea levels)[1].

There are four primary strategies for reducing GHG emissions from transportation sources: 1) improving the transportation system and operational efficiencies, 2) reducing travel activity, 3) transitioning to lower GHG-emitting fuels, and 4) improving vehicle technologies/efficiency. To be most effective, all four strategies should be pursued cooperatively.[2]

Regulatory Setting

---

[1] http://climatechange.transportation.org/ghg_mitigation/

[2] http://www.fhwa.dot.gov/environment/climate_change/mitigation/

State

With the passage of several pieces of legislation including State Senate and Assembly Bills and Executive Orders, California launched an innovative and pro-active approach to dealing with GHG emissions and climate.

Assembly Bill 1493 (AB 1493), Pavley, Vehicular Emissions: Greenhouse Gases, 2002: This bill requires the California Air Resources Board (ARB) to develop and implement regulations to reduce automobile and light truck GHG emissions. These stricter emissions standards were designed to apply to automobiles and light trucks beginning with the 2009-model year.

Executive Order (EO) S-3-05 (June 1, 2005): The goal of this EO is to reduce California's GHG emissions to 1) year 2000 levels by 2010, 2) year 1990 levels by the 2020, and 3) 80 percent below the year 1990 levels by 2050. In 2006, this goal was further reinforced with the passage of Assembly Bill 32.

Assembly Bill 32 (AB 32), Núñez and Pavley, The Global Warming Solutions Act of 2006: AB 32 sets the same overall GHG emissions reduction goals as outlined in EO S-3-05, while further mandating that ARB create a scoping plan and implement rules to achieve "real, quantifiable, cost-effective reductions of greenhouse gases."

Executive Order S-20-06 (October 18, 2006): This order establishes the responsibilities and roles of the Secretary of the California Environmental Protection Agency (Cal/EPA) and state agencies with regard to climate change.

Executive Order S-01-07 (January 18, 2007): This order set forth the low carbon fuel standard for California. Under this EO, the carbon intensity of California's transportation fuels is to be reduced by at least ten percent by 2020.

Senate Bill 97 (SB 97), Chapter 185, 2007, Greenhouse Gas Emissions: required the Governor's Office of Planning and Research (OPR) to develop recommended amendments to the California Environmental Quality Act (CEQA) Guidelines for addressing GHG emissions. The amendments became effective on March 18, 2010.

Senate Bill 375 (SB 375), Chapter 728, 2008, Sustainable Communities and Climate Protection: This bill requires the California Air Resources Board (CARB) to set regional emissions reduction targets from passenger vehicles. The Metropolitan Planning Organization (MPO) for each region must then develop a "Sustainable Communities Strategy" (SCS) that integrates transportation, land-use, and housing policies to plan for the achievement of the emissions target for their region.

Senate Bill 391 (SB 391) Chapter 585, 2009 California Transportation Plan: This bill requires the State's long-range transportation plan to meet California's climate change goals under AB 32.

Federal

Although climate change and GHG reduction are a concern at the federal level; currently no regulations or legislation have been enacted specifically addressing GHG emissions reductions and climate change at the project level. Neither the United States Environmental Protection Agency (U.S. EPA) nor the Federal Highway Administration (FHWA) has issued explicit guidance or methods to conduct project-level GHG analysis.[3] FHWA supports the approach that climate change considerations should be integrated throughout the transportation decision-making process, from planning through project development and delivery. Addressing climate change mitigation and adaptation up front in the planning process will assist in decision-making and improve efficiency at the program level, and will inform the analysis and stewardship needs of project-level decision-making. Climate change considerations can be integrated into many planning factors, such as supporting economic vitality and global efficiency, increasing safety and mobility, enhancing the environment, promoting energy conservation, and improving the quality of life.

The four strategies outlined by FHWA to lessen climate change impacts correlate with efforts that the state is undertaking to deal with transportation and climate change; these strategies include improved transportation system efficiency, cleaner fuels, cleaner vehicles, and a reduction in travel activity.

Climate change and its associated effects are being addressed through various efforts at the federal level to improve fuel economy and energy efficiency, such as the "National Clean Car Program" and EO 13514 - *Federal Leadership in Environmental, Energy and Economic Performance*.

Executive Order 13514 (October 5, 2009): This order is focused on reducing greenhouse gases internally in federal agency missions, programs and operations, but also directs federal agencies to participate in the Interagency Climate Change Adaptation Task Force, which is engaged in developing a national strategy for adaptation to climate change.

U.S. EPA's authority to regulate GHG emissions stems from the U.S. Supreme Court decision in ***Massachusetts v. EPA*** (2007). The Supreme Court ruled that GHGs meet the definition of air pollutants under the existing Clean Air Act and must be regulated if these gases could be reasonably anticipated to endanger public health or welfare. Responding to the Court's ruling, U.S. EPA finalized an endangerment finding in December 2009. Based on scientific evidence it found that six greenhouse gases constitute a threat to public health and welfare. Thus, it is the Supreme Court's interpretation of the existing Act and EPA's assessment of the scientific evidence that form the basis for EPA's regulatory actions. U.S. EPA in conjunction with NHTSA issued the first of a series of GHG emission standards for new cars and light-duty vehicles in April 2010.[4]

---

[3] To date, no national standards have been established regarding mobile source GHGs, nor has U.S. EPA established any ambient standards, criteria or thresholds for GHGs resulting from mobile sources.

[4] http://www.c2es.org/federal/executive/epa/greenhouse-gas-regulation-faq

The U.S. EPA and the National Highway Traffic Safety Administration (NHTSA) are taking coordinated steps to enable the production of a new generation of clean vehicles with reduced GHG emissions and improved fuel efficiency from on-road vehicles and engines. These next steps include developing the first-ever GHG regulations for heavy-duty engines and vehicles, as well as additional light-duty vehicle GHG regulations.

The final combined standards that made up the first phase of this national program apply to passenger cars, light-duty trucks, and medium-duty passenger vehicles, covering model years 2012 through 2016. The standards implemented by this program are expected to reduce GHG emissions by an estimated 960 million metric tons and 1.8 billion barrels of oil over the lifetime of the vehicles sold under the program (model years 2012-2016).

On August 28, 2012, U.S. EPA and NHTSA issued a joint Final Rulemaking to extend the National Program for fuel economy standards to model year 2017 through 2025 passenger vehicles. Over the lifetime of the model year 2017-2025 standards this program is projected to save approximately four billion barrels of oil and two billion metric tons of GHG emissions.

The complementary U.S. EPA and NHTSA standards that make up the Heavy-Duty National Program apply to combination tractors (semi trucks), heavy-duty pickup trucks and vans, and vocational vehicles (including buses and refuse or utility trucks). Together, these standards will cut greenhouse gas emissions and domestic oil use significantly. This program responds to President Barack Obama's 2010 request to jointly establish greenhouse gas emissions and fuel efficiency standards for the medium- and heavy-duty highway vehicle sector. The agencies estimate that the combined standards will reduce CO_2 emissions by about 270 million metric tons and save about 530 million barrels of oil over the life of model year 2014 to 2018 heavy duty vehicles.

Project Analysis

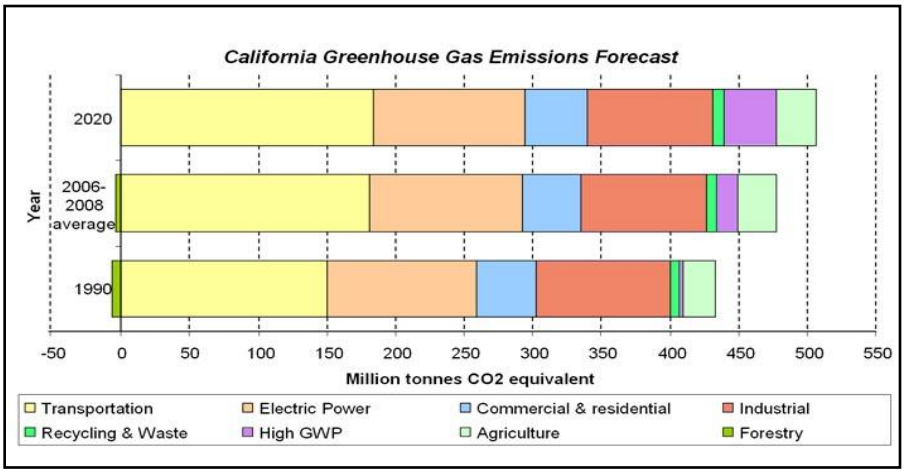
An individual project does not generate enough GHG emissions to significantly influence global climate change. Rather, global climate change is a cumulative impact. This means that a project may contribute to a potential impact through its *incremental* change in emissions when combined with the contributions of all other sources of GHG.[5] In assessing cumulative impacts, it must be determined if a project's incremental effect is "cumulatively considerable" (CEQA Guidelines Sections 15064(h)(1) and 15130). To make this determination, the incremental impacts of the project must be compared with the effects of past, current, and probable future projects. To gather sufficient information on a global scale

[5] This approach is supported by the AEP: *Recommendations by the Association of Environmental Professionals on How to Analyze GHG Emissions and Global Climate Change in CEQA Documents* (March 5, 2007), as well as the South Coast Air Quality Management District (Chapter 6: The CEQA Guide, April 2011) and the US Forest Service (Climate Change Considerations in Project Level NEPA Analysis, July 13, 2009).

of all past, current, and future projects to make this determination is a difficult, if not impossible, task.

The AB 32 Scoping Plan mandated by AB 32 includes the main strategies California will use to reduce GHG emissions. As part of its supporting documentation for the Draft Scoping Plan, the ARB released the GHG inventory for California (forecast last updated: October 28, 2010). The forecast is an estimate of the emissions expected to occur in 2020 if none of the foreseeable measures included in the Scoping Plan were implemented. The base year used for forecasting emissions is the average of statewide emissions in the GHG inventory for 2006, 2007, and 2008.

Figure 1: California GREENHOUSE GAS FORECAST



Source: http://www.arb.ca.gov/cc/inventory/data/forecast.htm

The Department and its parent agency, the Transportation Agency, have taken an active role in addressing GHG emission reduction and climate change. Recognizing that 98 percent of California's GHG emissions are from the burning of fossil fuels and 40 percent of all human made GHG emissions are from transportation, the Department has created and is implementing the Climate Action Program at Caltrans that was published in December 2006.[6]

This project is a culvert/drainage repair project that will also involve the reconstruction of one lane and the widening of the inside shoulder. Since this project will not increase road capacity, the operation of this project would result in low-to-no potential for an increase in

[6] Caltrans Climate Action Program is located at the following web address: http://www.dot.ca.gov/hq/tpp/offices/ogm/key_reports_files/State_Wide_Strategy/Caltrans_Climate_Action_Program.pdf

GHG emissions. As discussed below, construction emissions will be unavoidable, but there will likely be long-term GHG benefits associated with smoother pavement surfaces and reduced culvert/drainage maintenance due to the sustained damage for which this project is meant to repair.

Construction Emissions

Greenhouse gas emissions for transportation projects can be divided into those produced during construction and those produced during operations. Construction GHG emissions include emissions produced as a result of material processing, emissions produced by onsite construction equipment, and emissions arising from traffic delays due to construction. These emissions will be produced at different levels throughout the construction phase; their frequency and occurrence can be reduced through innovations **in plans and specifications and** by implementing better traffic management during construction phases.

In addition, with innovations such as longer pavement lives, improved traffic management plans, and changes in materials, the GHG emissions produced during construction can be mitigated to some degree by longer intervals between maintenance and rehabilitation events.

CEQA Determination

While construction will result in a slight increase in GHG emissions during construction, it is anticipated that the project will not result in any increase in operational GHG emissions. Although it is Caltrans' determination that in the absence of further regulatory or scientific information related to GHG emissions and CEQA significance, it is too speculative to make a significance determination regarding the project's direct impact and its contribution on the cumulative scale to climate change, Caltrans is firmly committed to implementing measures to help reduce GHG emissions. These measures are outlined in the following section.

Greenhouse Gas Reduction Strategies

AB 32 Compliance

The Department continues to be involved on the Governor's Climate Action Team as the ARB works to implement Executive Orders S-3-05 and S-01-07 and help achieve the targets set forth in AB 32. Many of the strategies the Department is using to help meet the targets in AB 32 come from Former Governor Arnold Schwarzenegger's Strategic Growth Plan for California The Strategic Growth Plan targeted a significant decrease in traffic congestion below 2008 levels and a corresponding reduction in GHG emissions, while accommodating growth in population and the economy. The Strategic Growth Plan relies on a complete systems approach to attain CO2 reduction goals: system monitoring and evaluation, maintenance and preservation, smart land use and demand management, and operational improvements as shown in Figure 2: The Mobility Pyramid.

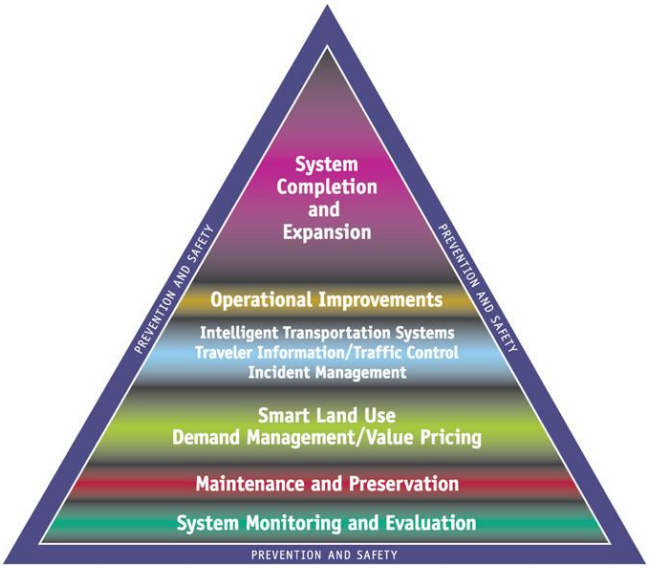


Figure 2: Mobility Pyramid

The Department is supporting efforts to reduce vehicle miles traveled by planning and implementing smart land use strategies: job/housing proximity, developing transit-oriented communities, and high-density housing along transit corridors. The Department works closely with local jurisdictions on planning activities, but does not have local land use planning authority. The Department also assists efforts to improve the energy efficiency of the transportation sector by increasing vehicle fuel economy in new cars, light and heavy-duty trucks; the Department is doing this by supporting on-going research efforts at universities, by supporting legislative efforts to increase fuel economy, and by participating on the Climate Action Team. It is important to note, however, that control of fuel economy standards is held by the U.S. EPA and ARB.

The Department is also working towards enhancing the State's transportation planning process to respond to future challenges. Similar to requirements for regional transportation plans under Senate Bill (SB) 375 (Steinberg 2008), SB 391(Liu 2009) requires the State's long-range transportation plan to meet California's climate change goals under Assembly Bill (AB) 32.

The California Transportation Plan (CTP) is a statewide, long-range transportation plan to meet our future mobility needs and reduce greenhouse gas (GHG) emissions. The CTP defines performance-based goals, policies, and strategies to achieve our collective vision for California's future, statewide, integrated, multimodal transportation system.

The purpose of the CTP is to provide a common policy framework that will guide transportation investments and decisions by all levels of government, the private sector, and other transportation stakeholders. Through this policy framework, the CTP 2040 will identify the statewide transportation system needed to achieve maximum feasible GHG emission reductions while meeting the State's transportation needs.

Table 1 summarizes the Departmental and statewide efforts that the Department is implementing in order to reduce GHG emissions. More detailed information about each strategy is included in the Climate Action Program at Caltrans (December 2006).

Table 1 Climate Change/CO_2 Reduction Strategies						
Strategy	**Program**	**Partnership**		**Method/Process**	Estimated CO_2 Savings (MMT)	
		Lead	**Agency**		2010	2020
Smart Land Use	Intergovernmental Review (IGR)	Caltrans	Local governments	Review and seek to mitigate development proposals	Not Estimated	Not Estimated
	Planning Grants	Caltrans	Local and regional agencies & other stakeholders	Competitive selection process	Not Estimated	Not Estimated
	Regional Plans and Blueprint Planning	Regional Agencies	Caltrans	Regional plans and application process	.975	7.8
Operational Improvements & Intelligent Transportation System (ITS) Deployment	Strategic Growth Plan	Caltrans	Regions	State ITS; Congestion Management Plan	.07	2.17
Mainstream Energy & GHG into Plans and Projects	Office of Policy Analysis & Research; Division of Environmental Analysis	Interdepartmental effort		Policy establishment, guidelines, technical assistance	Not Estimated	Not Estimated
Educational & Information Program	Office of Policy Analysis & Research	Interdepartmental, CalEPA, ARB, CEC		Analytical report, data collection, publication, workshops, outreach	Not Estimated	Not Estimated
Fleet Greening & Fuel Diversification	Division of Equipment	Department of General Services		Fleet Replacement B20 B100	.0045	.0065 .045 .0225
Non-vehicular Conservation Measures	Energy Conservation Program	Green Action Team		Energy Conservation Opportunities	.117	.34
Portland Cement	Office of Rigid Pavement	Cement and Construction Industries		2.5 % limestone cement mix 25% fly ash cement mix > 50% fly ash/slag mix	1.2 .36	4.2 3.6
Goods Movement	Office of Goods Movement	Cal EPA, ARB, BT&H, MPOs		Goods Movement Action Plan	Not Estimated	Not Estimated
Total					2.72	18.18

Caltrans Director's Policy 30 (DP-30) Climate Change (June 22, 2012): is intended to establish a Department policy that will ensure coordinated efforts to incorporate climate change into Departmental decisions and activities.

Caltrans Activities to Address Climate Change (April 2013)7 provides a comprehensive overview of activities undertaken by Caltrans statewide to reduce greenhouse gas emissions resulting from agency operations.

The following measures will also be included in the project to reduce the GHG emissions and potential climate change impacts from the project:

1. According to the Department's Standard Specifications, the contractor must comply with all of the local Air Pollution Control District's (APCD) rules, ordinances, and regulations regarding air quality restrictions.

Adaptation Strategies

"Adaptation strategies" refer to how the Department and others can plan for the effects of climate change on the state's transportation infrastructure and strengthen or protect the facilities from damage. Climate change is expected to produce increased variability in precipitation, rising temperatures, rising sea levels, variability in storm surges and intensity, and the frequency and intensity of wildfires. These changes may affect the transportation infrastructure in various ways, such as damage to roadbeds from longer periods of intense heat; increasing storm damage from flooding and erosion; and inundation from rising sea levels. These effects will vary by location and may, in the most extreme cases, require that a facility be relocated or redesigned. There may also be economic and strategic ramifications as a result of these types of impacts to the transportation infrastructure.

At the federal level, the Climate Change Adaptation Task Force, co-chaired by the Council on Environmental Quality (CEQ), the Office of Science and Technology Policy (OSTP), and the National Oceanic and Atmospheric Administration (NOAA), released its interagency task force progress report on October 28, 20118, outlining the federal government's progress in expanding and strengthening the Nation's capacity to better understand, prepare for, and respond to extreme events and other climate change impacts. The report provides an update on actions in key areas of federal adaptation, including: building resilience in local communities, safeguarding critical natural resources such as freshwater, and providing accessible climate information and tools to help decision-makers manage climate risks.

