DEPARTMENT OF THE ARMY PERMIT EVALUATION AND DECISION DOCUMENT

APPLICANT: APPLICATION No. 1991-194740N

Mr. Charlie Fielder
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P.O. Box 3700
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Project Name: Willits Bypass Project
Project Location: City of Willits, Mendocino County, California
Named Waterway: Haehl Creek, Baechtel Creek, Broaddus Creek, Mill Creek, Upp Creek, Outlet Creek and related tributaries.
Project Site Latitude: 39.42151°N
Project Site Longitude: -123.34042°W

This document constitutes my record of decision, supplemental environmental assessment, review and compliance determination according to the Section 404(b)(1) Guidelines, and public interest review determination for the project (applicant's preferred alternative) described in the attached Public Notices (PN) dated March 16, 2010 and October 6, 2011. The Department of the Army permit application was processed pursuant to the provisions of Section 404 of the Clean Water Act (33 U.S.C. § 1344).

Incorporated herein by reference are the following documents that were reviewed in formulating the decision on this Department of the Army permit application: (a) "Construction and Operation of a Freeway Bypass on US 101 around the City of Willits in Mendocino County, California from KP R69.4 to KP 84.2 (PM R43.1/52.3), Final Environmental Impact Statement/ Environmental Impact Report" (Final EIS), prepared by the Federal Highways Administration (FHWA) and the California Department of Transportation (Caltrans) dated October 2006,Volumes 1 through 4, including appendices (b) Record of Decision, prepared by FHWA dated December 18, 2006, and (c) Final Alternatives Analysis in accordance with 404 (b)(1) Guidelines prepared by FHWA and Caltrans dated April 2005 (Appendix G of the EIS).

The Corps acted as a cooperating agency (per 40 C.F.R. §1501.6) throughout the process of developing the National Environmental Policy Act (NEPA, 42 U.S.C. § 4371 *et seq.)* document, resulting in the Final EIS dated October 2006. The Corps has conducted an independent review (per 33 C.F.R. Part 325, Appendix B) of the Final EIS dated October 2006 and is hereby adopting the Final EIS per 33 C.F.R. § 230.21 and 40 C.F.R. § 1506.3. The Council on Environmental Quality (CEQ) NEPA regulations (40 C.F.R. § 1502.9(c)(1)) require federal agencies to prepare supplements to either draft or final EISs if: 1)The agency makes substantial changes in the proposed action that are relevant to environmental concerns; or 2) There are

significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts. Additional information made available subsequent to the publication of the Final EIS has been analyzed and is addressed herein as a supplemental environmental assessment (EA), per 33 C.F.R. Part 325, Appendix B, Paragraph 20. The Corps has determined that a supplemental EA is appropriate, as the new information presented did not rise to the level of a significant impact on the human environment.

I. PROPOSED PROJECT:

A. **PROJECT DESCRIPTION** (33 C.F.R. § 325.1(d); 33 C.F.R. § 325.3(a)(5); 40 C.F.R. § 1508.20): Caltrans in conjunction with the FHWA, is seeking Department the Army authorization to construct a new segment of U.S. Highway 101 (U.S. 101) that will bypass the City of Willits in Mendocino County, California. The FHWA is the federal lead agency under NEPA, with Caltrans acting as liaison and providing oversight for the NEPA process. The proposed project entails construction of a four-lane freeway segment of U.S. 101. Each lane would be 12 feet wide with a 22-foot median separating the northbound and southbound lanes. The proposed freeway would bypass the City of Willits with several bridges spanning creeks and local roads, a viaduct spanning the floodway, and interchanges on either end of the bypass. The interchange ramps would be single-lane.

The project would directly affect a total of 82.05 acres of wetlands and other waters of the United States, (streams such as: Haehl, Baechtel, Broaddus, Mill, Upp, and Outlet Creeks and their related tributaries), of which 51.07 acres would be permanently filled and 30.98 acres would be temporarily filled during project construction.

The project would be constructed in two phases: Phase I of the project would be the two southbound lanes. However, Phase I would function as an interim facility upon which northbound and southbound traffic would travel until construction of Phase II. Upon completion of both phases, traffic would be separated via a median and two viaducts.

The Phase I interim facility would be comprised of two lanes and have wider roadway shoulders to safely accommodate the travelling public. Also, the Phase I (interim facility) viaduct would be one foot wider than the future Phase II viaduct. This design feature would be to allow safe passage of northbound and southbound traffic on a singular viaduct until construction of the Phase II viaduct to separate northbound traffic from southbound.

Phase I would include constructing all four north and southbound lanes from the southern end of the project at Post Mile 43.1 on U.S. 101 to Post Mile 45.6. Phase I would also include the construction of a southern interchange at Post Mile 43.7 near Haehl Creek, and a northern interchange that includes a roundabout-type intersection with local roads at Post Mile 48.2 near Upp Creek.

Phase I construction would permanently fill 42.76 acres of waters of the United States and temporarily fill 22.91 acres of waters of the United States.

Phase II would consist of construction of the two north-bound lanes beginning at Post Mile 69.4 and continuing to the northern end of the project at Post Mile R49.0. Phase II construction would

permanently fill 8.31 acres of waters of the United States and temporarily fill 8.07 acres of waters of the United States. Due to funding constraints Caltrans does not propose to construct Phase II of the project now. A comprehensive plan to offset impacts to waters of the U.S. during Phase II construction would be prepared for Corps review at least two (2) years prior to the proposed construction start date. This would ensure adequate time for development and public review of the Phase II final MMP. This plan must meet all criteria outlined in 33 C.F.R. § 332.4(c). Currently, the plan to compensate for Phase II Project impacts to wetlands is in a conceptual stage that allows Caltrans to seek suitable mitigation opportunities outside of the Valley if needed; the permittee shall exhaust all suitable mitigation opportunities remaining within the Valley prior to exploring mitigation opportunities outside of the Valley.

Note: when considering the term "temporary fill material" it is understood that this term constitutes a fill discharge that would be in place for the duration of active construction (likely up to 5 years).

This individual permit application was evaluated pursuant to the provisions of Section 404 of the Clean Water Act (33 U.S.C. § 1344).

B. **PROJECT MODIFICATIONS** (33 C.F.R. § 325.2(a)(2)): No substantive modifications have been made to the project footprint subsequent to the publication of the initial PN in 2010. The following minor changes to the project have been made to reduce fill amounts to waters of the U.S.; median width was reduced to from 45 feet to 22 feet; the southbound, Phase I, viaduct would service the interim facility and, thus, modified to one foot wider (42.7 feet) than the Phase II viaduct (which would be 41.7 feet); and the southern interchange design was returned to a configuration similar to the one analyzed during the 2005 LEDPA/2006 FEIS (the previous change to southern interchange had intended to remove a cut into a hillside at the interchange. However, that change had removed the southbound left turn. After some consideration Caltrans determined the interchange should be returned to the original design for safety reasons).[1]

C. **PROJECT IMPACTS TO WATERS OF THE UNITED STATES**: The project proposes the discharge of fill material into 82.05 acres of waters of the United States to allow construction of the roadway prism, median, and shoulders. The bypass would also cross the aforementioned creeks and riparian corridors adjacent to the creeks. The project would be constructed as depicted in drawings prepared by Caltrans, dated February 1, 2012, titled "Caltrans 03-Design East, District 01, County Mendocino, Route 101, Kilometer Post Total Project R69.4/R78.9: Figures L-1A through L-36A" and Figures B-1 through B-60 of Appendix B, Willits Bypass Sensitive Biological Resources Impact Maps, of the "Willits Bypass Project Mitigation and Monitoring Proposal" dated February 1, 2012.The following structures would be constructed:

--Six bridges in the Haehl Creek interchange area.

--Two retaining walls in the Haehl Creek interchange area adjacent to Haehl Creek.

--Two bridges to cross East Hill Road.

[1] Project modifications based on information received from Caltrans via email, January 20, 2012

--Two bridges to cross the middle reach of Haehl Creek south of Shell Lane.

--One retaining wall on the west side of the southbound roadway lanes just south of Center Valley Road.

--Two viaduct structures to span the floodway.

--Two bridges to cross over the Northwest Pacific Railroad (NWPRR) tracks in the Quail Meadows interchange area, one for the southbound roadway lanes (Phase I) and one for the northbound roadway lanes (Phase II).

--Two bridges to cross the new connector road to existing U.S. 101 in the Quail Meadows interchange area.

--Six bridges to cross Upp Creek directly north of the Quail Meadows interchange, one for each of the following: southbound roadway lanes (Phase I); northbound roadway lanes (Phase II); northbound on-ramp (Phase I); northbound on-ramp (Phase II); southbound off-ramp; roundabout local intersection.

--A floodway viaduct. The project design includes two elevated structures, which make up the floodway viaduct. The purpose of this design feature is to span the floodway. The viaduct would be located in the central part of the project area and would span Center Valley Road, the lower reach of Haehl Creek just upstream of the confluence with Baechtel Creek, Hearst-Willits Road, Baechtel and Broaddus Creeks at their confluence (beginning of the Outlet Creek designation), the City of Willits Wastewater Treatment Plant (WWTP), and Mill Creek. The 6,000-foot-long structures would consist of a separate northbound and southbound elevated viaduct superstructure. The total area of both viaducts would be 10.2 acres. The southbound, Phase I (interim facility) viaduct would be 42.7 feet wide, the northbound viaduct would be 41.7 feet wide. The edge-to-edge distance between the structures would be approximately 18 feet-seven inches, and each would have a 10-20 foot minimum clearance underneath. The viaducts would require supporting columns, ranging in size from 4.5 to 7-feet in diameter.[2]

The bypass would require imported borrow material from outside the project area in addition to material excavated on-site. The project would be constructed largely on fill material imported to the site. The bypass requires approximately 2.5 million cubic yards of fill material (1.4 million cubic yards in Phase I). The construction contractor would have the option to determine whether the source of material for earthwork fill would be a Caltrans-designated borrow site (at Oil Well Hill), a commercial borrow site, or another site. Caltrans has designated the borrow site at Oil Well Hill, just north of Little Lake Valley, as an optional source of material that the contractor may use for the project. The contractor may also choose to use available commercial borrow sites in the vicinity to obtain the required fill. Typically, commercial borrow sites hold pre-approved operating permits and do not require any additional environmental permitting when soil is exported. Should the contractor select an alternative, non-commercial or unpermitted

[2] Viaduct information based on Caltrans' figures submitted via email January, 20, 2012

commercial borrow site for this project, he would be required to contact the United States Army Corps of Engineers (USACE or Corps) for additional permitting requirements.

D. **PROPOSED MITIGATION** (33 C.F.R. § 320.4(r); 33 C.F.R. § 332.4(b); 40 C.F.R. §§ 230.70-.77; 40 C.F.R. § 1508.20): Avoidance measures were discussed in the Final Environmental Impact Statement (EIS) which was circulated December 18, 2006. The EIS document identifies the Least Environmentally Damaging Practicable Alternative (LEDPA) (which received concurrence from the Corps June 10, 2005). The EIS document also outlines proposed mitigation measures for the project and compliance with 404(b)(1) Guidelines.

Since adoption of the FEIS/FEIR and record of decision, several design elements/refinements have been incorporated into the project that further reduce the overall project footprint and impact area, avoiding or minimizing effects on aquatic resources. These design elements are listed in the MMP at 1.2 *Design Refinements to Avoid and Minimize Impacts*.

The applicant submitted a Preliminary Mitigation and Monitoring Plan (PMMP) with its Permit Application dated March 1, 2010. The PMMP proposed the following mitigation amounts to compensate for impacts to wetlands: 33.4 acres of wetland creation; 1032.90 acres of wetland enhancement; 1122.11 acres of wetland preservation; and 5.96 acres of wetland restoration. In addition, the applicant proposed the following mitigation amounts to compensate for impacts to other waters of the United States: 17.32 acres of enhancement; 24.7 acres of preservation; 0.06 acre of restoration.

On June 11, 2010, a final MMP was submitted for Corps review. On June 23, 2010 the Corps made the determination that the final MMP submittal was not in compliance with the requirements of 33 C.F.R. § 332.4(c). Caltrans continued to develop its MMP until it was apparent it would not have an acceptable final MMP prepared in time to meet its proposed August 31, 2010 permit decision deadline.

After August 31, 2010, Caltrans re-initiated efforts to develop a final MMP that would meet all requirements of 33 C.F.R. § 332.4(c). Its renewed effort to develop a final MMP was part of its new proposed permit decision timeline of February, 2012. The Corps, Caltrans, and its consultants initiated an effort to identify mitigative opportunities in order to compensate for the Section 404 of the Clean Water Act losses of the project. This effort resulted in Caltrans' draft MMP dated October 2011 which was submitted to the Corps on October 4, 2011. The studies that were utilized to assist Caltrans with their October 2011 draft MMP submittal consisted of: Willits Bypass Project Mitigation Study (December 2004); Willits Bypass Project Mitigation Parcel Opportunities (February, 23, 2010); Willits Bypass Project Impact Assessment (March 24, 2011); and Willits Bypass Project Wetland Enhancement Credit (October 19, 2011).[3]

One of the central recommendations resulting from the Corps' initial field review of the potential mitigation properties was a passive approach, primarily the removal of cattle grazing where possible. Such a passive approach is appropriate when degraded sites still have the basic

3 The afore-listed studies are contained in the Corps' permanent file, File #1991-194740N

characteristics of wetlands and the degrading action is easily identifiable[4].

The October 2011 draft MMP proposed the following compensation types and amounts: 34.85 acres of wetland establishment credit on approximately 59 acres and; 48.22 acres of wetland rehabilitation credit on approximately 325 acres of existing wetlands. To compensate for project impacts to other waters (streams) the applicant proposes 19.03 acres of stream rehabilitation. A Special PN inviting public comment on the October 2011 draft MMP was issued on October 6, 2011 (for more details, see section III.E. below).

The final MMP was submitted to the Corps on January 12, 2012. The mitigation strategy would be to establish, re-establish, and rehabilitate a mosaic of higher-functioning wetlands and other waters to compensate for aquatic functions lost as a result of unavoidable impacts associated with Phase I of project construction.

Goals to be reached based upon the mitigation strategy are linked to increasing the quantity and improving the existing functions and services of wetlands and other waters in Little Lake Valley, where project construction occurs. The stated Goals and Objectives of the MMP are described in detail at Chapter 2.5 of the MMP titled, *Mitigation Goals and Objectives*.

It is expected that over the long term, the mitigation wetlands should persist due to persistent hydrological conditions within the Valley.

Note: The approved final MMP is a detailed plan to offset unavoidable impacts to waters of the United States for construction of Phase I (the interim facility) of the Project. No discharge of fill material is proposed for Phase II of the Project at this time. The MMP submittal for Phase II Project impacts would be submitted at least two (2) years prior to the anticipated start date for Phase II Project construction. The Phase II MMP would be submitted for public review and comment via a Special PN and the applicant would be required to adequately respond to all public comments prior to Corps approval of the plan.

II. ENVIRONMENTAL AND PUBLIC INTEREST FACTORS CONSIDERED:

A. PROJECT PURPOSE AND NEED:

1. **Basic Project Purpose** (40 C.F.R. § 230.10(a)(3)): The EIS Document made the determination that the project is not water dependent. The basic project purpose is to reduce traffic congestion in the City of Willits and correct a number of deficiencies that exist on the current highway.

U.S. 101 was identified as an important route for interstate and interregional travel and was considered the economic lifeline of California's North Coast. It is the principal arterial route for people and goods between the San Francisco Bay Area and the greater Eureka/Arcata area.

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4 National Oceanic and Atmospheric Administration, Environmental Protection Agency, Army Corps of Engineers, Fish and Wildlife Service, and Natural Resources Conservation Service. 2003. An Introduction and User's Guide to Wetland Restoration, Creation, and Enhancement.

Currently, U.S. 101 also serves as Main Street in Willits and is the only continuous north/south street through the city.

The project proposal would bypass Willits to reduce delays, improve safety, and achieve a minimum level of service for interregional traffic on U.S. 101 within the project area through a 20-year design period. [5]

2. **Overall Project Purpose** (40 C.F.R. § 230.10(a)(2)): The overall project purpose is to reduce traffic congestion and increase pedestrian safety in the City of Willits where the U.S. 101 roadway enters the Willits city limits and becomes Main Street.

3. **Need for the Project** (33 C.F.R. § 325, Appendix B, Para. 9.b.(4); 33 C.F.R. § 325.1(d); 33 C.F.R. § 325.3(a)(5)): The following is the project need, as described in the final EIS Document (Volume 1, page 2-3): *" to reduce traffic delays, improve safety, and achieve a minimum level of service "C" for interregional traffic on U.S. 101 within the project area though a 20-year design period. U.S. 101 is an important route for interstate and interregional travel and is considered the economic lifeline of California's North Coast, because it is the principal arterial route for people and goods between the San Francisco Bay Area and the greater Eureka-Arcata area. The need for the project is caused by the current facility within the project limits, which serves both as an interstate highway and as Main Street in the city of Willits; the facility, as a result, carries both interregional and local traffic on a surface street with curb parking and multiple side streets and driveways, resulting in congestion, and delays for drivers, pedestrians, and bicyclists. Travel through developed areas on congested surface streets, in the project area, increases interregional travel times and transportation costs."*

The proposed need for the project is also described in the alternatives analysis prepared by Caltrans (EIS Volume 1, Appendix G, page 3-2): "*Because U.S. 101 also serves as Main Street in Willits and is the only continuous north/south street traversing the city, it must accommodate nearly all local traffic traversing Willits as well as all interregional traffic. Traffic congestion has been a concern in Willits for a number of years, and it is becoming more prevalent as traffic volume increases. The proposed project is needed to respond to a number of deficiencies that exist on the current facility.*"

More recent traffic models were run in January 2012 to demonstrate the current need for the project, despite declines in traffic in the Willits area since 1999. "A model of the existing intersection of SR 20 and US 101 in the City of Willits using the reduced 2010 volumes was run on January 25, 2012. The model showed that the average of all movements operates at LOS E. The forward and backward movements on US 101 at the intersection operate at an LOS of F with the 2010 traffic volumes. This intersection is the controlling intersection in the section of US 101 that will be superseded by the bypass." (attachment to Dave Kelley, Caltrans Project Manager, email communication, dated January 26, 2012)

Additionally, the updated traffic models indicated four lanes (two in each direction) are necessary to achieve LOS C on the bypass. The proposed Phase I two-lane bypass segment would not be able to provide LOS C but would only provide LOS D, based on current regional

5 20-year design period means the expected service life or design life of the project.

traffic volumes (letters from Troy Arseneau, Office of Traffic Operations Chief for Caltrans, dated February 8, 2012 and February 13, 2012).

B. **PROJECT ALTERNATIVES** (33 C.F.R. 33 § 320.4(a)(2)(ii); C.F.R. § 325.2(a)(4); 40 C.F.R. § 230.10(a); 40 C.F.R. § 1508.25):

1. **No Action**: Caltrans submitted its own analysis of the 404(b)(1) Guidelines (EIS Volume 1, Appendix G, page ES-10) and concluded the following: *"Although the No Build alternative would have no impact to wetland resources, traffic on existing U.S.101/Main Street is projected to increase in the future based on regional transportation demands, which would result in continued delays and safety concerns for interregional and local traffic on U.S. 101 within the City of Willits. The No Build alternative does not meet the purpose and need of the project to alleviate current and projected traffic demand and safety concerns on U.S. 101 within the project limits."*

2. **Other Project Designs**: The consideration of other project designs was extensive. Thirty alternative alignments were considered since 1962 (EIS Volume 1, Appendix G, page ES-1). A Least Environmentally Damaging Practicable Alternative (LEDPA) was adopted (as described in the EIS document at Section 1.3, citing Appendix C). The Final Alternatives Analysis is detailed in the EIS document at Appendix G.

Project planning for the Willits Bypass Project began in 1962. From 1962 until 1994 at least thirty different project alignments were considered as a result of public and governmental agency input and independent investigation by Caltrans staff.

In 1988 the public was presented with these numerous alignment proposals, several of which proposed routing traffic through downtown Willits (which would not involve fill into waters of the United States). However, on May 26, 1994, the NEPA/404 integration process was initiated and in 1995 the signatory agencies concurred with eliminating these alignments for reasons including (but not limited to): potential impacts to residential housing, higher costs associated with interchanges, high cost associated with railroad track relocation, high project costs, poor services, potential for inducing growth, safety concerns, inability to meet project's purpose and need, relocation of commercial and industrial businesses, and failure to meet project objectives of providing a safe and efficient highway.

In 1995 the NEPA/404 signatory agencies concurred with the new range of alternatives to be studied and the number of proposed alignments was reduced from approximately thirty to six. The six remaining alignments all proposed impacts to waters of the United States (except for the no-build alternative).

The Federal Highway Administration (FHWA) approved the final NEPA document (EIS) and filed a record of decision on December 18, 2006. Since publication of the final EIS in December, 2006, Modified Alternative J1T (the preferred alternative) has undergone several design revisions. Due to the nature of the design revisions, the EIS document was not re-circulated for public comment.

The Modified J1T alignment identified as the Least Environmentally Damaging Practicable Alternative (LEDPA) by the NEPA/404 signatory agencies in 2005 would have permanently impacted 42.03 acres of wetland waters of the U.S. The currently proposed project would impact an additional 6.46 acres of wetlands, for a total of 48.49 acres of permanent wetland impacts. The increase in impact amount stems from several different project design changes[6]. Relocation of a stock pond impacted by the bypass right-of-way would require an additional 0.641 acre of wetland impacts that would not be practicable to avoid for logistical reasons. Shortening the south end of the viaduct would impact an additional 2.232 acres of wetlands that would not be practicable to avoid due to cost. Relocating the northern interchange would impact an additional 2.162 acres of wetlands that would not be practicable to avoid due to cost. NMFS, CDFG, and RWQCB permitting requirements would require an additional 1.796 acres of wetland impacts and were incorporated into the project design for their overall environmental benefits.

USACE evaluated each of the proposed design changes to ensure the current project is still the LEDPA. USACE requested concurrence from EPA on February 14, 2012 and received EPA's concurrence on February 15, 2012 that the proposed project as it stands today, is the LEDPA.

3. **Other Sites**: The project is not feasible at other locations outside the Little Lake Valley because of the nature of the project (to construct a roadway that would bypass the City of Willits, California).

C. **EVALUATION OF PERMIT APPLICATION** (33 C.F.R. § 320.4(a); 33 C.F.R. § 325.2(a)(4); 40 C.F.R. § 1508.11): The following paragraphs describe potential beneficial and adverse direct, indirect, and cumulative impacts of the project on various public interest factors. Direct impacts are specifically caused by the project, occur at the same time and place, and may result in short-term and/or long-term changes to the environmental baseline condition. Indirect impacts are caused by the project but occur later in time or are further removed by distance, but are still reasonably foreseeable. Cumulative impacts are specifically addressed at the end of this section.

1. **Scope of Analysis**:

a. NEPA Scope of Analysis (33 C.F.R. § 325.2(a)(4); Appendix B to 33 C.F.R. § 325): Under the provisions of Paragraph 7.b. of Appendix B to 33 C.F.R. Part 325, when an activity requiring a Department of the Army Permit is merely one component of a larger project, the scope of analysis should address those portions of the entire project over which USACE has "sufficient control and responsibility" to warrant Federal review. Typical factors to consider in determining whether sufficient control and responsibility exist include: (a) whether or not the regulated activity comprises merely a link in a corridor type project; (b) whether there are aspects of a upland facility in the immediate vicinity of the regulated activity which affect the location and configuration of the regulated activity; (c) the extent to which the entire project occurs in jurisdictional waters; and (d) the extent of cumulative Federal control and responsibility. The determination of Federal control and responsibility may include portions of the project beyond the limits of USACE jurisdiction where the cumulative Federal involvement, such as Federal financing, assistance, direction, regulation, or approval, is sufficient to grant legal control over such additional portions of the project.

6 Caltrans, February 13, 2012. 2005 LEDPA Design and 2011 Design Comparison, January 2012.

In consideration of criteria (c), and (d) cited above, it is reasonable to conclude the USACE does have sufficient control and responsibility to warrant a Federal review over a larger portion of the entire project, or to turn an essentially private action into a Federal action. As such, the NEPA scope of analysis included both jurisdictional waters and non-jurisdictional waters and upland areas in the immediate vicinity of the waters of the United States where the regulated activity occurs (the watershed of Outlet Creek).

b. **National Historic Preservation Act (NHPA) Scope of Analysis** (Appendix C to 33 C.F.R. § 325): Under the provisions of Paragraph 1.g. of Appendix C to 33 C.F.R. Part 325, the term "permit area" is defined as those areas comprising jurisdictional waters that would be directly affected by the proposed work or structures and uplands directly affected as a result of the authorized work or structures. The permit area may be expanded beyond the limits of the affected jurisdictional waters to upland areas, provided the activity satisfies the following three factors: (a) The activity does not take place but for the authorization of the work or structures; and (b) the activity is integrally related to the authorized work or structures; and (c) the activity is directly associated (first order impact) with the authorized work or structures.

