



U.S. DEPARTMENT OF TRANSPORTATION

FEDERAL HIGHWAY ADMINISTRATION

CALIFORNIA DIVISION

650 Capitol Mall, Suite 4-100

Sacramento, CA 95814

November 15, 2007

IN REPLY REFER TO

HDA-CA

File # NEPA Assignment

Document # S51142

Mr. Mike Pool, California State Director
Bureau of Land Management
California State Office
2800 Cottage Way, Ste. W-1834
Sacramento, CA 95825

Dear Mr. Pool:

The Federal Highway Administration (FHWA) wants to inform you of important changes in our environmental processes under the National Environmental Policy Act (NEPA) and the federal environmental protection laws under NEPA's regulatory umbrella. FHWA has assigned and the California Department of Transportation (Caltrans) has assumed all responsibilities for consultation and coordination with federal resource, regulatory, and land management agencies for most federal-aid highway projects in California. The assignment of environmental decision making to Caltrans includes the federal-aid highway projects on federal lands and the FHWA's federal lands ("direct federal") projects when Caltrans designs and constructs the projects. Detailed information about NEPA Assignment is published on-line at http://www.dot.ca.gov/hq/env/nepa_pilot/.

On June 7, 2007, the FHWA and Caltrans signed the *Memorandum of Understanding (MOU) between Federal Highway Administration, California Division, and the California Department of Transportation on State Assumption of Responsibilities for Categorical Exclusions (CE)*. This MOU was signed pursuant to Section 6004 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), which allows the Secretary of Transportation to assign, and the State of California to assume, the Secretary's environmental decision making responsibilities for CEs. For these projects, the State may also be assigned the FHWA's responsibilities for environmental consultation and coordination under other federal environmental laws. By statute, the State is deemed to be a federal agency for these assigned authorities and responsibilities.

Similarly, on June 29, 2007, the FHWA and Caltrans signed the *Memorandum of Understanding (MOU) between the Federal Highway Administration and the California Department of Transportation concerning the State of California's Participation in the Surface Transportation Project Delivery Pilot Program (NEPA Assignment Pilot Program)*. This MOU went into effect on July 1, 2007, and it was signed pursuant to Section 6005 in SAFETEA-LU, which allows the

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Secretary to assign, and the State of California to assume, the responsibility for one or more highway projects in the State. For these projects, the State is also assigned the FHWA's authorities and responsibilities for consultation and coordination under other federal environmental protection laws.

Both MOUs, published on-line at http://www.dot.ca.gov/hq/env/nepa_pilot/, detail the new roles and responsibilities for the FHWA and Caltrans in project-level environmental decision making, and the MOU for the NEPA Assignment Pilot Program (Section 6005) also includes a list of projects which will be retained by the FHWA. For the retained projects, the FHWA will continue to be involved in interagency dialogues with your agency for project-specific environmental decisions. As the NEPA Assignment Pilot Program continues, other projects to be retained by the FHWA, may be identified, according to the provisions of the MOU.

For the assigned projects, Caltrans is deemed to be the FHWA for project-level environmental decision making. For instance, Caltrans will conduct all consultation under the Endangered Species Act and the National Historic Preservation Act for the projects. For these projects, please address all correspondence to Caltrans, even if the FHWA was initially involved in the environmental process for the project.

Finally, it is important to mention that the NEPA Assignment does not affect the FHWA's roles and responsibilities for other phases of project development beyond environmental analysis. For example, the FHWA's existing right-of-way procedures for federal land transfers will not be affected by these changes.

If you have any questions, please contact Mr. David Cohen, Environmental Program Coordinator, at (916) 498-5868.

Sincerely,

/s/ Maiser Khaled

For
Gene K. Fong
Division Administrator