Climate change adaptation must also involve the natural environment as well. Efforts are underway on a statewide-level to develop strategies to cope with impacts to habitat and

---

[7] http://www.dot.ca.gov/hq/tpp/offices/orip/climate_change/projects_and_studies.shtml

[8] http://www.whitehouse.gov/administration/eop/ceq/initiatives/adaptation

biodiversity through planning and conservation. The results of these efforts will help California agencies plan and implement mitigation strategies for programs and projects.

On November 14, 2008, then-Governor Arnold Schwarzenegger signed EO S-13-08 which directed a number of state agencies to address California's vulnerability to sea level rise caused by climate change. This EO set in motion several agencies and actions to address the concern of sea level rise.

In addition to addressing projected sea level rise, the California Natural Resources Agency (Resources Agency) was directed to coordinate with local, regional, state and federal public and private entities to develop The California Climate Adaptation Strategy (Dec 2009)9, which summarizes the best-known science on climate change impacts to California, assesses California's vulnerability to the identified impacts, and then outlines solutions that can be implemented within and across state agencies to promote resiliency.

The strategy outline is in direct response to EO S-13-08 that specifically asked the Resources Agency to identify how state agencies can respond to rising temperatures, changing precipitation patterns, sea level rise, and extreme natural events. Numerous other state agencies were involved in the creation of the Adaptation Strategy document, including the California Environmental Protection Agency; Business, Transportation and Housing; Health and Human Services; and the Department of Agriculture. The document is broken down into strategies for different sectors that include: Public Health; Biodiversity and Habitat; Ocean and Coastal Resources; Water Management; Agriculture; Forestry; and Transportation and Energy Infrastructure. As data continues to be developed and collected, the state's adaptation strategy will be updated to reflect current findings.

The National Academy of Science was directed to prepare a Sea Level Rise Assessment Report10 to recommend how California should plan for future sea level rise. The report was released in June 2012 and included:

- Relative sea level rise projections for California, Oregon, and Washington taking into account coastal erosion rates, tidal impacts, El Niño and La Niña events, storm surge and land subsidence rates.
- The range of uncertainty in selected sea level rise projections.
- A synthesis of existing information on projected sea level rise impacts to state infrastructure (such as roads, public facilities and beaches), natural areas, and coastal and marine ecosystems.
- A discussion of future research needs regarding sea level rise.

---

[9] http://www.energy.ca.gov/2009publications/CNRA-1000-2009-027/CNRA-1000-2009-027-F.PDF

[10] *Sea Level Rise for the Coasts of California, Oregon, and Washington: Past, Present, and Future* (2012) is available at: http://www.nap.edu/catalog.php?record_id=13389.

In 2010, interim guidance was released by The Coastal Ocean Climate Action Team (CO-CAT) as well as Caltrans as a method to initiate action and discussion of potential risks to the states infrastructure due to projected sea level rise. Subsequently, CO-CAT updated the Sea Level Rise guidance to include information presented in the National Academies Study.

All state agencies that are planning to construct projects in areas vulnerable to future sea level rise are directed to consider a range of sea level rise scenarios for the years 2050 and 2100 to assess project vulnerability and, to the extent feasible, reduce expected risks and increase resiliency to sea level rise. Sea level rise estimates should also be used in conjunction with information on local uplift and subsidence, coastal erosion rates, predicted higher high water levels, storm surge and storm wave data

All projects that have filed a Notice of Preparation (NOP) as of the date of the EO S-13-08, and/or are programmed for construction funding through 2013, or are routine maintenance projects may, but are not required to, consider these planning guidelines. The proposed project is outside the coastal zone and direct impacts to transportation facilities due to projected sea level rise are not expected.

Executive Order S-13-08 also directed the Business, Transportation, and Housing Agency to prepare a report to assess vulnerability of transportation systems to sea level rise affecting safety, maintenance and operational improvements of the system, and economy of the state. The Department continues to work on assessing the transportation system vulnerability to climate change, including the effect of sea level rise.

Currently, the Department is working to assess which transportation facilities are at greatest risk from climate change effects. However, without statewide planning scenarios for relative sea level rise and other climate change effects, the Department has not been able to determine what change, if any, may be made to its design standards for its transportation facilities. Once statewide planning scenarios become available, the Department will be able review its current design standards to determine what changes, if any, may be needed to protect the transportation system from sea level rise.

Climate change adaptation for transportation infrastructure involves long-term planning and risk management to address vulnerabilities in the transportation system from increased precipitation and flooding; the increased frequency and intensity of storms and wildfires; rising temperatures; and rising sea levels. The Department is an active participant in the efforts being conducted in response to EO S-13-08 and is mobilizing to be able to respond to the National Academy of Science Sea Level Rise Assessment Report.

Appendix D List of Technical Studies/Materials Available

Project Area Map

Typical Cross Section

Need for the Project and Construction Data

Air Quality Analysis (March 2012)

Noise Analysis (May 2012)

Water Quality Study (April 2013)

Natural Environment Study (October 2013)

Biological Assessment (August 2013)

Storm Water Data Report (June 2013)

Hazardous Waste Review (July 2012)

Scenic Resource Evaluation/Visual Assessment (December 2012)

Paleontological Identification Report (June 2012)

The following technical study has been removed due to confidentiality:

Historical Property Survey Report/Archaeological Survey Report (December 2012)

The legal authority to restrict cultural resource information can be found in California Government Code Sections 6254.10 and 6254(r); California Code of Regulations Section 15120(d); and Section 304 of the National Historic Preservation Act of 1966.

Appendix E Biological Opinion

United States Department of the Interior

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

In Reply Refer to:
08ESMF00
2013-F-0626-1

Ms. Melanie Brent, Office Chief
Caltrans District 4 Environmental Analysis
California Department of Transportation
P.O. Box 23660
Oakland, California 94623-06

AUG 0 7 2014

Subject: Biological Opinion on the Effects of the Proposed Interstate 580 North Flynn Road Slipout Project, Alameda County, California (Caltrans EA 1SS03)

Dear Ms. Brent:

This letter responds to a letter from the California Department of Transportation (Caltrans), dated October 2, 2013, which requested formal consultation for the proposed Interstate 580 (I-580) North Flynn Road Slipout Project in Alameda County, California. Your letter was received by the U.S. Fish and Wildlife Service (Service) on August 5, 2013 (Caltrans EA 1SS03). This document represents the Service's response to your request for consultation on the effects of the project on the threatened California red-legged frog (*Rana draytonii*), threatened California tiger salamander (Central Valley Distinct Population Segment) (*Ambystoma californiense*), and endangered San Joaquin kit fox (*Vulpes macrotis mutica*). This letter issued under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.) (Act).

The Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) legislation (23 U.S.C. 327) allows the Secretary of the U.S. Department of Transportation acting through the Federal Highway Administration (FHWA) to establish a Surface Transportation Project Delivery Pilot Program, whereby a State may assume the FHWA responsibilities under the National Environmental Policy Act (NEPA) for environmental review, agency consultation and other action pertaining to the review or approval of a specific project. Caltrans assumed these responsibilities for the FHWA on July 1, 2007 through a Memorandum of Understanding (MOU) within the State of California (http://www.dot.ca.gov/ser/downloads/MOUs/nepa_delegation/scc6005mou.pdf).

The Service has reviewed the submitted project as described in the August 2013 biological assessment, the April 24, 2014 site visit, supporting documentation, and evaluation of project effects, and concurs with the determination that the project as described is not likely to adversely affect the San Joaquin kit fox, as the effects will be discountable. The Service concurs that the proposed action is not likely to adversely affect the San Joaquin kit fox based on the following: (1) construction activities, including staging, laydown and vehicle parking, will predominately occur within paved area, a small, disturbed area of grassland habitat, and coyote brush scrub habitat extending down the slope from a riprapped section immediately adjacent to I-580; (2) project footprint, construction access, staging, storage and parking areas will be located within the right-of-way and outside any designated environmentally sensitive areas; (3) Caltrans will implement

construction and erosion control Best Management Practices (BMPs); (4) areas adjacent to sensitive habitat will be clearly demarked with temporary high-visibility fencing; (5) all on-site personnel will attend environmental awareness training prior to beginning project activities; and (6) Service-approved biological monitors will conduct preconstruction surveys prior to ground disturbing activities and remain on-site to monitor construction activities adjacent to San Joaquin kit fox habitat.

The remainder of this biological opinion is on the effects of the project on the California red-legged frog and California tiger salamander. Caltrans determined that the proposed project would have no effect on the designated critical habitat for the California red-legged frog. California red-legged frog critical habitat Unit ALA-2 occurs approximately 360 feet south of the action area and Unit CCS-2B occurs approximately 300 feet north of the action area. No work is proposed within either designated critical habitat unit.

This biological opinion is based on: (1) the Interstate 580 North Flynn Road Slipout Project, Biological Assessment dated August 2013; (2) letter from Caltrans to the Service dated August 1, 2013; (3) the April 24, 2014 field visit; (4) email correspondence from Caltrans on May 12, 2013, and accompanying exhibits; (5) miscellaneous correspondence and electronic mail concerning the proposed action between Caltrans and the Service; and (6) other information available to the Service.

Consultation History

August 1, 2013	The Service received a letter requesting the initiation of formal consultation dated August 1, 2013, and a Biological Assessment for the I-580 North Flynn Road Slipout Project.
April 24, 2014	The Service attended a site visit Caltrans to evaluate on-site habitat suitability for listed species and California red-legged frog critical habitat.
June 26, 2014	The Service issued a draft biological opinion to Caltrans for their reivew.
July 9, 2014	The Service received comments from Caltrans regarding the draft biological opinion.
August 1, 2013 - July 17, 2014	Electronic and phone correspondence between Caltrans and the Service.

BIOLOGICAL OPINION

Description of the Proposed Action

The following project description, inclusive of the proposed compensation and proposed conservation measures, was provided by Caltrans and is an excerpt from the August 2013 Biological Assessment with minor modifications for reasons of clarity and accuracy provided by the Service.

Project History

I-580 is the major east-west corridor between the San Francisco Bay Area and the Central Valley as well as a major route serving the Tri-Valley area, which includes the cities of Pleasanton, Dublin, and Livermore. Alameda I-580 was constructed in 1938 as a two-lane single-level facility on the present east bound alignment. In 1971, the highway was widened to four lanes on a split profile. The

existing westbound section was constructed at the time and the old two-way 1938 highway portion converted to one way eastbound. At the proposed project location, I-580 cuts through steep mountain terrain, with sheer slopes leading down to the main drainage feature, Mountain House Creek, which is channelized through the median between the westbound and eastbound lanes. The purpose of the project is to permanently restore a storm damaged median slipout. The need for the project is to prevent further earth movement that could undermine the integrity of I-580 within the project limits.

Project Description

Caltrans proposes to repair the storm damaged median slope and pavement along the south side of westbound I-580 through the Altamont Pass in Alameda County. The project is located from post mile (PM) R4.9 to PM R5.6, approximately one mile east of North Flynn Road. The project will construct a 1,200-foot tieback retaining wall along the edge of the median shoulder. The retaining wall will be keyed in approximately 30 feet deep, with approximately 200 piles being driven to a depth of 60 feet. Additionally, the project will widen the inside shoulder by 4 feet and reconstruct the Number 1 lane. The current metal beam guardrail will be replaced with a concrete median barrier. To allow for construction of the project, an electrical conduit running along the median shoulder will be removed and replaced within the same footprint of the new concrete barrier with pull boxes installed in the barrier.

The project also proposes to repair and upgrade existing drainage facilities, including an 85-foot cross culvert and a 300-foot downdrain into Mountain House Creek, and relocate Caltrans electrical hardware within the project limits. The culvert is within the existing roadway and the depth will be between five to ten feet below the roadway grade. The replacement of the 300-foot, 12-inch diameter corrugated metal pipe downdrain, will require in the excavation of a trench twenty feet wide, with a depth of less than five feet. Night work will be required. No right-of-way acquisition or temporary construction easements are anticipated for this project.

Proposed Conservation Measures

Proposed Compensation

To offset permanent effects to California red-legged frog and Central California tiger salamander, suitable habitat for each species, or suitable multi-species habitat will be created, restored, or set aside in perpetuity at a ratio of 3:1 for permanent effects and 1.1:1 for temporary effects (Table 1). Alternatively, credits will be purchased at a Service-approved conservation bank. Compensation Plans will be subject to review and approval by the Service. On-site restoration of temporarily affected areas may qualify as compensation at a 1:1 ratio once conditions are verified by the Service.

Table 1: Proposed Compensation for Temporary and Permanent Effects

Species	Effects						Total Compensation
	Temporary (acres)			Permanent (acres)			
	Impact	Compensation		Impact	Compensation		
		Ratio	Need		Ratio	Need	
California red-legged frog	1.54	1.1:1	1.69	0.15	3:1	0.45	2.14
California tiger salamander	1.54	1.1:1	1.69	0.15	3:1	0.45	2.14

General Conservation Measures

To reduce potential effects to sensitive biological resources, Caltrans proposes to incorporate construction BMPs and avoidance and minimization measures into the proposed roadway construction project. These measures will be communicated to the contractor through the use of special provisions included in the contract bid solicitation package. These measures include the following:

1. **Seasonal Avoidance**. Construction actions will be scheduled to minimize effects on listed species and habitats. Except for limited vegetation clearing necessary to minimize effects to nesting birds, work will be conducted between April 15 and October 15.

2. **Environmental Awareness Training**. Prior to the start of construction, a qualified biologist will conduct an educational training program for all construction personnel including contractors and subcontractors. The training will include, at a minimum, a description of the California red-legged frog and Central California tiger salamander, and their habitat within the action area; an explanation of the status of these species and protection under state and federal laws; the avoidance and minimization measures to be implemented to reduce take of these species; communication and work stoppage procedures in case a listed species is observed within the action area; and an explanation of the ESAs and WEF and the importance of maintaining these structures. A fact sheet conveying this information will be prepared and distributed to all construction personnel. Upon completion of the program, personnel will sign a form stating that they attended the program and understand all the avoidance and minimization measures and implications of the Act.

3. **Environmentally Sensitive Areas (ESA)**. Prior to the start of construction, ESAs – defined as areas containing sensitive habitats adjacent to or within construction work areas for which physical disturbance is not allowed – will be clearly delineated using high visibility orange fencing. Construction work areas include the active construction site and all areas providing support for the proposed action including areas used for vehicle parking, equipment and material storage and staging, access roads, etc. The ESA fencing will remain in place throughout the duration of the proposed action, while construction activities are ongoing, and will be regularly inspected and fully maintained at all times. The final project plans will depict all locations where ESA fencing will be installed and will provide installation specifications. The bid solicitation package special provisions will clearly describe acceptable fencing material and prohibited construction-related activities including vehicle operation, material and equipment storage, access roads and other surface-disturbing activities within ESAs.

4. **Wildlife Exclusion Fencing (WEF)**. Prior to the start of construction, WEF will be installed at the edge of the project footprint in all areas where California red-legged frogs or Central California tiger salamanders could enter the construction area. The location of the fencing shall be determined by the Resident Engineer and Service-approved biologist in cooperation with the Service prior to the start of staging or surface disturbing activities. The location, fencing materials, installation specifications, and monitoring and repair criteria shall be approved by the Service prior to start of construction. Caltrans shall include the WEF specifications on the final project plans. Caltrans shall include the WEF specifications including installation and maintenance criteria in the bid solicitation package special provisions. The WEF shall remain in place throughout the duration of the project and shall

be regularly inspected and fully maintained. Repairs to the WEF shall be made within 24 hours of discovery. Upon project completion the WEF shall be completely removed, the area cleaned of debris and trash, and returned to natural conditions.

5. **Avoidance of Entrapment**. To prevent inadvertent entrapment of animals during construction, all excavated, steep-walled holes or trenches more than 1-foot deep will be covered with plywood or similar materials at the close of each working day or provided with one or more escape ramps constructed of earth fill or wooden planks. The Service-approved biologist shall inspect all holes and trenches at the beginning of each workday and before such holes or trenches are filled. All replacement pipes, culverts, or similar structures stored in the action area overnight will be inspected before they are subsequently moved, capped, and/or buried. If at any time a listed species is discovered, the Resident Engineer and Service-approved biologist will be notified immediately and the Service-approved biologist shall implement the species observation and handling protocol outlined below.

6. **Best Management Practices**. Storm Water Pollution Prevention Plans (SWPPP) and erosion control BMPs will be developed and implemented to minimize any wind or water-related erosion and will be in compliance with the requirements of the Regional Water Quality Control Board. The SWPPP will reference the Caltrans Construction Site BMPs Manual. This manual is comprehensive and includes many other protective measures and guidance to prevent and minimize pollutant discharges and can be found online at: http://www.dot.ca.gov/hq/construc/stormwater/manuals.htm. Protective measures will include, at a minimum:

   a. No discharge of pollutants from vehicle and equipment cleaning is allowed into any storm drains or watercourses.

   b. Vehicle and equipment fueling and maintenance operations must be at least 50 feet away from watercourses, except at established commercial gas stations or established vehicle maintenance facility.

   c. Concrete wastes are collected in washouts and water from curing operations is collected and disposed. Neither will be allowed into watercourses.

   d. Spill containment kits will be maintained onsite at all times during construction operations and/or staging or fueling of equipment.

   e. Dust control measures will include use of water trucks and dust palliatives to control dust in excavation-and-fill areas, covering temporary access road entrances and exits with rock (rocking), and covering of temporary stockpiles when weather conditions require.

   f. Coir rolls or straw wattles that do not contain plastic or synthetic monofilament netting will be installed along or at the base of slopes during construction to capture sediment.

   g. Protection of graded areas from erosion using a combination of silt fences, fiber rolls, etc. along toes of slopes or along edges of designated staging areas, and erosion control netting (such as jute or coir) as appropriate on sloped areas. Erosion control materials that use plastic or synthetic monofilament netting will not be used within the action area. This includes products that use photodegradable or biodegradable

synthetic netting, which can take several months to decompose. Acceptable materials include natural fibers such as jute, coconut, twine or other similar fibers.

h. Permanent erosion control measures such as bio-filtration strips and swales to receive storm water discharges from the highway, or other impervious surfaces will be incorporated to the maximum extent practicable.

i. All grindings and asphaltic-concrete waste will be stored within previously disturbed areas absent of habitat and at a minimum of 50 feet from any aquatic habitat, culvert, or drainage feature.

7. **Construction Site Management Practices**. The following site restrictions will be implemented to avoid or minimize effects on listed species and their habitats:

a. A speed limit of 15 miles per hour (mph) in the project footprint in unpaved areas will be enforced to reduce dust and excessive soil disturbance.

b. Construction access, staging, storage, and parking areas, will be located within the project Caltrans ROW outside of any designated ESA or outside of the Caltrans ROW in areas environmentally cleared by the contractor. Access routes and the number and size of staging and work areas will be limited to the minimum necessary to construct the proposed project. Routes and boundaries of roadwork will be clearly marked prior to initiating construction or grading.

c. To the maximum extent practicable, any borrow material will be certified to be non-toxic and weed free.

d. All food and food-related trash items will be enclosed in sealed trash containers and properly disposed of off-site.

e. No pets from project personnel will be allowed anywhere in the action area during construction.

f. No firearms will be allowed on the project site except for those carried by authorized security personnel, or local, State or Federal law enforcement officials.

g. A Spill Response Plan will be prepared. Hazardous materials such as fuels, oils, solvents, etc. will be stored in sealable containers in a designated location that is at least 50 feet from hydrologic features.

h. All equipment will be properly maintained and free of leaks. Servicing of vehicles and construction equipment including fueling, cleaning, and maintenance will occur at least 50 feet from any hydrologic features unless it is an existing gas station.