In consideration of criteria (a)(b)(c) cited above, it is reasonable to conclude the USACE does have sufficient control and responsibility to warrant a Federal review over a larger portion of the entire project.As su ch, the NHPA scope of analysis included both jurisdictional waters and non-jurisdictional waters and upland areas in the immediate vicinity of the waters of the United States where the regulated activity occurs (the watershed of Outlet Creek).

c. **Endangered Species Act (ESA) Scope of Analysis** (50 C.F.R. § 402): Under the provisions of 50 C.F.R. § 402.02, the term "action area" is defined as all areas to be affected directly or indirectly by the authorized work or structures. Accordingly, the action area typically includes the affected jurisdictional waters and uplands affected by the authorized work or structures within a reasonable distance. Generally, it is presumed that the action area may be expanded beyond limits of the immediate uplands, taking into account the following evaluation factors: (a) that either a causal physical relationship exists between the authorized work or structures and any indirect effects occurring in uplands, or that the extent of USACE involvement is sufficient to exert Federal control and responsibility over additional upland areas; or (b) that activities occurring in upland areas would not occur but for the authorized work or structures; and (c) that activities occurring on upland areas are interrelated activities or interdependent activities with respect to the authorized work or structures.

In consideration of criteria (a)(b)(c) cited above, it is reasonable to conclude the USACE does have sufficient control and responsibility to warrant a Federal review over a larger portion of the entire project. The U.S. Fish and Wildlife Service (USFWS) was listed as a Cooperating Agency on the EIS document. As such, the ESA scope of analysis included both jurisdictional waters and non-jurisdictional waters and upland areas in the immediate vicinity of the waters of the United States where the regulated activity occurs (the watershed of Outlet Creek). ESA scope of analysis also included the proposed materials borrow site for the project called "Oil Well Hill."

2. **Site Description**: The project is located within the Mendocino Highlands physiographic area. The Mendocino Highlands are the ridges and valleys that have a general north-northwest trend that is sub-parallel to the California coastline located 22 miles to the west.

Although elevations in the region are moderate, relief is sometimes considerable. The highest peak surrounding the Little Lake Valley has an elevation of 3,320 feet and the valley floor drops to an elevation of 1,320 feet. Little Lake Valley and valleys located to the north are drained by the Eel River system. The valleys located south of Little Lake Valley drain to the Russian River system.

The project area has a Mediterranean climate. Summers are warm to hot. Winters are cool to cold and can be accompanied by rare light snowfall. Frost and fog conditions can be expected to occur anytime throughout the winter months.

Rainfall is primarily concentrated between the months of October through March. Average annual rainfall in the Little Lake Valley is approximately 53 inches.

The primary farming activity in the project area is the production of hay and livestock, most commonly, sheep, cattle, and horses. The foothills west of Willits are used extensively as rangeland.

Little Lake Valley is an intermontane valley. Many intermontane valleys have alluvial fans, stream and lake deposits: these areas are subject to inundation during the growing season making agricultural activity difficult. Much of Little Lake Valley's higher land is subject to urbanization, which precludes the full utilization of its farmland. Intensive agricultural production is not found in Little Lake Valley. This is owing to a high water table and lack of drainage during the growing season, especially in the northern portion of the valley, which precludes the ability to cultivate orchards or vineyards in the area.

3. **Direct and Indirect Impacts to the Physical Environment** (40 C.F.R §§ 230.11, 230.20-.25; 40 C.F.R. § 1508.8):

a. **Substrate**: The project proposes the discharge of fill material into 82.05 acres of waters of the United States to allow construction of the roadway prism, median, and shoulders. These grading and filling activities within wetland and other waters of the U.S. would substantially alter the existing substrate through conversion of these aquatic resources to paved upland areas, decreasing water recharge and infiltration. Substrate changes resulting from the project would be long-term, direct, adverse, and major.

b. **Erosion and Sediment Accretion Patterns**: Sediment is of specific concern in the project area since it is listed as a source of watershed impairment to beneficial uses of water. Caltrans has identified standard practices and procedures which are intended to reduce or eliminate water quality impacts. See Final EIS, Sections 3.5.2 and 3.18.2.1. As a result, effects on erosion and sediment accretion patterns resulting from the project are expected to be short-term, direct, adverse, and minor.

Additional impacts to erosion and sediment accretion patterns resulting from the MMP are

associated with the Group 2 mitigation establishment sites (Section 6.3.1.2 of the MMP dated January 2012).[7] The Group 2 sites have the potential to accumulate sediment from upstream areas in flood events greater than the 5-to-10 year peak discharge. However, with the continued existence of the pre-existing levees separating the establishment sites from the adjacent creeks, creek flows below the aforementioned peak discharge amounts will not have the capacity to deposit sediment into these wetlands.[8]

Furthermore, the proposed Group 2 sites were surveyed during the design phase by a geomorphologist to evaluate the condition of the existing land surface and its feasibility to establish wetlands. For all of the Group 2 wetland establishment sites, it was determined that the proposed grading areas would not encroach on or impair the existing natural levee. The creek-side limit of the wetland establishment boundaries was identified based on site characteristics. The geomorphologist also evaluated the areas for the potential for overbank flow and sediment deposition, and the wetland design limit was developed based on these evaluations. As a result, adverse effects on erosion and sediment accretion patterns resulting from the compensatory mitigation are expected to be long-term, direct, and minimal.

c. **Currents, Circulation, or Drainage Patterns**: Construction of the floodway viaduct would avoid and minimize impacts to both groundwater and surface water hydrology. Starting near Center Valley Road, the viaduct would cross over Haehl Creek, across the combined floodways of Baechtel and Broaddus creeks and then across the floodway at Mill Creek. The only encroachment into the floodways would be in the form of bridge columns. North of the Quail Meadows Interchange, a triple 10-ft. by 6-ft. reinforced concrete box culvert would be constructed where the proposed alignment crosses Upp Creek. To provide for fish passage, the culvert invert would be constructed one foot below the existing stream invert, providing a natural streambed through the culvert. See Final EIS, Section 3.6. Effects on currents, circulation, and drainage patterns are expected to be long-term, direct, and adverse, but only minor in magnitude.

Additional impacts to currents, circulation, or drainage patterns resulting from the MMP are not expected. The accumulation of thatch on approximately 350 acres of restored wetlands is a negligible portion of the overall floodplain, and is therefore not expected to have any effect on currents, circulation, or drainage patterns.

d. **Water Quality** (temperature, suspended particulates and turbidity, salinity patterns): The project could potentially impact water quality in terms of water temperature, sediments, turbidity and floating material, and oil, grease and chemical contamination. Some riparian woodland and scrub habitat would be removed at stream crossings, in order to accommodate the construction of bridges, culverts, and the viaduct structure. The removal of vegetation and loss of canopy cover could affect water quality by elevating stream water temperatures at these locations, which could also affect salmonid habitat. See Final EIS, Section 3.5.1.

Sediment is of specific concern in the project area since it is listed as a source of watershed

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[7] Group 2 mitigation establishment sites means the 29.49 acres of wetland area identified in the summer of 2011 (defined at 6.3.1.2 of the MMP)

8 Based on information gathered by Caltrans, received via email communication November 18, 2011.

impairment to beneficial uses of water. Caltrans has proposed standard practices and procedures which are intended to reduce or eliminate water quality impacts. See Final EIS, Sections 3.5.2 and 3.18.2.1.

Highway runoff, accidental spills, or the application of chemicals may introduce oils, greases, or chemicals to surface water. Caltrans would implement a standard Hazardous Waste and Spill Response Plan, as well as a number of maintenance Best Management Practices (BMPs), as part of the project. See Final EIS, Section 3.5.3.

Effects on water quality from the Project are expected to be long-term in duration, direct, adverse, and moderate in magnitude.

Additional water quality impacts resulting from the MMP are expected to be beneficial in offsetting the adverse impacts of the Project. The MMP has identified the primary water quality functions to be replaced by the compensatory mitigation strategy as sediment and toxicant retention, nutrient removal and transformation, and production export (Section 2.4.2). Cattle grazing has been one of the major contributors of sediment to valley surface waters, impacting regional water quality (Final EIS, Section 4.7.3). It is expected that a reduction in the extent of grazing accomplished through the MMP would provide a water quality benefit for downstream waters.

e. **Flood Hazards and Floodplain Functions**: The proposed project alignment lies partially within the Federal Emergency Management Agency's (FEMA) Zones A, AE, A3, B, C, X-Other Flood Areas, and X-Other Areas. Encroachment into the floodplain would be the result of roadway embankment construction and the columns of the floodway viaduct. The total project area within the floodplain is estimated to be 38.8 acres, which is about 1 percent of the total base floodplain area in the valley. This loss would have a negligible effect on the floodplain's natural ability to moderate floods and recharge groundwater. See Final EIS, Section 3.6. The project includes bridges over creeks, culverts to equalize floodwaters and a viaduct spanning the floodway. The project has been modeled in a hydraulic model and design components have been included to eliminate any increase or decrease in flood water elevations due to the bypass or mitigation project. Therefore, project impacts on flood hazards and floodplain functions are expected to be long-term in duration, direct, and adverse, but minor in magnitude.

Additional impacts to flood hazards and floodplain functions are not expected to result from the MMP. The mitigation project would excavate a total of 266,561 cubic yards of material and import 81,435 cubic yards of material (topsoil). The net increase in floodplain capacity would therefore be 185,126 cubic yards (attachment to Dave Kelley email communication dated January 26, 2012), indicating there would be no adverse effect on flood hazards or floodplain functions.

f. **Wetland Functions** (flood control, storm or wave erosion control buffers): The project proposes the discharge of fill material into 82.05 acres of waters of the United States to allow construction of the roadway prism, median, and shoulders. Of this acreage, wetland waters of the U.S. comprise 76.19 acres. Wetland functions that may be impacted by the project include

natural biological functions; storage for storm and flood waters; maintenance of minimum baseflows; and water purification functions.

Phase I wetland impacts are 60.99 acres and impacts to other waters of the United States (streams) are 4.68 acres. This major net loss of wetland acreage should be offset with implementation of the final MMP proposal which addresses compensation for these impacts in great detail. Compensatory mitigation for Phase I impacts will occur entirely within the Little Lake Valley and will consist of the following mitigation types and amounts: 49.58 acres of wetland establishment; 344.63 acres of wetland rehabilitation. Adverse impacts to wetland functions during construction of Phase I of the Project are expected to be long-term in duration and major in magnitude. However, based on a thorough review of the final MMP, these impacts should be offset through MMP implementation.

The restoration of wet meadow wetlands is expected to provide a lift in the functions and services they provide within Little Lake Valley. The extent and condition of wet meadow habitat has been degraded due to artificial drainage, conversion, and overgrazing (Final EIS, Volume 3, page H-9). Many swales located within the valley have also exhibited a lowered potential to serve as wildlife habitat due to grazing (Final EIS, Volume 3, page H-12). Cattle grazing, along with vineyards and roads, has also been a major sediment-producing impact on regional water quality (Final EIS, Section 4.7.3). It is expected that a reduction in the extent of grazing would provide a lift to the condition of the existing wet meadows and yield a water quality benefit for downstream waters as well.

The suite of affected wetland functions and services lost to Phase I construction should be redressed upon implementation of the MMP performance standards (monitored for at least 10 years), and an intensive long term management plan. In addition, a comprehensive adaptive management plan has been prepared and will be ready, if needed, to guide any revisions that may be needed to successfully offset any long term impairment to wetland functions. Changes to the MMP resulting from application of the adaptive management plan would be coordinated with USACE prior to implementation.

g. **Baseflow**: The project proposes the discharge of fill material into 82.05 acres of waters of the United States to allow construction of the roadway prism, median, and shoulders. These grading and filling activities within wetland and other waters of the U.S. would result in the conversion of these aquatic resources to paved upland areas, decreasing perviousness within the watershed, and potentially increasing surface runoff and peak flow volumes. The overall impact on baseflow, however, is expected to be negligible. Therefore, changes in baseflow resulting from the project would be long-term, direct, and adverse, but minor in magnitude.

h. **Aquifer Recharge and Water Supply** (natural): The project proposes the discharge of fill material into 82.05 acres of waters of the United States to allow construction of the roadway prism, median, and shoulders. These grading and filling activities within wetland and other waters of the U.S. would result in the conversion of these aquatic resources to paved upland areas, decreasing water recharge and perviousness. The overall impact on aquifer recharge and water supply, however, is expected to be negligible. Therefore, changes resulting

from the project would be long-term, direct, and adverse, but minor in magnitude.

4. **Direct and Indirect Impacts to the Biological Environment** (40 C.F.R §§ 230.11, 230.30-.45; 40 C.F.R. § 1508.8):

a. **Wetlands** (Special Aquatic Site): See "Wetland Functions" section above. The major adverse impacts to wetlands are expected to be long-term in duration and direct.

b. **Mudflats** (Special Aquatic Site): No effect.

c. **Vegetated Shallows** (Special Aquatic Site): No effect.

d. **Coral Reefs** (Special Aquatic Site): No effect.

e. **Pool and Riffle Areas** (Special Aquatic Site): USACE received a BO from NMFS dated January 19, 2012. Effects on spawning areas (pool and riffle areas) for salmonids in streams in the action area were analyzed. It was determined that spawning habitat for Chinook salmon occurs within the action area; although existing conditions are poor. The presence of high percentages of sand in streambeds was identified as a factor for reducing the quality of the creek beds for spawning.

Salmonid spawning areas occur both upstream and downstream of the project area. However, few salmonids are expected to spawn within the project action area.

The BO found that sediment input by project construction is expected to further degrade existing spawning habitat conditions in the action area. Fine sediments input associated with project construction will reduce the permeability of gravels, intergravel flow, and the availability of dissolved oxygen for developing embryos, and interfere with emergence success by occluding interstitial pore space. The BO also finds that fine sediment originating from the project during the four year construction period is expected to further decrease the survival of salmonid embryos and reduce the ability of fry to emerge from redds in the creeks of the action area. However, the BO also found that desiment delivery levels associated with project construction should diminish greatly after project construction is completed.

The BO evaluated project impacts on the following streams: Baechtel Creek, habitat complexity is low, and stream exhibits poor gravel quality for salmonid spawning; Berry Creek, stream has been channelized to facilitate drainage for agriculture, upper watershed of the stream has been dammed which has greatly reduced flows in summer months, low quality spawning gravels, high frequency of shallow pools; Broaddus Creek, has a high number of run and riffle habitats with few pools however spawning habitat is rated as very poor due to poor gravel conditions; Davis Creek, has a high frequency of pools but the pools are not of a sufficient depth to provide high quality salmonid habitat; Haehl Creek, has poor spawning conditions at all three of the proposed project crossing locations, conditions in the stream are degraded and have low potential as summer rearing habitat for salmonids; Mill Creek, habitat is not well documented, flows are intermittent in summer months, the portion the stream within the proposed project action area contains a high proportion of pool habitat, substrate of the stream bed contains a high

concentration of fine sand material; Outlet Creek, the original channel was drained and a new channel was created by ranchers (known as the overflow channel), and the overflow channel of Outlet Creek provides marginal spawning habitat and functions as a habitat corridor but with low salmonid rearing habitat potential in the summer months; Ryan Creek, may serve as a refuge for salmonids, however, long culverts in the stream have reduced habitat utilization in the upper reaches of the stream, and habitat has been adversely affected by fine sediment loads received from existing gravel roads; Upp Creek, considered to be highly degraded habitat for salmonids and typically dry during the summer months.

Based on this information, the project action will likely result in short term minor adverse affects to pool and riffle areas in the aforementioned streams.

f. **Wildlife Sanctuaries and Refuges** (Special Aquatic Site): No effect.

g. **Threatened and Endangered Species, and Critical Habitat**: Construction of the project alignment may affect northern spotted owl (*Strix occidentalis caurina,* a federally-listed threatened species) by removing suitable habitat that could be used by this species at the optional borrow site (Oil Well Hill). Using Oil Well Hill for borrow material may also affect but is not likely to adversely affect the threatened bald eagle (*Haliaeetus leucocephalus*) by removing suitable habitat. The USFWS BO dated June 22, 2010 states that the project is not likely to jeopardize the continued existence of these species. The project would comply with terms and conditions listed in the USFWS BO to minimize impacts. However, the proposed action is anticipated to take, as a result of the removal of 32.4 acres of suitable habitat, up to one pair of northern spotted owl. Should blasting occur as a part of the project, the proposed action is anticipated to harass up to one pair of northern spotted owls. See Final EIS Section 3.7.5.1.

The proposed project would require stream crossings that would directly affect the upper, middle, and lower reaches of Haehl Creek, as well as the lower reaches of Baechtel, Broaddus, Mill, and Upp creeks, which contain habitat for three federally-listed salmonids (Northern California steelhead, Southern Oregon/Northern California coho salmon, and California Coastal Chinook salmon). The project would adversely affect critical habitat and Essential Fish Habitat for the listed salmonids. The stream crossings would, however, be located downstream from the high-quality spawning habitat in the upper reaches of these streams, and would therefore have relatively less severe impacts on salmonids because of the small amount of higher-quality habitat exposed to project impacts. The National Marine Fisheries Service Biological Opinion (NMFS BO) dated January 19, 2012 states that the project is not likely to jeopardize the continued existence of Northern California steelhead, Southern Oregon/Northern California coho salmon, and California Coastal Chinook salmon. See Final EIS Section 3.7.7.

Adverse impacts to threatened and endangered species and critical habitat resulting from take associated with the proposed project would be long-term in duration, direct, and moderate to major in magnitude.

h. **Essential Fish Habitat**: See "Threatened and Endangered Species, and Critical Habitat" Section above. Impacts to Essential Fish Habitat are expected to be long-term in duration, direct, adverse, and moderate to major in magnitude. Adverse effects to EFH may

occur primarily through dewatering and in-channel construction activities, riparian vegetation removal, and construction work within Haehl, Baechtel, Broaddus, Mill, Upp, and Outlet Creeks. NMFS recommended that the terms and conditions 7 through 21 of the B.O. (dated January 19, 2012) be adopted as EFH conservation recommendations for Pacific coast salmon habitat.

i. **Riparian Vegetation**: Approximately 20 acres of riparian woodlands would be impacted by the project (see Final EIS Table 3-3). "Riparian woodlands", as defined in the Final EIS, refers to areas along anadramous fish streams (as identified by NMFS) and their tributaries that may be considered designated critical habitat for federally-listed anadramous fish. These riparian woodlands include areas that qualify as waters of the U.S. The direct loss of 20 acres of riparian vegetation is considered to be a long-term, adverse impact that is moderate to major in magnitude.

j. **Habitat for Fish, Other Aquatic Organisms, and Other Wildlife**: The proposed project could affect other wildlife by blocking corridors used for seasonal and/or daily movements between the valley and the hills to the west. Caltrans proposed measures to reduce impacts to wildlife habitat and passage including fencing of Environmentally Sensitive Areas, minimizing and compensating for impacts to oak and riparian woodlands, establishing buffers around the nesting areas of non-listed special-status wildlife species, and constructing, where feasible, wildlife under-crossings. See Final EIS Section 3.7.6. Effects to habitat for fish, other aquatic organisms, and other wildlife are expected to be long-term in duration, direct, adverse, and major in magnitude.

5. **Direct and Indirect Impacts to the Social-Economic Environment** (40 C.F.R §§ 230.11, 230.50-.54; 40 C.F.R. § 1508.8:

a. **Air Quality**: Short term emissions of dust during construction are expected. Dust emissions are expected to vary from day to day and the short term impacts could vary between de minimis to minor. Dust control measures include BMPs that will be employed throughout project construction as explained in the Final EIS at Section 3.18.4.

Long term, minor, beneficial, and indirect impacts to air quality are expected because the project would re-route traffic away from the downtown area and away from the general population. Therefore, negative air quality impacts associated with increased health risks would be reduced as a result of the project alignment. This is further explained in the final EIS at Section 3.12.

b. **Noise Conditions**: The project would have a minimal effect on noise conditions over the long-term where the roadway is elevated. No noise abatement measures are required for the project because noise levels are below the Noise Abatement Criteria (NAC). This is further explained in the final EIS at Section 3.11.

Construction-related noise impacts are discussed in at Section 3.18.3 in the EIS Document. Construction-related noise impacts would be short term and occur during normal working hours. Within the immediate area of construction noise levels are expected to be major. Measures to reduce noise levels are outlined in the final EIS at 3.18.3. Special Conditions outlined in a Biological Opinion from the NMFS dated January 19, 2012, would be followed by Caltrans to

mitigate harmful noise impacts to federally listed fish species from pile driving activities and other construction related activities within or adjacent to streams.

c. **Mineral Resources**: No mineral or aggregate quarries are operating currently in the project area. Throughout the NEPA review process and our Section 404 review process, both of which included a public notice review and comment period, no effects have been identified to mineral resources. Mineral Resources are discussed in detail in the final EIS at Section 4.2.5.

d. **Prime and Unique Agricultural Lands**: There are 28,823 acres of Prime and Unique Agricultural Lands in Mendocino County, per NRCS' definition. The primary farming activities in the project area are the production of hay and the grazing of livestock, mostly sheep, cattle, and horses. The project would directly convert approximately 20 acres of prime and unique agricultural lands to other uses (direct roadway project footprint). This minor, adverse, long-term impact is discussed in the final EIS at Section 1.10.6. Minimization measures to mitigate impacts to farmland are discussed in Appendix A of the EIS Document.

Additional impacts to Prime and Unique Agricultural Lands are expected to result from the MMP. Approximately 216 acres would be indirectly impacted as a result of actions of riparian planting, wetland rehabilitation, and wetland establishment. These areas would be subject to grazing exclusion, which is considered an indirect impact (attachment to Jeremy Ketchum email communication, dated January 25, 2012). The conversion of 216 acres is considered a minor, adverse, long-term, and indirect impact, but does not rise to the level of significant, since the acreage is a small fraction of the total area in Mendocino County.

e. **Food and Fiber Production**: The Little Lake Valley has a relatively high water table and slow drainage, and as a result, the primary farming activities are the production of hay and cattle/beef, not row crop production. See Final EIS Section 3.4. The 2009 Mendocino County Crop Report (cited in attachment to Jeremy Ketchum email communication, dated January 25, 2012) reported livestock production was $5.8 million in 2009, for about 3,880 tons.

Impacts from the MMP would result in a reduction in grazing of approximately 520 acres, an economic loss of between $70,000 and $90,000 in livestock production (attachment to Jeremy Ketchum email communication, dated January 25, 2012). This reduction in food and fiber production is considered a minor, adverse, long-term, direct impact, but does not rise to the level of significant, since the amount is a small fraction of the total production in Mendocino County.

f. **Commercial and Recreational Fishing**: Impacts to commercial and recreational fishing were not analyzed in the Final EIS. However, due to the lack of commercial fishing in the Little Lake Valley and the small amount of recreational fishing, the effects of the project are considered long-term, adverse, and direct, but minor in magnitude.

g. **Recreational Resources**: No effect. See Final EIS Section 3.3.10.1.

h. **Wild and Scenic Rivers**: No effect.

i. **Nationwide Rivers Inventory**: No effect.

j. **National and Historical Monuments, National Seashores, Wilderness Areas, Parks, and other Preserves**: No effect.

k. **Aesthetic Quality**: Adverse visual impacts would occur within the South Valley, Little Lake Valley, Miracle Mile, and Historic District landscape assessment units (Final EIS, Section 3.10). If the designated borrow site at Oil Well Hill were used for fill material, excavation would begin north of the Reynolds Highway on the east side of the existing U.S. 101. Excavation would result in a visible cut slope next to the highway. Visual mitigation measures are proposed to offset some of these adverse aesthetic impacts (see Final EIS Section 3.10). Overall, the adverse aesthetic impacts are expected to be direct, long-term in duration, and significant.

l. **Navigation**: No effect.

m. **Traffic and Transportation**: The project would bypass the City of Willits to reduce traffic delays and achieve a minimal level of service "C" for interregional traffic on U.S. 101 within the project area through the 20-year design period (i.e., 2028). Caltrans has identified level of service "C" as: "stable traffic flow, but less freedom to select speed, change lanes, or pass… Minimal delay. (Table 2-1, Final EIS, Volume 3)." The project (a four-lane bypass) was identified as the minimum size facility required to achieve a level service "C" (Section 2.2 of the Final EIS).

The traffic forecasts (most recently completed on March 7, 2007) used to predict the needed size of the facility were based on population growth projections for the City of Willits and greater Mendocino County, including the adjacent community of Brooktrails. For example, the Brooktrails Specific Plan predicts an additional 3,500 residents, and the State of California is expected to gain an additional 2 million residents by 2015 (cited as State of California, Department of Finance, *P-2* Short-term Statewide Population Projections 1995-2015, Sacramento, California, May 2010; by Jeremy Ketchum, e-mail communication dated August 8, 2011). Caltrans assumed, based on these growth projections, that there would be a corresponding increase in traffic volumes.

