

Memorandum

To: ~~Chairman and~~ Commissioners

Date: July 7, 2000

From: Robert I. Remen

File No: K52
BOOK ITEM 2.1b(2)
INFORMATION

Ref: STIP AMENDMENT 98S-147 – NOTICE – Feather River Bikeway (Butte Co.) TEA project

SUMMARY

This amendment would change the use of \$160,000 for the second of two Feather River Bikeway projects in Butte County, both of which are pre-SB 45 TEA projects, from construction to environmental studies and project development; a first project for \$160,000 is already programmed for environmental studies and project development. Butte County Association of Governments will consider committing to fund construction of the eventual project at its July 2000 meeting.

RECOMMENDATION

The Butte County Association of Governments (BCAG) requests the Commission to consider this amendment. This amendment would be consistent with Commission guidelines and past practice if BCAG commits to fund construction of the project.

PROPOSED RESOLUTION

Resolved, that the California Transportation Commission (CTC) revise the 1998 State Transportation Improvement Program (STIP) at the end of the 30 day notice period as follows:

Change:

Project Information								
County:	CT District:	PPNO:	EA:	Element:	Const Year:	PM Back	PM Ahead	Route/Corridor
Butte	03	9921	452024	LA-TEA	2000/2001			
Project Title:	Feather River Bikeway, Phase 2 of 3							
Sponsor:	Feather River Park District							
Resp. Agency:	City of Oroville							
RTPA/CTC:	Butte County Association of Governments (BCAG)							
Location:	Near Oroville, along the Feather River Parkway							
Description:	Build bike path on old railroad grade, from Route 162 north toward Oroville Dam							

STIP Programming – Grandfathered TEA								
(Dollars in Thousands)								
Component	PRIOR	1998/1999	1999/2000	2000/2001	2001/2002	2002/2003	2003/2004	Total
PROJECT SUP				\$160				\$160
R/W SUP								
CON SUP								
R/W								
CON			\$160					\$160
TOTAL			\$160	\$160				\$160

Background: The Commission programmed two TEA projects proposed by the Feather River Park District toward building the Feather River bikeway near Oroville in Butte County, one in the second TEA round in March 1994 for \$160,000 for environmental studies, design, and right of way, and another one in the third TEA round in September 1996 also for \$160,000 for first-stage construction. The bikeway was to run on an old railroad grade and be built in two stages, a first stage from Route 162 north two miles to an existing visitor center, with a second stage (not yet funded) to extend seven miles further to Oroville Dam. The application for the first project estimated environmental studies to cost \$90,000, but the project as programmed in the Federal TIP allows the whole \$160,000 of federal TEA funds to be spent for environmental studies, design, or right of way in any amounts.

The project did not proceed as envisioned. Feather River Park District could not come up with the \$80,000 match programmed for the two projects, so it formed a partnership with City of Oroville to provide the match and manage the project. Environmental studies have taken much longer and cost more than expected, about \$170,000 to date. Horse interests that now ride on the old railroad grade have come forward to offer determined opposition to the project. Native Americans have supported the horse interests, asserting that the project would affect archaeology sites known to them. City politics have changed in Oroville, capped by a successful recall of the city council in March 2000.

Discussion: This project has now turned into a fiasco. Oroville's environmental consultant has spent about \$170,000 already, and says at least another \$70,000 will be needed to complete NEPA and CEQA studies and documents for a decision on the project. Last month, under siege from the horse interests and Native Americans, the new Oroville City Council proposed to abandon work on the project.

The city did not understand that this choice is not as simple as it might seem. FHWA policy normally will not allow reimbursement of environmental studies work unless NEPA is completed. However, Caltrans, under delegated authority from the Commission, has already reimbursed about \$100,000 of environmental studies costs, and has received another \$50,000 in billings, which is pending. Thus, if it abandons work, the city may have to refund the federal TEA funds reimbursed to date and eat the remaining costs. The city says it cannot afford to refund the \$100,000 already spent (never mind absorb the other \$50,000 still pending), but it also says it cannot afford to pay another \$70,000 to complete environmental studies.

Thus the city seems to have three choices, none of them easy:

1. drop the project now, and swallow the \$170,000 cost of the environmental work to date; or
2. complete the environmental studies and decide on no project, which would cost the city about a net \$80,000 (with \$160,000 funded from the first TEA project); or
3. carry through and try to build at least a first stage project.

The third and seemingly obvious choice faces at least two obstacles. First, the TEA funds for this project are old ISTEA-era funds that expire this September, and there is no way the environmental studies will be completed soon enough to allow the Commission to allocate these funds for construction in August and FHWA to obligate the funds before September 30. Thus the TEA funds the city has been counting on for construction disappear long before construction can be undertaken. If the city cannot afford to complete environmental studies, it seems unlikely it could afford to fund construction alone either. Second, the opposition has threatened to sue against the larger project, maybe even against the first stage project alone, which would hold up the project and force legal costs on the city.

The funds from old TEA projects that fail return to the county share under SB 45. Butte County thus stands to get back the second \$160,000, perhaps the whole \$320,000. The regional agency, BCAG, has stepped forward with a rescue proposal, which involves three steps:

1. Oroville City Council at its early July meeting would have to agree to pursue building a project, at this point probably the first stage only, and try to convince the opponents to lay off a lawsuit,
2. BCAG at its next meeting in late July would then have to commit to fund construction of the eventual project, using regional funds, and
3. the Commission would agree to consider in July to amend the STIP in August to allow both the first and second \$160,000 projects to be usable for environmental studies, as needed, and allocate the funds at the August meeting.

None of these three steps are certain at this point. The first one, by the city, will have been faced before the July Commission meeting.

This was originally a regional project, and with SB 45 the funds are essentially under regional control. The Commission and state have no real stake in this project, other than effective use of federal funds. If the Commission amends the STIP, about \$200,000 in TEA funds (plus \$40,000 in local match) would end up going to environmental studies, for a bikeway project that will probably cost less than \$200,000 to build. The remaining \$120,000 in TEA funds not used would return to Butte County's share, and BCAG would commit to use those funds -- along with any other funds necessary -- to construct the project. The Commission has in several other cases allowed TEA funds to be used 100% for project support whenever the sponsoring agency (or some other regional or local agency) commits to complete construction of the project with other funds. Commission staff has advised the agencies of this precedent, and also has indicated the Commission might not be so inclined if the city went forward intending to complete the studies and choose the no project alternative.

This is notice for a STIP amendment, with action to follow in August; after August the \$320,000 in TEA funds expire and the whole issue becomes moot. Staff sees three options for this STIP amendment:

- accept the notice in July, and intend to consider amendment and allocation in August if the City Council commits to build a project and BCAG subsequently commits to fund it;
- accept the notice in July with conditions, to be communicated to Oroville and BCAG, with further consideration in August, or
- indicate intention to reject the STIP amendment as proposed, and intention to allocate only \$160,000 or no funds at all in August, and see what proposal comes back.