8. **Vegetation Removal**. Any vegetation that is within the cut and fill line or growing in locations where permanent structures will be placed (e.g., road alignment, shoulder widening, soil nail walls, etc.) will be cleared. Vegetation will be cleared only where necessary and will be cut above soil level except in areas that will be excavated for roadway construction. This will allow plants that reproduce vegetatively to resprout after construction. All clearing and grubbing of woody vegetation will occur by hand or using light construction equipment such as backhoes. If clearing and grubbing occurs between February 1 and August 31, a qualified biologist(s) will survey for nesting birds within the area(s) to be disturbed including a perimeter buffer of 100 feet for passerines and 500 feet for raptors before clearing

activities begin. All nest avoidance requirements of the Migratory Bird Treaty Act and California Fish and Game Code Sections 3503 and 3503.5 will be observed. All cleared vegetation will be removed from the project footprint to prevent attracting animals to the project site. The contractor will be responsible for obtaining all permits, licenses, and environmental clearances for properly disposing of such materials. A Service-approved biologist will be present during all vegetation clearing and grubbing activities. Prior to vegetation removal, the Service-approved biologist shall thoroughly survey the area for California red-legged frogs and Central California tiger salamanders. Once the Service-approved biologist has thoroughly surveyed the area, clearing and grubbing may continue without further restrictions on equipment; however, the Service-approved biologist shall remain onsite to monitor for California red-legged frogs and Central California tiger salamanders until all clearing and grubbing activities are complete. After project completion, all temporarily affected areas shall be returned to original grade and contours to the maximum extent practicable, protected with proper erosion control materials, and revegetated with native species appropriate for the region and habitat communities on site.

9. **Reduce Spread of Invasive Species**. To reduce the spread of invasive non-native plant species and minimize the potential decrease of palatable vegetation for wildlife species, Caltrans will comply with Executive Order 13112. This order is provided to prevent the introduction of invasive species and provide for their control in order to minimize the economic, ecological, and human health impacts. In the event that high- or medium-priority noxious weeds, as defined by the California Department of Food and Agriculture or the California Invasive Plant Council, are disturbed or removed during construction-related activities, the contractor will contain the plant material associated with these noxious weeds and dispose of it in a manner that will not promote the spread of the species. The contractor will be responsible for obtaining all permits, licenses, and environmental clearances for properly disposing of materials. Areas subject to noxious weed removal or disturbance will be replanted with fast-growing native grasses or a native erosion control seed mixture. If seeding is not possible, the area should be covered to the extent practicable with heavy black plastic solarization material until the end of the project.

10. **Replant, Reseed, and Restore Disturbed Areas**. All slopes or unpaved areas that are temporarily affected by the proposed action will be revegetated with an assemblage of native grasses and shrubs characteristic of the floristic region and native local habitats to stabilize soils and prevent erosion. Where disturbance includes the removal of trees or plants, native species will be replanted and maintained until they become established. A revegetation plan with success criteria will be submitted to the Service for review and approval. Temporary effects comprise areas denuded, manipulated, or otherwise modified from their existing, pre-project conditions, thereby removing one or more essential components of a listed species' habitat as a result of project activities that include, but are not limited to, construction, staging, storage, lay down, vehicle access, parking, etc. Temporary effects must be restored to baseline habitat values or better within one year following initial disturbance. Areas subject to ongoing operations and maintenance are not considered temporary even if they are restored within one year following initial disturbance. Affected areas not fulfilling these criteria are considered permanent.

Action Area

The action area is defined in 50 CFR § 402.02, as "all areas to be affected directly or indirectly by the Federal action and not merely the immediate area involved in the action." For the purposes of the

effects assessment, the action area encompasses 27.8 acres extending 0.5-mile along eastbound I-580 from PM R4.9 one mile east of North Flynn Road to PM R5.6 in eastern Alameda County. The action area encompasses the project footprint, equipment staging areas, access routes, Caltrans Right-of-Way limits, and adjacent lands that will be subjected to noise, light, and vibration disturbance. Habitat within the action area comprises paved roadways and shoulders, a compacted dirt access road, California naturalized annual and perennial grasslands, and coyote brush scrub vegetation communities.

Analytical Framework for the Jeopardy Determinations

Jeopardy Determination

In accordance with policy and regulation, the jeopardy analyses in this biological opinion relies on four components: (1) the *Status of the Species*, which evaluates the California red-legged frog and Central California tiger salamander range-wide condition, the factors responsible for that condition, and its survival and recovery needs; (2) the *Environmental Baseline*, which evaluates the condition of the California red-legged frog and Central California tiger salamander in the action area, the factors responsible for that condition, and the relationship of the action area to the survival and recovery of the California red-legged frog and Central California tiger salamander; (3) the *Effects of the Action*, which determines the direct and indirect impacts of the proposed Federal action and the effects of any interrelated or interdependent activities on the California red-legged frog and Central California tiger salamander; and (4) *Cumulative Effects*, which evaluates the effects of future, non-Federal activities in the action area on the California red-legged frog and Central California tiger salamander.

In accordance with policy and regulation, the jeopardy determination is made by evaluating the effects of the proposed Federal action in the context of the California red-legged frog and Central California tiger salamander current status, taking into account any cumulative effects, to determine if implementation of the proposed action is likely to cause an appreciable reduction in the likelihood of both the survival and recovery of these species in the wild.

The jeopardy analyses in this biological opinion places an emphasis on consideration of the range-wide survival and recovery needs of the California red-legged frog and Central California tiger salamander and the role of the action area in the survival and recovery of the California red-legged frog and Central California tiger salamander as the context for evaluating the significance of the effects of the proposed Federal action, taken together with cumulative effects, for purposes of making the jeopardy determination.

Status of the Species and Environmental Baseline

California Red-legged Frog

Listing Status: The California red-legged frog was listed as a threatened species on May 23, 1996 (61 FR 25813) (Service 1996). Critical habitat was designated for this species on April 13, 2006 (71 FR 19244) (Service 2006) and revisions to the critical habitat designation were published on March 17, 2010 (75 FR 12816) (Service 2010). At this time, the Service recognized the taxonomic change from *Rana aurora draytonii* to *Rana draytonii* (Shaffer *et al.* 2010). A recovery plan was published for the California red-legged frog on September 12, 2002 (Service 2002).

Description: The California red-legged frog is the largest native frog in the western United States (Wright and Wright 1949), ranging from 1.5 to 5.1 inches in length (Stebbins 2003). The abdomen and hind legs of adults are largely red, while the back is characterized by small black flecks and larger

irregular dark blotches with indistinct outlines on a brown, gray, olive, or reddish background color. Dorsal spots usually have light centers (Stebbins 2003), and dorsolateral folds are prominent on the back. Larvae (tadpoles) range from 0.6 to 3.1 inches in length, and the background color of the body is dark brown and yellow with darker spots (Storer 1925).

Distribution: The historic range of the California red-legged frog extended from the vicinity of Elk Creek in Mendocino County, California, along the coast inland to the vicinity of Redding in Shasta County, California, and southward to northwestern Baja California, Mexico (Fellers 2005; Jennings and Hayes 1985; Hayes and Krempels 1986). The species was historically documented in 46 counties but the taxa now remains in 238 streams or drainages within 23 counties, representing a loss of 70 percent of its former range (Service 2002). California red-legged frogs are still locally abundant within portions of the San Francisco Bay area and the central California coast. Isolated populations have been documented in the Sierra Nevada, northern coast, and northern Transverse Ranges. The species is believed to be extirpated from the southern Transverse and Peninsular Ranges, but is still present in Baja California, Mexico (CDFW 2014).

Status and Natural History: California red-legged frogs predominately inhabit permanent water sources such as streams, lakes, marshes, natural and manmade ponds, and ephemeral drainages in valley bottoms and foothills up to 4,921 feet in elevation (Jennings and Hayes 1994, Bulger *et al.* 2003, Stebbins 2003). However, they also inhabit ephemeral creeks, drainages, and ponds with minimal riparian and emergent vegetation. California red-legged frogs breed from November to April, although earlier breeding records have been reported in southern localities. Breeding generally occurs in still or slow-moving water often associated with emergent vegetation, such as cattails, tules, or overhanging willows (Storer 1925, Hayes and Jennings 1988). Female frogs deposit egg masses on emergent vegetation so that the egg mass floats on or near the surface of the water (Hayes and Miyamoto 1984).

Habitat includes nearly any area within 1-2 miles of a breeding site that stays moist and cool through the summer including vegetated areas with coyote brush, California blackberry thickets, and root masses associated with willow and California bay trees (Fellers 2005). Sheltering habitat for California red-legged frogs potentially includes all aquatic, riparian, and upland areas within the range of the species and includes any landscape feature that provides cover, such as animal burrows, boulders or rocks, organic debris such as downed trees or logs, and industrial debris. Agricultural features such as drains, watering troughs, spring boxes, abandoned sheds, or haystacks may also be used. Incised stream channels with portions narrower and depths greater than 18 inches also may provide important summer sheltering habitat. Accessibility to sheltering habitat is essential for the survival of California red-legged frogs within a watershed, and can be a factor limiting frog population numbers and survival.

California red-legged frogs do not have a distinct breeding migration (Fellers 2005). Adults are often associated with permanent bodies of water. Some individuals remain at breeding sites year-round, while others disperse to neighboring water features. Dispersal distances are typically less than 0.5 mile, with a few individuals moving up to 1-2 miles (Fellers 2005). Movements are typically along riparian corridors, but some individuals, especially on rainy nights, move directly from one site to another through normally inhospitable habitats, such as heavily grazed pastures or oak-grassland savannas (Fellers 2005).

In a study of California red-legged frog terrestrial activity in a mesic area of the Santa Cruz Mountains, Bulger *et al.* (2003) categorized terrestrial use as migratory and non-migratory. The latter occurred from one to several days and was associated with precipitation events. Migratory

movements were characterized as the movement between aquatic sites and were most often associated with breeding activities. Bulger *et al.* (2003) reported that non-migrating frogs typically stayed within 200 feet of aquatic habitat 90 percent of the time and were most often associated with dense vegetative cover, *i.e.*, California blackberry, poison oak, and coyote brush. Dispersing frogs in northern Santa Cruz County traveled distances from 0.25 mile to more than 2 miles without apparent regard to topography, vegetation type, or riparian corridors (Bulger *et al.* 2003).

In a study of California red-legged frog terrestrial activity in a xeric environment in eastern Contra Costa County, Tatarian (2008) noted that 57 percent of frogs fitted with radio transmitters in the Round Valley study area stayed at their breeding pools, whereas 43 percent moved into adjacent upland habitat or to other aquatic sites. Her study reported a peak seasonal terrestrial movement occurring in the fall months associated with the first 0.2 inch of precipitation and tapering off into spring. Upland movement activities ranged from 3 to 233 feet, averaging 80 feet, and were associated with a variety of refugia including grass thatch, crevices, cow hoof prints, ground squirrel burrows at the base of trees or rocks, logs, and under man-made structures; others were associated with upland sites lacking refugia (Tatarian 2008). The majority of terrestrial movements lasted from 1 to 4 days; however, one adult female was reported to remain in upland habitat for 50 days (Tatarian 2008). Upland refugia closer to aquatic sites were used more often and were more commonly associated with areas exhibiting higher object cover, *e.g.*, woody debris, rocks, and vegetative cover. Subterranean cover was not significantly different between occupied upland habitat and non-occupied upland habitat.

California red-legged frogs are often prolific breeders, laying their eggs during or shortly after large rainfall events in late winter and early spring (Hayes and Miyamoto 1984). Egg masses containing 2,000 - 5,000 eggs are attached to vegetation below the surface and hatch after 6 - 14 days (Storer 1925, Jennings and Hayes 1994). In coastal lagoons, the most significant mortality factor in the pre-hatching stage is water salinity (Jennings *et al.* 1992). Eggs exposed to salinity levels greater than 4.5 parts per thousand resulted in 100 percent mortality (Jennings and Hayes 1990). Increased siltation during the breeding season can cause asphyxiation of eggs and small larvae. Larvae undergo metamorphosis 3.5 - 7 months following hatching and reach sexual maturity at 2 - 3 years of age (Storer 1925; Wright and Wright 1949; Jennings and Hayes 1985, 1990, 1994). Of the various life stages, larvae probably experience the highest mortality rates, with less than 1 percent of eggs laid reaching metamorphosis (Jennings *et al.* 1992). California red-legged frogs may live 8 to 10 years (Jennings *et al.* 1992). Populations can fluctuate from year to year; favorable conditions allow the species to have extremely high rates of reproduction and thus produce large numbers of dispersing young and a concomitant increase in the number of occupied sites. In contrast, the animal may temporarily disappear from an area when conditions are stressful (*e.g.*, during periods of drought, disease, etc.).

The diet of California red-legged frogs is highly variable and changes with the life history stage. The diet of the larvae is not well studied, but is likely similar to that of other ranid frogs, feeding on algae, diatoms, and detritus by grazing on the surface of rocks and vegetation (Fellers 2005; Kupferberg 1996a, 1996b, 1997). Hayes and Tennant (1985) analyzed the diets of California red-legged frogs from Cañada de la Gaviota in Santa Barbara County during the winter of 1981 and found invertebrates (comprising 42 taxa) to be the most common prey item consumed; however, they speculated that this was opportunistic and varied based on prey availability. They ascertained that larger frogs consumed larger prey and were recorded to have preyed on Pacific chorus frogs, threespine stickleback, and, to a limited extent, California mice, which were abundant at the study site (Hayes and Tennant 1985, Fellers 2005). Although larger vertebrate prey was consumed less frequently, it represented over half of the prey mass eaten by larger frogs suggesting that such prey

may play an energetically important role in their diets (Hayes and Tennant 1985). Juvenile and subadult/adult frogs varied in their feeding activity periods; juveniles fed for longer periods throughout the day and night, while subadult/adults fed nocturnally (Hayes and Tennant 1985). Juveniles were significantly less successful at capturing prey and all life history stages exhibited poor prey discrimination, feeding on several inanimate objects that moved through their field of view (Hayes and Tennant 1985).

Threats: Habitat loss, non-native species introduction, and urban encroachment are the primary factors that have adversely affected the California red-legged frog throughout its range. Several researchers in central California have noted the decline and eventual local disappearance of California and northern red-legged frogs in systems supporting bullfrogs (Jennings and Hayes 1990, Twedt 1993), red swamp crayfish, signal crayfish, and several species of warm water fish including sunfish, goldfish, common carp, and mosquitofish (Moyle 1976; Barry 1992; Hunt 1993; Fisher and Schaffer 1996). This has been attributed to predation, competition, and reproduction interference. Twedt (1993) documented bullfrog predation of juvenile northern red-legged frogs, and suggested that bullfrogs could prey on subadult California red-legged frogs as well. Bullfrogs may also have a competitive advantage over California red-legged frogs. For instance, bullfrogs are larger and possess more generalized food habits (Bury and Whelan 1984). In addition, bullfrogs have an extended breeding season (Storer 1933) during which an individual female can produce as many as 20,000 eggs (Emlen 1977). Furthermore, bullfrog larvae are unpalatable to predatory fish (Kruse and Francis 1977). Bullfrogs also interfere with California red-legged frog reproduction by eating adult male California red-legged frogs. Both California and northern red-legged frogs have been observed in amplexus (mounted on) with both male and female bullfrogs (Jennings and Hayes 1990, Jennings 1993, Twedt 1993). Thus bullfrogs are able to prey upon and out-compete California red-legged frogs, especially in sub-optimal habitat.

The urbanization of land within and adjacent to California red-legged frog habitat has also affected the threatened amphibian. These declines are attributed to channelization of riparian areas, enclosure of the channels by urban development that blocks dispersal, and the introduction of predatory fishes and bullfrogs. Diseases may also pose a significant threat, although the specific effects of disease on the California red-legged frog are not known. Pathogens are suspected of causing global amphibian declines (Davidson *et al.* 2003). Chytridiomycosis and ranaviruses are a potential threat because these diseases have been found to adversely affect other amphibians, including the listed species (Davidson *et al.* 2003; Lips *et al.* 2006). Mao *et al.* (1999 cited in Fellers 2005) reported northern red-legged frogs infected with an iridovirus, which was also presented in sympatric threespine sticklebacks in northwestern California. Non-native species, such as bullfrogs and non-native tiger salamanders that live within the range of the California red-legged frog have been identified as potential carriers of these diseases (Garner *et al.* 2006). Human activities can facilitate the spread of disease by encouraging the further introduction of non-native carriers and by acting as carriers themselves (*i.e.*, contaminated boots, waders, or fishing equipment). Human activities can also introduce stress by other means, such as habitat fragmentation, that results in the listed species being more susceptible to the effects of disease.

Recovery Plan: The recovery plan for the California red-legged frog identifies eight recovery units (Service 2002). The establishment of these recovery units is based on the determination that various regional areas of the species' range are essential to its survival and recovery. The status of the California red-legged frog was considered within the small-scale recovery units as opposed to their overall range. These recovery units are delineated by major watershed boundaries as defined by U.S. Geological Survey hydrologic units and the limits of its range. The goal of the recovery plan is to protect the long-term viability of all extant populations within each recovery unit. Within each

recovery unit, core areas have been delineated and represent contiguous areas of moderate to high California red-legged frog densities that are relatively free of exotic species such as bullfrogs. The goal of designating core areas is to protect metapopulations. Thus when combined with suitable dispersal habitat, will allow for the long-term viability within existing populations. The management strategy identified within the Recovery Plan will allow for the recolonization of habitats within and adjacent to core areas that are naturally subjected to periodic localized extinctions, thus assuring the long-term survival and recovery of California red-legged frogs.

Central California Tiger Salamander

Listing Status: On May 23, 2003, we proposed to list the Central California DPS of the tiger salamander as threatened. At that time, we also proposed reclassification of the Santa Barbara County DPS and Sonoma County DPS from endangered to threatened (Service 2003). In the same notice, we also proposed a special rule under section 4(d) of the Act to exempt take for routine ranching operations for the Central California DPS and, if reclassified to threatened, for the Santa Barbara and Sonoma County DPSs (Service 2003). On August 4, 2004, after determining that the listed Central California population of the California DPS of the California tiger salamander was threatened (Service 2004), we determined that the Santa Barbara and Sonoma County populations were threatened as well, and reclassified the California tiger salamander as threatened throughout its range (Service 2004), removing the Santa Barbara and Sonoma County populations as separately listed DPSs (Service 2004). In this notice, we also finalized the special rule to exempt take for routine ranching operations for the California tiger salamander throughout its range (Service 2004).

On August 18, 2005, as a result of litigation of the August 4, 2004, final rule on the reclassification of the California tiger salamander DPSs (*Center for Biological Diversity et al. v. United States Fish and Wildlife Service et al.*, C 04-04324 WHA (N.D. Cal. 2005), the District Court of Northern California sustained the portion of the 2004 rule pertaining to listing the California tiger salamander as threatened with a special rule, but vacated the portion of the 2004 rule that re-classified the Santa Barbara and Sonoma DPSs to threatened status thereby reinstating their status as endangered. On August 31, 2011, the List of Endangered and Threatened Wildlife in part 17, subchapter B of Chapter I, title 50 of the Code of Federal Regulations (CFR) was amended to reflect the vacatures contained in the 2005 court order, classifying the Santa Barbara DPS and the Sonoma DPS of the California tiger salamander as endangered, and the Central DPS of the California tiger salamander as threatened with a special rule to exempt routine ranching operations from take (Service 2011).