However, a recent report mentioned that traffic delays at the Willits south city limits and the Mendocino-Humboldt County border declined 21% and 19% respectively, between 1999 and 2009.[9] Caltrans responded to this report with the following rebuttal: "A model of the existing intersection of SR 20 and US 101 in the City of Willits using the reduced 2010 volumes was run on January 25, 2012. The model showed that the average of all movements operates at LOS E. The forward and backward movements on US 101 at the intersection operate at an LOS of F with the 2010 traffic volumes. This intersection is the controlling intersection in the section of US 101 that will be superseded by the bypass." (attachment to Dave Kelley email communication,

9 2010-2011 Economic and Demographic Profile for Mendocino County. 2011. Center for Economic Development, California State University, Chico.

dated January 26, 2012) In other words, a no-build alternative would not meet the project's purpose and need.

Additionally, Caltrans ran a model on January 24, 2012, "of a two-lane bypass using the Modified J1T Alignment with north and south at grade intersections and grade separations (bridges) at all roads. The model uses 2010 volumes from data that are collected from local count stations in and around the City of Willits. The 2010 volumes are 20% less than the volumes counted in 1998 and are the reduced traffic volumes referred to in the 2010-2011 Economic and Demographic Profile created by the Center for Economic Development, California State University, Chico. Running the two-lane model with the reduced traffic volumes resulted in a LOS of D . . . The LOS D was on the mainline roadway and not at the intersections. Replacing the intersection with interchanges at the north and south end of the two-lane roadway will not improve the level of service on the mainline roadway." (attachment to Dave Kelley email communication, dated January 26, 2012) In other words, a two-lane alternative would not meet the project's purpose and need (letters from Troy Arseneau, Office of Traffic Operations Chief for Caltrans, dated February 8, 2012 and February 13, 2012).

Since the project is expected to reduce traffic delays and achieve a minimal level of service "C", long-term, direct project impacts on traffic and transportation are expected to be major and beneficial.

Major, adverse, short-term traffic impacts would directly result from project construction. Caltrans would prepare a traffic management plan prior to construction to incorporate traffic control measures to offset impacts. See Final EIS Section 2.4.4.

n. **Municipal and Private Water Supply and Conservation**: No effect.

o. **Public Health and Safety**: The project is expected to increase traffic safety along U.S. 101. The number of total collisions would be approximately 35 percent below the levels predicted if no bypass were built. See Final EIS Section 2.2.2. The effects of the project on public health and safety are therefore expected to be long-term, direct, beneficial and major.

Subsequent to the publication of the Final EIS, Caltrans decided upon a two-phase construction approach, including the creation of an interim facility. Phase 1 consists of a grade separated access controlled interim facility that will meet current design standards for a two-lane two-way highway (per the Caltrans Design Manual and AASHTO Green Book Standards, as cited in attachment to Dave Kelley email communication, dated January 26, 2012). The overall project is a four-lane grade separated freeway project to improve interregional traffic operation, improve safety, and provide a level of service rating of C or better. The construction phasing is not expected to have any additional effect on public health and safety beyond the effects identified in the Final EIS.

p. **Energy and Conservation**: Project construction would result in a direct, short-term, adverse increase in energy consumption. However, once this initial energy expenditure is accounted for, the improved traffic flows along U.S. 101 would allow for an

increase of energy efficiency compared to current conditions. See Final EIS Section 3.13. Long-term, indirect impacts to energy consumption, therefore, are expected to be neutral.

q. **Land Use**: The proposed project is consistent with the Mendocino County General Plan Circulation Element, the Mendocino Council of Governments' Regional Transportation Plan, and the Willits General Plan. See Final EIS Section 3.3.11.

A change in land uses would be a required component of the project (previously analyzed in the Final EIS) and the MMP. Grazing lands, housing, and businesses would be replaced by freeway. The MMP proposal would also result in a reduction in agricultural land use. These lands would become open space areas protected by conservation easements.

Long-term, direct impacts to land use are considered to be de minimus.

r. **Consideration of Property Ownership**: The project would require the relocation of 10 residences and the relocation of six industrial businesses and one non-profit organization. See Final EIS Sections 3.3.2 and 3.3.5. Five of the acquired parcels required the adoption of Resolutions of Necessity, which essentially required additional negotiation with the sellers to meet an agreed-upon selling price. The rest of the acquired parcels had readily agreed-upon selling prices. The significant and adverse impact on private property ownership would be direct and long-term in duration.

Property ownership considerations were also evaluated in reference to the MMP. The properties obtained for mitigation were chosen based in part on the willingness of property owners to sell. Ultimately, no mitigation properties required condemnation (attachment to Dave Kelley email communication, dated January 26, 2012) . Therefore, the long-term, direct impacts on property ownership are considered to be minor.

s. **Economics and Employment**: The Final EIS states that long-term, indirect, adverse impacts to city and county tax revenue, the property tax base, and business impacts related to the bypass project are expected to be minor. The project would result in minor negative impacts to grazing lands, reduced tax revenues from land conversion, and business impacts. See Sections 3.3.6, 3.3.7, and 3.3.8 of the Final EIS. The two phases of the project are expected to generate 3,982 jobs over seven years, resulting in an economic boost to the region of approximately $69,685,000, or an average of $9,955,000 per year (attachment to Jeremy Ketchum email communication, dated January 25, 2012).

Short-term, direct, beneficial impacts on the region would be major in magnitude, as construction of the project would result in many temporary jobs for road pavers and other equipment operators.

Impacts on economics and employment due to the MMP include the effects of reduced acreages of grazing, and reduced tax revenues from the conversion of the property uses. Benefits to the local economics include compensation received by the former landowners.

Economic impacts resulting from the reduction of grazing on the mitigation parcels, including direct losses of livestock production on 520 acres as well as indirect impacts resulting from decreased employment associated with ranching, are estimated to be losses of approximately $450,000 annually (NEPA/CEQA Re-validation Form, dated December 27, 2011 and updated based on attachment to Jeremy Ketchum email communication, dated January 25, 2012). However, approximately 1,000 acres of property acquired by Caltrans for mitigation will be leased to private lessees, and a portion (24%) of the lease rental revenue (approximately $66,000) will be given to Mendocino County.

Economic impacts resulting from reduced tax revenues associated with the loss of taxable property status (mitigation properties will be tax-exempt) on approximately 1802 acres is estimated to be approximately $8,750 annually. Mendocino County tax revenues in 2010 were approximately $40 million. The $8,750 lost from converting the mitigation properties to tax-exempt status represents approximately 0.02% of the total tax revenue collected (NEPA/CEQA Re-validation Form, dated December 27, 2011 and updated based on attachment to Jeremy Ketchum email communication, dated January 25, 2012).

Economic benefits resulting from the compensation received by the former landowners for the Caltrans-acquired mitigation properties were approximately $16,000,000, an economic gain for the region (Dave Kelley, June 29, 2011 personal communication).

The additional long-term, indirect, adverse impacts on the region's economics and employment resulting from the MMP would be moderate in magnitude, but did not rise to the level of significant, since the losses were also offset by the compensation benefits to the former mitigation property landowners.

t. Environmental Justice: No effect. The bypass alignment passes through a Census Tract Block group with a proportion of minority residents that is greater than the average proportion of minority residents in the region (Final EIS Volume 3, Section 4.5.2). However, Modified Alternative J1T would not directly cause disproportionately high and adverse effects to any minority or low-income populations (Final EIS, Volume 1, Section 3.3.3).

6. **Direct and Indirect Impacts to the Historic and Cultural Environment** (40 C.F.R §§ 230.11, 230.50-.54; 40 C.F.R. § 1508.8: The California State Historic Preservation Officer (SHPO) issued a concurrence letter on December 6, 2005, indicating that Caltrans' identification efforts are adequate and that there would be no adverse affect to historic properties (Please see Section 6.3 of the EIS Document). The terms of the Environmentally Sensitive Area (ESA) Action Plan (Action Plan) must be implemented prior to and during construction (see Appendix C of the EIS).

a. **National Historic Landmark Properties**: No effect.

b. **Other National Register Historic Properties**: No effect. Five cultural resources were identified within or adjacent to the Area of Potential Effect (APE) for Modified J1T: four archaeological sites and the historic Northwestern Pacific Railroad. These resources were evaluated in accordance with Section 106 of the NHPA and its implementing regulations

(36 C.F.R. 800) to determine whether or not they meet the eligibility criteria for listing in the National Register of Historic Places (NRHP). The cultural resources study completed for the Draft EIS (see Volume 3, Section 5.8 of the Final EIS) concluded that two of the cultural resources along the Modified Alternative J1T alignment are eligible for the NRHP: one archaeological site and the historic Northwestern Pacific Railroad. Although located within the project's APE, neither of these resources would be directly impacted by the project; therefore, it was determined that the proposed project would have *No Adverse Effect* on historic properties, if protective measures are taken (i.e., the establishment of an ESA). An ESA action plan, which outlines measures to ensure the avoidance and protection of historic properties during construction, was prepared as a part of the cultural resource study documentation. The conclusions of the cultural resource study and the assessment of project effects to historic properties for the Modified Alternative J1T alignment were concurred with by the SHPO in a letter dated December 6, 2005.

c. **Archaeological and Cultural Resources**: No effect. See previous section, "Other National Register Historic Properties."

7. **Summary of Cumulative Impacts on the Aquatic Ecosystem** (40 C.F.R. § 230.11(g); 40 C.F.R. § 1508.7): Cumulative impacts result from incremental impact of the project when added together to other past, present, and reasonably foreseeable future actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time. Within this context, the following cumulative impacts to the aquatic ecosystem have been identified: The Final EIS identified the watershed of Outlet Creek as the study area for the cumulative aquatic resources impact analysis. The WWTP expansion project will impact a total of 16 acres of waters of the U.S. The City of Willits will mitigate for these impacts through the establishment of at least 24 acres of waters adjacent to the treatment plant. No other foreseeable actions were identified which are likely to contribute to cumulative impacts within the watershed[10]. The Willits Bypass project would have the greatest contribution towards major detrimental impacts to the watershed through the filling of 82.05 acres of waters of the U.S.

8. **Summary of Additional Impacts on the Human Environment since publication of the Final EIS** (40 C.F.R. § 230.11; 40 C.F.R. § 1508.8): Additional impacts since 2006 have largely resulted from project revisions related to phased construction and the MMP. Adverse, direct, long-term, but minor effects have been identified for erosion and sediment accretion patterns, and property ownership. Adverse, direct, long-term, and minor effects have been identified for prime and unique agricultural lands, and food and fiber production. Adverse, indirect, long-term, and moderate effects have been identified for economics and employment. Additional water quality, wetland function, and special aquatic site benefits (long-term, direct, and moderate) are expected to result from the MMP. These newly identified effects do not amount to an additional significant impact on the quality of the human environment.

III. FINDINGS:

A. STATUS OF OTHER AUTHORIZATIONS:

10 Per geo search of USACE ORM database 13 Jan 2012

1. **Water Quality Certification** (33 C.F.R. § 320.4(d); 33 C.F.R. § 325.2(b)(1)(ii)): By letter of August 6, 2010, the Regional Water Quality Control Board (RWQCB), North Coast Region, issued water quality certification for the project under WDID No. 1B10019WNME, authorizing an unspecified volume of fill discharge into a total of 89.27 acres of waters of the U.S., including 83.77 acres of wetlands and 5.5 acres (12,416 linear feet) of streams and ponds also identified as waters of the U.S., pursuant to Section 401 of the Clean Water Act (33 U.S.C. § 1341) and waste discharge requirements under the Porter-Cologne Water Quality Control Act (California Water Code § 13000 et seq.). Subsequent to issuance, several project design revisions occurred, but the RWQCB confirmed the validity of the existing 401 Certification via a letter to USACE dated February 10, 2012.

2. **Coastal Zone Management Consistency Review** (33 C.F.R. § 320.4(h); 33 C.F.R. §§ 325.2(b)(2)(i)-(ii)): Since the project does not occur in the coastal zone and would presumably not affect coastal zone resources, the project is not subject to a consistency review by either the California Coastal Commission or the San Francisco Bay Conservation and Development Commission.

3. **Other State and County Requirements** (33 C.F.R. § 320.4(j)(1): The California Department of Fish and Game (F/G) has worked closely with the applicant during the project design process. F/G issued a Lake and Streambed Alteration Agreement (Notification No. 1600-2010-0044-R1) for the project on June 29, 2010.

B. **COMPLIANCE WITH VARIOUS FEDERAL LAWS** (33 C.F.R. § 320.3):

1. **Endangered Species Act** (ESA) (16 U.S.C. 1531 § *et seq.*) (33 C.F.R § 325.2(b)(5)): Section 7 of ESA, as amended, requires Federal agencies to consult with either the USFWS or the NMFS to insure any action authorized, funded, or carried out by the agency is not likely to jeopardize the continued existence of any Federally-listed species or result in the adverse modification of designated critical habitat.

By letter of April 14, 2010, Caltrans re-initiated consultation with the USFWS to address project related impacts to the threatened northern spotted owl (*Strix occidentalis caurina*). By letter of June 22, 2010, the Service issued a BO that concluded the project was not likely to jeopardize the continued existence of the northern spotted owl.

By letter of March 1, 2010, Caltrans initiated consultation with the NMFS to address project related impacts to threatened and endangered salmonid fish species and designated critical habitat, pursuant to Section 7(a) of the ESA. The NMFS issued a BO, dated January 19, 2012, that concluded the project was not likely to jeopardize the continued existence of salmonid fish species and was not likely to adversely modify critical habitat for Coho and Chinook salmon and steelhead. The NMFS BO contained an incidental take statement for Coho salmon and steelhead, with Terms and Conditions that must be implemented for the take exemption defined in Section 7(o)(2) of the Act to remain in effect; these mandatory Terms and Conditions would be incorporated as a Special Condition to the Department of the Army Permit to ensure project compliance with the Act.

2. **Magnuson-Stevens Fishery Conservation and Management Act** (MSFCMA) (16 U.S.C. § 1801 *et seq.*): Section 305(b)(2) of MSFCMA, as amended, requires Federal agencies to consult with the NMFS on all proposed actions authorized, funded, or undertaken by the agency that may adversely affect essential fish habitat (EFH). EFH is defined as those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity. EFH is designated only for those species managed under a Federal Fisheries Management Plan (FMP), such as the *Pacific Groundfish FMP*, the *Coastal Pelagics FMP*, and the *Pacific Coast Salmon FMP*. Pursuant to Section 305(b)(4)(A) of the Magnuson-Stevens act, NMFS recommends that the terms and conditions 7 through 21 of the preceding BO's Incidental Take Statement be adopted as EFH conservation recommendations for Pacific coast salmon habitat.

3. **NHPA** (16 U.S.C. § 470 *et seq.*) (33 C.F.R. § 325.2(b)(3)): Section 106 of NHPA, as amended, requires Federal agencies to consult with the appropriate State Historic Preservation Officer to take into account the effects of their undertakings on historic properties listed in or eligible for listing in the *NRHP*. Section 106 of the Act further requires Federal agencies to consult with the appropriate Tribal Historic Preservation Officer or any Indian Tribe to take into account the effects of their undertakings on historic properties, including traditional cultural properties, trust resources, and sacred sites, to which Indian Tribes attach historic, religious, and cultural significance. See "Other National Register Historic Properties" Section above.

4. **Wild and Scenic Rivers Act** (WSRA) (16 U.S.C. § 1278 *et seq.*): Section 7(a) of WSRA, as amended, provides that no Federal agency shall assist by loan, grant, license or otherwise, in the construction of any water resources project that would have a direct and adverse effect on the values for which such river designation was established, as determined by the Secretary charged with its administration. Consultation under WSRA was not required since the project would not occur in or affect a designated wild or scenic river.

5. **Clean Air Act of 1963, as amended** (CAA) (42 U.S.C. § 7401 *et seq.*): Section 176(c) of CAA, as amended, requires Federal agencies to demonstrate that activities in which they engage conform with applicable, Federally-approved CAA state implementation plans. Furthermore, projects occurring in geographic areas designated as "non-attainment" and "maintenance" areas are to be analyzed for conformity applicability, pursuant to the provisions of 40 C.F.R. Section 51.850. Based on guidance issued by Chief Counsel on April 20, 1994, USACE concludes any increase in direct air emissions of criteria pollutants attributed to project related dredged and fill material discharges into waters of the United States would be clearly *de minimis* and are, therefore, exempt from the requirement of a CAA conformity determination, pursuant to the provisions of 40 C.F.R. § 93.153. Any indirect air emissions associated with later phases of the project operation or maintenance would not be a continuing program responsibility of nor practicably controlled by USACE. In the event such discharges exceeded the *de minimis* threshold, USACE would prepare an appropriate CAA conformity determination for the project.

6. **Marine Protection, Research, and Sanctuaries Act of 1972, as amended** (MPRSA) (16 U.S.C. § 1432 *et seq.*) (33 C.F.R. § 320.4(i)): Section 302 of MPRSA, as amended, authorizes the Secretary of Commerce, in part, to designate areas of ocean waters, such as Cordell Bank, Gulf of the Farallones, and Monterey Bay, as national marine sanctuaries for the purpose of

preserving or restoring such areas for their conservation, recreational, ecological, or aesthetic values. After such designation, activities in sanctuary waters authorized under other authorities are valid only if the Secretary of Commerce certifies that the activities are consistent with Title III of the Act. Consultation under MPRSA was not required since the project would not occur in or affect designated sanctuary waters.

C. COMPLIANCE WITH VARIOUS EXECUTIVE ORDERS:

1. **Executive Order 11990, Protection of Wetlands**: This Executive Order (EO) directs Federal agencies to ensure their actions minimize the destruction, loss, or degradation of wetlands, and to preserve and enhance the natural and beneficial values of wetlands. This EO does not apply, however, to the issuance of Federal permits, licenses, or allocations to private parties for activities involving wetlands on non-Federal property. However, this EO does apply to this project as the FHWA is funding the project. Project related impacts to wetlands and measures to further avoid, minimize, and compensate for unavoidable impacts to wetlands are described and evaluated in this document (Refer to Sections II.B. and II.C). The project would cause substantial adverse impact to wetlands but Caltrans has proposed mitigation as summarized in Section I.D. above.

2. **Executive Order 11988, Floodplain Management**: This EO directs Federal agencies to ensure their actions avoid, to the extent practicable, the long and short term adverse impacts associated with the occupancy and modification of floodplains, and to avoid direct and indirect support of floodplain development whenever there is a practicable alternative. Project related impacts to floodplains and measures to further avoid, minimize, and compensate for unavoidable impacts to floodplains are described and evaluated in this document (Refer to Sections II.B. and II.C). The project would not cause any substantial adverse impact to floodplains.

3. **Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations**: This EO directs Federal agencies to ensure their programs, policies, and activities do not have a disproportionately high and adverse human health or environmental effects on minority populations and low-income populations. Project related impacts to minority and low-income populations and measures to further avoid, minimize, and compensate for unavoidable impacts to these populations are described and evaluated in this document (Refer to Sections II.B. and II.C). The project would not cause any substantial adverse impact to minority and low-income populations.

4. **Executive Order 13112, Invasive Species**: This EO directs Federal agencies to ensure their programs, policies, and activities prevent the introduction of invasive species, to provide for their control, and to minimize the economic, ecological, and human health impacts that invasive species cause. Project related impacts to native species and measures to further avoid, minimize, and compensate for unavoidable impacts to native species are described and evaluated in this document (Refer to Sections II.B. and II.C). The project would not cause any substantial adverse impact to native species. Management of invasive species on the mitigation parcels is described in Appendix H of the MMP.

5. **Executive Order 13175, Consultation and Coordination with Indian Tribal Governments**: This EO directs Federal agencies to establish regular and meaningful consultation and collaboration with tribal officials in the development of Federal policies that have tribal implications, and to reduce the imposition of unfunded mandates upon Indian tribes. Comments received from Indian tribes through consultation and by other means are described and evaluated in this document (Refer to Sections II.C., III.B.3, and III.E.).

6. **Executive Order 13186, Responsibilities of Federal Agencies to Protect Migratory Birds**: This EO directs Federal agencies to ensure their programs, policies, and activities promote the conservation of migratory bird populations. Project related impacts to migratory birds and measures to further avoid, minimize, and compensate for unavoidable impacts to migratory birds are described and evaluated in this document (Refer to Sections II.B. and II.C). The project would not cause any substantial adverse impact to migratory birds.

7. **Executive Orders 13212 and 13302, Actions to Expedite Energy-Related Projects**: This EO directs Federal agencies to expedite their review of permits and other evaluations for projects that increase the production, transmission, or conservation of energy and for projects that strengthen pipeline safety. The project does not entail the production, transmission, or conservation of energy and does not involve pipeline safety.

D. **PROJECT BACKGROUND**: A Department of the Army permit application was received by USACE on March 1, 2010 and was assigned to the Regulatory Permit Manager on March 1, 2010. A 30-day PN describing the project and the proposed MMP was issued on March 16, 2010, and was sent to all interested parties, including appropriate Federal, State, and County agencies, organizations, and the public at large.

As discussed in Section I.D above, the applicant submitted a second draft final MMP on October 4, 2011. A second 30-day (Special) PN was issued on October 6, 2011. The purpose of the second PN was to inform all interested parties that a draft final MMP has been prepared for the Project and is available for review and comments. The Special PN also announced that the applicant would hold a Public Information Meeting on October 18, 2011 to describe the project and the draft final MMP.

E. **PUBLIC NOTICE COMMENTS**: (33 C.F.R. § 325.2(a)(3): A PN to solicit comments and information necessary to evaluate the probable impact on the public interest from the project was issued March 16, 2010. A second special PN was issued October 6, 2011, to solicit comments and information necessary to evaluate the probable impact on the public interest from the mitigation and monitoring plan. Below is a summary of the comments received from each PN.

Below is a summary list of comments received (including those from organizations and individuals) from the PN of March 16, 2010:

1. Twenty-six letters received with MMP concerns: not complete per Regulations, 33 C.F.R Parts 325 and 332; public did not have opportunity to comment on final MMP.

2. One letter received with cumulative impacts to the watershed too great.

3. One letter received with comment question: how will environmental laws be followed?

4. Two letters received regarding stream concerns: how will streams be protected during and after construction; stream mitigation comments.

5. One comment letter in favor of the project.

6. Thirty-two letters received request for a Public Hearing on the project.

7. Eleven letters received regarding economic impacts of the project concerns.

8. Seventeen letters received regarding general opposition to proposed project: alternatives to the project should have been selected; project is too big; public does not need the project; project is not the LEDPA.

9. Nine letters received concerned with the project's environmental impacts: environmental impacts too big; wetland impacts too big; habitat fragmentation concerns.

10. Two letters received regarding construction traffic concerns.

11. Eleven letters received alleging project changed since EIS Document was adopted.

12. Two letters received regarding project completion concerns: full 4-lane build-out will not occur; partial construction concerns; delay in completing full 4-lane project build-out concerns.

13. Seven letters received commenting that the project costs too much.

14. Three letters received with mitigation management concerns.

15. One letter received questioning how will constructed wetlands off-set wetland impacts?

16. Six letters received with comments regarding noise pollution concerns: project will result in too much noise; noise pollution during construction concerns.

17. Three letters received regarding concerns for air pollution: project will result in too much air pollution; air pollution during construction concerns.

18. One letter received wondering if there is there a bicycle lane proposed. Bicycle lane access.

19. One letter received regarding relinquished roadway safety hazard concerns.

20. One letter received regarding concern for lack of public input on project.

21. One letter received suggesting archeological impacts too great.

22. Two letters received with concern that agricultural land impacts too great.

23. One letter received regarding aesthetic impacts concerns.

24. Two letters received regarding flooding concerns.

25. Six letters received questioning the traffic studies.

26. One letter received request for permit denial.

27. One letter received stating the project will interfere with the Willits Wastewater Treatment Plant mitigation project.

See Appendix 1 for complete information regarding the above-listed comments. The following is a list of governmental agencies with a potential interest or regulatory authority that had an opportunity to respond to the Public Notice:

1. **Native American Tribal Governments**: None.

2. **Federal Agencies**:

a. **U.S. Environmental Protection Agency** (USEPA), April 20, 2010 comments summary: There needs to be a final mitigation plan before a permit can be issued. The MMP submittal does not contain the level of detail to be considered a final plan. Any proposed preservation must comply with the Mitigation Rule.

b. **U.S. Fish and Wildlife Service** (USFWS): None.

c. **National Marine Fisheries Service** (NMFS): None.

d. **U.S. Coast Guard** (USCG): None.

e. **Federal Emergency Management Agency** (FEMA): None.

f. **National Park Service** (NPS):

g. **Advisory Council on Historic Preservation** (ACHP): None.

h. **Other Federal Agencies**: None.