Species Description: The California tiger salamander is a large, stocky, terrestrial salamander with a broad, rounded snout. Recorded adult measurements have been as much as 8.2 inches long (Petranka 1998; Stebbins 2003). California tiger salamanders exhibit sexual dimorphism (differences in body appearance based on gender) with males tending to be larger than females. The coloration of the adults generally consists of random white or yellowish markings against a black body. The markings tend to be more concentrated on the lateral sides of the body; whereas other salamander species tend to have brighter yellow spotting that is heaviest on the dorsal surface.

Distribution: The Central California tiger salamander is endemic to California and historically inhabited the low-elevation grassland and oak savanna plant communities of the Central Valley, adjacent foothills, and Inner Coast Ranges (Jennings and Hayes 1994; Storer 1925; Shaffer *et al.* 1993). The species has been recorded from near sea level to approximately 3,900 feet in the Coast Ranges and to approximately 1,600 feet in the Sierra Nevada foothills (Shaffer and Trenham 2004). Along the Coast Ranges, the species occurred from the Santa Rosa area of Sonoma County, south to the vicinity of Buellton in Santa Barbara County. The historic distribution in the Central Valley and

surrounding foothills included northern Yolo County southward to northwestern Kern County and northern Tulare County.

The Central California tiger salamander occupies the Bay Area (central and southern Alameda, Santa Clara, western Stanislaus, western Merced, and the majority of San Benito counties), Central Valley (Yolo, Sacramento, Solano, eastern Contra Costa, northeastern Alameda, Calaveras, San Joaquin, Stanislaus, Merced, and northwestern Madera counties), southern San Joaquin Valley (portions of Madera, central Fresno, and northern Tulare and Kings Counties), and the Central Coast Range (southern Santa Cruz, Monterey, northern San Luis Obispo, and portions of western San Benito, Fresno, and Kern counties).

Life History: The California tiger salamander has an obligate biphasic life cycle (Shaffer *et al.* 2004). Although the larvae develop in the vernal pools and ponds in which they were born, the species is otherwise terrestrial and spend most of their post-metamorphic lives in widely dispersed underground retreats (Shaffer *et al.* 2004; Trenham *et al.* 2001). Because they spend most of their lives underground, the animals rarely are encountered even in areas where California tiger salamanders are abundant. Subadult and adult California tiger salamanders typically spend the dry summer and fall months in the burrows of small mammals, such as California ground squirrels and Botta's pocket gopher (Storer 1925; Loredo and Van Vuren 1996; Petranka 1998; Trenham 1998a). Although ground squirrels have been known to eat these amphibians, the relationship with their burrowing hosts is primarily commensal (an association that benefits one member while the other is not affected) (Loredo *et al.* 1996; Semonsen 1998).

California tiger salamanders may also use landscape features such as leaf litter or desiccation cracks in the soil for upland refugia. Burrows often harbor camel crickets and other invertebrates that provide likely prey for the amphibians. Underground refugia also provide protection from the sun and wind associated with the dry California climate that can cause excessive drying of amphibian skin. Although California tiger salamanders are members of a family of "burrowing" salamanders, they are not known to create their own burrows. This may be due to the hardness of soils in the California ecosystems in which they are found. California tiger salamanders depend on persistent small mammal activity to create, maintain, and sustain sufficient underground refugia for the species. Burrows are short lived without continued small mammal activity and typically collapse within approximately 18 months (Loredo *et al.* 1996).

Upland burrows inhabited by California tiger salamanders have often been referred to as aestivation-sites. However, "aestivation" implies a state of inactivity, while most evidence suggests that the animals remain active in their underground dwellings. One study has found that salamanders move, feed, and remain active in their burrows (Van Hattem 2004). Because the adults arrive at breeding ponds in good condition and are heavier when entering the pond than when leaving, researchers have long inferred that they are feeding while underground. A number of direct observations have confirmed this (Trenham 2001; Van Hattem 2004). Thus, "upland habitat" is a more accurate description of the terrestrial areas used by California tiger salamanders.

California tiger salamanders typically emerge from their underground refugia at night during the fall or winter rainy season (November-May) to migrate to their breeding ponds (Stebbins 2003; Shaffer *et al.* 1993; Trenham *et al.* 2000). The breeding period is closely associated with the rainfall patterns in any given year with less adults migrating and breeding in drought years (Loredo and Van Vuren 1996; Trenham *et al.* 2000). Male California tiger salamander are typically first to arrive and generally remain in the ponds longer than females. Results from a 7-year study in Monterey County suggested that males remained in the breeding ponds for an average of 44.7 days while females remained for

an average of only 11.8 days (Trenham *et al.* 2000). Historically, breeding ponds were likely limited to vernal pools, but now include livestock stock ponds. Ideal breeding ponds are typically fishless, free of non-native predators, and seasonal or semi-permanent (Barry and Shaffer 1994; Petranka 1998).

While in the ponds, adult California tiger salamanders mate and then the females lay their eggs in the water (Twitty 1941; Shaffer *et al.* 1993; Petranka 1998). Egg laying typically reaches a peak in January (Loredo and Van Vuren 1996; Trenham *et al.* 2000). Females attach their eggs singly, or in rare circumstances, in groups of two to four, to twigs, grass stems, vegetation, or debris (Storer 1925; Twitty 1941). Eggs are often attached to objects, such as rocks and boards in ponds with no or limited vegetation (Jennings and Hayes 1994). Clutch sizes from a Monterey County study had an average of 814 eggs (Trenham *et al.* 2000). Seasonal pools may not exhibit sufficient depth, persistence, or other necessary parameters for adult breeding during times of drought (Barry and Shaffer 1994). After breeding and egg laying is complete, adults leave the pool and return to their upland refugia (Loredo *et al.* 1996; Trenham 1998a). Adult California tiger salamanders often continue to emerge nightly for approximately the next two weeks to feed amongst their upland. habitat (Shaffer *et al.* 1993).

California tiger salamander larvae typically hatch within 10 to 24 days after eggs are laid (Storer 1925). The larvae are totally aquatic and range in length from approximately 0.45 to 0.56 inches (Petranka 1998). They have yellowish gray bodies, broad fat heads, large, feathery external gills, and broad dorsal fins that extend well up their back. The larvae feed on zooplankton, small crustaceans, and aquatic insects for about six weeks after hatching, after which they switch to larger prey (J. Anderson 1968). Larger larvae have been known to consume the tadpoles of Pacific tree frogs, western spadefoot toads, and California red-legged frogs (J. Anderson 1968; P. Anderson 1968). California tiger salamander larvae are among the top aquatic predators in seasonal pool ecosystems. When not feeding, they often rest on the bottom in shallow water but are also found throughout the water column in deeper water. Young California tiger salamanders are wary and typically escape into vegetation at the bottom of the pool when approached by potential predators (Storer 1925).

The California tiger salamander larval stage is typically completed in 3 to 6 months with most metamorphs entering upland habitat during the summer (Petranka 1998). In order to be successful, the aquatic phase of this species' life history must correspond with the persistence of its seasonal aquatic habitat. Most seasonal ponds and pools dry up completely during the summer. Amphibian larvae must grow to a critical minimum body size before they can metamorphose (change into a different physical form) to the terrestrial stage (Wilbur and Collins 1973). Larval development and metamorphosis can vary and is often site-dependent. Larvae collected near Stockton in the Central Valley during April varied between 1.88 to 2.32 inches in length (Storer 1925). Feaver (1971) found that larvae metamorphosed and left breeding pools 60 to 94 days after eggs had been laid, with larvae developing faster in smaller, more rapidly drying pools. Longer ponding duration typically results in larger larvae and metamorphosed juveniles that are more likely to survive and reproduce (Pechmann *et al.* 1989; Semlitsch *et al.* 1988; Morey 1998; Trenham 1998b). Larvae will perish if a breeding pond dries before metamorphosis is complete (P. Anderson 1968; Feaver 1971). Pechmann *et al.* (1989) found a strong positive correlation between ponding duration and total number of metamorphosing juveniles in five salamander species. In Madera County, Feaver (1971) found that only 11 of 30 sampled pools supported larval salamanders, and five of these dried before metamorphosis could occur. Therefore, out of the original 30 pools, only 6 (20 percent) provided suitable conditions for successful reproduction that year. Size at metamorphosis is positively correlated with stored body fat and survival of juvenile amphibians, and negatively correlated with age at first reproduction (Semlitsch *et al.* 1988; Scott 1994; Morey 1998).

Following metamorphosis, juvenile California tiger salamanders leave their pools and move to upland habitat. This emigration can occur in both wet and dry conditions (Loredo and Van Vuren 1996; Loredo *et al.* 1996). Wet conditions are more favorable for upland travel but summer rain events seldom occur as metamorphosis is completed and ponds begin to dry. As a result, juveniles may be forced to leave their ponds on rainless nights. Under dry conditions, juveniles may be limited to seeking upland refugia in close proximity to their aquatic larval pool. These individuals often wait until the next winter's rains to move further into more suitable upland refugia. The peak emergence of these metamorphs in ponds is typically between mid-June and mid-July (Loredo and Van Vuren 1996; Trenham et al. 2000). Juveniles remain active in their upland habitat, emerging from underground refugia during rainfall events to disperse or forage (Trenham and Shaffer 2005). Depending on location and other development factors, metamorphs will not return as adults to aquatic breeding habitat for 2 to 5 years (Loredo and Van Vuren 1996; Trenham *et al.* 2000).

Reproductive success for the California tiger salamander is low. Results from one study suggest that the average female bred 1.4 times over their lifespan and produced 8.5 young per reproductive effort that survived to metamorphosis (Trenham *et al.* 2000). This resulted in the output of roughly 11 metamorphic offspring over a breeding female's lifetime. The primary reason for low reproductive success may be that this relatively short-lived species requires two or more years to become sexually mature (Shaffer *et al.* 1993). Some individuals may not breed until they are 4 to 6 years old. While Central California tiger salamanders may survive for more than 10 years, many breed only once, and in one study, less than 5 percent of marked juveniles survived to become breeding adults (Trenham 1998b). With such low recruitment, isolated populations are susceptible to unusual, randomly occurring natural events as well human-caused factors that reduce breeding success and individual survival. Factors that repeatedly lower breeding success in isolated pools can quickly extirpate a population.

Dispersal and migration movements made by California tiger salamanders can be grouped into two main categories: (1) breeding migration; and (2) interpond dispersal. Breeding migration is the movement of salamanders to and from a pond from the surrounding upland habitat. After metamorphosis, juveniles move away from breeding ponds into the surrounding uplands, where they live continuously for several years. At a study in Monterey County, it was found that upon reaching sexual maturity, most individuals returned to their natal/birth pond to breed, while 20 percent dispersed to other ponds (Trenham *et al.* 2001). After breeding, adult California tiger salamanders return to upland habitats, where they may live for one or more years before attempting to breed again (Trenham *et al.* 2000).

California tiger salamanders are known to travel long distances between breeding ponds and their upland refugia. Generally it is difficult to establish the maximum distances traveled by any species, but salamanders in Santa Barbara County have been recorded dispersing up to 1.3 miles from their breeding ponds (Sweet 1998). As a result of a 5-year capture and relocation study in Contra Costa County, Orloff (2007) estimated that captured California tiger salamanders were traveling a minimum of 0.5 miles to the nearest breeding pond and that some individuals were likely traveling more than 1.3 miles to and from breeding ponds. California tiger salamanders are also known to travel between breeding ponds. One study found that 20 to 25 percent of the individuals captured at one pond were recaptured later at other ponds approximately 1,900 and 2,200 feet away (Trenham *et al.* 2001). In addition to traveling long distances during juvenile dispersal and adult migration, salamanders may reside in burrows far from their associated breeding ponds.

Although previously cited information indicates that California tiger salamanders can travel long distances, they typically remain close to their associated breeding ponds. A trapping study conducted in Solano County during the winter of 2002/2003 suggested that juveniles dispersed and used upland habitats further from breeding ponds than adults (Trenham and Shaffer 2005). More juvenile California tiger salamanders were captured at traps placed at 328, 656, and 1,312 feet from a breeding pond than at 164 feet. Approximately 20 percent of the captured juveniles were found at least 1,312 feet from the nearest breeding pond. The associated distribution curve suggested that 95 percent of juvenile California tiger salamanders were within 2,099 feet of the pond, with the remaining 5 percent being found at even greater distances. Preliminary results from the 2003-04 trapping efforts at the same study site detected juvenile California tiger salamanders at even further distances, with a large proportion of the captures at 2,297 feet from the breeding pond (Trenham 1998a). Surprisingly, most juveniles captured, even those at 2,100 feet, were still moving away from ponds. In Santa Barbara County, juvenile Santa Barbara County DPS California tiger salamanders have been trapped approximately 1,200 feet away while dispersing from their natal pond (Science Applications International Corporation, unpublished data). These data show that many California tiger salamanders travel far while still in the juvenile stage. Post-breeding movements away from breeding ponds by adults appear to be much smaller. During post-breeding emigration from aquatic habitat, radio-equipped adult California tiger salamanders were tracked to burrows between 62 to 813 feet from their breeding ponds (Trenham 2001). These reduced movements may be due to adult California tiger salamanders exiting the ponds with depleted physical reserves, or drier weather conditions typically associated with the post-breeding upland migration period.

California tiger salamanders are also known to use several successive burrows at increasing distances from an associated breeding pond. Although previously cited studies provide information regarding linear movement from breeding ponds, upland habitat features appear to have some influence on movement. Trenham (2001) found that radio-tracked adults were more abundant in grasslands with scattered large oaks, than in more densely wooded areas. Based on radio-tracked adults, there is no indication that certain habitat types are favored as terrestrial movement corridors (Trenham 2001). In addition, captures of arriving adults and dispersing new metamorphs were evenly distributed around two ponds completely encircled by drift fences and pitfall traps. Thus, it appears that dispersal into the terrestrial habitat occurs randomly with respect to direction and habitat types.

Threats: The Central California tiger salamander is imperiled throughout its range due to a variety of human activities (Service 2004). Current factors associated with declining Central California tiger salamander populations include continued habitat loss and degradation due to agriculture and urbanization; hybridization with the non-native eastern salamander (Fitzpatrick and Shaffer 2004; Riley *et al.* 2003); and predation by introduced species. Central California tiger salamander populations are likely threatened by multiple factors but continued habitat fragmentation and colonization of non-native salamanders may represent the most significant current threats. Habitat isolation and fragmentation within many watersheds have precluded dispersal between sub-populations. Other threats include predation and competition from introduced exotic species; possible commercial over-utilization; diseases; various chemical contaminants; road kill; and certain mosquito and rodent control operations. Currently, these various primary and secondary threats are largely not being offset by existing Federal, State, or local regulatory mechanisms. The Central California tiger salamander is also prone to chance environmental or demographic events to which small populations are particularly vulnerable.

Due to the extensive losses of vernal pool complexes and their limited distribution in the Bay Area region, many Central California tiger salamander breeding sites consist of artificial water bodies. Overall, 89 percent (124) of the identified water bodies are stock, farm, or berm ponds used by cattle

grazing and/or as a temporary water source for small farm irrigation (CDFW 2014). This places the Central California tiger salamander at great risk of hybridization with non-native tiger salamanders, especially in Santa Clara and San Benito counties. Without long-term maintenance, the longevity of artificial breeding habitats is uncertain relative to naturally occurring vernal pools that are dependent on the continuation of seasonal weather patterns (Shaffer in litt. 2003).

Status of the Species: Thirty-one percent (221 of 711 records and occurrences) of all Central California tiger salamander records and occurrences are located in Alameda, Santa Clara, San Benito (excluding the extreme western end of the County), southwestern San Joaquin, western Stanislaus, western Merced, and southeastern San Mateo counties. Of these counties, most of the records are from eastern Alameda and Santa Clara counties (Buckingham in litt. 2003; Service 2004; CDFW 2014). The California Department of Fish and Wildlife (2014) now considers 13 of these records from the Bay Area region as extirpated or likely to be extirpated.

Of the 140 reported Central California tiger salamander localities where wetland habitat was identified, only 7 percent were located in vernal pools (CDFW 2014). The Bay Area is located within the Central Coast and Livermore vernal pool regions (Keeler-Wolf et al. 1998). Vernal pools within the Coast Range are more sporadically distributed than vernal pools in the Central Valley (Holland 2003). This rate of loss suggests that vernal pools in these counties are disappearing faster than previously reported (Holland 2003). Most of the vernal pools in the Livermore Region in Alameda County have been destroyed or degraded by urban development, agriculture, water diversions, poor water quality, and long-term overgrazing (Keeler-Wolf et al. 1998). During the 1980s and 1990s, vernal pools were lost at a 1.1 percent annual rate in Alameda County (Holland 1998).

Due to the extensive losses of vernal pool complexes and their limited distribution in the Bay Area region, many Central California tiger salamander breeding sites consist of artificial water bodies. Overall, 89 percent (124) of the identified water bodies are stock, farm, or berm ponds used by cattle grazing and/or as a temporary water source for small farm irrigation (CDFW 2-14). This places the Central California tiger salamander at great risk of hybridization with non-native tiger salamanders, especially in Santa Clara and San Benito counties. Without long-term maintenance, the longevity of artificial breeding habitats is uncertain relative to naturally occurring vernal pools that are dependent on the continuation of seasonal weather patterns (Shaffer in litt. 2003).

Environmental Baseline

California Red-legged Frog

The action area is located within the East San Francisco Bay Core Area (Alameda Creek Hydrologic Sub-Area) and the Diablo Range and Salinas Valley Recovery Unit (Service 2002, 2006). The recovery action guidelines provide recommendations for minimizing the effects of various land and water uses, non-native species/predators, and air and water contamination in addition to outlining recommendations for habitat preservation. These recommendations assist in the conservation and recovery of the species, protect high quality habitat within core areas and priority watersheds, increase opportunities for dispersal, population expansion, and recolonization, and provide connectivity between core areas and occupied watersheds. The conservation needs for the East San Francisco Bay Core Area are: (1) protect existing populations; (2) control non-native predators; (3) study the effects of grazing in riparian corridors, ponds and uplands; (4) reduce impacts associated with livestock grazing; (5) protect habitat connectivity; (6) minimize effects of recreation and off-

road vehicle use, e.g. Corral Hollow watershed; (7) avoid and reduce impacts of urbanization; and (8) protect habitat buffers from nearby urbanization.

The project is located within the known range of the California red-legged frog. The California naturalized annual and perennial grasslands and coyote brush vegetation communities within the action area are part of a larger mosaic of essential habitat features sustaining a viable core population (i.e., sheltering, foraging, and dispersal) within the Livermore and Altamont foothills. The project footprint comprises the median habitat area between westbound and eastbound I-580. Species access to this area requires crossing either the westbound or the eastbound lanes. No culverts, underpasses or other means of access are available within the action area. California ground squirrel burrows and extant ground squirrel activity is present within this median habitat. Topography within the action area slopes toward the center of the vegetated median area into a concrete-lined drainage ditch that drains surface water runoff to the east. The drainage ditch does not support any freshwater emergent vegetation or areas of standing water.

Based on the biological assessment provided by Caltrans, the site visit conducted by the Service, and the evaluation performed by the Service, no known or potential breeding habitat is present within the action area; however, numerous, stock ponds, creeks and drainages are present within a one-mile radius of the action area. Caltrans identified a known breeding approximately 1.4 miles east of the action area within a stock pond adjacent to Mountain House Creek associated with CNDDB occurrence #133 (CDFW 2014). Eight CNDDB occurrences are reported within two miles of the action area (CDFW 2014). The entire action area is within dispersal distance of known and potential breeding sites and all vegetation communities with the exception on paved roadways and road shoulders within the action area are considered suitable upland and dispersal habitat. No focused California red-legged frog or roadkill surveys were conducted in preparation of the biological assessment.

Interstate 580 poses a significant barrier to the safe north-south movement and dispersal of California red-legged frogs in the portion of core habitat within the action area. A vegetated median between the eastbound and westbound lanes extends up to 600 feet in some areas and provides similar, but highly disturbed, ruderal upland and dispersal habitat. However, there are natural and artificial wildlife crossings outside of the action area that provide connectivity between habitat north and south of I-580 for California red-legged frogs, including underpasses for lightly-used railroads or roads such the one at Midway Road and drainage culverts and stream crossings (e.g. Mountain House Creek, Arroyo Las Positas) under the freeway.

The proposed action occurs within Conservation Zone 6 (CZ-6) of the East Alameda County Conservation Strategy (EACCS), which includes the Mountain House Creek Watershed (ICF International 2010). The action area contains two of the Conservation Strategy land cover types: alkali wetland and California annual grassland (ICF International 2010). EACCS modeling analysis determined that CZ-6 contains 61% (380 acres) of the area's unprotected alkali wetland and 12% (12,245 acres) of unprotected California annual grasslands. Conservation priorities for CZ-6 applicable to the proposed action include: 1) protection of alkali wetlands; 2) protection and restoration of seasonal wetlands and ponds to provide protected dispersal corridors between ponds and to increase habitat for California red-legged frog and Central California tiger salamander; and 3) protection of annual grasslands in areas where it provides non-breeding habitat for California red-legged frogs and Central California tiger salamanders (ICF International 2010). The proposed action is located within potential upland and movement habitat as modeled in Figure D-9 of EACCS (ICF International 2010).

The Service believes that the California red-legged frog is reasonably certain to occur within the action area because: (1) the project is located within the species' range and current distribution, and within the East San Francisco Bay Core Area; (2) the project area is modeled for the species' presence in the EACCS; (3) there is suitable upland, movement and dispersal habitat within the action area and potential breeding habitat nearby; (4) the habitat within the action area is similar to that which is found in nearby areas with confirmed California red-legged frog occupancy; (5) there is a known breeding pond 1.4 miles east of the action area; (6) there are no significant barriers to California red-legged frog movement between confirmed occupied areas and the action area; (7) the lack of significant disturbance or history of significant threats to the species in the general vicinity; and (8) the biology and ecology of the animal.

Central California Tiger Salamander

The project is located within the known range of the Central California tiger salamander population. Suitable upland and dispersal habitat are present in the action area within the California naturalized annual and perennial grasslands and coyote brush scrub vegetation communities. During the April 24, 2014 site visit, numerous fossorial burrows, and California ground squirrel activity were observed throughout the action area, which provide suitable aestivation, foraging, and refugia habitat for Central California tiger salamanders. Based on the biological assessment, no known or potential breeding habitat is present within the action area. Six CNDDB occurrences are reported within two miles of the action area (CDFW 2014). Two of which occur within 0.5-mile of the action area to the south. Occurrence #543 was reported from an unnamed, vegetated intermittent creek approximately 250 feet from south of the action area (CDFW 2014). Although the occurrence was non-specific about the exact location from 1987, the habitat is still present and is therefore considered extant. Breeding (occ. # 132) was reported from was reported from a stock pond that feeds the unnamed creek where the former occurrence was located (CDFW 2014). The stock pond is located approximately 0.5-mile south of the action area. The entire action area is within the maximum-recorded dispersal distance of 1.24 miles from known and potential breeding sites and all California naturalized annual and perennial grasslands and coyote brush scrub vegetation communities within the action area provide suitable upland and dispersal habitat. No focused Central California tiger salamander or roadkill surveys were conducted in preparation of the biological assessment.

Grassland habitat south of I-580 exhibits the characteristics of upland and dispersal habitat, and is largely undeveloped except for lands near Greenville Road and North Flynn Road. The majority of this land is actively grazed and is leased to wind turbine power generating companies. Fossorial mammal activity is scattered throughout the action area and lands adjacent. Movement among land north and south of I-580 is relatively unrestricted. The Service anticipates undeveloped habitats north and south of I-580 to be inhabited with greater occupancy and abundance than habitat within the vegetated median due to the quality and accessibility of habitat within the action area.

Interstate 580 poses a significant barrier to the safe north-south movement and dispersal of Central California tiger salamanders in the portion of core habitat within the action area. The vegetated median between the eastbound and westbound lanes extends up to 600 feet in some areas and provides similar, but highly disturbed, ruderal upland and dispersal habitat. However, there are natural and artificial wildlife crossings outside of the action area that provide connectivity between habitat north and south of I-580 for Central California tiger salamanders, including underpasses for lightly-used railroads or roads such the one at Midway Road and drainage culverts and stream crossings (e.g. Mountain House Creek, Arroyo Las Positas) under the freeway.

The proposed action occurs within Conservation Zone 6 (CZ-6) of the East Alameda County Conservation Strategy (EACCS), which includes the Mountain House Creek Watershed (ICF International 2010). The action area contains two of the Conservation Strategy land cover types: alkali wetland and California annual grassland (ICF International 2010). EACCS modeling analysis determined that CZ-6 contains 61% (380 acres) of the area's unprotected alkali wetland and 12% (12,245 acres) of unprotected California annual grasslands. Conservation priorities for CZ-6 applicable to the proposed action include: 1) protection of alkali wetlands; 2) protection and restoration of seasonal wetlands and ponds to provide protected dispersal corridors between ponds and to increase habitat for California red-legged frog and Central California tiger salamander; and 3) protection of annual grasslands in areas where it provides non-breeding habitat for California red-legged frogs and Central California tiger salamanders (ICF International 2010). The proposed action is located within potential upland habitat as modeled in Figure D-8 of EACCS (ICF International 2010).

The Service believes that the Central California tiger salamander is reasonably certain to occur within the action area because: (1) the project is located within the species' range and current distribution; (2) the project area is modeled for the species' presence in the EACCS; (3) there is suitable upland, movement and dispersal habitat within the action area and potential breeding habitat nearby; (4) the habitat within the action area is similar to that which is found in nearby areas with confirmed Central California tiger salamander occupancy; (5) there are larval and adult Central California tiger salamander observations approximately than 0.5-mile to the south of the action area; (6) nearby observations are well within the known travel distance of a Central California tiger salamander; (7) there are no significant barriers to salamander movement between confirmed occupied areas and the action area; (8) the lack of significant disturbance or history of significant threats to the species in the general vicinity; and (9) the biology and ecology of the animal.

Effects of the Action

California Red-legged Frog and Central California Tiger Salamander

The proposed project will likely adversely affect the threatened California red-legged frog and Central California tiger salamander by killing, injuring, harming, and/or harassing juveniles and adults inhabiting suitable upland and dispersal habitat within the action area. The aspects of the proposed action most likely to affect the California red-legged frog or Central California tiger salamander are largely confined to the construction phase of the project associated with the construction of the 1,200 foot tie-back retaining wall, shoulder widening, and installation of a median barrier, electrical conduit and pull boxes. Additional effects may occur due to the replacement of metal beam guardrail with a concrete barrier, which will act as a barrier to movement across I-580. This may increase the amount of time a California red-legged frog or Central California tiger salamander is exposed on the road surface subjecting them to vehicle strikes or predation. The total length of concrete barriers within the action area will be approximately 0.5-mile.

Construction noise, vibration, and increased human activity may interfere with normal behaviors – feeding, sheltering, movement between refugia and foraging grounds, and other essential behaviors of the California red-legged frog and Central California tiger salamander – resulting in avoidance of areas that have suitable habitat but intolerable levels of disturbance. Short-term temporal effects will occur when vegetative cover and subterranean upland habitat is removed during project construction. Caltrans proposes to minimize these effects, in part, by locating construction staging, storage and parking areas outside of sensitive habitat; clearly marking construction work boundaries

to prevent crews from affecting more habitat than is absolutely necessary, and revegetating all unpaved areas disturbed by project activities. Additionally, Caltrans will avoid wetland habitat and will install ESA fencing to ensure workers and equipment does not affect the habitat.

The proposed construction activities could result in the introduction of chemical contaminants to the site. Frogs and salamanders using these areas could be exposed to any contaminants that are present at the site. Exposure pathways could include inhalation, dermal contact, direct ingestion, or secondary ingestion of contaminated soil, plants, or prey species. Exposure to contaminants could cause short- or long-term morbidity, possibly resulting in reduced productivity or mortality. Caltrans proposes to minimize these risks by implementing a Storm Water Pollution Prevention Plan, erosion control BMPs, and a Spill Response Plan, which will consist of refueling, oiling or cleaning of vehicles and equipment a minimum of 100 feet from aquatic resources; installing coir rolls, straw wattles and/or silt fencing to capture sediment and prevent runoff or other harmful chemicals from entering the wetland; and locating staging, storage and parking areas away from aquatic habitats.

Preconstruction surveys and the relocation of individual California red-legged frogs and Central California tiger salamanders by a Service-approved biologist will minimize the likelihood of serious injury or mortality; however, capturing and handling frogs may result in stress and/or minor injury during handling, containment, and transport. Death and injury of individuals could occur at the time of relocation or later in time subsequent to their release. Although survivorship for translocated amphibians has not been estimated, survivorship of translocated wildlife, in general, is low because of intraspecific competition, lack of familiarity with the relocation site with regards to breeding, feeding, and sheltering habitats, risk of contracting disease in foreign environment, and increased risk of predation. These effects will be minimized by using qualified Service-approved biologists, limiting the duration of handling, and relocating amphibians to suitable nearby habitat.

Biologists and construction workers traveling to the action area from other project sites may transmit diseases by introducing contaminated equipment. The chance of a disease being introduced into a new area is greater today than in the past due to the increasing occurrences of disease throughout amphibian populations in California and the United States. It is possible that chytridiomycosis, caused by chytrid fungus (*Batrachochytrium dendrobatidis*), may exacerbate the effects of other diseases on amphibians or increase the sensitivity of the amphibian to environmental changes (e.g., water pH) that reduce normal immune response capabilities (Bosch et al. 2001, Weldon et al. 2004). Implementing proper decontamination procedures prior to and following aquatic surveys and handling of frogs and salamanders will minimize the risk of transferring diseases through contaminated equipment or clothing.

Temporary effects comprise areas denuded, manipulated, or otherwise modified from their existing, pre-project conditions, thereby removing one or more essential components of a listed species' habitat as a result of project activities that include, but are not limited to, construction, staging, storage, lay down, vehicle access, parking, etc. Temporary effects must be restored to baseline habitat values or better within one year following initial disturbance. Areas subject to ongoing operations and maintenance are not considered temporary even if they are restored within one year following initial disturbance. Affected areas not fulfilling these criteria are considered permanent. Construction within upland habitat, e.g. construction of the 1,200 foot tie-back retaining wall, shoulder widening, and installation of a median barrier, electrical conduit and pull boxes would result in the permanent loss and/or degradation of 0.15-acre of California red-legged frog and Central California tiger salamander upland and dispersal habitat; and the temporary loss and/or degradation of 1.54 acres of California red-legged frog and Central California tiger salamander

upland and dispersal habitat. Caltrans has proposed a compensatory habitat conservation measure at a ratio of 3:1 (acres of compensation to acres of habitat loss) for permanent effects and 1.1:1 for temporary effects.

These effects will be further minimized by installing environmentally sensitive area fencing to keep workers from straying into otherwise undisturbed habitat; erecting wildlife exclusion fencing to deter frogs and salamanders from wandering onto the construction site; implementing storm water and erosion BMP's; educating workers about the presence of California red-legged frogs and Central California tiger salamanders, their habitat, identification, regulatory laws, and avoidance and minimization measures; and requiring a Service-approved biologist(s) to be present to monitor project activities within or adjacent to suitable habitat.

Cumulative Effects

Cumulative effects include the effects of future State, Tribal, local or private actions that are reasonably certain to occur in the action area considered in this biological opinion. Future Federal actions that are unrelated to the proposed action are not considered in this section because they require separate consultation pursuant to section 7 of the Act. No other State, Tribal, local or private actions are anticipated in the action area within the foreseeable future.

The global average temperature has risen by approximately 0.6 degrees centigrade during the 20th Century (International Panel on Climate Change 2001, 2007; Adger et al 2007). There is an international scientific consensus that most of the warming observed has been caused by human activities (International Panel on Climate Change 2001, 2007; Adger et al. 2007), and that it is "very likely" that it is largely due to increasing concentrations of greenhouse gases (carbon dioxide, methane, nitrous oxide, and others) in the global atmosphere from burning fossil fuels and other human activities (Cayan 2005, EPA Global Warming webpage http://yosemite. epa.gov; Adger et al. 2007). Eleven of the twelve years between 1995 and 2006 rank among the twelve warmest years since global temperatures began in 1850 (Adger et al. 2007). The warming trend over the last fifty years is nearly twice that for the last 100 years (Adger et al. 2007). Looking forward, under a high emissions scenario, the International Panel on Climate Change estimates that global temperatures will rise another four degrees centigrade by the end of this Century; even under a low emissions growth scenario, the International Panel on Climate Change estimates that the global temperature will go up another 1.8 degrees centigrade (International Panel on Climate Change 2001). The increase in global average temperatures affects certain areas more than others. The western United States, in general, is experiencing more warming than the rest of the Nation, with the 11 western states averaging 1.7 degrees Fahrenheit warmer temperatures than this region's average over the 20th Century (Saunders et al. 2008). California, in particular, will suffer significant consequences as a result of global warming (California Climate Action Team 2006). In California, reduced snowpack will cause more winter flooding and summer drought, as well as higher temperatures in lakes and coastal areas. The incidence of wildfires in the Golden State also will increase and the amount of increase is highly dependent upon the extent of global warming. No less certain than the fact of global warming itself is the fact that global warming, unchecked, will harm biodiversity generally and cause the extinction of large numbers of species. If the global mean temperatures exceed a warming of two to three degrees centigrade above pre-industrial levels, twenty to thirty percent of plant and animal species will face an increasingly high risk of extinction (International Panel on Climate Change 2001, 2007). The mechanisms by which global warming may push already imperiled species closer or over the edge of extinction are multiple. Global warming increases the frequency of extreme weather events, such as heat waves, droughts, and storms (International Panel on Climate Change 2001, 2007; California Climate Action Team 2006; Lenihan et al. 2003). Extreme events, in

turn may cause mass mortality of individuals and significantly contribute to determining which species will remain or occur in natural habitats. Ongoing global climate change (Anonymous 2007; Inkley et al. 2004; Adger et al. 2007; Kanter 2007) likely imperils the California red-legged frog, California tiger salamander and the resources necessary for their survival. Since climate change threatens to disrupt annual weather patterns, it may result in a loss of their habitats and/or prey, and/or increased numbers of their predators, parasites, and diseases. Where populations are isolated, a changing climate may result in local extinction, with range shifts precluded by lack of habitat.

Conclusion

After reviewing the current status of the California red-legged frog and Central California tiger salamander; the environmental baseline for the action area; the effects of the proposed I-580 North Flynn Road Slipout Project and the cumulative effects; it is the Service's biological opinion that the project, as proposed, is likely to adversely affect both species, but is not likely to jeopardize their continued existence. This determination is based on our opinion that the magnitude of the effects of this action does not appreciably reduce the likelihood of both the survival and recovery of these species in the wild.

INCIDENTAL TAKE STATEMENT

Section 9(a)(1) of the Act and Federal regulation pursuant to section 4(d) of the Act prohibit the take of endangered and threatened fish and wildlife species without special exemption. Take is defined as harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect, or to attempt to engage in any such conduct. Harass is defined by the Service as an intentional or negligent act or omission which creates the likelihood of injury to a listed species by annoying it to such an extent as to significantly disrupt normal behavioral patterns which include, but are not limited to, breeding, feeding, or sheltering. Harm is defined by the Service to include significant habitat modification or degradation that results in death or injury to listed species by impairing behavioral patterns including breeding, feeding, or sheltering. Incidental take is defined as take that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity. Under the terms of section 7(b)(4) and section 7(o)(2), taking that is incidental to and not intended as part of the agency action is not considered to be prohibited taking under the Act provided that such taking is in compliance with this Incidental Take Statement.

The measures described below are non-discretionary, and must be implemented by Caltrans so that they become binding conditions of any grant or permit issued to Caltrans, as appropriate, in order for the exemption in section 7(o)(2) to apply. Caltrans has a continuing duty to regulate the activity covered by this incidental take statement. If Caltrans (1) fails to require Caltrans to adhere to the terms and conditions of the incidental take statement through enforceable terms that are added to the permit or grant document, and/or (2) fails to retain oversight to ensure compliance with these terms and conditions, the protective coverage of section 7(o)(2) may lapse.

Amount or Extent of Take

California Red-Legged Frog

The Service anticipates that incidental take of the California red-legged frog will be difficult to detect due to their cryptic nature and wariness of humans. Losses of this species may also be difficult to quantify due to a lack of baseline survey data and seasonal/annual fluctuations in their numbers due

to environmental or human-caused disturbances. Due to the difficulty in quantifying the number of California red-legged frogs that will be taken as a result of the proposed action, the Service is quantifying take incidental to the proposed action as the mortality/injury of no more than one California red-legged frogs and the harassment of all California red-legged frogs inhabiting or utilizing the 27.8-acre action area. The Service anticipates that take of juvenile and adult life history stages may be killed, harmed or harassed as a result of habitat loss/degradation, construction-related disturbance, or capture and relocation efforts. Upon implementation of the following Reasonable and Prudent Measures, all juvenile and adult California red-legged frogs within the action area in accordance with the amount and type of take outlined above will become exempt from the prohibitions described under section 9 of the Act. No other forms of take are authorized under this opinion.

Central California Tiger Salamander

The Service anticipates that incidental take of the Central California tiger salamander will be difficult to detect due of their cryptic nature, subterranean lifestyle, and predominately nocturnal behavior. Losses of this species may also be difficult to quantify due to seasonal/annual fluctuations in their numbers due to environmental or human-caused disturbances. Due to the difficulty in quantifying the number of Central California tiger salamanders that will be taken as a result of the proposed action, the Service is quantifying take incidental to the proposed action as the mortality/injury of one Central California tiger salamanders and harassment of all Central California tiger salamanders inhabiting or utilizing the 27.8-acre action area. The Service anticipates that take of juvenile or adult California tiger salamanders may result from habitat loss/degradation, construction-related Central disturbance, or capture and relocation efforts. Upon implementation of the following Reasonable and Prudent Measures, all juvenile and adult Central California tiger salamanders within the action area in accordance with the amount and type of take outlined above will become exempt from the prohibitions described under section 9 of the Act. No other forms of take are authorized under this opinion.