3. **State and Local Agencies**:

a. **State Historic Preservation Officer** (SHPO): None.

b. **California Department of Fish and Game** (CDFG): None.

c. **California Department of Transportation** (CALTRANS): None.

d. **California State Lands Commission** (CSLC): None.

e. **California Regional Water Quality Control Board** (RWQCB): None.

f. **California Coastal Commission** (CCC): None.

g. **SF Bay Conservation and Development Commission** (BCDC): None.

h. **Other State and Local Agencies**: None.

Below is a summary list of comments received (including those from organizations and individuals) from the October 6, 2011 Special PN regarding the MMP for the project:

1. Fourteen letters received that commented: The project isn't the least environmentally damaging practicable alternative (LEDPA) because the project is really only a two lane bypass. Therefore, the MMP isn't valid because all fill is unnecessary.

2. Thirty-two letters received commenting with: General Opposition to the MMP for the following general reasons: MMP is incomplete; negative impacts to farmers/ranchers; MMP does not offset project impacts; impacts of MMP greater than benefits; MMP too complicated; MMP doesn't disclose cumulative impacts; MMP doesn't use best available science; MMP is arbitrary and capricious.

3. Eighteen letters received with comment: The MMP must present mitigation for both phases of project construction based on the following reasons: because of cumulative impacts; fails 404(b)(1)Guidelines; Phase II impacts unknown; no Caltrans plan to mitigate for Phase II raises question if they even can mitigate for Phase II.

4. Twenty-nine letters received with concern: The EIR/EIS is not valid. Following reasons cited: MMP does not resemble the conceptual MMP from 2006; new MMP does not consider social, economic impacts; EIR/EIS must be revised; EIR/EIS procedural error because the amount of farmland conversion for mitigation was not disclosed, evaluated, or considered; traffic studies in EIR/EIS were incorrect.

5. Nine letters received with comments that the MMP has significant impacts. Following reasons cited: land amount needed for mitigation so great that the MMP needs its own environmental review per CEQA and NEPA requirements; MMP impacts were not analyzed per CEQA and NEPA; Phase II mitigation impacts not analyzed.

6. Thirty-one letters received with comments concerning Economic impacts of MMP (due to removal of grazing). Following reasons cited: the amount of land removed from the Mendocino County tax base has not been considered; Economic impacts to agriculture not considered; where is the documentation (informational proof) that removal of grazing should be primary tool to enhance wetlands?

7. Sixteen letters received requesting a Public Hearing be held regarding the final MMP.

8. Twenty people submitted comments unrelated to the MMP. Comment regarding the Bypass, not the MMP.

9. Twenty-eight letters in support of the MMP/Project were received. Support of the MMP. General reasons are: meets or exceeds mitigation requirements; LLV will benefit from public management of mitigation lands; socio-economic benefits; educational benefits.

10. Six letters received with comments regarding Grazing Plans: grazing plans (prescriptions) have not been presented to the public; what is the science behind the grazing plans?; what are the goals of the grazing plans? How does grazing affect wetlands?; Corps needs final grazing plans to be able to assess impacts in order to know if MMP will offset those impacts.

11. Three letters received commenting: how is the MMP consistent with the Mendocino General Plan which contains numerous goals and policies specific to the protection of agriculture?

12. Seven letters received regarding: Wetland Establishment: how will it be constructed; how will it be managed; will conflict occur if neighboring parcels are managed for agriculture and wetlands?; opposed to new establishment sites (in the fluvaquents) because lacks information; is there an adequate source of native plant material?; establishment credits proposed where wetlands presently occur; what if hydrologic data is incorrect?

13. Three comments received with concerns that the MMP actions conflict with agriculture: if wetland succession retains sediment which results in a raised water table it will adversely affect property managed for agriculture. How will that condition be resolved?

14. Three comments received regarding the Adaptive Management Plan: not feasible from the following standpoint; sediment accretion will be incompatible with adaptive management plan.

15. Six comments received regarding Mitigation for salmonids: greater toxicity from chemicals off roadway, how will it be mitigated for; how does fish passage mitigate for salmonid impacts if there is lack of rearing habitat upstream of fish passage; sedimentation in streams will affect salmonids; mitigation for salmonids not

adequate; adverse impacts to salmonids from grazing; NMFS consultation should be re-initiated.

16. Four comments received with concerns regarding: MMP Monitoring: MMP has no monitoring plan for other waters; who will monitor such a large plan?

17. Eight comments received with concerns regarding: wetland Credits/Ratios: how does enhancement crediting method substantiate claim that the proposed mitigation adequately off-sets impacts?; Accounting of credits incorrect/not understandable; wetland mitigation measures should be revised to show both acreage and credits for various mitigation actions; Ratios are arbitrary; does not use best available science; "best professional judgment" questioned.

18. Four comments received with concerns that: MMP doesn't address impacts to subsurface flows; doesn't address the use of groundwater wells during construction and those effects.

19. Three letters received with concerns about the Management Plan: is there a land manager?; Will monitoring reports be available to the public?; Will land manager have adequate funds

20. Four letters received with concerns that MMP needs a watershed approach; MMP does not integrate mitigation goals.

21. Four letters received with concerns that Wetland rehabilitation and/or preservation credits should be allowed for parcels with grazing plans; agricultural use/grazing should be considered compatible with wetland goals.

22. One letter received with concerns that the MMP falsely presumes agriculture altered Little Lake Valley's natural state. Why isn't urban development considered as the primary factor that altered the natural state?

23. Two letters received concerning Performance Standards: MMP needs finalized performance standards; performance standards need to be bolstered.

24. Two letters received with concern that the Williamson Act was violated.

25. Two letters received with concern the Farmland Protection Act was violated.

26. Two letters received with concerns the Prior Converted Croplands Rule was violated.

27. Six letters received alleging the MMP is biased against agriculture/ranching/grazing based on: wetland enhancement derived climax community transition is unfounded and biased against agriculture, not based in science and not properly explained; MMP suggests agriculture adversely impacts soil and hydrology; MMP pre-determined no credit for grazing; how can grazing for wetland enhancement be unacceptable if final grazing plans have not been analyzed?

28. One letter received with public comment that temporary impacts should not require compensatory mitigation because there is no impact on wetland function.

29. Three letters received with Wetland Enhancement concerns: wetland enhancement via soil and/or hydrology not considered; mitigation ratios are not supported by best available science.

30. One letter received with comment that no mitigation credit is given for grazing with goals for Baker's meadow-foam. Why?

31. Three letters received with comment: Errors in calculating wet season flows and drainage.

32. Four letters received with Financial assurances concerns: PAR analysis needs to be more detailed; PAR analysis needed for Phase II mitigation properties; financial assurances information incomplete.

33. Two letters received with concern: Adverse impacts from wild animals (stream nutrient loads) not considered if vast tracts of land are put to fallow state.

34. Three letters received with concern that Hydrology data lacking; is there a water quality analysis?

35. Two letters received with comment of: Viaduct impacts on birds, in terms of loss of wetland habitat, not analyzed.

36. One letter received concerning Preservation credits concerns: why none allowed by MMP?

37. Five letters received regarding Temporary impacts concerns: if existing vegetation is removed during wetland enhancement that area should be counted in temporary impact amounts ledger; temporary impacts will result in permanent damage to wetlands; temporary impacts will disrupt storm drainage; condition of wetlands temporarily impacted has not been analyzed; amounts/locations of temporary impacts should not be left to the contractor who is not obligated to disclosure.

38. Three letters received with Baseline Report concerns: MMP does not comply with Spring 2011 baseline study conclusions (concluded grazing activities adversely affect wetlands). Baseline report must validate no-net-loss conclusion.

39. Two letters received with public concern regarding impacted wetlands: impacted wetlands and their functions lost should be related back to restored wetlands and the functions gained/replaced; unclear how certain types of impacted wetlands will be mitigated for; what is the condition of the impacted wetlands.

40. Two letters received concerning fire danger from removal of grazing.

41. Two letters received with concern: MMP does not include same impact amounts disclosed from permit application submittal package.

42. One letter received with comment: Stream impacts unclear.

43. One letter received with comment: Interchange design has changed, thus, fill amount is wasteful.

Note: Seven letters were received that question the safety of building only two lanes of a project that was designed for four lanes based, in some part, for safety reasons. These comments are not directly related to the purpose of the public notice, which was to solicit comments for the MMP. However, these comments were considered based on indirect question of project purpose and, thus, the associated impacts to waters of the United States.

See Appendix 2 for complete information regarding the above-listed comments. The following is a list of governmental agencies with a potential interest or regulatory authority that had an opportunity to respond to the Public Notice:

1. **Native American Tribal Governments**: None.

2. **Federal Agencies**:

a. **U.S. Environmental Protection Agency** (USEPA), November 9, 2011 comments summary: The MMP needs a watershed approach; MMP does not integrate mitigation goals. EPA has concerns with the wetland credits/ratios. Wetland rehabilitation and/or preservation credits should be allowed for parcels with grazing plans. EPA is concerned with the wetland establishment sites. The MMP needs finalized and bolstered performance standards.

b. **U.S. Fish and Wildlife Service** (USFWS): None.

c. **National Marine Fisheries Service** (NMFS): None.

d. **U.S. Coast Guard** (USCG): None.

e. **Federal Emergency Management Agency** (FEMA): None.

f. **National Park Service** (NPS):

g. **Advisory Council on Historic Preservation** (ACHP): None.

h. **Other Federal Agencies**: None.

3. **State and Local Agencies**:

a. **State Historic Preservation Officer** (SHPO): None.

b. **California Department of Fish and Game** (CDFG): None.

c. **California Department of Transportation** (CALTRANS): None.

d. **California State Lands Commission** (CSLC): None.

e. **California Regional Water Quality Control Board** (RWQCB): None.

f. **California Coastal Commission** (CCC): None.

g. **SF Bay Conservation and Development Commission** (BCDC): None.

h. **Other State and Local Agencies**: None.

F. **PUBLIC HEARING COMMENTS**: (33 C.F.R. § 327.9): No Public Hearing was held. However, in the spirit of a public hearing, Caltrans held a public information meeting on October 18, 2011 to provide information on the October 2011 draft final MMP. The Corps was in attendance and answered questions on the permit application review process.

G. **EVALUATION**: The documents and factors relating to the Department of the Army permit application, and the stated views of other agencies and the concerned public have been reviewed and evaluated in light of the overall public interest. In this analysis, the possible consequences of the project were considered in accordance with regulations published in 33 C.F.R. Parts 320 to 332, and 40 C.F.R. Part 230. The following paragraphs include the USACE evaluation of comments received and project compliance with the above cited regulations.

1. **Consideration of PN and Public Information Comments** (33 C.F.R. § 325.2(a)(3); 33 C.F.R. § 327.9): By letter of April 23, 2010, USACE forwarded all comments from the initial PN to Caltrans for resolution or rebuttal. This letter identified specific comments for which a response was deemed essential in order to conclude the permit evaluation process, pursuant to the provisions of 33 C.F.R. § 325.1(e). In its response letter of June 3, 2010, Caltrans responded to the PN comments. By e-mail transmittals from October and November 2011, USACE forwarded all comments from the Special PN and Public Information Meeting to Caltrans for resolution or rebuttal. In email communications of November 17, 2011, November 30, 2011, and December 5, 2011, Caltrans responded to the Special PN comments. USACE supplemented Caltrans' responses to both sets of PN comments with additional available information (see Appendices 1 and 2). No major unresolved issues remain. None of the Federal resource agencies identified the project as causing "substantial and unacceptable impacts to aquatic resources of national importance" in accordance with the Section 404(q) MOA; therefore, these agencies have relinquished their options to elevate specific objections on permit issuance for reconsideration by higher authority.

2. **Compliance with Section 404(b)(1) Guidelines**:

a. **Alternative Test** (40 C.F.R. § 230.10(a)): The Section 404(b)(1) Guidelines (Guidelines) presume the availability of a practicable alternative to project related dredged and

fill material discharges into waters of the United States that would result in less adverse impact to the aquatic environment, provided the alternative does not cause some other adverse environmental consequence. An alternative is considered to be practicable if it is available and capable of being implemented, after taking into account cost, logistics, and technology in light of the overall project purpose (40 C.F.R. § 203.10(a)(2)). An evaluation pursuant to the Guidelines indicates the project is not dependent on location in or proximity to waters of the United States to achieve the basic project purpose of reducing traffic congestion in the City of Willits and correcting a number of deficiencies that exist on the current highway. For non-water dependent projects involving discharges of dredged and fill material into special aquatic sites, the Guidelines presume the availability of a practicable alternative that does not require such discharges into special aquatic sites, unless clearly demonstrated otherwise by the applicant.

The current project proposal involves a two-phase fill and construction approach in which no fill material would be placed for Phase II of the Project until funding has been secured for Phase II, project design drawings and a final MMP have been reviewed and approved by the Corps for Phase II, and the MMP is sent out for public review and comment. This phased fill approach is a change from the full fill amount proposed in the application dated March 1, 2010. Phasing the fill reduces the temporal loss of aquatic resource functions associated with Phase II impacts.

The Modified J1T alignment identified as the LEDPA in 2005 would have permanently impacted 42.03 acres of wetland waters of the U.S. The currently proposed project would impact an additional 6.46 acres of wetlands, for a total of 48.49 acres of permanent wetland impacts. The increase in wetland impacts has resulted from various design modifications[11]. Relocation of a stock pond impacted by the bypass right-of-way would require an additional 0.641 acre of wetland impacts that would not be practicable to avoid for logistical reasons. Shortening the south end of the viaduct would impact an additional 2.232 acres of wetlands that would not be practicable to avoid due to cost. Relocating the northern interchange would impact an additional 2.162 acres of wetlands that would not be practicable to avoid due to cost. NMFS, CDFG, and RWQCB permitting requirements would require an additional 1.796 acres of wetland impacts and were incorporated into the project design for their overall environmental benefits.

USACE evaluated each of the proposed design changes to ensure the current project is still the LEDPA. USACE requested concurrence from EPA on February 14, 2012 and received EPA's concurrence on February 15, 2012 that the proposed project as it stands today, is the LEDPA.

Based on information submitted by Caltrans, the Corps finds that the phased construction proposal will comply with the Guidelines. Thus, proposed discharges of dredged and fill material in waters of the United States, including wetlands, would constitute the minimum volume and fill area necessary to achieve the overall project purpose. Based on this evaluation, USACE concludes there are no other practicable alternatives to the project with less adverse impact on the aquatic ecosystem or without other significant adverse environmental consequences.

b. **Special Restrictions** (40 C.F.R. § 230.10(b)): Proposed discharges of dredged and fill material discharges into waters of the United States would not: (1) Violate State water

11 Caltrans, February 13, 2012. 2005 LEDPA Design and 2011 Design Comparison, January 2012.

quality standards; (2) Violate toxic effluent standards (under Section 307 of the Act); (3) Jeopardize endangered or threatened species or their critical habitat; or (4) Violate standards set by the Department of Commerce to protect marine sanctuaries. The information evaluated in the March 1, 2010 permit application indicates proposed discharges of dredged and fill material are composed primarily of sand, gravel, or other naturally occurring inert material that would not be a carrier of contaminants.

c. **Other Restrictions** (40 C.F.R. § 230.10(c)): Proposed discharges of dredged and fill material would not contribute to *significant* degradation of waters of the United States by adversely affecting: (1) Human health or welfare through pollution of municipal water supplies, fish, shellfish, wildlife, and special aquatic sites; (2) Life stages of aquatic life or other wildlife; (3) Diversity, productivity, and stability of the aquatic ecosystem, such as loss of fish or wildlife habitat, or loss of the capacity of wetlands to assimilate nutrients, purify water, or reduce wave energy; or (4) Recreational, aesthetic, and economic values.

d. **Actions to Minimize Adverse Impacts** (40 C.F.R. § 230.10(d); 40 C.F.R. §§ 230.70-76; 40 C.F.R. § 1508.20; 33 C.F.R. § 320.4(r); 33 C.F.R. § 325.4): The Department of the Army Permit authorizing the project would, at a minimum, include the following Special Conditions to further avoid, minimize, and compensate for unavoidable adverse impacts to aquatic resources:

1. The Permittee shall mitigate for permanent impacts to 42.76 acres and temporary impacts to 22.91 acres of waters of the U. S. associated with Phase I of the Project, through restoration (rehabilitation) of 344.63 acres and establishment of 49.58 acres of wetlands and the rehabilitation of 19.03 acres of other waters of the U.S. as described in the final mitigation plan: "Willits Bypass Project Mitigation and Monitoring Proposal" (which includes Appendices A, C, D, E, F, G, H, I, J, K, L, M, and N), dated January 2012, (and also includes Appendix B, dated February 1, 2012), prepared by Caltrans (MMP). The Permittee shall fully implement this final mitigation plan concurrently with impacts to waters of the U.S. Delays in the mitigation implementation schedule (Figure 7-1 of the final mitigation plan) may result in the requirement of additional mitigation to compensate for the temporal loss. According to the final mitigation plan, responsible parties would be as follows: a) Implementation: Caltrans; b) Performance: Caltrans; c) Long-term management: Mendocino County Resource Conservation District. The Permittee retains ultimate legal responsibility for meeting the requirements of the final mitigation plan. Detailed mitigation objectives, performance standards, and monitoring requirements are described in the above final mitigation plan.

2. The MMP documents are not complete without this permit and its accompanying special conditions. A notation to this effect shall be annotated on the cover and title page of the MMP prior to distribution. This permit, including the special conditions, shall be attached to all distributed copies of the MMP.

3. A performance bond, other Corps-approved financial assurance mechanism, or alternate mechanism, such as a formal, documented commitment from Caltrans or a public authority, must be in place within ninety (90) days following permit issuance or prior to commencing the permit activity, whichever is sooner. It must ensure a high level of

confidence that the compensatory mitigation will be performed and maintained, in accordance with 33 C.F.R. § 332.3(n) and the Institute for Water Resources White Paper, *Implementing Financial Assurance for Mitigation Project Success*, June 2011.

4. The fee title holder and the conservation easement holder shall not be the same entity.

5. The Permittee shall record a Conservation Easement (CE) in a form approved by the Corps, which shall run with each off-site mitigation parcel, obligating the Permittee, its successors and assigns to protect and maintain the mitigation areas (parcels indentified in Tables 6-2, 6-4, and 6-5 of the MMP, and as shown in Figures L-1 through L-34 of Appendix E ("Design plans for Offsite Mitigation") dated February 1, 2012) as natural, unmanaged, wetland and other waters in perpetuity. Each CE will identify that the mitigation parcels shall not have any agricultural or management activities that may reduce or diminish successional vegetation development, without prior approval from USACE. Each CE must include a 3rd party easement holder qualified to hold easements pursuant to California Civil Code § 815.3 and Government Code § 65965. Each CE must also identify the Corps as a 3rd party beneficiary. The Permittee must provide monies in the form of an endowment (as specified in Chapter 13 of the final mitigation plan) for the purposes of fulfilling the 3rd party easement holder's responsibilities under the CE. Each CE shall abide by and fulfill all requirements of the "Willits Bypass Project Mitigation and Monitoring Proposal," dated January 2012, and prepared by Caltrans (Willits Bypass Project MMP). Review of Conservation Easement will include review of title reports all off-site mitigation parcels with maps depicting any recorded easements. Conservation Easements shall have as an exhibit the Willits Bypass Project MMP, and reference this document's adaptive management plan and long-term management plan. Each CE shall preclude establishment of fuel modification zones, paved public trails, drainage facilities, walls, maintenance access roads and/or future easements, except as provided in the Project Description (described in this permit). Further, to the extent practicable, any such facilities outside the CE shall be sited to minimize indirect impacts on the avoided, created, restored and enhanced wetland and non-wetland waters of the U.S. Prior to its execution and within six months of issuance of this permit, the Permittee shall submit drafts of each CE to the Corps for review. The Permittee shall not execute or record any CE until it has received written approval from the Corps. No later than 30 calendar days after receiving Corps approval of the final draft CE's, the CE's shall be executed and recorded and a recorded copy furnished to the Corps.

6. Any proposed changes to the final mitigation plan, the Willits Bypass Project MMP, including changes to the performance standards and any proposed adaptive management actions, shall be submited in writing to the Corps at least 60 days prior to implementation. Caltrans shall not implement the proposed changes prior to receiving written approval from the Corps.

7. This permit may require modification if the final, revised project plans and/or impact maps differ from those used to develop the temporary and permanent impact assessments for the MMP dated March 15, 2011. Prior to construction of the project, the permittee shall provide the Corps with the final revised project plans, corresponding maps showing final project footprint and location of each temporary and permanent impact to wetlands and other

waters, and a detailed spreadsheet itemizing the areal extent of each temporary and permanent impact. The final, revised project plans and corresponding impact maps shall be reviewed and approved by the Corps in writing. Any temporary or permanent impacts that occur on areas not evaluated for the presence of wetlands and/or waters of the U.S. in the initial development of the impact assessments for the MMP shall require verified jurisdictional determination and an assessment of those impacts. For example, impacts occurring on the parcels Garman (APN038-020-21), Burton (APN 038-020-09), Shrabel (APN 038-020-46), (Pellegri (APN 038-040-07), Lamb (APN 038-040-05), and King (APN 038-040-08).

8. Within 45 calendar days of installation of each mitigation area, the Permittee shall submit to the Corps a memo indicating the following:

A)Date(s) all mitigation was installed and monitoring was initiated;
B) Schedule for future mitigation monitoring, implementation and reporting pursuant to final, Corps-approved mitigation plan;
C) Summary of compliance status with each special condition of this permit (including any noncompliance that previously occurred or is currently occurring and corrective actions proposed to achieve compliance);
D) One copy of "as built" drawings for all mitigation sites (all sheets must be signed, dated, to-scale, and no larger than 11 x 17 inches)

9. Performance Standards must be met each year for each mitigation action on each mitigation unit. The Permittee shall submit annual mitigation monitoring reports to the Corps by December 31 each year. Annual sampling documentation, as part of monitoring reports, shall include maps showing locations of sampling points/transects and photos representative of sampling locations. Reports should provide quantitative data and other information necessary for the Corps to verify the site conditions and whether the compensatory mitigation project is meeting its performance standards. Such information includes, for each site, field data forms (raw data) and summary tables of the following: relative cover by wetland plant species, percent change in relative cover by wetland plant species over baseline conditions, relative cover of target native wetland plant species, percent change in relative cover of target native wetland plant species over baseline conditions, species richness (including a list of species), and absolute percent cover by invasive plants. If a performance standard is not met, Caltrans shall propose possible remedial actions for USACE review and approval.

10. For determining the mitigation treatment units and types of treatments, Caltrans shall submit the proposed Baseline Study required in the Willits Bypass Project Mitigation and Monitoring Proposal" (dated January 2012, and prepared by Caltrans), at least two months prior to its implementation for USACE review and approval in the winter of 2012. A site visit may be required for approval of the proposed Baseline Study.

11. For vegetation sampling of mitigation treatment units, the Permittee shall propose a sampling strategy for Corps to review and approve in writing at least three months prior to its anticipated implementation. On homogenous rehabilitation treatment areas, random

sampling of vegetation is acceptable. On heterogeneous rehabilitation treatment areas, stratified random sampling or an equivalent is required. Vegetation sampling shall not commence until the Corps has approved the strategy in writing. The number and location of the transects will be sufficient to adequately represent the mitigation unit's plant species composition (measured by a species diminishing curve) and plant species distribution (i.e. percent cover).

12. Caltrans shall submit proposed hydroperiod reference sites and method of measurement of hydroperiod (ie. ground water measurement or surface ponding observation) of adjacent wetland areas for each off-site establishment (Group 1 and 2) at least three months prior to its implementation for Corps review and approval. For Group 2 wetland establishment areas, a ground water measurement well will be situated at the highest elevation of the established wetland area for each treatment area. A minimum of one well will be installed for every 2 acres of Group 2 establishment.

13. The footprint (total acreage) of the rehabilitation treatment areas are described in Table 6.4 of the MMP. If it is determined by the Corps that adjustments are required to treatment areas, the total wetland rehabilitation credit amount as stated in Table 6.4 (61.29 acres of credit) shall not decrease.

14. All measurements for percent cover of wetland species, targeted wetland species and native plant species (herbaceous and woody) shall be in relative percent cover. Measurement of invasive plant species shall be in absolute percent cover.

15. All references in the MMP for target species, target wetland species, and target hydrophytic species refer to the list of plant species found in Table 7.5 of the MMP.

16. The Permittee shall clearly mark all areas of Corps jurisdiction, and any associated riparian vegetation, that are not to be removed or otherwise adversely impacted during project implementation with cyclone-type fencing. Markers and/or barricades shall be clearly located to restrict access and ensure all movement of equipment and personnel will occur within the authorized construction/impact areas.

17. The Permittee shall disclose all proposed temporary impact areas, including temporary access routes and staging areas, located within wetlands and other waters of the U.S to the Corps a minimum of sixty (60) days prior to any project construction. All Phase I temporary impact areas shall have the temporary fill removed within 60 days following Phase I construction completion (by approximately the year 2016). All temporary impacts to waters of the U.S. must be restored to pre-construction conditions and still meet the definition of jurisdictional wetlands/waters of the U.S.