Effect of the Take

In the accompanying biological opinion, the Service determined that the level of anticipated take is not likely to result in jeopardy to the California red-legged frog or Central California tiger salamander.

Reasonable and Prudent Measures

The Service has determined that the following reasonable and prudent measure is necessary and appropriate to minimize impacts of incidental take of California red-legged frog or Central California tiger salamander:

1. Minimize the effects to the California red-legged frog and Central California tiger salamander by implementing the project description as described and adhering to the following terms and conditions.

Terms and Conditions

In order to be exempt from the prohibitions of section 9 of the Act, Caltrans must comply with the following terms and conditions, which implement the reasonable and prudent measure, described

above and outline required reporting/monitoring requirements. These Terms and Conditions are nondiscretionary.

The following Terms and Conditions implement the Reasonable and Prudent Measure number 1:

1. **Compliance with Biological Opinion**. Caltrans shall include Special Provisions that include the Conservation Measures and the Terms and Conditions of this biological opinion in the solicitation for bid information for all contracts for the project that are issued by them to all contractors. Caltrans shall require all contractors and subcontractors to comply with the Act in the performance of the proposed action and shall perform the action as outlined in the Project Description of this biological opinion as provided by Caltrans in the Biological Assessment dated August 2013, and all other supporting documentation submitted to the Service in support of the action. Changes to the Project Description or performance of work outside the scope of this biological opinion are subject to the requirements of reinitiation of formal consultation.

2. **Implementation of Biological Opinion**. Caltrans shall ensure the Resident Engineer or their designee shall have full authority to implement and enforce all Conservation Measures and Terms and Conditions of this biological opinion. The Resident Engineer or their designee shall maintain a copy of this biological opinion onsite whenever construction is in progress. Their name(s) and telephone number(s) shall be provided to the Service at least 30 calendar days prior to groundbreaking at the project.

3. **Proposed Compensation**. The compensation measures proposed by Caltrans and outlined in Table 1 will minimize the effects of harm on the California red-legged frog and Central California tiger salamander. Habitat considered for compensation shall comprise high quality breeding, foraging, sheltering, migration, and/or dispersal habitat. Caltrans shall comply with all applicable CDFW regulations pertaining to mitigation for species designated as fully protected and/or listed by the State. Compensation shall be implemented in accordance with the Selected Review Criteria for section 7 Off-Site Compensation provided in Appendix A. If conservation banking credits are to be purchased, Caltrans shall submit a conceptual compensation plan to the Service for review and approval prior to the purchase of credits. If the proposed compensation scheme is not fully implemented, Caltrans shall provide an alternative compensation scheme to be reviewed and approved by the Service. On-site restoration of temporarily affected areas may qualify as compensation at a 1:1 ratio if it is restored within one calendar year following project completion and the conditions are verified by the Service. All compensation will be acquired prior to the beginning of earthmoving for the project.

4. **Biological Monitor Approval and Stop Work Authority**. The qualifications of all proposed Service-approved biological monitors shall be presented to the Service for review and written approval at least 30 calendar days prior to project initiation. The Service-approved biological monitors shall keep a copy of this biological opinion in his/her possession when onsite. The Service-approved biological monitors shall communicate through the Resident Engineer or their designee, verbally, by telephone, email, or hardcopy with Caltrans personnel, construction personnel or any other person(s) at the project site or otherwise associated with the project to ensure that the terms and conditions of this biological opinion are met. The Service-approved biologist(s) through communication with the Resident Engineer shall have oversight over implementation of the Terms and Conditions in this Biological Opinion, and shall have the authority to stop project activities if

they determine any of the requirements associated with these Terms and Conditions are not being fulfilled. If the Service-approved biologist(s) exercises this authority, the Service shall be notified by telephone and email within 24 hours. The Service contact is Coast-Bay/Forest Foothills Division Chief of the Endangered Species Program, Sacramento Fish and Wildlife Office at telephone (916) 414-6600.

5. **Biological Monitoring Records**. The Service-approved biologist(s) shall maintain monitoring records that include: (1) the beginning and ending time of each day's monitoring effort; (2) a statement identifying the listed species encountered, including the time and location of the observation; (3) the time the specimen was identified and by whom and its condition; and (4) a description of any actions taken. The Service-approved biologist(s) shall maintain complete records in their possession while conducting monitoring activities and shall immediately surrender records to the Service, CDFW, and/or their designated agents upon request. If requested, all monitoring records shall be provided to the Service within 30 of the completion of monitoring work.

6. **Agency Access**. If verbally requested through the Resident Engineer or Construction Inspector, before, during, or upon completion of ground breaking and construction activities, Caltrans shall ensure the Service or their designated agents can immediately and without delay, access and inspect the project site for compliance with the proposed project description, conservation measures, and terms and conditions of this Biological Opinion, and to evaluate project effects to the California red-legged frog and Central California tiger salamander and their habitat.

7. **Inclement Weather Restrictions**. No work shall occur during or within 24 hours following a rain event exceeding 0.2-inch as measured by the NOAA National Weather Service for the Livermore, CA (KLVK) base station available at: http://www.wrh.noaa.gov/mesowest/getobext.php?wfo=mtr&sid=KLVK&num=72&raw=0. Service-approval to continue work during or within 24 hours of a rain event shall be considered on a case-by-case basis.

8. **Proper Use of Erosion Control Devices**. To prevent California red-legged frogs and Central California tiger salamanders from becoming entangled, trapped, or injured, erosion control materials that use plastic or synthetic monofilament netting will not be used within the action area. This includes products that use photodegradable or biodegradable synthetic netting, which can take several months to decompose. Acceptable materials include natural fibers such as jute, coconut, twine or other similar fibers.

9. **Biological Monitoring**. A Service-approved biologist(s) shall be onsite during all activities that may result in take of California red-legged frogs or Central California tiger salamanders as determined by the Service. A minimum of one Service-approved biologist shall be on-site throughout the project duration. However, an adequate number of Service-approved biologists to monitor the effects of the project on the California red-legged frog and Central California tiger salamander. The Service will consider the implementation of specific project activities without the oversight of an on-site Service-approved biologist on a case-by-case basis.

10. **Preconstruction and Daily Surveys**. Preconstruction surveys shall be conducted by a Service-approved biologist immediately prior to the initiation of any ground disturbing activities and vegetation clearing that may result in take of California red-legged frogs and

Central California tiger salamanders as determined by the Service. All suitable aquatic and upland habitat including refugia habitat such as dense vegetation, small woody debris, refuse, burrows, etc., shall be thoroughly inspected. The Service-approved biologist(s) shall conduct clearance surveys at the beginning of each day and regularly throughout the workday when construction activities are occurring that may result in take of California red-legged frogs and Central California tiger salamanders as determined by the Service. If a California red-legged frog and Central California tiger salamander is observed, the Service-approved biologist shall implement the species observation and handling protocol outlined below.

11. **Protocol for Species Observation and Handling**. If a California red-legged frog or Central California tiger salamander is encountered in the action area, work activities within 50 feet of the individual shall cease immediately and the Resident Engineer and Service-approved biologist shall be notified. Based on the professional judgment of the Service-approved biologist, if project activities can be conducted without harming or injuring the California red-legged frog or Central California tiger salamander, it may be left at the location of discovery and monitored by the Service-approved biologist. All project personnel will be notified of the finding and at no time shall work occur within 50 feet of the California red-legged frog or Central California tiger salamander without a Service-approved biologist present. If it is determined by the Service-approved biologist that relocating the California red-legged frog or Central California tiger salamander is necessary, the following steps shall be followed:

    a. Prior to handling and relocation, the Service-approved biologist will take precautions to prevent introduction of amphibian diseases in accordance with the *Revised Guidance on Site Assessments and Field Surveys for the California Red-legged Frog* (Service 2005) and *Interim Guidance on Site Assessment and Field Surveys for Determining Presence or a Negative Finding of the California Tiger Salamander* (Service 2003). Disinfecting equipment and clothing is especially important when biologists are coming to the action area to handle amphibians after working in other aquatic habitats.

    b. California red-legged frogs and Central California tiger salamanders shall be captured by hand, dipnet, or other Service-approved methodology, transported and relocated to nearby suitable habitat outside of the work area and released as soon as practicable the same day of capture. Handling of California red-legged frogs and Central California tiger salamanders shall be captured by hand, dipnet, or other Service-approved methodology, transported will be minimized to the maximum extent practicable. Holding/transporting containers and dipnets shall be thoroughly cleaned, disinfected, and rinsed with freshwater prior to use within the action area.

    c. California red-legged frogs and Central California tiger salamanders shall be captured by hand, dipnet, or other Service-approved methodology, transported and relocated to nearby suitable habitat outside of the work area and released in a safe area on the same side of I-580 where it was discovered. The individual(s) shall be released within the Caltrans right-of-way only if suitable habitat exists and would not pose a risk to the animal's survival or well-being. Otherwise, they shall be released at a location subject to the approval of the property owner. If suitable habitat cannot be identified, the Service shall be contacted to determine an acceptable alternative. The Service shall be notified within 24 hours of all capture, handling, and relocation efforts.

The Service believes that no more than two California red-legged frogs and Central California tiger salamanders will be incidentally taken as a result of the proposed action. The reasonable and prudent measures, with their implementing terms and conditions, are designed to minimize the impact of incidental take that might otherwise result from the proposed action. If, during the course of the action, this level of incidental take is exceeded, such incidental take represents new information requiring reinitiation of consultation and review of the reasonable and prudent measures provided. Caltrans must immediately provide an explanation of the causes of the taking and review with the Service the need for possible modification of the reasonable and prudent measures.

Reporting Requirements

In order to monitor whether the amount or extent of incidental take anticipated from implementation of the project is approached or exceeded, Caltrans shall adhere to the following reporting requirements. Should this anticipated amount or extent of incidental take be exceeded, Caltrans must reinitiate formal consultation as per 50 CFR 402.16.

1. The Service must be notified within one (1) working day of the finding of any injured or dead listed species or any unanticipated damage to its habitat associated with the proposed project. Notification will be made to the Coast-Bay/Forest Foothills Division Chief of the Endangered Species Program at the Sacramento Fish and Wildlife Office at (916) 414-6600, and must include the date, time, and precise location of the individual/incident clearly indicated on a U.S. Geological Survey 7.5 minute quadrangle or other maps at a finer scale, as requested by the Service, and any other pertinent information. When an injured or dead individual of the listed species is found, Caltrans shall follow the steps outlined in the Disposition of Individuals Taken section below.

2. Other pertinent reporting information such as monitoring reports (if not included as a term and condition), notification of project completion/implementation, etc. including when this information is due to the Service.

Disposition of Individuals Taken

Injured listed species must be cared for by a licensed veterinarian or other qualified person(s), such as the Service-approved biologist. Dead individuals must be sealed in a resealable plastic bag containing a paper with the date and time when the animal was found, the location where it was found, and the name of the person who found it, and the bag containing the specimen frozen in a freezer located in a secure site, until instruction s are received from the Service regarding the disposition of the dead specimen. The Service contact persons are the Coast-Bay/Forest Foothills Division Chief of the Endangered Species Program at the Sacramento Fish and Wildlife Office at (916) 414-6600; and the Resident Agent-in-Charge of the Service's Office of Law Enforcement, 5622 Price Way, McClellen, California 95562, at (916) 569-8444.

CONSERVATION RECOMMENDATIONS

Section 7(a)(1) of the Act directs Federal agencies to utilize their authorities to further the purposes of the Act by carrying out conservation programs for the benefit of endangered and threatened species. Conservation recommendations are discretionary agency activities to minimize or avoid adverse effects of a proposed action on listed species or critical habitat, to help implement recovery plans, or to develop information. The Service recommends the following actions:

1. Caltrans District 4 should work with the Service to develop a conservation strategy that would identify the current safe passage potential along Bay Area highways and the areas where safe passage for wildlife could be enhanced or established.

2. Caltrans should assist the Service in implementing recovery actions identified in the *Recovery Plan for the California Red-legged Frog* (Service 2002), the *Draft Recovery Plan for Chaparral and Scrub Community Species East of San Francisco Bay*, California (Service 2003), and the *Recovery Plan for Upland Species of the San Joaquin Valley, California* (Service 1998).

3. Caltrans should consider participating in the planning for a regional habitat conservation plan for the Central California tiger salamander, California red-legged frog, San Joaquin kit fox, other listed species, and sensitive species.

4. Caltrans should consider establishing functioning preservation and creation conservation banking systems to further the conservation of the California red-legged frog, Central California tiger salamander, and other appropriate species. Such banking systems also could possibly be utilized for other required mitigation (i.e., seasonal wetlands, riparian habitats, etc.) where appropriate. Efforts should be made to preserve habitat along roadways in association with wildlife crossings.

5. Roadways can constitute a major barrier to critical wildlife movement. Therefore, Caltrans should incorporate culverts, tunnels, or bridges on highways and other roadways that allow safe passage by the Central California tiger salamander, California red-legged frog, Alameda whipsnake, San Joaquin kit fox, other listed animals, and wildlife. Photographs, plans, and other information into the BAs if "wildlife friendly" crossings are incorporated into projects. Efforts should be made to establish upland culverts designed specifically for wildlife movement rather than accommodations for hydrology. Transportation agencies should also acknowledge the value of enhancing human safety by providing safe passage for wildlife in their early project design.

In order for the Service to be kept informed of actions minimizing or avoiding adverse effects or benefiting listed species or their habitats, the Service requests notification of the implementation of any conservation recommendations.

REINITIATION--CLOSING STATEMENT

This concludes formal consultation on the I-580 North Flynn Road Slipout Project. As provided in 50 CFR §402.16, reinitiation of formal consultation is required where discretionary Federal agency involvement or control over the action has been retained (or is authorized by law) and if: (1) the amount or extent of incidental take is exceeded; (2) new information reveals effects of the agency action that may affect listed species or critical habitat in a manner or to an extent not considered in this opinion; (3) the agency action is subsequently modified in a manner that causes an effect to the listed species or critical habitat not considered in this opinion; or (4) a new species is listed or critical habitat designated that may be affected by the action. In instances where the amount or extent of incidental take is exceeded, any additional take will not be exempt from the prohibitions of section 9 of the Act, pending reinitiation.

If you have any questions regarding this biological opinion on the proposed I-580 North Flynn Road Slipout Project, Alameda County, California, contact Jerry Roe (jerry_roe@fws.gov) or Ryan Olah (ryan_olah@fws.gov) at the letterhead address or at (916) 414-6600.

Sincerely,

Jennifer M. Norris
Field Supervisor

Enclosure

cc:
Melissa Escaron, California Department of Fish and Wildlife, Napa, California

LITERATURE CITED

Adger, N., P.Aggarwal, S. Agrawala, J. Alcamo, A. Allali, O. Anisimov, N. Arnell, M. Boko, O. Canziani, T. Carter, G. Cassa, U. Confalonieri, R. Cruz, E. de Alba Alcaraz, W. Eastreling, C. Field, A. Fischlin, B. Fitzharris, C.G. Garcia, C. Hanson, H. Harasawa, K. Hennessy, S. Huq, R. Jones, L. K. Bogataj, D. Karoly, R. Klein, Z. Kundzewicz, M. Lal, R. Lasco, G. Love, X. Lu, G. Magrin, L.J. Mata, R. McLean, B. Menne, G. Midgley, N. Mimura, M.Q. Mirza, J. Moreno, L. Mortsch, I. Niang-Diop, R. Nichols, B. Novaky, L. Nurse, A. Nyon, M. Oppenheimer, J. Palutikof, M. Parry, A. Patwardhan, P. R. Lankao, C. Rosenzweig, S. Schneider, S. Semenov, J. Smith, J. Stone, J van Ypersele, D. Vaughan, C. Vogel, T. Wilbanks, P. Wong, S. Wu, and G. Yohe. 2007. Working Group II Contribution to the Intergovernmental Panel on Climate Change Fourth Assessment Report. Climate Change 2007: Climate Change Impacts, Adaptation and Vulnerability. Brussels, Belgium.

Anderson, J. D. 1968. Comparison of the Food Habits of *Ambystoma macrodactylum sigillatum*, *Ambystoma macrodactylum croceum*, and *Ambystoma tigrinum californiense*. Herpetologica 24(4): 273-284.

Anderson, P. R. 1968. The Reproductive and Developmental History of the California Tiger Salamander. Masters thesis, Department of Biology, Fresno State College, Fresno, California. 82 pages.

Anonymous. 2007. Global Warming is Changing the World. Science 316:188-190.

Barry, S. 1992. Letter to Marvin L. Plenert, Regional Director, U.S. Fish and Wildlife Service, Portland, Oregon, regarding proposed listing.

Barry, S. J. and H. B. Shaffer. 1994. The Status of the California Tiger Salamander (*Ambystoma californiense*) at Lagunita: A 50-year update. Journal of Herpetology 28(2): 159-164.

Barry, S. J. and H. B. Shaffer. 1994. The Status of the California Tiger Salamander (*Ambystoma californiense*) at Lagunita: A 50-year update. Journal of Herpetology 28(2): 159-164.

Bosch J, I. Martínez-Solano, M. García-París. 2001. Evidence of a Chytrid Fungus Infection Involved in the Decline of the Common Midwife Toad (*Alytes obstetricans*) in Protected Areas of Central Spain. Biological Conservation 97:331–337.

Buckingham, J. 2003. Biological Resources Studies Conducted for Carnegie State Vehicle Recreation Area in 2003. In litt.

Bulger, J. B., N. J. Scott Jr., and R. B. Seymour. 2003. Terrestrial Activity and Conservation of Adult California Red-Legged Frogs *Rana aurora draytonii* in Coastal Forests and Grasslands. Biological Conservation 110:85-95.

Bury, R.B and J.A. Whelan. 1984. Ecology and Management of the Bullfrog. Fish and Wildlife Service/Resource Publication 155.

California Climate Action Team. 2006. Climate Action Team Report to Governor Schwarzenegger and the Legislature. California Environmental Protection Agency, Sacramento, California.

California Department of Fish and Wildlife (CDFW). 2014. RAREFIND. California Natural Diversity Data Base, Natural Heritage Division, Sacramento, California.

California Department of Transportation (Caltrans). 2013. Interstate 580 North Flynn Road Slipout Project, Caltrans District 4, Alameda County, California. August.

Cayan, D. 2005. Northern Hemisphere Spring Warming During the Past Five Decades: Links to Snow Cover Losses. Presented at 16th Conference on Climate Variability and Change.

Scripps Institute of Oceanography, University of California, San Diego. January 13, 2005.

Davidson, E. W., M. Parris, J. P. Collins, J. E. Longcore, A. P. Pessier, J. Brunner. 2003. Pathogenicity and transmission of *Chytridiomycosis* in tiger salamanders (*Ambystoma tigrinum*). Copeia 2003(3):601–607.

Emlen, S. T. 1977. "Double Clutching" and its Possible Significance in the Bullfrog. Copeia 1977(4):749-751.

Feaver, P. E. 1971. Breeding Pool Selection and Larval Mortality of Three California Amphibians: *Ambystoma tigrinum californiense* Gray, *Hyla regilla* Baird and Girard and *Scaphiopus hammondi hammondi* Girard. Master's thesis, Department of Biology, Fresno State College, Fresno California. 58 pages.