18. This Corps permit does not authorize you to take any threatened or endangered species, in particular the threatened northern spotted owl (*Strix occidentalis caurina*), Northern California steelhead (*Oncorhynchus mykiss*), Southern Oregon/Northern California coho salmon (*Oncorhynchus kisutch*), or California Coastal Chinook salmon (*Oncorhynchus tshawytscha*), or adversely modify its designated critical habitat. In order to legally take a

listed species, you must have separate authorization under the Endangered Species Act (ESA) (e.g. ESA Section 10 permit, or a Biological Opinion (BO) under ESA Section 7, with "incidental take" provisions with which you must comply). The USFWS and NMFS BOs (EA 01-262000 dated June 22, 2010, and #2011/06217 dated January 19, 2012, respectively) contain mandatory terms and conditions to implement the reasonable and prudent measures that are associated with "incidental take" that is also specified in the BOs. Your authorization under this Corps permit is conditional upon your compliance with all of the mandatory terms and conditions associated with incidental take of the attached BOs, which terms and conditions are incorporated by reference in this permit. Failure to comply with the terms and conditions associated with incidental take of the BOs, where a take of the listed species occurs, would constitute an unauthorized take, and it would also constitute non-compliance with your Corps permit. The USFWS and NMFS are the appropriate authorities to determine compliance with the terms and conditions of their BOs and with the ESA.

19. The Permittee shall allow Corps representatives to inspect the authorized activities at any time deemed necessary to ensure compliance with permit terms and conditions.

20. The Permittee (Caltrans) is not authorized to commence fill or construction activities associated with Phase II of the Project until after the Corps has provided a written notice to proceed with Phase II. Design-level drawings for Phase II shall be submitted to the Corps a minimum of two years prior to the anticipated commencement of construction. In addition, a draft mitigation plan in accordance with the requirements of 33 C.F.R. § 332.4(c) must be submitted to the Corps to address Phase II Project impacts. The draft submittal must allow two (2) years of development and review such that the final mitigation plan is developed prior to the proposed start of Phase II construction. The draft mitigation plan shall address the 8.31 acres of permanent and 8.07 acres of temporary impacts to waters of the U.S. associated with Phase II through restoration/establishment/enhancement of waters of the U.S. and shall ensure that there will not be a net loss of aquatic resource functions and services resulting from Phase II. The Phase II final mitigation plan will be submitted for public review and comment via a Public Notice, and the Permittee shall adequately respond to all comments prior to Corps approval of the plan. No work in waters of the U.S. associated with Phase II is authorized until the Permittee receives, in writing, Corps approval of the final mitigation plan and Corps acknowledgement of the receipt of the Phase II design-level drawings. The Permittee shall fully implement this Phase II final mitigation plan concurrently with, or prior to, Phase II impacts to waters of the U.S.

21. The Permittee shall disclose all proposed temporary impact areas, including temporary access routes and staging areas, located within wetlands and other waters of the U.S to the Corps a minimum of sixty (60) days prior to any project construction. All Phase II temporary impact areas shall have the temporary fill removed within 60 days following Phase II construction completion. All temporary impacts to waters of the U.S. must be restored to pre-construction conditions and still meet the definition of jurisdictional wetlands/waters of the U.S.

22. Your responsibility to complete the required compensatory mitigation as set forth in Special Conditions 1 through 17, 20 and 21, will not be considered fulfilled until you have demonstrated compensatory mitigation project success and have received written verification of that success from the U.S. Army Corps of Engineers. Failure to fulfill your responsibility to fully compensate for impacts to 82.05 acres of waters of the U.S. will result in a requirement of additional compensatory mitigation, as determined by the Corps.

3. **Public Interest Evaluation** (33 C.F.R. §§ 320.4(a)(2)(i)-(iii)):

a. **Extent of Public and Private Need for the Project**: The following has been cited as the project need in the final EIS Document: "*Because U.S. 101 also serves as Main Street in Willits and is the only continuous north/south street traversing the city, it must accommodate nearly all local traffic traversing Willits as well as all interregional traffic. Traffic congestion has been a concern in Willits for a number of years, and it is becoming more prevalent as traffic volume increases. The proposed project is needed to respond to a number of deficiencies that exist on the current facility.*" The Corps concurs with the project need statement.

b. **Practicality of Alternative Locations and Methods**: No alternative location was identified that would fulfill the purpose and need for the project. The project would not cause an unresolved conflict in resource use.

c. **Extent and Permanence of Beneficial and Detrimental Effects**: Various public interest factors were taken into account in evaluating the effects of the project. Detrimental effects of the project would include: major adverse long-term direct effects on: substrate; wetland functions; wetlands (the fill of a total of 82.05 acres of wetlands and other waters of the United States, [streams such as: Haehl, Baechtel, Broaddus, Mill, Upp, and Outlet Creeks and their related tributaries]); and habitat for fish, other aquatic organisms, and other wildlife. There would be major adverse short-term effects on noise conditions and traffic and transportation. There would be moderate to major adverse long-term direct effects on threatened and endangered species and critical habitat; essential fish habitat; and riparian vegetation. There would be moderate adverse long-term direct effects on water quality. There would be minor adverse long-term direct effects on currents, circulation, or drainage patterns; flood hazards and flood plain functions; baseflow; aquifer recharge and water supply; and commercial and recreational fishing. There would be moderate adverse long-term indirect effects on economics and employment. There would be minor adverse short-term direct effects on erosion and sediment accretion patterns; riffle and pool complexes; and noise conditions. There would be minor, adverse, long-term, indirect effects on prime and unique agricultural lands. There would be significant, adverse, long-term direct effects on aesthetic quality and consideration of property ownership. There would be minor, adverse, direct, long-term effects on food and fiber production. Beneficial effects of the project would include: major beneficial long-term direct effects on traffic and transportation; and public health and safety. There would be major beneficial short-term direct effects on economics and employment. There would be minor, beneficial long-term, indirect effects on air quality. On the basis of this analysis, USACE concludes the benefits of the project would outweigh any resulting damage to the aquatic

ecosystem.

4. **Significant National Issues** (33 C.F.R. § 320.4(j)(4); 33 C.F.R. § 325.2(a)(6)): No national issue of overriding importance to State and local issues were identified that would cause the issuance of a Department of the Army Permit to be contrary to the public interest.

IV. **DETERMINATIONS**:

A. **RECORD OF DECISION AND SUPPLEMENTAL ENVIRONMENTAL ASSESSMENT FINDINGS** (33 C.F.R. § 325, Appendix B; 40 C.F.R. § 1501.4(e); 40 C.F.R. § 1508.13): This Record of Decision and Supplemental Environmental Assessment (EA) has been prepared to address comments generated by the applicant, general public, and resource agencies that have special expertise or jurisdiction by law in response to the PN (Refer to Section II.C.). Based on a review of the impacts addressed in our record of decision and statement of findings incorporated herein, USACE concludes that the issuance of a Department of the Army Permit for the project (applicant's preferred alternative) constitutes a major Federal action that would *significantly* affect the quality of the human environment. Pursuant to the provisions of the National Environmental Policy Act of 1969 (42 U.S.C. § 4332), an Environmental Impact Statement (EIS) has been prepared, as required. The Corps has adopted the Final EIS per 33 C.F.R. § 230.21 and 40 C.F.R. § 1506.3 and has incorporated additional information into this Supplemental EA. The new information presented since the publication of the Final EIS in December 2006 did not rise to the level of a significant impact on the quality of the human environment and this does not require a supplemental EIS.

B. **COMPLIANCE WITH DISCHARGE RESTRICTIONS** (40 C.F.R. § 230.12): USACE concludes that project related dredged and fill material discharges into waters of the United States comply with the Section 404(b)(1) Guidelines because the proposed discharges include all appropriate and practicable measures to minimize potential harm to the aquatic ecosystem. Furthermore, appropriate and practicable Special Conditions would be included in the Department of the Army Permit to minimize pollution or adverse effects to the aquatic ecosystem (Refer to Section III.G.2.d.). With the inclusion of these discharge conditions, the project currently represents the least environmentally damaging practicable alternative.

C. **PUBLIC HEARING DETERMINATION** (33 C.F.R. § 325, Appendix B, Para. 11; 33 C.F.R. § 327.4(b)): A Public Hearing may be held if USACE determines that information essential to the permit evaluation could be gleaned from such a forum. A Public Hearing is conducted on an as needed basis at the discretion of the District Engineer.

Public comments of the project included requests for a Public Hearing by several individuals and organizations to further express concerns about the project's purpose and need, the validity of the traffic study, information regarding phasing of project construction, and requests to comment on the final MMP. As explained above, in Section III F., Caltrans held a public information meeting in the spirit of a public hearing. Accordingly, the request for a Public Hearing was denied.

D. **PUBLIC INTEREST DETERMINATION** (33 C.F.R. § 320.4(a)): The decision on

whether to issue a Department of the Army Permit is based on an evaluation of probable effects, including cumulative effects, of the project and its intended use on the public interest. This evaluation reflects the national concern for both the protection and utilization of important resources identified at 33 C.F.R. § 320.4(a)(1). Pursuant to the provisions of 33 C.F.R. Parts 320 to 330 and 40 C.F.R. Part 230, USACE has reviewed the administrative record for the Department of the Army permit application and considered all pertinent comments received on the project. Upon completing this evaluation and weighing all factors relevant to the project, USACE concludes that the issuance of a Department of the Army Permit to authorize the project is not contrary to the public interest.

PREPARED AND RECOMMENDED BY:

David M. Wickens
Senior Regulatory Project Manager

2-16-2012
Date

REVIEWED AND CONCURRED BY:

Laurie A. Monarres
Chief, North Branch

2/16/12
Date

Jane M. Hicks
Chief, Regulatory Division

2/16/12
Date

APPROVED BY:

Torrey A. DiCiro, P.E., ~~PMP~~
Lieutenant Colonel, U.S. Army
Commanding

2/16/12
Date

Regulatory Division
1455 Market Street, 16th Floor
San Francisco, CA 94103-1398

US Army Corps of Engineers ®
San Francisco District

SAN FRANCISCO DISTRICT

PUBLIC NOTICE

Project: Willits Bypass Project, Mendocino County

NUMBER: 1991-194740N DATE: March 16, 2010 RESPONSE REQUIRED BY: April 16, 2010

PERMIT MANAGER: David Wickens PHONE: 415-503-6787 Email: david.m.wickens@usace.army.mil

1. **INTRODUCTION:** The California Department of Transportation (Caltrans), District 3, 2800 Gateway Oaks Drive, Sacramento, California 95833, in conjunction with the Federal Highway Administration (FHWA), has submitted an application to the Corps of Engineers (USACE) for a Department of the Army Permit to construct a new segment of U.S. Interstate 101 that will bypass the City of Willits in Mendocino County, California (Figure 1-1). The FHWA is the federal lead agency under the National Environmental Policy Act (NEPA), with Caltrans acting as liaison and providing oversight for the NEPA process. The project is a four-lane freeway segment of U.S. Highway 101 that would bypass the City of Willits with several bridges spanning creeks and local roads, a viaduct spanning the regulatory floodway, and interchanges on either end of the bypass. Project construction would result in the discharge of fill material into numerous jurisdictional wetlands and other waters of the United States (streams) such as: Haehl, Baechtel, Broaddus, Mill, Upp, and Outlet Creeks and their related tributaries. This individual permit application is being processed pursuant to the provisions of Section 404 of the Clean Water Act (33 U.S.C. 1344).

The project would directly affect a total of 89.12 acres of wetlands and other waters of the United States, of which 56.23 acres would be permanently filled and 32.89 acres would be temporarily disturbed during project construction and mitigation activities. The duration of authorization, should it be accepted, would be for ten years from the date of the permit issuance.

2. **PROPOSED PROJECT:**

Project Site: The bypass project is a four-lane highway with several bridges spanning creeks and local roads, floodway viaducts spanning the regulatory floodway, and interchanges with existing US 101 at each end of the bypass. The bypass project alignment meanders through the southwestern portion of Little Lake Valley, just east of Willits in Mendocino County, California. The 5.9 mile bypass begins approximately 0.6 miles south of the current Haehl Creek crossing of US 101 and ends approximately 1.8 miles south of Reynolds Highway (Figures 1-2a through 1-2d).

The bypass alignment passes through the 100-year floodplain of Haehl, Baechtel, Broaddus, Mill, and Upp Creeks, all of which are tributaries of Outlet Creek, atributary of the Eel River. To avoid increasing the base flood elevation of the floodplain, the bypass design incorporates a 1.2 mile floodway viaduct consisting of two parallel elevated structures (on for each direction of traffic) spanning the floodplain.

Due to funding constraints, the bypass would be constructed in two phases. Phase 1 entails construction of a functional interim facility consisting of a two-lane highway and as much of the embankment as funds allow. These two lanes will run the entire length of the project limits and will serve as the southbound lanes in the ultimate configuration under Phase 2. Phase 2 entails construction of the other two lanes-creating a full four-lane facility-when sufficient funding becomes available. This Public Notice is for a permit

application that encompasses creation of the full four-lane facility under both phases.

Project Description: The proposed project entails construction of a four-lane freeway bypass with several bridges spanning creeks and local roads, a viaduct spanning the regulatory floodway, and interchanges on either end of the bypass.

The bypass would be a four-lane freeway with a 45.3-foot median separating the northbound and southbound lanes. Each lane would be 12 feet wide. The inside shoulder width (nearest the median) would be 5 feet, while the outside shoulder width would be 10 feet. The freeway was designed for a maximum speed of 68 miles per hour. Where local roads are to be improved or constructed, there would be two 12-foot lanes and shoulder width meeting local design standards.

Two interchanges would be constructed for the project. The Haehl Creek interchange would be located at the south end of the project near Haehl Creek and connect the existing highway into Willits with the new facility. The Quail Meadows interchange would be located near the north end of Little Lake Valley and connect the new facility to the existing highway north of Willits. Interchange ramps would be single-lane.

The bypass would cross creeks, riparian corridors, streets, and railroad right-of-ways using 22 bridges. Three retaining walls would be built. The following structures would be constructed with this project:

--Six bridges in the Haehl Creek interchange area.

--Two retaining walls in the Haehl Creek interchange area adjacent to Haehl Creek.

--Two bridges to cross East Hill Road.

--Two bridges to cross the middle reach of Haehl Creek south of Shell Lane.

--One retaining wall on the west side of the southbound roadway lanes just south of Center Valley Road.

--Two viaduct structures to span the floodway.

--Two bridges to cross over the Northwest Pacific Railroad (NWPRR) tracks in the Quail Meadows interchange area, one for the southbound roadway lanes (Phase 1) and one for the northbound roadway lanes (Phase 2).

--Two bridges to cross the new connector road to existing U.S. 101 in the Quail Meadows interchange area.

--Six bridges to cross Upp Creek directly north of the Quail Meadows interchange, one for each of the following: southbound roadway lanes (Phase 1); northbound roadway lanes (Phase 2); northbound on-ramp (Phase 1); northbound on-ramp (Phase 2); southbound off-ramp; roundabout local intersection.

--A floodway viaduct. The project design includes two elevated structures, which make up the floodway viaduct. The purpose of this design feature is to span the floodway. The viaduct would be located in the central part of the project area and would span Center Valley Road, the lower reach of Haehl Creek just upstream of the confluence with Baechtel Creek, Hearst-Willits Road, Baechtel and Broaddus Creeks at their confluence (beginning of the Outlet Creek designation), the City of Willits Wastewater Treatment Plant (WWTP), and Mill Creek. The 6,000-foot-long structures would consist of a separate northbound and southbound elevated viaduct superstructure. The total area of both viaducts would be 11.6 acres. Each of the viaducts would be approximately 42.6 feet wide. The edge-to-edge distance between the structures would be approximately 31.2 feet, and each would have a 16.5-foot minimum clearance underneath. The viaducts would require supporting columns, ranging in size from 4.5 to 7-feet in diameter.

The bypass would require imported borrow material from outside the project area in addition to material excavated on-site. The construction contractor would have the option to determine whether the

source of material for earthwork fill will be a Caltrans-designated borrow site (at Oil Well Hill), a commercial borrow site, or another site. Caltrans has designated the borrow site at Oil Well Hill, just north of Little Lake Valley, as an optional source of material that the contractor may use for the project. The contractor may also choose to use available commercial borrow sites in the vicinity to obtain the required fill. Typically, commercial borrow sites hold pre-approved operating permits and do not require any additional environmental permitting when soil is exported. Should the contractor select an alternative, non-commercial borrow site for this project, the contractor will be responsible for conducting a separate environmental review for the site.

Purpose and Need: The basic Project purpose is to reduce traffic congestion in the City of Willits and correct a number of deficiencies that exist on the current highway. U.S. 101 is an important route for interstate and interregional travel and is considered the economic lifeline of California's North Coast. It is the principal arterial route for people and goods between the San Francisco Bay Area and the greater Eureka/Arcata area. Currently, U.S. 101 also serves as Main Street in Willits and is the only continuous north/south street through the city, U.S. 101 must accommodate nearly all local traffic traversing Willits as well as interregional traffic.

As a proposed solution to traffic problems, Caltrans and the FHWA propose to construct a new segment of U.S. 101 that would bypass Willits to reduce delays, improve safety, and achieve a minimum level of service for interregional traffic on U.S. 101 within the project area though a 20-year design period.

Impacts to Corps of Engineers jurisdiction: The proposed project would directly affect a total of 89.12 acres of wetlands and other waters of the United States, of which 56.23 acres would be permanently filled and 32.89 acres would be temporarily disturbed during project construction and mitigation activities (Table 2).

Mitigation: To compensate for the direct loss and/or impacts to 89.12-acres of waters of the United States the applicant proposes a mitigation and monitoring proposal (MMP) that would compensate for impacts resulting from bypass construction by restoring some of the historical ecological functions and values to aquatic habitat in Little Lake Valley through a combination of restoration, creation, enhancement, and preservation (Table 3).

The applicant proposes the following mitigation amounts to compensate for impacts to wetlands: 33.4 acres of wetland creation; 1032.90 acres of wetland enhancement; 1122.11 acres of wetland preservation; and 5.96 acres of wetland restoration.

The applicant proposes the following mitigation amounts to compensate for impacts to other waters of the United States: 17.32 acres of enhancement; 24.7 acres of preservation; 0.06 acre of restoration.

3. **COMPLIANCE WITH VARIOUS FEDERAL LAWS:**

National Environmental Policy Act of 1969 (NEPA): The Final Environmental Impact Statement (EIS) was circulated December 18, 2006. This document (Report Number: FHWA-CA-EIS-02-02-F) is available at: http://www.dot.ca.gov/dist1/d1projects/willits/reports.feir.htm

The Corps will assess the environmental impacts of the proposed action in accordance with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. Section 4371 et. seq.), the Council on Environmental Quality's Regulations (40 C.F.R. Parts 1500-1508), and the Corps' Regulations (33 C.F.R. Part 230 and Part 325, Appendix B). Unless otherwise stated, the Environmental Impact Statement will describe only the impacts (direct, indirect, and cumulative) resulting from activities within the Corps' jurisdiction. The documents used in the preparation of the Environmental Impact Statement will be on file with the U.S. Army Corps of Engineers, San Francisco District, Regulatory

Branch, 1455 Market Street, San Francisco, California 94103-1398.

Endangered Species Act of 1973 (ESA): Section 7 of the Endangered Species Act requires formal consultation with the U.S. Fish and Wildlife Service (Service) and/or the National Marine Fisheries Service (NMFS) if a Corps permitted project may adversely affect any Federally listed threatened or endangered species or its designated critical habitat.

The FHWA made a determination that the proposed action may affect and is likely to adversely affect the federally threatened northern spotted owl (*Strix occidentalis caurina*) (spotted owl). The FHWA also made a determination that the proposed action may affect but is not likely to adversely affect the federally threatened bald eagle (*Haliaeetus leucocephalus*). In a letter dated March 30, 2006, the Service made the biological opinion that the action, as proposed, is not likely to jeopardize the continued existence of the northern spotted owl and the bald eagle. However, consultation with the Service has been re-initiated in response to project design revisions that have reduced proposed impacts to habitat for the aforementioned federally listed species.

The FHWA initiated formal consultation NMFS for potential adverse effects on the following listed species (Evolutionarily Significant Unit or Distinct Population Segment) and designated critical habitat, in accordance with the Endangered Species Act: California Coastal Chinook salmon (*Oncorhynchus tshawytscha*); Southern Oregon/Northern California Coasts coho salmon (*O. kisutch*); Northern California steelhead (*O. mykiss*). In a letter dated September 11, 2006, NMFS enclosed a biological opinion that concluded the proposed Willits Bypass Project is not likely to jeopardize the continued existence of California Coastal Chinook salmon, Southern Oregon/Northern California Coasts coho salmon, or North Coast steelhead, or result in the destruction or adverse modification of designated critical habitat for these species. However, consultation with NMFS has been re-initiated in response to minor design revisions. Thus consultation with NMFS for potential effects on the aforementioned listed species and designated critical habitat is ongoing.

Clean Water Act of 1972 (CWA):

a. Water Quality: Under Section 401 of the Clean Water Act (33 U.S.C. Section 1341), an applicant for a Corps permit must first obtain a State water quality certification before a Corps permit may be issued. The applicant has provided the Corps with evidence that he has submitted a valid request for State water quality certification to the North Coast Regional Water Quality Control Board. No Corps permit will be granted until the applicant obtains the required water quality certification. The Corps may assume a waiver of water quality certification if the State fails or refuses to act on a valid request for certification within 60 days after the receipt of a valid request, unless the District Engineer determines a shorter or longer period is reasonable for the State to act.

Those parties concerned with any water quality issue that may be associated with this project should write to the Executive Officer, California Regional Water Quality Control Board, North Coast Region, 5550 Skylane Boulevard, Suite A, Santa Rosa, California 95403, by the close of the comment period of this Public Notice.

b. Alternatives: Evaluation of this proposed activity's impact includes application of the guidelines promulgated by the Administrator of the Environmental Protection Agency under Section 404(b)(1) of the Clean Water Act (33 U.S.C. Section 1344(b)). COMPLIANCE WITH THE 404(b)(1) GUIDELINES: Projects resulting in discharges of dredged or fill material into waters of the United States must comply with the Guidelines promulgated by the Administrator of the Environmental Protection Agency under Section 404(b) of the Clean Water Act (33 U.S.C. § 1344(b)). An evaluation pursuant to the Guidelines indicates the project is not dependent on location in or proximity to waters of the United States to achieve the basic project purpose. This conclusion raises the (rebuttable) presumption of the

availability of a less environmentally damaging practicable alternative to the project that does not require the discharge of dredged or fill material into special aquatic sites.

Seven alternatives were included in the final 404(b)(1) alternatives analysis, including six build alternatives and a no-build alternative. These alternatives were screened to identify the least environmentally damaging practicable alternative (LEPDA). The Least Environmentally Damaging Practicable Alternative (LEDPA) received EPA concurrence May 25, 2005, and Corps concurrence June 10, 2005.

National Historic Preservation Act of 1966 (NHPA): Cultural resources studies pursuant to National Historic Preservation Act (NHPA) Section 106 for the proposed project were performed as required by Caltrans. Caltrans requested State Historic Preservation Officer (SHPO) concurrence that responsibilities pursuant to 36 CFR 800.4(d) implementing Section 106 of the NHPA have been met. In a letter to the North Region Environmental Branch of Caltrans dated December 6, 2005, SHPO concurred.

If unrecorded resources are discovered during construction of the project, operations will be suspended until the Corps completes consultation with the State Historic Preservation Office (SHPO) in accordance with Section 106 of the National Historic Preservation Act.

4. **PUBLIC INTEREST EVALUATION:** The decision whether to issue a permit will be based on an evaluation of the probable impact, including cumulative impact, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits that reasonably may be expected to accrue from the proposed activity must be balanced against its reasonably foreseeable detriments. All factors that may be relevant to the proposal will be considered, including its cumulative effects. Among those factors are: conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people.

5. **CONSIDERATION OF COMMENTS:** The Corps of Engineers is soliciting comments from the public, Federal, State and local agencies and officials, Indian Tribes, and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps to determine whether to issue, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest in the proposed activity.

6. **SUBMISSION OF COMMENTS:** Interested parties may submit, in writing, any comments concerning this activity. Comments should include the applicant's name and the number and the date of this Public Notice, and should be forwarded so as to reach this office within the comment period specified on Page 1. Comments should be sent to the U.S. Army Corps of Engineers, San Francisco District, Regulatory Division, 1455 Market Street, San Francisco, California 94103-1398. It is the Corps' policy to forward any such comments that include objections to the applicant for resolution or rebuttal. Any person may also request, in writing, within the comment period of this Public Notice that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing. Additional details may be obtained by contacting the applicant whose name and address are indicated in the first

paragraph of this Public Notice or by contacting David Wickens of our office at telephone 415-503-6787 or E-mail: david.m.wickens@usace.army.mil. Details on any changes of a minor nature that are made in the final permit action will be provided upon request.

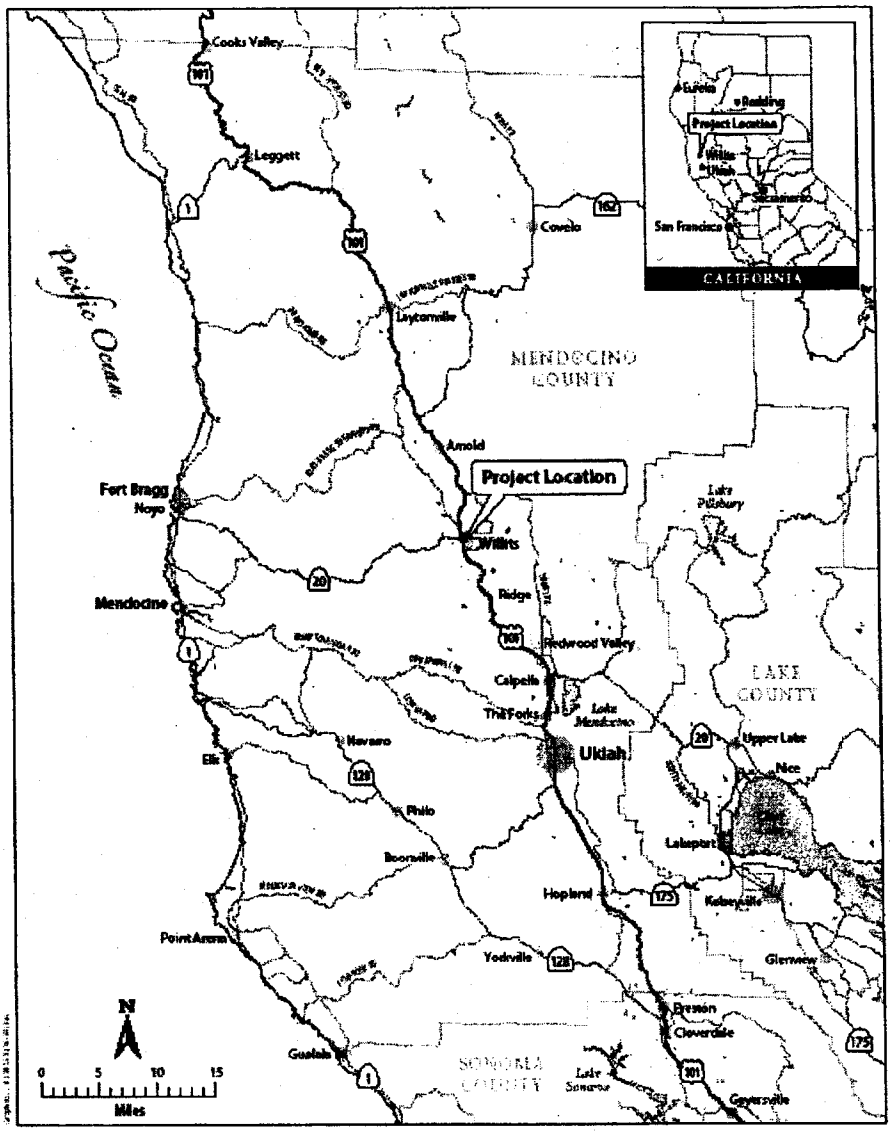

Figure 1-1
Regional Location

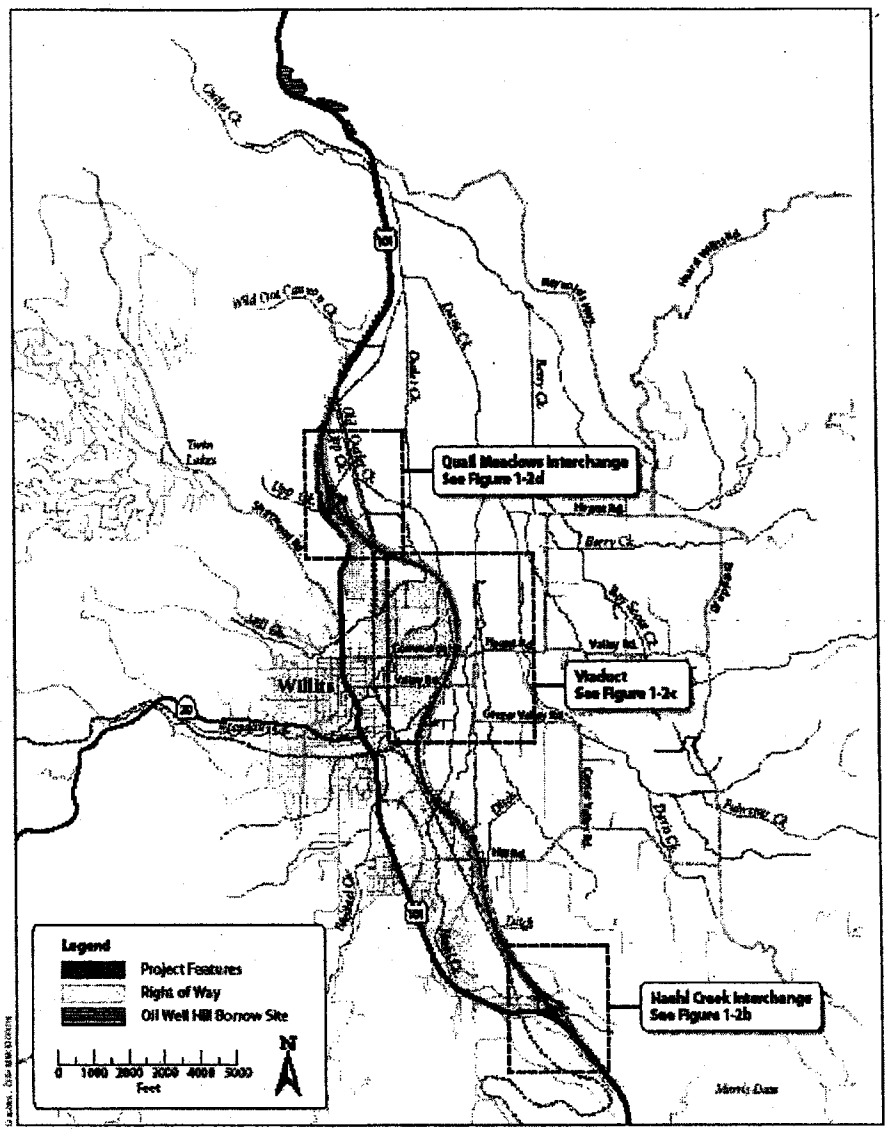

Figure 1-2a
Project Features—Overview Phase 1

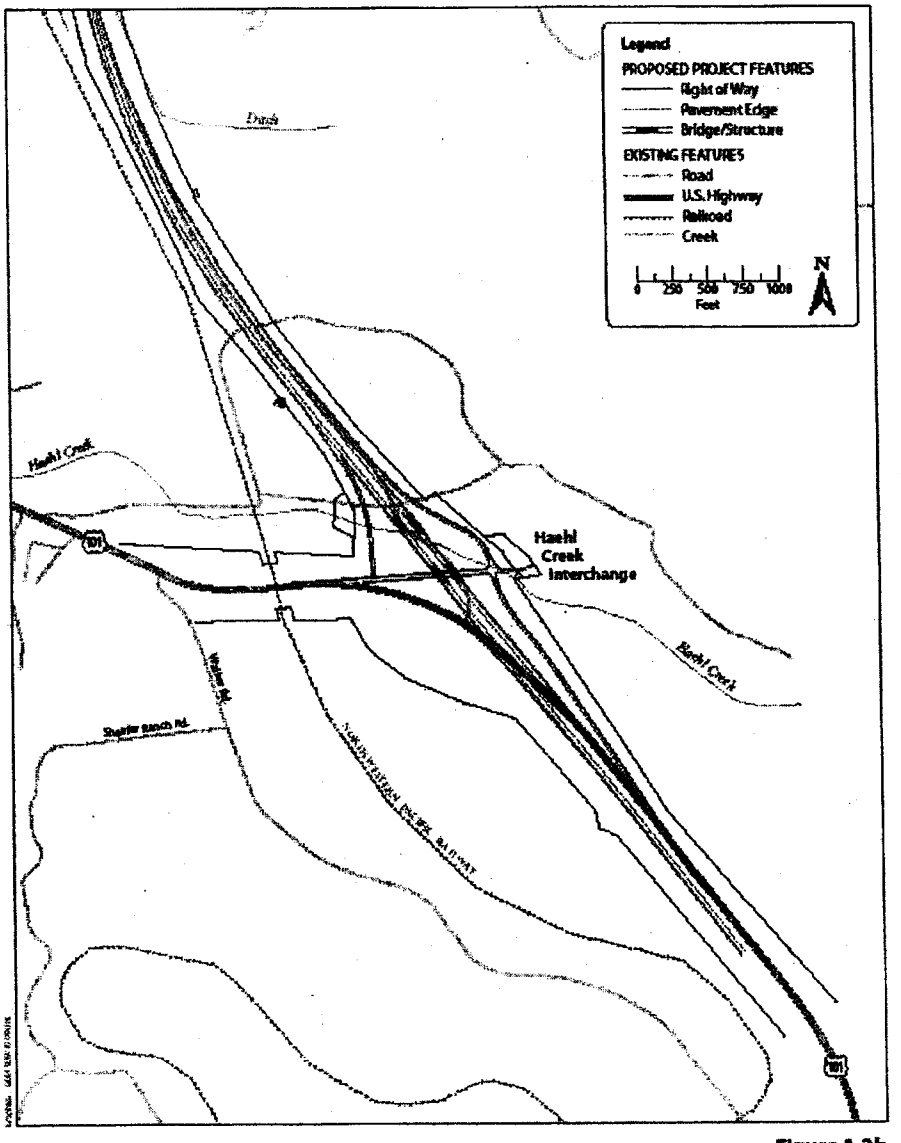

Figure 1-2b
Southern End Project Features—Haehl Creek Interchange Phase 1

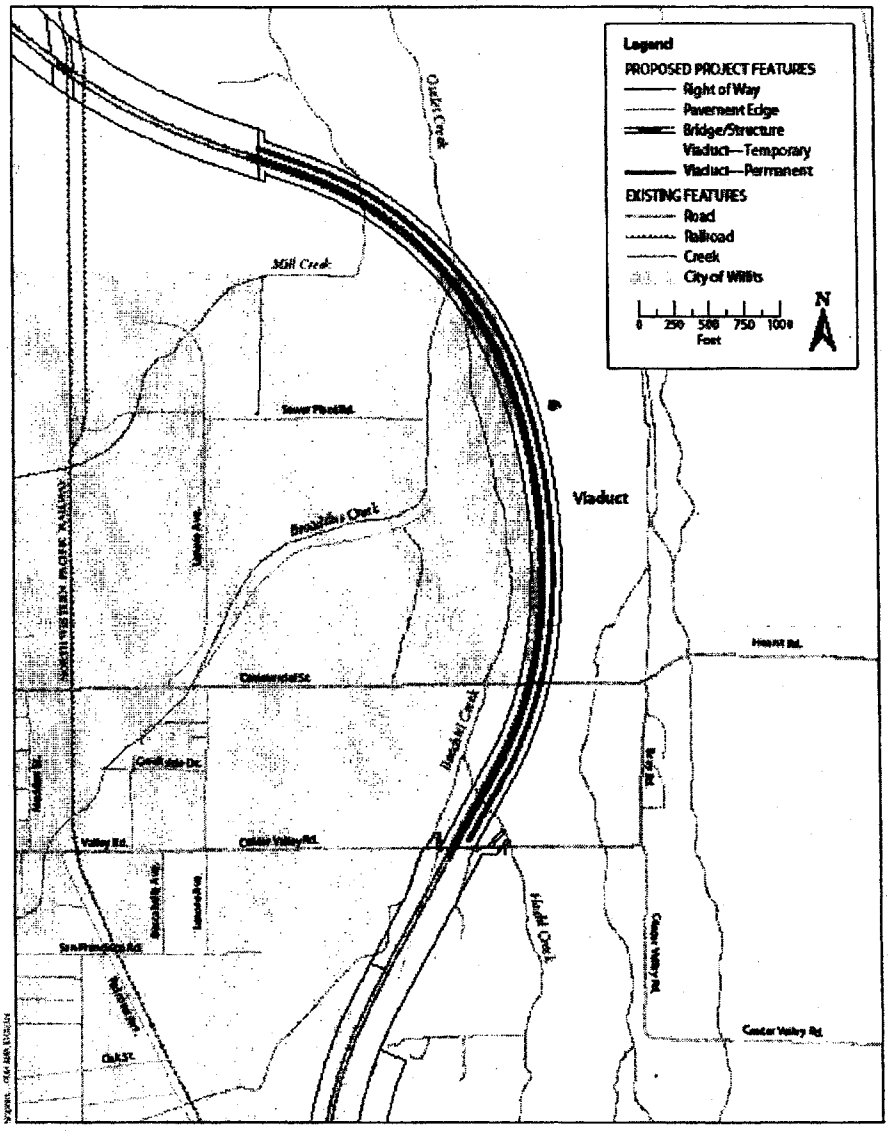

Figure 1-2c
Middle Project Features—Viaduct Phase 1

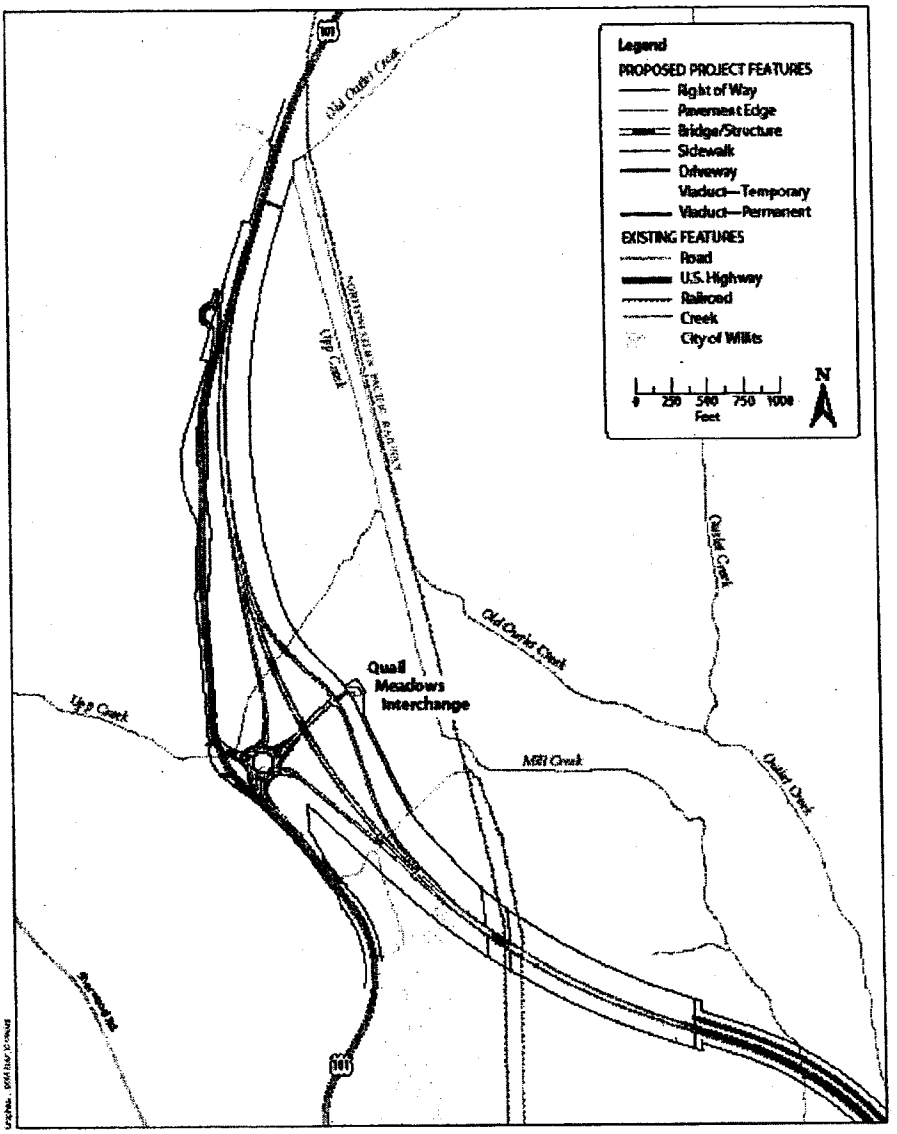

Figure 1-2d
North End Project Features—Quail Meadows Interchange Phase 1

Surface Areas of Wetlands and Other Waters Filled

The proposed project will directly affect a total of 89.12 acres of wetlands and other waters of the United States, of which 56.23 acres will be permanently filled and 32.89 acres will be temporarily disturbed during project construction and mitigation activities. Fill types affecting wetlands include those listed in Table 1 for "other waters of the United States" (permanent fills consisting of roadway and structures fill, asphalt concrete, RSP, TRM and RECP, new culverts, culvert end and treatments; temporary fills consisting of temporary falsework and falsework supports, cofferdams, temporary roadway fills, stream re-alignments, and temporary access routes). Temporarily impacted areas will be returned to pre-project contours and elevations before completion of the project. Table 2 shows the surface area (acres) of the resources that will be affected by the bypass. Maps depicting impacted wetlands and "other waters" of the United States are included in Appendix A and Appendix B of this permit application.

Table 2. Summary of Project Construction Impacts on Wetlands and Other Waters of the United States

Wetland Type / Other Waters	Project Impacts on Wetlands and Other Waters (acres)			Mitigation Impacts on Wetlands and Other Waters (acres)			Total Impacts on Wetlands and Other Waters (acres)
	Temporary	Permanent	Total	Temporary	Permanent	Total	Total
Marsh	1.38	8.15	9.53	0.49	0.00	0.49	**10.02**
Riparian Scrub	0.17	0.21	0.38	0.00	0.00	0.00	**0.38**
Riparian Woodland	1.61	3.21	4.82	0.07	0.02	0.09	**4.91**
Swale	0.03	0.00	0.03	0.26	0.05	0.31	**0.34**
Vernal Pool	0.05	0.16	0.21	0.00	0.00	0.00	**0.21**
Wet Meadow	20.69	41.64	62.33	4.98	0.45	5.43	**67.76**
Subtotal Wetlands	**23.93**	**53.37**	**77.30**	**5.80**	**0.52**	**6.32**	**83.62**
Other Waters	3.10	2.25	5.35	0.06	0.09	0.15	**5.50**
Total	**27.03**	**55.62**	**82.65**	**5.86**	**0.61**	**6.47**	**89.12**

COMPENSATORY MITIGATION (Required when permanent and temporal impacts to Waters of the State occur. Describe the location, size, type, functions, and values of the proposed mitigation. Describe success criteria, monitoring, long-term funding, management, and protection of the mitigation site. Attach a Mitigation Plan if needed. Attach Mitigation Bank Bills-of-Sale for purchase credits if needed. See attached checklist for guidance.)

Caltrans has developed a Mitigation and Monitoring Proposal (MMP) that proposes compensatory mitigation for effects of the bypass on jurisdictional wetlands, other waters of the United States, riparian habitat, oak woodlands, and State-listed plants. In addition to compliance with Clean Water Act (CWA) Section 401, the MMP will be used to support compliance with CWA Section 404, Section 1602 of the California Fish and Game Code, and Section 2081 of the California Endangered Species Act (CESA). The overall goal of the MMP is to successfully compensate for impacts on sensitive biological resources resulting from bypass project construction by improving ecological functions and values to habitat in Little Lake Valley through a combination of restoration, creation, enhancement, and preservation. However, beyond this compensation, the MMP aims to restore and enhance many previously lost or degraded wetland functions and values, and to help offset past damage to parts of the Outlet Creek Basin. The table below presents the total amount of jurisdictional wetlands and other waters of the U.S. and/or State that would be created, enhanced, or preserved as compensation for the proposed project's impacts on jurisdictional waters and wetlands.

Resource	Mitigation Actions (acres)				Restoration
	Creation	Enhancement	Preservation	Total Mitigation Acres	
Wetlands	33.44	1,032.90	1,122.11	**2,188.45**	5.96
Other Waters	none	17.32	24.70	**42.02**	0.06
Total	**33.44**	**1,050.22**	**1,146.81**	**2,230.47**	**6.02**

The proposed project's MMP will be provided in its entirety in a separate transmission.

ALTERNATIVES ANALYSIS

Has an Alternatives Analysis been prepared? ☑ YES ☐ NO If you marked YES, please submit the appropriate documentation.

Table 3.

Regulatory Division
1455 Market Street, 16th Floor
San Francisco, CA 94103-1398

US Army Corps of Engineers ®
San Francisco District

SAN FRANCISCO DISTRICT

SPECIAL PUBLIC NOTICE

California Department of Transportation (Caltrans) Submittal of the Willits Bypass Project Final Mitigation and Monitoring Plan for Comments and Notice of Public Information Meeting

NUMBER: 1991-194740N DATE: October 6, 2011 RESPONSE REQUIRED BY: November 5, 2011

PERMIT MANAGER: David Wickens PHONE: 415-503-6787 Email: david.m.wickens@usace.army.mil

On March 1, 2010, Caltrans (2800 Gateway Oaks Drive, Sacramento, California 95833, Attn: David G. Kelley, PE, Willits Bypass Project Manager, 530-741-5408) submitted an application to the Corps of Engineers (USACE) for a Department of the Army Permit to construct a new segment of U.S. 101 that would bypass the City of Willits in Mendocino County, California. The project is a four-lane freeway segment of U.S. 101 that would bypass the City of Willits with several bridges spanning creeks and local roads, a viaduct spanning the regulatory floodway, and interchanges on either end of the bypass. Project construction would result in the discharge of fill material into approximately 86.74 acres of waters of the United States, including wetlands. The first public notice for this application may be found at http://www.spn.usace.army.mil/regulatory/PN/2010/document2010-03-16-120721.pdf (text) and http://www.spn.usace.army.mil/regulatory/PN/2010/document2010-03-16-120759.pdf (plans).

To compensate for the direct loss and/or impacts to 86.74-acres of waters and wetlands of the United States resulting from bypass construction, the applicant proposes a mitigation and monitoring plan (MMP) that would off-set impacts through a combination of restoration, establishment, and enhancement actions. The bypass project would be constructed in two phases, thus, mitigation for project impacts would occur concurrently with the phased project construction.

To compensate for project impacts to wetlands the applicant's MMP submittal proposes the following wetland mitigation types and credited amounts: 34.85 acres of wetland establishment credit on approximately 59 acres and; 48.22 acres of wetland rehabilitation credit on approximately 325 acres of existing wetlands. To compensate for project impacts to other waters (streams) the applicant proposes 19.03 acres of stream rehabilitation.

A Public Information Meeting will be held from 6:00 PM until 9:00 PM on Tuesday, October 18, 2011 at the City of Willits City Hall Community Center. The City Hall Community Center is located at 111 E. Commercial Street, Willits, California 95490. USACE is soliciting comments from the public, Federal, State and local agencies and officials, Indian Tribes, and other interested parties in order to consider and evaluate the proposed MMP submittal.

A copy of the proposed MMP is available for review at the following locations: Mendocino County Library, Main Branch, located at 105 North Main Street, Ukiah, California 95482; and the Mendocino County Library, Willits Branch, located at 390 East Commercial Street, Willits, California 95490.

A copy of the proposed MMP is also available through Caltrans' internet web site at: http://www.dot.ca.gov/dist1/d1projects/willits/reports.htm

Interested parties may also submit, in writing, any comments concerning this activity. Comments should include the applicant's name and the number and the date of this Public Notice, and should be forwarded so as to reach this office within the comment period specified on Page 1. Comments should be sent to the U.S. Army Corps of Engineers, San Francisco District, Regulatory Division, 1455 Market Street, San Francisco, California 94103-1398. It is USACE's policy to forward any such comments that include objections to the applicant for resolution or rebuttal. Any person may also request, in writing, within the comment period of this Public Notice that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing. Additional details may be obtained by contacting the applicant whose name and address are indicated in the first paragraph of this Public Notice or by contacting David Wickens of our office at telephone 415-503-6787 or E-mail: david.m.wickens@usace.army.mil. Details on any changes of a minor nature that are made in the final permit action will be provided upon request.