Fellers, G. 2005. *Rana draytonii* Baird and Girard, 1852b California Red-Legged Frog. Pages 552-554 *in* M. Lannoo (editor). Amphibian Declines: The Conservation Status of United States Species. University of California Press. Berkeley, California.

Fisher, R. N., and H. B. Schaffer. 1996. The Decline of Amphibians in California's Great Central Valley. Conservation Biology 10(5):1387-1397.

Fitzpatrick, B. M. an H. B. Shaffer. 2004. Environmental-Dependent Admixture Dynamics in a Tiger Salamander Hybrid Zone. Evolution 58(6): 1282-1293.

Garner, T. W. J., M. W. Perkins, P. Govindarajulu, D. Seglie, S. Walker, A. A. Cunningham, and M. C. Fisher. 2006. The Emerging Amphibian Pathogen *Batrachochytrium dendrobatidis* Globally Infects Introduced Populations of the North American Bullfrog, *Rana catesbeiana*. Biology Letters 2:455-459.

Hayes, M. P., and M. R. Jennings. 1988. Habitat Correlates of Distribution of the California Red-Legged Frog (*Rana aurora draytonii*) and the Foothill Yellow-Legged Frog (*Rana boylii*): Implications for Management. Pages 144-158 in R. Sarzo, K. E. Severson, and D. R. Patton (technical coordinators). Proceedings of the Symposium on the Management of Amphibians, Reptiles, and Small Mammals in North America. United States Department of Agriculture, Forest Service, Rocky Mountain Range and Experiment Station, Fort Collins, Colorado. General Technical Report (RM-166): 1-458.

Hayes, M. P. and D. M. Krempels. 1986. Vocal Sac Variation among Frogs of the Genus Rana from Western North America. Copeia 1986(4):927-936.

Hayes, M. P. and M. M. Miyamoto. 1984. Biochemical, Behavioral and Body Size Differences between *Rana aurora aurora* and *R. a. draytonii*. Copeia 1984(4):1018-1022.

Hayes, M. P., and M. R. Tennant. 1985. Diet and Feeding Behavior of the California Red-Legged Frog, *Rana aurora draytonii* (Ranidae). Southwestern Naturalist 30(4): 601-605.

Hunt, L. 1993. Letter to Marvin L. Plenert, Regional Director, U.S. Fish and Wildlife Service, Portland, Oregon, regarding proposed listing.

Inkley, D.B., M.G. Anderson, A.R. Blaustein, V.R. Burkett, B. Felzer, B. Griffith, J. Price and T.L. Root. 2004. Global Climate Change and Wildlife in North America. Technical Review 04-2, The Wildlife Society, Bethesda, Maryland.

International Panel on Climate Change. 2001. Climate Change 2001: The Scientific Basis. Contribution of Working Group I to the Third Assessment Report of the Intergovernmental Panel on Climate Change [Houghton, J.T., Y. Ding, D.J. Griggs, M. Noguer, P.J. van der Linden, X. Dai, K. Maskell, and C.A. Johnson (editors)]. Cambridge University Press, Cambridge, United Kingdom and New York, New York. 881 pp. Available at http://www.ipcc.ch/

_____ 2007. Climate Change 2007: The Physical Science Basis. Contribution of Working Group I to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change [Alley,

R., T. Berntsen, N.L. Bindoff, Z. Chen, A. Chidthaisong, P. Friedlingstein, J. Gregory, G. Hegerl, M. Heimann, B. Hewitson, B. Hoskins, F. Joos, J. Jouzel, V. Kattsov, U. Lohmann, M. Manning, T. Matsuno, M. Molina, N. Nicholls, J. Overpeck, D. Qin, G. Raga, V. Ramaswamy, J. Ren, M. Rusticucci, S. Solomon, R. Somerville, T.F. Stocker, P. Stott, R.F. Stouffer, P. Whetton, R.A. Wood, D. Wratt. 21 pp. Available at http://www.ipcc.ch/.

Jennings, M. R. 1993. Letter to Peter C. Sorensen, U.S. Fish and Wildlife Service, Sacramento, California.

Jennings, M. R., and M. P. Hayes. 1985. Pre-1900 Overharvest of California Red-Legged Frogs (*Rana aurora draytonii*): The Inducement for Bullfrog (*Rana catesbeiana*) Introduction. Herpetological Review 31(1):94-103.

_____ 1990. Final Report of the Status of the California Red-Legged Frog (*Rana aurora draytonii*) in the Pescadero Marsh Natural Preserve. Final report prepared for the California Department of Parks and Recreation, Sacramento, California, through Agreement (4-823-9018). Department of Herpetology, California Academy of Sciences, Golden Gate Park, San Francisco, California. 30 pages.

_____ 1994. Amphibian and Reptile Species of Special Concern in California. Report prepared for the California Department of Fish and Game, Inland Fisheries Division, Rancho Cordova, California. 255 pages.

Jennings, M. R., M. P. Hayes, and D. C. Holland. 1992. A Petition to the U.S. Fish and Wildlife Service to Place the California Red-Legged Frog (*Rana aurora draytonii*) and the Western Pond Turtle (*Clemmys marmorata*) on the List of Endangered and Threatened Wildlife and Plants. 21 pages.

Kanter, J. 2007. Scientists Detail Climate Changes, Poles to Tropics. New York Times. April 10, 2007.

Keeler-Wolf T, Evens JM, Solomeshch AI, Holland VL, Barbour MG. 2007. Community classification and nomenclature. In: Stromberg MR, Corbin JD, D'Antonio CM, editors. California grasslands: ecology and management. Berkeley, Los Angeles, London: University of California Press. p 21-34.

Kruse, K. C. and M. G. Francis. 1977. A Predation Deterrent in Larvae of the Bullfrog, *Rana catesbeiana*. Transactions of the American Fisheries Society 106(3):248-252.

Kupferberg, S. J. 1996a. Hydrologic and Geomorphic Factors Affecting Conservation of a River-Breeding Frog (*Rana boylii*). Ecological applications 6: 1322-1344.

_____ 1996b. The Ecology of Native Tadpoles (*Rana boylii* and *Hyla regilla*) and the Impacts of Invading Bullfrogs (*Rana catesbeiana*) in a Northern California River. PhD dissertation. University of California, Berkeley, California.

_____ 1997. Bullfrog (*Rana catesbeiana*) invasion of a California river: the role of larval competition. Ecology 78(6):1736-1751.

Lenihan, J., R. Drapek, D. Bachelet, and R. Neilson. 2003. Climate Change Effects on Vegetation Distribution, Carbon, and Fire in California. Ecological Applications 13(6) 1667-1681.

Lips, K. R., F. Brem, R. Brenes, J. D. Reeve, R. A. Alford, J. Voyles, C. Carey, L. Livo, A. P. Pessier, and J. P. Collins. 2006. Emerging infectious disease and the loss of biodiversity in a neotropical amphibian community. Proceedings of the National Academy of Sciences 103(9):3165-3170.

Loredo, I., and D. Van Vuren. 1996. Reproductive Ecology of a Population of the California Tiger Salamander. Copeia 4:895-901.

Loredo, I., D. Van Vuren and M. L. Morrison. 1996. Habitat Use and Migration Behavior of the California Tiger Salamander. Journal of Herpetology 30(2): 282-285.

Mao, J., D. E. Green, G. M. Fellers, and V. G. Chincar. 1999. Molecular Characterization of Iridoviruses Isolated from Sympatric Amphibians and Fish. Virus Research 6: 45-52. California Department of Fish and Game, Sacramento, California.

Morey, S. R. 1998. Pool Duration Influences Age and Body Mass at Metamorphosis in the Western Spadefoot Toad: Implications for Vernal Pool Conservation. Pages 86-91 *in* Witham, C.W., E.T. Bauder, D. Belk, W.R. Ferren Jr., and R. Ornduff (editor). Ecology, Conservation, and Management of Vernal Pool Ecosystems - Proceedings from a 1996 Conference. California Native Plant Society. Sacramento, California. 1998.

Moyle, P. B. 1976. Fish Introductions in California: History and Impact on Native Fishes. Biological Conservation 9(1):101-118.

Pechmann, J. H. K., D. E. Scott, J. W. Gibbons, and R. D. Semlitsch. 1989. Influence of Wetland Hydroperiod on Diversity and Abundance of Metamorphosing Juvenile Amphibians. Wetlands Ecology and Management 1(1):3-11.

Petranka, J. W. 1998. Salamanders of the United States and Canada. Smithsonian Institution Press, Washington, D.C.

Riley, S. P. D., H. B. Shaffer, S. R. Voss, and B. M. Fitzpatrick. 2003. Hybridization Between a Rare, Native Tiger Salamander (*Ambystoma californiense*) and its Introduced Congener. Biological Applications 13(5): 1263-1275.

Saunders, S., C. Montgomery, and T. Easley. 2008. Hotter and Drier The West's Changing Climate. Rocky Mountain Climate Organization, Denver, Colorado.

Scott, D. E. 1994. The Effect of Larval Density on Adult Demographic Traits in *Ambystoma opacum*. Ecology 75:1383-1396.

Semlitsch, R. D., D. E. Scott, and J. H. K. Pechmann. 1988. Time and Size at Metamorphosis Related to Adult Fitness in *Ambystoma talpoideum*. Ecology 69: 184-192.

Semonsen, V. J. 1998. *Ambystoma californiense* (California tiger salamander) Survey Technique. Herpetological Review 29:96.

Shaffer, H. B. and P. C. Trenham. 2004. *Ambystoma californiense* Gray, 1853. California tiger salamander. Pages 605 in Lannoo, M.(editor). Amphibian declines: The Conservation Status of United States Species. University of California Press, Berkeley, California. 2005.

Shaffer, H.B., G.B. Pauly, J.C. Oliver, and P.C. Trenham. 2004. The Molecular Phylogenitics of Endangerment: Cryptic Variation and Historic Phylogeography of the California Tiger Salamander, *Ambystoma californiense*. Molecular Ecology 13: 3033-3049.

Shaffer, H.B., G.M. Fellers, S.R. Voss, C. Oliver, and G.B. Pauley. 2010. Species boundaries, phylogeography, and conservation genetics of the red-legged frog (*Rana aurora/draytonii*) complex. Molecular ecology 13: 2667-2677.

Shaffer, H.B., R.N. Fisher, and S.E. Stanley. 1993. Status Report: the California Tiger Salamander (*Ambystoma californiense*). Final report for the California Department of Fish and Game. 36 pages plus figures and tables.

Stebbins, R. C. 2003. A Field Guide to Western Reptiles and Amphibians. Houghton Mifflin Company, Boston, Massachusetts.

Storer, T. I. 1925. A Synopsis of the Amphibia of California. University of California Publications in Zoology 27:1-1-342.

_____ 1933. Frogs and their Commercial Use. California Department of Fish and Game 19(3)203-213.

Sweet, S. 1998. Letter to Dwight Harvey, U.S. Fish and Wildlife Service with a report titled "Vineyard Development Posing an Imminent Threat to *Ambystoma californiense* in Santa Barbara County, California." University of California, Santa Barbara, California.

Tatarian, P. J. 2008. Movement Patterns of California Red-Legged Frogs (*Rana draytonii*) in an Inland California Environment. Herpetological Conservation and Biology 3(2):155-169. November.

Trenham, P. 1998a. Radio Tracking Information. University of California, Davis, California.

_____ 1998b. Demography, Migration, and Metapopulation Structure of Pond Breeding Salamanders. Ph.D. dissertation. University of California, Davis, California.

_____ 2001. Terrestrial Habitat Use by Adult California Tiger Salamanders. Journal of Herpetology 35(2):343-346.

Trenham, P. C., and H. B. Shaffer. 2005. Amphibian Upland Habitat Use and its Consequences for Population Viability. Ecological Applications 15:1158–1168.

Trenham, P. C., H. B. Shaffer, W. D. Koening and M. R. Stromberg. 2000. Life History and Demographic Variation in the California Tiger Salamander (*Ambystoma californiense*). Copeia 2000(2): 365-377.

Trenham, P. C., W. D. Koenig, and H. B. Shaffer. 2001. Spatially Autocorrelated Demography and Interpond Dispersal in the Salamander *Ambystoma californiense*. Ecology 82: 3519-3530.

Twedt, B. 1993. A Comparative Ecology of *Rana aurora* Baird and Girard and *Rana catesbeiana* Shaw at Freshwater Lagoon, Humboldt County, California. Unpublished. Master of Science thesis. Humboldt State University, Arcata, California. 53 pages plus appendix.

Twitty, V. C. 1941. Data on the Life History of *Ambystoma tigrinum californiense* Gray. Copeia 1941 (1):1-4.

U. S. Fish and Wildlife Service (Service). 1996. Endangered and Threatened Wildlife and Plants; Determination of Threatened Status for the California Red-Legged Frog. Federal Register 61:25813-25833.

_____ 2002. Recovery Plan for the Red-Legged Frog (*Rana aurora draytonii*). Portland, Oregon. 173 pages.

_____ 2003. Interim Guidance on Site Assessment and Field Surveys for Determining Presence or a Negative Finding of the California Tiger Salamander. Sacramento Field Office, Sacramento, California.

_____ 2004. Endangered and Threatened Wildlife and Plants; Determination of Threatened Status for the California Tiger Salamander; and Special Rule Exemption for Existing Routine Ranching Activities; Final Rule. **Federal Register** 69: 47212-47248.

_____ 2005. Revised Guidance on Site Assessments and Field Surveys for the California Red-legged Frog. Sacramento Field Office, Sacramento, California.

_____ 2006. Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the California Red-legged Frog (*Rana aurora draytonii*), and Special Rule Exemption Associated with Final Listing for Existing Routine Ranching Activities; Final Rule. **Federal Register** 71(71):19244-19346. April 13.

_____ 2010. Endangered and Threatened Wildlife and Plants; Revised Designation of Critical Habitat for the California Red-Legged Frog. Federal Register 75:12816-12959.

Van Hattem, M. G. 2004. Underground Ecology and Natural History of the California Tiger Salamander. Master of Science thesis. San Jose State University, San Jose, California.

Weldon, C., L.H. du Preez, R. Muller, A.D. Hyatt, and R. Speare. 2004. Origin of the Amphibian Chytrid Fungus. Emerging Infectious Diseases 10:2100–2105.

Wilbur, H. M. and J. P. Collins. 1973. Ecological Aspects of Amphibian Metamorphosis. Science (n.s.) 182(4119): 1305-1314.

Wright, A. H. and A. A. Wright. 1949. Handbook of Frogs and Toads of the United States and Canada. Comstock Publishing Company, Inc., Ithaca, New York. 640 pages.

APPENDIX A
Sacramento Fish and Wildlife Office
Review Criteria for Section 7 Compensation
Revised January 30, 2014

Property Assurances and Conservation Easement

- ☐ Title Report [*preliminary at proposal, and Final Title Insurance at recordation*]; no older than six months;
- ☐ Property Assessment and Warranty;
- ☐ Subordination Agreement [*include if any outstanding debts or liens on the property; may be needed for existing easements*];
- ☐ Legal Description and Parcel Map;
- ☐ Conservation Easement [*use the current SFWO standardized CE template*]; or
- ☐ Non-Template Conservation Easement [*this requires additional review*]

Site Assessment and Development

- ☐ Phase I Environmental Site Assessment;
- ☐ Habitat Development Plan [*include if habitat will be constructed, restored, or enhanced*];
- ☐ Construction Security Analysis [*applicable if habitat is being constructed/enhanced/restored*];
- ☐ Performance Security Analysis [*applicable if there are performance standards*];

Site Management

- ☐ Interim Management Plan;
- ☐ Interim Management Security Analysis and Schedule;
- ☐ Long-Term Management Plan;
- ☐ Endowment Fund Analysis and Schedule;
- ☐ Endowment Funding Agreement or Trust Agreement or Declaration of Trust [*DFW calls this a "mitigation agreement"*]

Guidelines

Real Estate Assurances and Conservation Easement (CE)

Title Report

1. Who holds fee title to property?
2. Exceptions to title. Are there any liens or encumbrances (existing debts, leases, or easements) on the property? Note that any existing exceptions to title will have priority over a conservation easement for the mitigation project.
    a. Review Preliminary Title Report to evaluate liens and encumbrances (see Property Assessment and Warranty, below).
    b. Could any of these exceptions to title potentially interfere with either biological habitat values or ownership? If existing easements can potentially interfere with the conservation values/habitat of the property, those portions of the land should be deducted from the total compensation acreage available on the site.
    c. Split estates. Have the water or mineral rights been severed from title? If so, property owner should be encouraged to re-acquire those rights, or at least to acquire the surface-entry rights to remove or limit access for mineral exploration/development.

Property Assessment and Warranty

1. Property owner should submit a Property Assessment and Warranty, which discusses every exception to title listed on the Preliminary Title Report and Final Title Insurance Policy, evaluating any potential impacts to the conservation values that could result from the exceptions to title (see below).
2. The Property Assessment and Warranty should include a summary and full explanation of all exceptions remaining on the title, with a statement that the owner/Grantor accepts responsibility for all lands being placed under the CE as available for the primary purposes of the easement, as stated in the easement, and assures that these lands have a free and clear title and are available to be placed under the CE.

Subordination Agreement

1. A Subordination Agreement is necessary if there is any outstanding debt on the property; it could also be used to subordinate liens or easements. Review Subordination Agreement language for adequacy—the lending bank or other lien or rights holder must agree to fully subordinate each lien, encumbrance, or easement under the CE.

Legal Description and Parcel Map

1. Ensure accuracy of map, and location and acreage protected under the CE.
2. Both the map and the legal description should explain the boundaries of the individual project compensation site. The site should *not* have 'leftover' areas for later use.
3. Ask for an easement map to be prepared (if applicable), showing all easements on the property.

Conservation Easement from Template

1. Who will hold the easement?

a. Conservation easements require third-party oversight by a qualified non-profit or government agency (=easement holder or Grantee). Minimum qualifications for an easement holder include:
    i. Maintaining accreditation by the Land Trust Accreditation Commission http://www.landtrustaccreditation.org/home.
    ii. Organized under IRS 501(c)(3);
    iii. Qualified under CA Civil Code § 815;
    iv. Bylaws, Articles of Incorporation, and biographies of Boards of Directors on file at;
        1. Must meet requirements of SFWO, including 51% disinterested parties on the Board of Directors;
    v. Approved by SFWO

2. Project Applicant should submit a redline version showing all of their proposed revisions in track changes or other editable electronic format, along with an explanation of all deviations from the template.

Non-Template Conservation Easement

1. If not using the CE template, the Project Applicant should specify objections they have to the template. This may substantially delay processing as the non-template CE will require review by the Solicitor's Office. Alternate CEs are subject to SFWO approval prior to being granted and recorded.
2. The Project Applicant must either 1) add SFWO as a third-party beneficiary, or 2) add language throughout the document, in all appropriate places, that will assure SFWO the right to enforce, inspect, and approve any and all uses and/or changes under the CE prior to occurrence (including land use, biological management or ownership).
3. Include, at a minimum, language to:
    a. Reserve all mineral, air, and water rights under the CE as necessary to maintain and operate the site in perpetuity;
    b. Ensure all future development rights are forfeited;
    c. Ensure all prohibited uses contained in the CE template are addressed; and
    d. Link the CE, Management Plan, and the Endowment Fund within the document (e.g., note that each exists to support the others, and where each of the documents can be located if a copy is required).
4. Insert necessary language, particularly, but not exclusively, per: (can compare to CE template):
    a. Rights of Grantee
    b. Grantee's Duties
    c. Reserved Rights
    d. Enforcement
    e. Remedies
    f. Access
    g. Costs and Liabilities
    h. Assignment and Transfer
    i. Merger
    j. Notices
5. Include a signature block for USFWS to sign "approved as to form".