APPENDIX 1

THE MARCH 16, 2010 PUBLIC NOTICE FOR THE WILLITS BYPASS PROJECT. CORPS FILE #1991-194740N

Listed below is a synopsis of comments received from USACE Public Notice dated March 16, 2010, for the Willits Bypass Project:

1. **Twenty-six letters received with Mitigation and Monitoring Plan (MMP) concerns: MMP not complete per Federal Regulations, 33 C.F.R Parts 325 and 332; public did not have opportunity to comment on final MMP.**

2. **One letter received with cumulative impacts to the watershed too great.**

3. **One letter received with comment question: how will environmental laws be followed?**

4. **Two letters received regarding stream concerns: how will streams be protected during and after construction; stream mitigation comments.**

5. **One comment letter in favor of the project.**

6. **Thirty-two letters received request for a Public Hearing on the project.**

7. **Eleven letters received regarding economic impacts of the project concerns.**

8. **Seventeen letters received regarding general opposition to proposed project: alternatives to the project should have been selected; project is too big; public does not need the project; project is not the LEDPA.**

9. **Nine letters received concerned with the project's environmental impacts: environmental impacts too big; wetland impacts too big; habitat fragmentation concerns.**

10. **Two letters received regarding construction traffic concerns.**

11. **Eleven letters received alleging project changed since EIS Document was adopted.**

12. **Two letters received regarding project completion concerns: full 4-lane build-out will not occur; partial construction concerns; delay in completing full 4-lane project build-out concerns.**

13. **Seven letters received commenting that the project costs too much.**

14. **Three letters received with mitigation management concerns.**

15. **One letter received questioning how will constructed wetlands off-set wetland impacts?**

16. **Six letters received with comments regarding noise pollution concerns: project will result in too much noise; noise pollution during construction concerns.**

17. **Three letters received regarding concerns for air pollution: project will result in too much air pollution; air pollution during construction concerns.**

18. **One letter received wondering if there is there a bicycle lane proposed. Bicycle lane access.**

19. **One letter received regarding relinquished roadway safety hazard concerns.**

20. **One letter received regarding concern for lack of public input on project.**

21. **One letter received suggesting archeological impacts too great.**

22. **Two letters received with concern that agricultural land impacts too great.**

23. **One letter received regarding aesthetic impacts concerns.**

24. **Two letters received regarding flooding concerns.**

25. **Six letters received questioning the traffic studies.**

26. **One letter received request for permit denial.**

27. **One letter received stating the project will interfere with the Willits Wastewater Treatment Plant mitigation project.**

DEPARTMENT OF THE ARMY
SAN FRANCISCO DISTRICT, U.S. ARMY CORPS OF ENGINEERS
1455 MARKET STREET
SAN FRANCISCO, CALIFORNIA 94103-1398

REPLY TO

Regulatory Division

APPENDIX 1

Public Comments Received in response to Public Notice Number 1991-194740N, Dated March 16, 2010:

2/25/2010 David Partch, Willits/Outlet Creek Watershed Group. Comments: cumulative impacts of the project to the watershed. How will environmental laws be followed? How will streams be protected during and after construction?

3/11/2010. Willits Environmental Center. Comments: MMP inadequate.

3/16/2010. Charles Ucker. Comments: in favor of the project; do the people of Willits want the project?

3/21/2010. Willits Outlet Creek Watershed Group. Comments: all aspects of the MMP is questioned. MMP management and funding is questioned.

4/2/2010. Robert Gwin. Requests a Public Hearing.

4/2/2010. Freddie Long. Concerns: Economic impacts to Willits; seeks scaled down project alternative.

4/3/2010. Pamela Parker. Comments: project too big. Caltrans needs alt. proposed for smaller project dealing with truck traffic; public did not have an opportunity to comment on MMP; requests a Public Hearing.

4/3/2010. William Ray. Comments: Environmental impacts too great; MMP will not work from ecological standpoint.

4/5/2010. Margaret S. Graham. Comments: the only time Willits will have unbearable traffic will be during construction of the project; project not needed and a waste of taxpayer money; requests a Public Hearing.

4/5/2010. Sulin Bell. Comments: proposed project has changed since the EIS was signed in 2007; MMP needs public review; requests a public hearing.

4/5/2010. Michael H. Norris. Comments: project described in PN significantly different from project described in EIS from 2007; was not afforded an opportunity to comment on the final MMP; requests a Public Hearing.

4/5/2010. Mable Long. Comments: Environmental impacts too great; project not needed; requests a Public Hearing.

4/6/2010. Kate Black. Comments: the project is harmful environmentally, economically. Requests a Public Hearing.

4/6/2010. Ann Waters. Comments: smaller project should be considered that focuses on truck traffic; was not given an opportunity to review MMP; Public Hearing requested.

4/6/2010. Brian Weller. Comments: significant changes have been made to the EIS document; public has not been given a chance to comment on the final MMP; requests a public hearing.

4/7/2010. Hollis Rose. Comments: no need for the project; 2-lanes would be adequate; requests a Public Hearing.

4/8/2010. Gregory Byers. Comments: project has been significantly redesigned since the EIS of 2007. MMP not finalized and will not receive public comment; requests Public Hearing.

4/9/2010. Ellen Drell, Willits Environmental Center (8 additional signatures). Comments: Willits Environmental Center (WEC) was not included in development of the MMP; proposed project is not the LEDPA; MMP not complete; based on these factors the comment period for the PN must be extended. Other public interest factors not adequately addressed such as: economic impacts to Willits; Caltrans' rigid belief that a 4-lane bypass is needed. New circumstances reveal that a 4-lane bypass is not needed; the project will never be completed and 4-lanes will never be built—there needs to be analysis that the entire project will actually be built. Why does the road need to be built over a railroad that hasn't been in use for 10 years? Project too expensive; Request a Public Hearing. Comments on the MMP: how will enhancement be accomplished or measured? How will created wetlands be managed into perpetuity? Who will manage mitigations into perpetuity? How will created wetlands compensate for impacted wetlands?

4/9/2010. Thayer Craig. Comments: information shown in the PN differs from information in the 2007 EIS document; was not afforded a chance to comment on the final MMP; requests a Public Hearing.

4/10/2010. Pam Brown. Comments: wetland impacts too great; noise pollution too great; air pollution too great; economy of Willits will be damaged; requests a Public Hearing.

April 10, 2010. Willits/Outlet Creek Watershed Group. MMP not complete, therefore public was not offered opportunity to comment. MMP not adequate.

4/10/2010. Paul C. Craig. Comments: the project described in the PN significantly different from EIS; MMP not made public for comments; requests a Public Hearing.

4/10/10. Larry Desmond. Comments: what will be done to mitigate traffic during construction of the project; how will road noise of an elevated roadway be addressed? how will project benefit Willits?; is a bicycle lane proposed?; requests a Public Hearing.

4/11/2010. Richard Estabrook, Willits Citizens for Good Planning. Comments: Did not receive a copy of the draft MMP for comment; requesting the comment period be suspended until the MMP can be reviewed by the public.

4/12/2010. Mary Zellachild. Comments: PN very different from EIS and public was not involved in those changes; MMP was not in PN and public was not offered an opportunity to study it; requests Public Hearing to learn about MMP.

4/12/10 Rosamond Ceowdr. Concerns: Mitigation Monitoring Plan (MMP) document should have been made part of the PN and thus the comment period should be extended to allow public comment of the MMP. A request for a Public Hearing is made based on this.

4/12/2010. Robert Gwin. Comments: requests a Public Hearing.

4/12/2010. Carlin Diamond. Comments: MMP not part of the Public Notice; Project design changed significantly since the public commented on the EIS; PN period should be extended to allow proper comment to the MMP; requests a Public Hearing.

4/12/2010. Marilynn Boosinger. Comments: alternatives to 4-lane bypass should be considered, 4-lane bypass not needed; project is not in the interest of Willits; requests a Public Hearing.

4/12/2010. W. Boosinger. Comments: project is unsupported by people of Willits; proposed project lacks public support and public needs more input; requests a Public Hearing.

4/12/2010. Freddie Long. Comments: alternative to the project should be considered that doesn't impact as much wetlands; project not needed; public not offered a chance to comment on MMP; economic impacts to Willits too great.

4/13/2010. Mendocino County Librarian, Donna S. Kerr. Concerns: MMP not included in Public Notice. If MMP cannot be included in the PN then the Willits Librarian requests a Public Hearing.

4/13/2010, David Drell, Willits Environmental Center additional comments: The MMP performance standards do not meet performance standards set forth in 40CFR Part 230.95 40 CFR

Part 230.95(a). Thus, it lacks necessary ecological-based performance standards. Also, MMP lacks monitoring framework. In addition, because performance is not ecologically based it cannot be monitored correctly. MMP does not have funding to monitor into perpetuity. The MMP does not have an Adaptive Management Plan, as required per 40 CFR Part 230.97(c) and 40 CFR 230.94(12).

4/13/2010. Organization of 160 members, Little Lake Grange No. 670, Karina McAbee, President. Concerns; costs vs. need makes project inappropriate; project not needed; too much agricultural. land impacted; too much wetlands impacted; noise pollution too great; EIS was revised too much compared to PN with no public input along the way; better alternatives exist; public hearing requested.

4/14/2010. Tom Woodhouse: Project has changed since the public last saw the PN for the EIS document in 2007; the MMP needs to be depicted in its entirety for public comment and the comment period extended; Construction funding not adequate and there is nothing to prevent construction delays and partial construction of the project; the relinquished roadway will continue to have safety hazards. Based on this a Public Hearing is requested.

4/14/2010. Christopher Martin. Comments: MMP inadequate and not final; LEDPA and EIS are false because traffic studies are false. Requests a Public Hearing.

4/14/2010. Martha Carol. Concerns: PN too different from EIS; MMP inadequate. Requests Public Hearing.

4/15/2010. Marc Harden. Concerns: Economy of Willits will die like Cloverdale; Money will be wasted on an unwanted/unneeded project; traffic studies not true. Never had to wait in traffic in 30+ years longer than 18 minutes; pollution impacts of construction.

4/15/2010. Randi Dalton. Comments: 4-lanes are not needed; where is the funding for this project coming from if the State is broke?; lack of public input; Archeological impacts too great; impacts to environment too great; impacts to agricultural land too great; aesthetic impacts (elevated roadway) too great; flooding impacts too great; requests a Public Hearing.

4/15/10. Josephine Silva. Concerns: Bypass not needed; Bypass too expensive to build; traffic estimates are incorrect, there is no traffic problem; an alternative north/south road wasn't considered as an alternative; the bypass will cause flooding; MMP inadequate. Requests a Public Hearing based on these concerns.

4/16/2010. Cepuie Beausiau. Joe Hyles. Concerns: project not needed based on his assessment of traffic; MMP was created without public input. Based on this requests a Public Hearing.

4/16/2010. Elaine Mancine. Concerns: Impacts to local economy too great; Viaduct noise impacts too great; what do the traffic studies show for the past five years? Is there evidence traffic is getting worse? Because she has never had to wait in traffic for more than 3 minutes; what will the

economic impacts be to Willits? Will they be the same for what happened to Cloverdale? Requests a Public Hearing.

4/16/2010. Heidi Ahders. Concerns: wetland impacts are too great; construction noise pollution too great; construction air pollution too great; raised highway will create noise pollution that is too great and will affect home values; economic impacts to downtown too great; cost to build project is too great.

4/16/2010. Jeremy Mills. Comments: Project is not in the best interest of the people. Habitat will be fragmented. Alternatives were erroneously removed from consideration—using alternative north/south roads in urbanized parts of Willits should be considered. Requests for Corps to deny permit.

4/16/2010. Ron Lipperts. Comments: Public doesn't want a bypass; noise pollution impacts too great; no need for the project; bypass will kill economy of Willits; requests a Public Hearing.

City of Willits, Paul Cayler, City Manager. Comments: the project will interfere with the City's contractor hired to construct wetland mitigation for the WWTP.

4/16/2010. Dr. Charley Dewberrry, Willits Environmental Center. Comments: How will mitigation sites be managed into perpetuity? How will enhancement sites be maintained into perpetuity? How do stream passage projects mitigate for listed salmonids? No stream enhancement proposed at 3 most viable streams (Baechtel, Broaddus, and Mill) why? how is there going to be a net benefit to salmonids? There is no mention of stream monitoring in the MMP.

4/20/2010. Environmental Protection Agency. Comments: Final mitigation plan required before issuing a permit. Current MMP submittal does not contain level of detail to be considered a final plan. Proposed preservation must comply with the mitigation rule.

APPENDIX 1

CALTRANS' RESPONSE TO COMMENTS RECEIVED FROM THE MARCH 16, 2010 PUBLIC NOTICE FOR THE WILLITS BYPASS PROJECT. CORPS FILE #1991-194740N

The following is Caltrans' June 3, 2010 response to public comments solicited from USACE Public Notice dated March 16, 2010, for the Willits Bypass Project.

Listed below are comments received, followed by Caltrans' response.

1. **Twenty-six letters received with Mitigation and Monitoring Plan (MMP) concerns: MMP not complete per Federal Regulations, 33 C.F.R Parts 325 and 332; public did not have opportunity to comment on final MMP.**

Applicant response to comment: Please see *Attachment 1, Responses to Public Comments, USACE Public Notice of March 16, 2010, For Caltrans' Proposed Willits Bypass Project* (Attached). **PLEASE NOTE: Attachment 1 contains MMP information submitted by Caltrans on June 3, 2010, prior to MMP development, and may no longer be accurate.**

2. **One letter received with cumulative impacts to the watershed too great.**

Applicant response to comment: *As discussed in the FEIS/R, after mitigation the project contribution to cumulative impacts to resources would be minimized. Cumulative impacts were discussed in Vol. 1, Chapter 3.19 (Cumulative Impacts) of the FEIS/R. Cumulative impacts were also discussed in various responses to public comments, Vol. 2 of the FEIS/R, including 3-17, 3-18, 9-77, 34-7, 34-65, 35-4, 35-36, and 219-3.* (CT 24)

3. **One letter received with comment question: how will environmental laws be followed?**

Applicant response to comment: *The commenter suggests water pollution will increase during construction. How will water quality laws be addressed with regards to regulation of TMDL in the creeks be addressed during construction and forever hereafter? Water quality impacts were discussed in Vol. 1, Chapters 3.5 (Water Quality) and 3.18 (Construction Impacts) of the FEIS/R. Impacts to water quality were also discussed in various responses to public comments, Vol. 2 of the FEIS/R, including 2-5, 2-6, 3-18, 4-15, 8-2, 35-26(a), 35-26(b), and 97-1. Water quality mitigation was included in Section 13, Appendix A of the FEIS/R. (CT 19)*
The project will manage and limit sediment discharges through implementation of Construction Site Best Management Practices (BMPs), Design Pollution Prevention BMPs and Post Construction Treatment BMPs. Construction Site and Design Pollution Prevention BMPs are identified in the contract documents. (CT 19)
Post Construction Treatment BMPs incorporated into the design of the project to address long term pollutant discharges include:

- *Bio-strips*
    - *Bio-strips are vegetated sections of land over which storm water flows as overland sheet flow. Pollutants are removed by filtration through grass, sedimentation, sorption to soil or grass, and infiltration through the soil. Strips*

and swales are mainly effective at removing debris and solid particles, although some constituents are removed by sorption to the soil.

- *Bio-swales*
  - *Bio-swales are vegetated channels that receive directed flow and convey storm water.*
- *Detention Basins*
  - *Are basins that temporarily detain runoff under quiescent conditions to allow particles to settle out. A Detention Device is a permanent Treatment BMP designed to reduce the sediment and particulate loading in runoff from the Water Quality design storm.*
- *Traction Sand Traps*
  - *Are sedimentation devices that temporarily detain runoff and allow traction sand that was previously applied to snowy or icy roads to settle out. Traction Sand Traps are permanent Treatment BMPs, and should be considered at sites where traction sand or other traction-enhancing substances are commonly applied (more than twice per year) to the roadway. CT 19)*
  -

The project design also includes removal of barriers to fish passage. The Public Notice for the Section 401 Water Quality Certification notes that removal of the fish passage barriers along Upp Creek, Haehl Creek and Ryan Creek would likely reduce sediment input into the creeks. (CT 19)

Regarding the TMDL, there is currently no approved Implementation/Action Plan for the Middle Fork Eel River TMDL for Temperature and Sediment. It should also be noted that the Department is not specifically named as a Stakeholder and/or Responsible Party in the Technical TMDL which was approved on December 29, 2004 by the U.S. Environmental Protection Agency Region IX. However, the North Coast Regional Water Quality Control Board adopted Resolution No. R1-2004-0087, Total Maximum Daily Load Implementation Policy Statement for Sediment-Impaired Receiving Waters in the North Coast Region. The Resolution directs the Executive Officer of the NCRWQCB to "Rely on the use of all available authorities, including permitting and enforcement tools, to more effectively and efficaciously pursue compliance with sediment-related standards by all dischargers of sediment waste." Tools available to the NCRWQCB to implement the adopted Resolution include, but are not limited to:

- *National Pollutant Discharge Elimination System (NPDES) and/or storm water permits,*
- *Section 401 Water Quality Certification and/or Waste Discharge Requirements*

The Public Notice for the Section 401 Water Quality Certification includes language regarding Total Maximum Daily Loads and Surface Water Monitoring, including:

"To ensure compliance with sediment, temperature and other related Water Quality Objectives within the Basin Plan, and consistent with the U.S. EPA-established TMDLs, adequate wetland and riparian protection and stringent replacement mitigations to avoid, minimize and mitigate the sediment and temperature impacts associated with the proposed project will be incorporated as enforceable conditions the Water Quality Certification. In addition, Caltrans will be required to conduct surface water monitoring, sampling and analysis in accordance with the conditions of the Water Quality Certification. Additionally, storm water runoff monitoring, sampling and analysis will be conducted as required by the State Water Resources Control Board (SWRCB) National Pollutant Discharge Elimination

System Permit (NPDES) Permit for Storm Water Discharges from the State of California, Department of Transportation (Caltrans) Properties, Facilities and Activities. The surface water data collected will be utilized to assess the adequacy of BMPs during construction as well as site specific mitigation measures proposed to minimize impacts to the environment, including sediment and temperature impacts." (CT 19)

4. **Two letters received regarding stream concerns: how will streams be protected during and after construction; stream mitigation comments.**

Applicant response to stream mitigation comments: Please see Attachment 1. **PLEASE NOTE: Attachment 1 contains information submitted by Caltrans on June 3, 2010, prior to MMP development, and may no longer be accurate**

Applicant response to comments involving streams (information not in Attachment 1): *Water quality impacts were discussed in Vol. 1, Chapters 3.5 (Water Quality) and 3.18 (Construction Impacts) of the FEIS/R. Impacts to water quality were also discussed in various responses to public comments, Vol. 2 of the FEIS/R, including 2-5, 2-6, 3-18, 4-15, 8-2, 35-26(a), 35-26(b), and 97-1. Measures to reduce water quality impacts were included in Section 13, Appendix A of the FEIS/R.* (CT 20)

Engineered Channels

Caltrans is working closely with the Department of Fish and Game on fish passage improvements at Upp and Haehl Creeks. The goal is to incorporate reach-scale geomorphology, minimize alterations to the existing stream reach, and provide fish passage as agreed to with DFG and National Marine Fisheries Service (NMFS) for the designated sites within the project limits. (CT 20)

The stream restoration and fish passage improvement projects that are proposed on Haehl and Upp Creeks, where they cross the project footprint, and Caltrans' commitment to contribute financially to the Ryan Creek US 101 culvert project, are intended to mitigate impacts from project construction on jurisdictional other waters of the United States. These projects will have the added benefit of providing salmon and steelhead with access to spawning and rearing habitat upstream of these existing features that currently act as partial or complete barriers to fish migration. (CT 20)

Treatment of Viaduct Storm Water

Although portions of the viaduct do achieve Storm Water Treatment it is not complete coverage. No discharges occur directly into any of the creeks flowing under the viaduct and flows from the deck drains will fall to the ground below. Due to the height of the viaduct structure, the flows will break apart into droplets, similar to precipitation, on their descent. Temporary Erosion Control measures under the viaduct will include installation of Temporary Hydraulic Mulch (Bonded Fiber Matrix) and Erosion Control (Bonded Fiber Matrix) for the Permanent Erosion Control. Also, temporary Best Management Practices (BMPs) will be used during the Construction phase. The BMPs are to be implemented in order to minimize the potential for sediments and pollutants from entering any water bodies. (CT 20)

Overall the Willits Bypass project will include permanent storm water facilities capable of treating an area in excess of the added impervious surface of the project. (CT 20)

Protection of streams/creeks

Numerous measures will be employed to protect waterways both in construction and post-construction. No non-stormwater discharges will be allowed to directly enter jurisdictional

waterways during the construction phase of the project, without first obtaining permit coverage from the North Coast RWQCB (e.g. Low Threat Discharge Permit). (CT 20)

Biotechnical bank stabilization, turf reinforcement mat (TRM) and rolled erosion control product (RECP) will be substituted in as many locations as possible that traditionally would receive rock slope protection (RSP). Unlike RSP, TRM and RECP allow native riparian vegetation to grow through the mat structure while providing erosion protection for affected banks and bridge abutments. (CT 20)

With respect to the creek crossings, Caltrans has designed the bypass to avoid impacts on fish migration. With minor exceptions, the permanent bridges and viaducts will completely span the creek channels (i.e., from the top of one bank of the creek channel to top of the opposite bank) and, as such, permanent piers and/or abutments will not be placed in the channel. In the few locations where permanent piers for the bridges or the viaduct will be constructed in the creek channels and will remain following construction (i.e., be permanent), these features will not adversely affect fish passage because these structures will not create conditions (e.g., shallow water or excessive water velocities) that will impede fish migration. During construction, Caltrans will avoid impacts on fish migration by limiting in-channel construction below the ordinary high water mark (OHWM) to the dry season (June 15 – October 15), unless earlier and/or later dates for construction activities are approved by CDFG and NMFS on a year-by-year basis. Temporary piles that will be used to support construction falsework and temporary stream crossings also will not affect fish migration as sufficient spacing between the piles will remain to allow for the passage of flow (and fish). While bypass construction will result in the temporary and permanent disturbance to creek channels where streams intersect the bypass footprint, the project minimizes the use artificial hardscaping (e.g., rock slope protection) and, as such, does not require that channels be "engineered" within the footprint of the project. Rather, creek channels within the footprint of the project will remain as earthen channels and, where disturbed, will be restored to their pre-construction condition.(CT 20)

<u>*Measures During Construction*</u>

During construction, water quality effects will be minimized through provisions in the construction contract. Contractors will be required to prepare and implement a program to effectively control water pollution during the construction of the bypass project, in compliance with Caltrans Standard Specifications Section 7-1.01G—Water Pollution and Contract Special Provisions. This program will consist of the development of a Storm Water Pollution Prevention Program (SWPPP), which requires that the bypass project meet standards and objectives to minimize water quality impacts during construction. The SWPPP will be submitted for resource agency approval before any construction activities begin. The SWPPP will include appropriate Caltrans construction BMPs to reduce the potential for sediment and contaminants from entering creeks. Potential BMPs for inclusion in the project's SWPPP are listed below with detailed descriptions available online at http://www.dot.ca.gov/hq/construc/stormwater/manuals.htm (additional BMPs could be implemented as necessary to minimize potential effects on water quality). (CT 20)

- *preservation of existing vegetation,*
- *hydroseeding,*
- *silt fencing,*

- *gravel/sandbag barriers,*
- *stabilized construction entrance/exit,*
- *stabilized construction roadway,*
- *dewatering operations,*
- *paving and grinding operations,*
- *temporary stream crossings,*
- *clear water diversion,*
- *material delivery and storage,*
- *stockpile management,*
- *spill prevention and control,*
- *solid waste management,*
- *hazardous waste management,*
- *concrete waste management,*
- *sanitary/septic waste management, and*
- *liquid waste management.*

Non-rainy season BMPs will be implemented in accordance with the SWPPP, including inspection, maintenance and repair, to minimize delivery of soil to the stream channels. (CT 20)

The contractor will be required to implement appropriate BMPs to prevent the discharge of equipment fluids to the stream channel. The minimum requirements will include: storing hazardous materials outside of the stream banks; checking equipment for leaks and preventing the use of equipment with leaks; pressure washing equipment to remove fluid residue on any of its surfaces prior to its entering the live channel (if equipment is needed in the channel to establish a flow diversion); maintaining spill response material and suitably trained personnel at the project site; responding immediately to any fluid releases and applying containment booms and absorbent materials as appropriate; and notifying the RWQCB of releases and discharges. For minor accidental releases of equipment fluid to the dewatered channel, the contractor will be required to remove and properly dispose of contaminated material.(CT 20)

Equipment will not be stored in the channel. All equipment will be removed from the channel at the end of each work day. All equipment will be fueled, maintained, and repaired at sites well away from streams.(CT 20)

Appropriate BMPs will be implemented in accordance with the Statewide National Pollution Discharge Elimination System permit and the current storm water quality guidance documents for all soil disturbances. Temporary and permanent erosion control measures will be implemented during and at completion of project activities to prevent material from entering watercourses.(CT 20)

Permanent Erosion Control Measures: All disturbed soil areas, including non structural slopes, will be stabilized with re-vegetation and erosion control measures. Disturbed slopes will be re-

vegetated in accordance with plans developed by the District Landscape Architect and the Re-vegetation Specialist or otherwise stabilized. Permanently impacted areas such as cut and fill slopes adjacent to the roadway along interchange ramps, as well as median between the inside roadway shoulders will be re-vegetated with native plants appropriate to Little Lake Valley. Steeper embankment slopes located at structures approaches will be protected with RECP (Netting) blanketing materials and all final slopes will be stabilized and re-vegetated with local topsoil and native grass seed which is included in the Erosion Control (Bonded Fiber Matrix) application. In addition, finished slopes and ditches constructed greater than 1:3 (V:H) will be stabilized with Rolled Erosion Control Product (Netting). Upon completion of construction of the Floodway Viaduct structure, the entire disturbed area will be regarded to pre-construction conditions and re-vegetated with Erosion Control (Bonded Fiber Matrix). Prior to the application of Erosion Control (Bonded Fiber Matrix), Local Topsoil will be collected/harvested and stockpiled prior to construction and placed back on all areas to receive permanent erosion control measures such as Erosion Control (Bonded Fiber matrix) in the re-vegetation effort, once the project has been completed. Bio-swales will be constructed and re-vegetated as part of Treatment BMPs at drainage outlet areas prior to run-off off site of the project. Turf Reinforcement Mat (TRM) along with Erosion Control (Bonded Fiber Matrix) will be utilized to line the inlet channel at Center Valley Rd. (CT 20)

The Roundabout will include hardscape features, and plantings and irrigation & sprinkler system as a center for aesthetics and as re-vegetation around the pedestrian walkways. Final Erosion Control includes Mulch, Imported Topsoil, Boulder Placement, and Gravel (Miscellaneous Areas). (CT 20)

Post construction flows will be captured, routed into earthen ditches and channels, and detained prior to entering local waterways where feasible. Channel erosion control measures, such as willow cuttings, erosion control blankets, and rock lined channels will be deployed within the project limits. Energy dissipation devices such as flared ends and Rock Slope Protection (RSP) at culvert outlets are deployed where appropriate. The transition between culvert outlets/headwalls/wingwalls and channels will be smooth to reduce turbulence and scour. Detention facilities have been incorporated into the project design to reduce peak stormwater discharges.(CT 20)

- *Cut and fill slopes are to be as flat as feasible, and concentrated flow will be collected in stabilized drains and channels whenever possible. The slope and surface protection systems deployed include slope rounding, seeding and planting, temporary erosion control, fiber rolls, Rolled Erosion Control Protection (RECP), Bonded Fiber Matrix (BFM), and Rock Slope Protection (RSP).* (CT 20)

    - *RSP around the bridges will be placed in accordance with the California Bank and Shore Rock Slope Protection Design Manual. RSP for bridges will be placed at an elevation that protects the structure from a minimum of the 50 year flood event and to a depth that protects the structure from potential scour. The voids in the RSP will be filled with clean sand and gravel and vegetated. The protection will be placed as close to the structure as possible and will try avoiding impacts to the stream itself.*

    - *RSP at retaining walls will also be placed in accordance with the California Bank and Shore Rock Slope Protection Design Manual. RSP for retaining walls will protect the structure from a minimum of a 2 year flood event and to a depth that protects the structure from*

potential scour. The voids in the RSP will be filled with clean sand and gravel and vegetated. Slope protection above the 2 year event will be achieved with vegetated lifts with brush layering as soon as flow velocity allows. The protection will be placed as close to the structure as possible and will try avoiding impacts to the stream itself.