Site Assessment and Development

Phase I Environmental Site Assessment

1. The Phase I ESA must show that the compensation site is not subject to any recognized environmental conditions as defined by the American Society for Testing and Materials (ASTM) Standard E1527-05 "Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process, available at http://www.astm.org/Standards/E1527.htm, (i.e., the presence or likely presence of any Hazardous Substances or petroleum products).
2. If the Phase I ESA identifies any recognized environmental conditions, the Project Applicant must represent and warrant to the SFWO that all appropriate assessment, clean-up, remediation, or removal action has been completed.
3. If the Phase I ESA identifies any recognized environmental conditions, a Phase II ESA may be needed for sampling and laboratory analysis.

Restoration or Habitat Development Plan [*not required if the site is preservation only*]

1. The overall plan governing construction and habitat establishment activities required to be conducted on the Property, including, without limitation, creation, restoration, and enhancement of habitat.
   a. This plan should include the baseline conditions of the Property including biological resources, geographic location and features, topography, hydrology, vegetation, past, present, and adjacent land uses, species and habitats occurring on the property, a description of the activities and methodologies for creating, restoring, or enhancing habitat types, a map of the approved modifications, overall habitat establishment goals, objectives and Performance Standards, monitoring methodologies required to evaluate and meet the Performance Standards, an approved schedule for reporting monitoring results, a discussion of possible remedial actions, and any other information deemed necessary by the SFWO.
2. Any permits and other authorizations needed to construct and maintain the site shall be included and in place prior to the start of construction of the habitat.
3. Full construction plans for any habitat construction are subject to SFWO approval and must be *SFWO-approved prior* to the start of construction of the habitat.

Construction Security

1. Construction Security in the amount of 100% of a reasonable third party estimate or contract to create, restore, or enhance habitats on the property in accordance with the Restoration or Habitat Development Plan.
2. Construction Security can be drawn on should the project proponent default.
3. The Construction Security should be in the form of an irrevocable standby letter of credit or a cashier's check.
   a. LOC: issued for a period of at least one year, and provide that the expiration date will be automatically extended for at least one year on each successive expiration date unless, until extension is no longer necessary.
   b. Beneficiary: a third party subject to approval by the SFWO.
   c. Language in a draft letter of credit subject to approval by the SFWO.

Performance Security *[only necessary if habitat if performance standards have been identified]*

1. Performance Security in the amount of 20% of the Construction Security.
2. Performance Security can be drawn on should the Performance Standards not be met, if remedial action becomes necessary.
3. The Performance Security in the form of an irrevocable standby letter of credit or a cashier's check.
   a. LOC: issued for a period of at least one year, and provide that the expiration date will be automatically extended for at least one year on each successive expiration date unless, until extension is no longer necessary.
   b. Beneficiary: a third party who is subject to approval by the SFWO.
   c. Language in a draft letter of credit is subject to SFWO approval.

Site Management

Interim Management Plan

1. The Interim Management Plan should identify the short-term management, monitoring, and reporting activities to be conducted from the time construction ends until the Endowment Fund has been fully funded for three years and all the Performance Standards in the Development Plan have been met. This may be the same as the Long-term Management Plan.

Interim Management Security Analysis and Schedule

The purpose of the Interim Management Security is to allow the endowment to grow for at least three years without any disbursements, and is a safeguard to ensure that there will be enough funds in the endowment to pay for future management costs. The period can be longer than three years; a 5 year period is recommended by many land trusts.

1. Interim Management Security (in the form of a standby letter of credit) in the amount equal to the estimated cost to implement the Interim Management Plan during the first three years of the Interim Management Period, as set for in the Interim Management Security Analysis and Schedule.
2. The Interim Management Security Analysis and Schedule should be in the form of a table and/or spreadsheet that shows all of the tasks (management, monitoring, reporting), task descriptions, labor (hours), cost per unit, cost frequency, timing or scheduling of the tasks, the total annual funding necessary for each task, and any associated assumptions for each task required by the Interim Management Plan. The total annual expenses should include administration and contingency costs.
3. The Interim Management Security:
   a. Held by a qualified, non-profit organization or government agency, subject to SFWO approval [see requirements under CE above], and
   b. Held according to minimum standards for assuring maximum success in earning potential, and will include assurances to safeguard against loss of principle.
   c. Instructions for disbursements or releases from the fund must be outlined in the Endowment Management Agreement/Trust Agreement/Declaration of Trust.

Long-Term Management Plan (LTMP)

1. The LTMP template identifies the long-term management, monitoring and reporting activities to be conducted.
2. The LTMP should include at minimum:
   a. Purpose of the Project and purpose of the LTMP;
   b. A baseline description of the setting, location, history, and types of land use activities, geology, soils, climate, hydrology, habitats present (once project meets Performance Standards), and species descriptions;
   c. Overall management, maintenance and monitoring goals; specific tasks and timing of implementation; and discussion of any constraints, which may affect goals;
   d. The Endowment Fund Analysis and Schedule (see below);
   e. Discussion of Adaptive Management actions for reasonably foreseeable events and possible thresholds for evaluating and implementing Adaptive Management;
   f. Rights of access to the Property and prohibited uses of the Property as provided in the CE; and
   g. Procedures for Property transfer, land manager replacement, amendments, and notices.
3. The LTMP must be incorporated by reference in the CE.
4. The LTMP is considered a living document and may be revised as necessary upon agreement of the land manager, easement holder, and SFWO.

Endowment Fund Analysis and Schedule

1. Can use a PAR or PAR-like analysis and must be based upon the final LTMP, subject to SFWO approval.
   - The analysis should be developed with input by the land manager and conservation easement holder.
2. The analysis and schedule should be in the form of a table and/or spreadsheet that shows, at a minimum:
   - all of the tasks (management, monitoring, reporting)
   - task descriptions, with tasks numbers cross-referenced in management plan(s)
   - labor (hours)
   - materials
   - cost per unit (hr., linear feet, each, etc.).
   - cost frequency
   - timing or scheduling of the tasks,
   - the total annual funding necessary for each task, and
   - the assumptions required for each task by the Management Plan.
3. The total annual expenses should include administration and contingency costs (contingency can be included on each line item – identify the percentage). Unless there is a separate endowment for the purpose of monitoring and reporting on the CE conditions, then, the analysis should also include costs of
   - Monitoring and reporting CE conditions;
   - Defending the CE; and
   - Liability insurance.

4. The Endowment Fund::
   - Held by a qualified, SFWO-approved, non-profit organization or government agency [see requirements under CE above],
   - Held according to minimum standards for assuring maximum success in earning potential, and should include assurances for no loss of principle.
   - Disbursements or releases from the fund must be for documented expenditures, as they occur.

Endowment Funding Agreement

1. This is the agreement between the endowment holder and the Project Applicant, as to how the endowment is to be funded, held and disbursed;
2. USFWS is not signatory to this agreement, but there should be a signature block on the agreement for SFWO to sign "approved as to form";
3. USFWS has approval authority over the language in the document, and it must state that modifications or transfer of the endowment to another holder are subject to USFWS approval;
4. This agreement can also be called: "Trust Agreement", "Declaration of Trust"
5. When the CA Dept. of Fish and Wildlife is involved, this is called "Mitigation Agreement

Appendix F Comments and Responses

This appendix contains the comments received during the public circulation and comment period from December 19, 2013 to January 18, 2014. Public circulation included hard copies sent to three Livermore libraries, electronic copies provided to elected official who represent the project area, copies to the State Clearinghouse, and posting on the Caltrans District 4 website. No comments were received from the public or elected officials. One comment was received from a state agency. A Caltrans response follows comments presented here.

Comment from the State Clearinghouse

STATE OF CALIFORNIA

GOVERNOR'S OFFICE *of* PLANNING AND RESEARCH

STATE CLEARINGHOUSE AND PLANNING UNIT

EDMUND G. BROWN JR.
GOVERNOR

KEN ALEX
DIRECTOR

January 21, 2014

Scott Smith
California Department of Transportation, District 6
855 M Street, Suite 200
Fresno, CA 93711

Subject: North Flynn Road Slipout
SCH#: 2013122044

Dear Scott Smith:

The State Clearinghouse submitted the above named Mitigated Negative Declaration to selected state agencies for review. On the enclosed Document Details Report please note that the Clearinghouse has listed the state agencies that reviewed your document. The review period closed on January 17, 2014, and the comments from the responding agency (ies) is (are) enclosed. If this comment package is not in order, please notify the State Clearinghouse immediately. Please refer to the project's ten-digit State Clearinghouse number in future correspondence so that we may respond promptly.

Please note that Section 21104(c) of the California Public Resources Code states that:

> "A responsible or other public agency shall only make substantive comments regarding those activities involved in a project which are within an area of expertise of the agency or which are required to be carried out or approved by the agency. Those comments shall be supported by specific documentation."

These comments are forwarded for use in preparing your final environmental document. Should you need more information or clarification of the enclosed comments, we recommend that you contact the commenting agency directly.

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 contact the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process.

Sincerely,

Scott Morgan
Director, State Clearinghouse

Enclosures
cc: Resources Agency

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

Document Details Report
State Clearinghouse Data Base

SCH#	**2013122044**
Project Title	North Flynn Road Slipout
Lead Agency	Caltrans #6

Type	**MND** Mitigated Negative Declaration
Description	Caltrans proposes to repair and permanently restore a storm damaged median slipout on westbound I-580, approximately one mile east of North Flynn Road. Included in the project is the construction of a tie-back retaining wall, the reconstruction of the number one lane, the widening of the inside shoulder, placement of concrete barrier, the repair or modification of drainage facilities, and the relocation of electric conduit.

Lead Agency Contact

Name	Scott Smith		
Agency	California Department of Transportation, District 6		
Phone	559 445 6172	***Fax***	
email			
Address	855 M Street, Suite 200		
City	Fresno	***State*** CA	***Zip*** 93711

Project Location

County	Alameda			
City	Livermore			
Region				
Lat / Long	37° 43' 28.63" N / 121° 38' 53.77" W			
Cross Streets	SR 580 and North Flynn Road			
Parcel No.				
Township	***Range***	***Section***	***Base***	

Proximity to:

Highways	SR 580
Airports	
Railways	
Waterways	Mountain House Creek
Schools	
Land Use	Large parcel agriculture/Lands outside of urban growth boundary; wind resource area

Project Issues	Biological Resources

Reviewing Agencies	Resources Agency; Department of Fish and Wildlife, Region 3; Department of Parks and Recreation; Department of Water Resources; California Highway Patrol; Caltrans, District 4; Air Resources Board; Regional Water Quality Control Bd., Region 5 (Fresno); Native American Heritage Commission; Public Utilities Commission

Date Received	12/19/2013	***Start of Review***	12/19/2013	***End of Review***	01/17/2014

Response to Comment from State Clearinghouse

This acknowledges Caltrans receipt of the State Clearinghouse letter stating the draft document review requirements for California Environmental Quality Act have been met.

Comment from Native American Heritage Commission.

SATE OF CALIFORNIA Edmund G. Brown, Jr., Governor

NATIVE AMERICAN HERITAGE COMMISSION
1550 Harbor Boulevard, Suite 100
West Sacramento, CA 95691
(916) 373-3715
Fax (916) 373-5471
Web Site www.nahc.ca.gov
Ds_nahc@pacbell.net
e-mail: ds_nahc@pacbell.net

December 31, 2013

Mr. Scott Smith, Environmental Planner
California Department of Transportation – District 6
855 "M" Street, Suite 200
Fresno, CA 93721

RE: SCH#2013122044; CEQA Notice of Completion; proposed Mitigated Negative Declaration for the **"North Flynn Road Slipout Project;"** located in the City of Livermore; Alameda County, California

Dear Mr. Smith:

The Native American Heritage Commission (NAHC) has reviewed the above-referenced environmental document.

The California Environmental Quality Act (CEQA) states that any project which includes archeological resources, is a significant effect requiring the preparation of an EIR (CEQA guidelines 15064.5(b). To adequately comply with this provision and mitigate project-related impacts on archaeological resources, the Commission recommends the following actions be required:

Contact the appropriate Information Center for a record search to determine :If a part or all of the area of project effect (APE) has been previously surveyed for cultural places(s), The NAHC recommends that known traditional cultural resources recorded on or adjacent to the APE be listed in the draft Environmental Impact Report (DEIR).

If an additional archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey. We suggest that this be coordinated with the NAHC, if possible. The final report containing site forms, site significance, and mitigation measurers should be submitted immediately to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum, and not be made available for pubic disclosure pursuant to California Government Code Section 6254.10.

A list of appropriate Native American Contacts for consultation concerning the project site has been provided and is attached to this letter to determine if the proposed active might impinge on any cultural resources. Lack of surface

evidence of archeological resources does not preclude their subsurface existence.

California Government Code Section 65040.12(e) defines "environmental justice" to provide "fair treatment of People...with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations and policies" and Executive Order B-10-11 requires consultation with Native American tribes their elected officials and other representatives of tribal governments to provide meaningful input into the development of legislation, regulations, rules, and policies on matters that may affect tribal communities.

Lead agencies should include in their mitigation plan provisions for the identification and evaluation of accidentally discovered archeological resources, pursuant to California Environmental Quality Act (CEQA) §15064.5(f). In areas of identified archaeological sensitivity, a certified archaeologist and a culturally affiliated Native American, with knowledge in cultural resources, should monitor all ground-disturbing activities. Also, California Public Resources Code Section 21083.2 require documentation and analysis of archaeological items that meet the standard in Section 15064.5 (a)(b)(f).

Lead agencies should consider first, avoidance for sacred and/or historical sites, pursuant to CEQA Guidelines 15370(a). Then if the project goes ahead then, lead agencies include in their mitigation and monitoring plan provisions for the analysis and disposition of recovered artifacts, pursuant to California Public Resources Code Section 21083.2 in consultation with culturally affiliated Native Americans.

Lead agencies should include provisions for discovery of Native American human remains in their mitigation plan. Health and Safety Code §7050.5, CEQA §15064.5(e), and Public Resources Code §5097.98 mandates the process to be followed in the event of an accidental discovery of any human remains in a location other than a dedicated cemetery.

Sincerely,

Dave Singleton
Program Analyst

CC: State Clearinghouse

Attachment: Native American Contacts list

Native American Contacts
Alameda County California
December 31, 2013

..kki Kehl
720 North 2nd Street
Patterson , CA 95363
(209) 892-1060
Ohlone/Costanoan

Don Hankins
P.O. Box 627
Forest Ranch, CA 959421
530-343-3489 - phone/fax
530-592-7469
Miwok

Coastanoan Rumsen Carmel Tribe
Tony Cerda, Chairperson
240 E, 1st Street
Pomona , CA 91766
rumsen@aol.com
(909) 524-8041 Cell
909-629-6081
Ohlone/Costanoan

Muwekma Ohlone Indian Tribe of the SF Bay Area
Rosemary Cambra, Chairperson
PO Box 360791
Milpitas , CA 95036
muwekma@muwekma.org
408-205-9714
510-581-5194
Ohlone / Costanoan

Trina Marine Ruano Family
Ramona Garibay, Representative
30940 Watkins Street
Union City , CA 94587
510-972-0645-home
soaprootmo@comcast.net
Ohlone/Costanoan
Bay Miwok
Plains Miwok
Patwin

The Ohlone Indian Tribe
Andrew Galvan
PO Box 3152
Fremont , CA 94539
chochenyo@AOL.com
(510) 882-0527 - Cell
(510) 687-9393 - Fax
Ohlone/Costanoan
Bay Miwok
Plains Miwok
Patwin

Amah MutsunTribal Band of Mission San Juan Bautista
Irene Zwierlein, Chairperson
789 Canada Road
Woodside , CA 94062
amahmutsuntribal@gmail.com
(650) 851-7747 - Home
650-400-4806 cell preferred
650-332-1526 - Fax
Ohlone/Costanoan

Indian Canyon Mutsun Band of Costanoan
Ann Marie Sayers, Chairperson
P.O. Box 28
Hollister , CA 95024
ams@indiancanyon.org
831-637-4238
Ohlone/Costanoan

This list is current only as of the date of this document.

Distribution of this list does not relieve any person of the statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5097.94 of the Public Resources Code and Section 5097.98 of the Public Resources Code.

..is list s only applicable for contacting local Native Americans with regard to cultural resources for the proposed SCH#2013122044; CEQA Notice of Completion; proposed Mitigated Negative Declaration for the North Flynn Road Slipout Project; located in Livermore; Alameda County, California.

Native American Contacts
Alameda County California
December 31, 2013

ıda G. Yamane
1585 Mira Mar Ave Ohlone/Costanaon
Seaside , CA 93955
rumsien123@yahoo.com
831-394-5915

Amah MutsunTribal Band of Mission San Juan Bautista
Michelle Zimmer
789 Canada Road Ohlone/Costanoan
Woodside , CA 94062
amahmutsuntribal@gmail.com
(650) 851-7747 - Home

650-332-1526 - Fax

This list is current only as of the date of this document.

Distribution of this list does not relieve any person of the statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5097.94 of the Public Resources Code and Section 5097.98 of the Public Resources Code.

...s list s only applicable for contacting local Native Americans with regard to cultural resources for the proposed SCH#2013122044; CEQA Notice of Completion; proposed Mitigated Negative Declaration for the North Flynn Road Slipout Project; located in Livermore; Alameda County, California.

Response to Comment from Native American Heritage Commission

Thank you for your letter. On August 30, 2012 letters were sent to all interested groups and individuals provided by your agency to us on July 11, 2012. A records search of the sacred land files did not identify any Native American cultural resources within the project area.

Appendix G Title VI Statement

STATE OF CALIFORNIA—BUSINESS, TRANSPORTATION AND HOUSING AGENCY EDMUND G. BROWN Jr., Governor

DEPARTMENT OF TRANSPORTATION
OFFICE OF THE DIRECTOR
P.O. BOX 942873, MS-49
SACRAMENTO, CA 94273-0001
PHONE (916) 654-5266
FAX (916) 654-6608
TTY 711
www.dot.ca.gov

Flex your power!
Be energy efficient!

March 2013

NON-DISCRIMINATION
POLICY STATEMENT

The California Department of Transportation, under Title VI of the Civil Rights Act of 1964 and related statutes, ensures that no person in the State of California shall, on the grounds of race, color, national origin, sex, disability, religion, sexual orientation, or age, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity it administers.

For information or guidance on how to file a complaint based on the grounds of race, color, national origin, sex, disability, religion, sexual orientation, or age, please visit the following web page: http://www.dot.ca.gov/hq/bep/title_vi/t6_violated.htm.

Additionally, if you need this information in an alternate format, such as in Braille or in a language other than English, please contact the California Department of Transportation, Office of Business and Economic Opportunity, 1823 14th Street, MS-79, Sacramento, CA 95811. Telephone: (916) 324-0449, TTY: 711, or via Fax: (916) 324-1949.

MALCOLM DOUGHERTY
Director

"Caltrans improves mobility across California"