- *Slope paving is not anticipated on any of the proposed structures.*

Additional information regarding ditches, berms, dikes, and swales utilized on this project is contained in the project storm water data report and hydro-modification report. (CT 20)
Impacts to fish were addressed in Vol. 1, Chapters 1.10 (Resolution of Controversial Issues), 3.7.7 (Impacts to Special Status Fish) and 3.19 (Cumulative Impacts), and Appendix D (Biological Opinions) of the FEIS/R. Impacts to fish were also discussed in various responses to public comments, Vol. 2 of the FEIS/R, including 1-2, 2-1. 4-9, 4-11, 8-5, 9-60, 35-28(l), 35-33, 88-1, 144-1, and 170-13. Biological mitigation measures were included in Section 3 (Biological Resources), Appendix A, and Appendix L (Conceptual Mitigation Plan) of the FEIS/R. Storm water BMPs are included in the construction specifications for the project. (CT 23)
Avoid Fisheries Impacts/Impact to Fisheries is Too Great: The potential environmental effects of the Willits Bypass Project, including potential effects on special-status fish species and their habitat, were described in the draft and FEIS/R. Caltrans believes the FEIS/R to be technically accurate and the conclusions to be adequately supported, including all information relevant to effects on the aquatic ecosystem required by the reader to make informed decisions. In addition, Caltrans has prepared and submitted a biological assessment to NMFS and requested formal Section 7 consultation. Because coho salmon are also a state-listed species under the California Endangered Species Act (CESA), Caltrans has also prepared and submitted to CDFG an incidental take permit application pursuant to Section 2081 (b) of CESA. The Section 7 and 2081 consultations are ongoing and will further clarify and support measures necessary to avoid and mitigate adverse effects on state and federal special-status fish species. (CT 23)
Valuable Streams Impacted: The project will construct bridge and viaduct crossings over Baechtel, Broaddus, Haehl, Mill, Outlet, and Upp Creeks, where coho salmon, Chinook salmon, and steelhead may occur or are known to occur. The proposed bypass alignment is located primarily on the valley floor, downstream of the higher-quality spawning and rearing habitat located in the upper reaches of these streams. The stream habitat quality, and therefore the potential for juvenile rearing, is generally lower at the locations of the proposed bridge and viaduct crossings as a result of past and present land use practices and their effects on the aquatic environment. Nonetheless, these reaches downstream of the proposed crossings are important to varying degrees for these species and support, at a minimum, migration habitat for all three species. Avoidance and minimization measures, which are described in the draft and final EIR/EIS and which are being further clarified in the Section 7 consultation, will reduce project impacts on listed salmonids by minimizing the potential for sedimentation of downstream reaches through implementation of Best Management Practices (BMPs); limiting in-channel work to the summer low-flow period; excluding fish from stream segments where underwater sound levels from pile driving are expected to exceed sound exposure level thresholds; and providing for the protection and restoration of important riparian habitat in the vicinity of the bridge and viaduct structures. (CT 23)

5. **One comment letter in favor of the project.**
   Applicant response to comment: *The comment presents a supportive opinion of the project.*(CT 1)

6. **Thirty-two letters received request for a Public Hearing on the project.**
Applicant response to comment: no response provided.

Corps supplemental information: All written comments have been considered by the Corps. As consistent with our regulations at 22CFR § 327.4(b), we have determined that there is no valid interest to be served by holding a public hearing.

7. **Eleven letters received regarding economic impacts of the project concerns.**

Applicant response to comment: *As explained in the FEIS/R, the project would have minimal impacts to business. Vol. 1, Chapters 1.12 (Growth at Interchanges), 3.3 (Community Impacts) and 3.18 (Construction Impacts) of the FEIS/R discussed impacts to businesses and tourism. Measures to reduce impacts to community resources are included in Section 4 of Appendix A, FEIS/R Impacts to businesses and tourism were also discussed in various responses to public comments, Vol. 2 of the FEIS/R, including 9-42, 9-43, 12-28, 15-3, 30-5, 33-11, 34-43, 34-44, 34-45, 34-46, 34-48, 34-49, 47-6, 70-1, 73-14, 77-1, 114-4, 130-2, 136-2, 143-5, 159-7, 170-4, 183-4, 199-5, 205-2, 221-3, 221-4, and 300-7.* (CT 18)

Impacts to property values were discussed in Vol. 1, Chapter 3.3 (Community Impacts) of the FEIS/R. Impacts to property values were also discussed in various responses to public comments, Vol. 2 of the FEIS/R, including 9-12, 34-40, 34-50, and 165-14. Many of the comments and discussions from the FEIS/R were based on concerns over increased property values from the bypass, resulting lack of affordable housing supply, and the loss of tax base from properties utilized for bypass construction. A marginal overall increase in home values due to improved accessibility may occur as noted in comment response 34-50. However, various factors contribute to home value, so differences may not be clearly attributable to one factor. The same is true of potential diminished home values. (CT 32)

8. **Seventeen letters received regarding general opposition to proposed project: alternatives to the project should have been selected; project is too big; public does not need the project; project is not the LEDPA.**

Applicant response to comment regarding alternatives: *Consideration of Different Alternatives: The commenter suggests that misleading information was presented to agencies and public which limited the range of alternatives considered for the project. This is not correct. In the course of 14 years of project planning over 30 alternatives were considered including 2-lane facilities, and alternative roadway types (conventional highways, couplets, etc.). This is well documented in the public record. A 2-lane alternative was dropped from consideration for several reasons. The purpose and need for the project is to provide for a Level of Service "C". Contrary to commenter's assertion, a 2-lane facility cannot achieve Level of Service "C". Once again, it is well documented in the public record that traffic capacity analysis was completed several times for a 2-lane alternative. A 2-lane facility was shown to be inadequate and could only achieve LOS "D". The 1999 study cited by the commenter was based on faulty assumptions (an at-grade roadway with passing lanes) which generated unreasonable results.* (CT 7)
The minimum LOS of "C" is a goal and policy established through cooperation between Caltrans, the Mendocino Council of Government (MCOG), the County of Mendocino, and the City of Willits. It is included in the Caltrans Transportation Concept Report for US 101, in the

MCOG Regional Transportation Plan, and the General Plans for Mendocino County and the City of Willits. Establishing a minimum LOS for a National Highway System facility (US 101) which serves as a transportation "lifeline" for northwest California is not only appropriate, but is in keeping with established transportation policy in the U.S. (CT 7)

The United States Code (USC) Section 109 (a) (1) states that a highway project must "...adequately serve the existing and planned future traffic of a highway in manner that is conducive of safety, durability, and economy of maintenance." Safety is the number one priority of Caltrans. A divided 4-lane facility is inherently safer than a 2-lane facility due to the physical separation of traffic which eliminates the potential for head-on collisions from unsafe passing maneuvers or drivers crossing the center line. (CT 7)

Selected Alternative -Approximately thirty bypass alternatives have been considered during the project's history. The earliest alternative, referred to as Alternative A, was formally adopted by the California Transportation Commission (CTC) in 1963, prior to federal and state environmental laws. It involved building a new freeway segment across Little Lake Valley and was essentially a straight line that was the shortest possible route between the beginning and ending points for the bypass. This alternative was dropped eventually because of its adverse environmental impacts. Since then, other alternatives have been considered as a result of public and governmental agency input and independent investigation by Caltrans staff. (CT 3)
The EPA in an April 1999 letter stated its encouragement, "to divide each of the remaining alternative alignments into several segments (the "nodal approach") so that one can better analyze the environmental impacts associated with each segment. This analysis may prove to be useful in developing a hybrid alternative that is presented in the Final EIS as the NEPA preferred/Section 404 least environmentally damaging practicable alternative." (CT 3)
The Willits Bypass Project Development Team (PDT) divided each alternative into smaller sections for evaluation purposes. The DEIS/R presented four build alternatives (C1T, E3, J1T, and LT) to construct a four-lane freeway bypass of Willits, with the idea of combining sections of different alternatives based on this nodal approach. (CT 3)
Following the completion of the DEIS/R, a preferred alternative was chosen using the hybrid approach. The Draft Alternatives Analysis had identified Alternatives J1T and LT as potential candidates for the LEDPA; however, it became necessary to develop a modification that incorporated portions of these two alternatives in order to avoid important community and biological resources. The Modified Alternative J1T would have comparable wetlands impacts to those of Alternative J1T, but it avoids the important community resources that Alternative J1T would have otherwise impacted. Modified Alternative J1T has fewer impacts to wetlands than Alternative LT and avoids a large stand of valley oak riparian woodland that would have been impacted by Alternative LT. (CT 3)
Based upon this approach, Alternative J1T with modifications (Modified Alternative J1T) was identified as the Least Environmentally Damaging Practicable Alternative (LEDPA)/Environmentally Superior Alternative. (CT 3)
The FEIS/R included a full description of the Modified Alternative J1T. No comments were received regarding the modifications to Alternative J1T on the FEIS. (CT 3)

Alternatives resulting in less than a four-lane freeway have been considered during the development of the project. General Response 1.10 in Volume 2 of the Final Environmental

Impact Statement/Report (FEIS/R 2006) addresses the suggestion of a two-lane bypass. Transportation System Management (TSM) alternatives were also considered and discussed in Section 3.6.1 of the DEIS. TSM alternatives seek ways to use the existing facilities in lieu of an entirely new route. As elaborated upon in the environmental documents, the purpose and need would not be met with either the two-lane or TSM alternatives. Numerous additional alternatives were considered during the scoping of the project. None of the alternatives reviewed would result in fewer environmental impacts than the identified LEDPA Modified J1T while still meeting the purpose and need. (CT 6)

Alternatives to Crossing Over the Railroad: Alternatives for which mainline doesn't cross the railroad were explored prior to selection of the LEDPA. But studies found that valley alternatives resulted in excessive impacts to wetlands and other resources. Non-valley alternatives failed to meet the purpose and need and/or they resulted in excessive impacts. (CT 7)

Applicant response to concerns the project is too big: *Consideration was given to multiple alternatives throughout the project development process. An alternative focuses on city streets or a truck diversion most closely mirrors the development process of for the TSM alternatives.* (CT 7)

Response 18-9 of the FEIS/R addresses TSM alternatives. TSM actions that were considered to *address transportation concerns in the study area were low cost traffic operations improvements to the existing highway system, improvements to existing intersections, a one-way couplet, diversion of truck traffic to a truck route, and an additional through north/south city street. The working paper recommended for further study a TSM alternative whose main feature was the development of a north/south city street that would parallel existing U.S. 101. Section 3.6.1 (DEIS/R) discusses the history of the TSM alternative and why it was eliminated from consideration. The DEIS/R concluded that the TSM alternative would not meet the purpose and need. Because of the fragmented local street network and the narrow roadway along Railroad Avenue, the Willits Bypass TSM alternative included construction of new roadway segments and purchase of numerous right of way parcels. Studies of the TSM alternative showed that it would provide the least delay reduction of all the alternatives. In addition, traffic studies showed that Alternative TSM was not expected to reduce the number of collisions when compared to the No Build Alternative. Finally, 140 residential and 28 business relocations, impacts to block 3 of the Willits Historic District, and proximity impacts associated with land uses near the alignment led to dismissal of the TSM alternative.* (CT 7)

Applicant response to public comment regarding project need:

Applicant response to public comment that the project is not the LEDPA: *Appendix G of the DEIS discusses the NEPA/404 process, including correspondence with resource agencies regarding the purpose and need.* (CT 10)

The purpose and need was circulated during the FEIS/R process. A Record of Decision was issued for the proposed project based upon the purpose and need on December 18, 2009 by the Federal Highway Administration. (CT 10)

The commenter states that, "Caltrans erred in it is purpose and need for the project. The purpose and need was 'to construct a new segment of U.S. 101 that would bypass the City of Willits.'" Within both the environmental documents, the purpose of the project was "to reduce delays, improve safety and achieve a level of service (LOS) of at least "C" for interregional traffic on Route 101 within the project limits in the vicinity of the City of Willits in Mendocino County." (CT 10)

The commenter further suggests that the project is in violation of Caltrans Director's Policy 22 on context sensitive planning. US 101 is a major federal and state highway, a principal arterial, and the single north-south route serving the entire length of District 1. It is crucial to the commerce of the north coast. The facility should serve interregional traffic appropriately. That having been said, Caltrans has worked to develop a project that recognizes the importance of balancing local concerns with the project's need. For instance, the selected alignment is a modification of an earlier alternative to avoid the Sanhedrin Industrial Park (an important economic issue in the area) and the park and community resources along Commercial Street. In addition, the project received exceptions for several design standards, such as the width of the median, to reduce impacts. (CT 10)
LEDPA was provided for the proposed project. Information regarding concurrence by EPA and USACE was provided in Appendix C of the FEIS. (CT 11)
Response 35-18 of the FEIS addresses the comment regarding the 1999 SHN study. (CT 11)
A 2-lane alternative was dropped from consideration for several reasons. The purpose and need for the project is to provide for a Level of Service "C". Contrary to commenter's assertion, a 2-lane facility cannot achieve Level of Service "C". Once again, it is well documented in the public record that traffic capacity analysis was completed several times for a 2-lane alternative. A 2-lane facility was shown to be inadequate and could only achieve LOS "D". The 1999 study cited by the commenter was based on faulty assumptions (an at-grade roadway with passing lanes) which generated unreasonable results. (CT 11)
The minimum LOS of "C" is a goal and policy established through cooperation between Caltrans, the Mendocino Council of Government (MCOG), the County of Mendocino, and the City of Willits. It is included in the Caltrans Transportation Concept Report for US 101, in the MCOG Regional Transportation Plan, and the General Plans for Mendocino County and the City of Willits. Establishing a minimum LOS for a National Highway System facility (US 101) which serves as a transportation "lifeline" for northwest California is not only appropriate, but is in keeping with established transportation policy in the U.S. (CT 11)
The United States Code (USC) Section 109 (a) (1) states that a highway project must "...adequately serve the existing and planned future traffic of a highway in manner that is conducive of safety, durability, and economy of maintenance." Safety is the number one priority of Caltrans. A divided 4-lane facility is inherently safer than a 2-lane facility due to the physical separation of traffic which eliminates the potential for head-on collisions from unsafe passing maneuvers or drivers crossing the center line. (CT 11)

9. Nine letters received concerned with the project's environmental impacts: environmental impacts too big; wetland impacts too big; habitat fragmentation concerns.

Applicant response to comment environmental impacts too big: *The FEIS/R did identify multiple significant impacts attributable to the project. Mitigation measures have been proposed for each significant impact. Mitigation measures are included in Appendix A of the FEIS/R. Furthermore, the Mitigation and Monitoring Proposal (MMP) has been developed in coordination with the NEPA/404 team to compensate for impacts on sensitive biological resources by improving the valley's ecological functions and values through a combination of habitat restoration, creation, enhancement, and preservation.* (CT 14)
Caltrans does take GHG impacts very seriously and continues to be actively involved on the Governor's Climate Action Team as CARB works to implement the Governor's Executive Orders

and help achieve the targets set forth in AB 32. Many of the strategies Caltrans is using to help meet the targets in AB 32 come from the California Strategic Growth Plan, which is updated each year. Governor Arnold Schwarzenegger's Strategic Growth Plan calls for a $222 billion infrastructure improvement program to fortify the state's transportation system, education, housing, and waterways, including $100.7 billion in transportation funding during the next decade. As shown on the figure below, the Strategic Growth Plan targets a significant decrease in traffic congestion below today's level and a corresponding reduction in GHG emissions. The Strategic Growth Plan proposes to do this while accommodating growth in population and the economy. A suite of investment options has been created that combined together yield the promised reduction in congestion. The Strategic Growth Plan relies on a complete systems approach of a variety of strategies: system monitoring and evaluation, maintenance and preservation, smart land use and demand management, and operational improvements. (CT 14)
As part of the Climate Action Program at Caltrans (December 2006, http://www.dot.ca.gov/docs/ClimateReport.pdf), Caltrans 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. Caltrans is working closely with local jurisdictions on planning activities; however, Caltrans does not have local land use planning authority. Caltrans is also supporting efforts to improve the energy efficiency of the transportation sector by increasing vehicle fuel economy in new cars, light and heavy-duty trucks; Caltrans is doing this by supporting on-going research efforts at universities, by supporting legislative efforts to increase fuel economy, and by its participation on the Climate Action Team. It is important to note, however, that the control of the fuel economy standards is held by EPA and CARB. Lastly, the use of alternative fuels is also being considered; the Department is participating in funding for alternative fuel research at the UC Davis. (CT 14)
The table below summarizes the Department and statewide efforts that Caltrans is implementing in order to reduce GHG emissions. For more detailed information about each strategy, please see Climate Action Program at Caltrans (December 2006); it is available at http://www.dot.ca.gov/docs/ClimateReport.pdf. (CT 14)
Applicant response to wetland impacts too big: **(Note: the following response explains how existing wetlands will be protected during construction, with respect to reduction of wetland impacts see response above concerning the LEDPA)**: *As a first order of work during project construction orange Environmentally Sensitive Area fencing will be placed throughout the extent of the project. This will limit the contractors operations to the minimum area needed to build the project and ensure unnecessary impacts to wetlands do not occur.*
Existing wetlands on the offsite mitigation parcels will be protected through preservation. The offsite mitigation parcels will be purchased in fee title and conservation easements will be placed over the properties to protect sensitive biological resources, such as wetlands. Caltrans has developed short- and long-term management plans that will be implemented for each parcel to preserve and enhance existing wetlands (Chapters 10 and 11 in MMP). An adaptive management plan is also included in the MMP which will guide the long-term management of the offsite mitigation parcels in the event of changes in hydrology, fire, extensive adjacent development, or other unanticipated site degradation. (CT 39)

Applicant response to habitat fragmentation concerns:

10. Two letters received regarding construction traffic concerns.

Applicant response to comment: *Construction impacts were discussed in Vol. 1, Chapter 3.18 of the FEIS/R. Construction impacts were also discussed in various responses to public comments, Vol. 2 of the FEIS/R, including 19-1, 19-3, 30-5, 34-48, 34-49, 34-57, 34-99, 45-1, 170-13, and 297-1.* (CT 17)

As discussed in the FEIS/R, during construction, traffic delays are expected to be lessened by the fact that the new facility will be constructed on new alignment. There will likely be construction related traffic on the existing highway, possibly delivering earth and other materials to the work site. Main Street is the existing State Highway, and trucks may haul on state highways. In addition, the City streets and County roads are public thoroughfares over which it is legal (within limits) to operate motor vehicles. However, Caltrans will include a special provision to restrict the contractor from using City streets to haul materials. Use of Main Street will not be limited by the special provision. (CT 17)

11. Eleven letters received alleging project changed since EIS Document was adopted.

Applicant response to comment:

Scope Changes since Issuance of FEIS/R:

There have been design modifications since the release of the FEIS/R in October 2006. Caltrans redesigned a curve to miss the Willits wastewater treatment plant and moved the Quail Meadows Interchange north about 300 m. Caltrans also changed the intersection on the left side of the Quail Meadows interchange to a roundabout to improve traffic operations and address a potential driver expectation problem. However, moving the interchange allowed shorter ramps and a lowered profile, thereby reducing the area of impact (footprint). Caltrans also lowered the profile elsewhere, reducing the footprint. Fundamentally, the project remains as shown in the FEIS/R. In any project of this size, there will be final design adjustments to respond to various issues. As a result of project changes, no new potentially significant impacts were identified except North Coast Semaphore Grass (NCSG). (CT 3)

North Coast Semaphore Grass (NCSG):A Supplemental Environmental Impact Report (SEIR) was prepared pursuant to the California Environmental Quality Act. The draft report was signed on November 15, 2009. Comments were received during the circulation period, which ended January 19, 2010. Caltrans is working closely with the Department of Fish and Game to ensure that adequate measures are incorporated into the project mitigation plan to fully mitigate for the project's impacts to NCSG. (CT 3)

NCSG seed and plants will be salvaged from the impact area prior to impact and transplanted to an unaffected area as part of the project. In addition, Caltrans has begun a 2-year study to characterize groundwater, soil moisture, and soil temperature conditions at known occurrences for use in determining the potential to expand these occurrences. (CT 3)

NCSG occurrences will be placed in preserves as part of project mitigation. A total of 5.094 acres of occupied habitat has been identified at these preserves and these extant NCSG populations will be preserved and managed in Little Lake Valley to achieve a mitigation ratio of approximately 12.7:1 (5.094 acres preserved to 0.401 acre affected). (CT 3)

Information that was already provided in the Final Environmental Impact Statement/Report (FEIS/R 2006), and project changes that reduce project scope/impacts, do not warrant a public hearing. Data and impact analysis regarding NCSG were recently made available for public comment in a Supplemental EIR. Public comments were received; no public hearing is mandated or warranted with respect to NCSG. (CT 3)

Shortened Viaduct and Expanded Fill Area--Caltrans showed the shortened viaduct in the FEIS/R, and that would reflect an increase in fill area (where the Draft shows viaduct). Section 3.5 of the FEIS/R states "The Modified Alternative J1T would include a slightly longer viaduct than the original Alternative J1T (approximately 1730 m [5675 ft], compared to 1600 m [5250 ft])." Copies of the FEIS/R were mailed to commenters of the DEIS/R and the document was posted to the Caltrans website at: http://www.dot.ca.gov/dist1/d1projects/willits/. A Notice of Availability of the FEIS was published in the Federal Register on November 9, 2006, with the wait period ending December 11, 2006. No comments were received regarding the viaduct or fill area. (CT 3)

12. Two letters received regarding project completion concerns: full 4-lane build-out will not occur; partial construction concerns; delay in completing full 4-lane project build-out concerns.

Applicant response to comment 4 lane project build-out will not occur: *For the first phase, once a contract is awarded, the full funds allocated will be available. Funding for the second phase has not yet been identified. The current construction climate with the highly competitive bidding environment is creating more funding options than in the recent past. Willits Bypass, having an environmental document in place and permits to construct the second phase, is very close to "shovel ready" (ready to construct). With the four-lane fill in place, parallel easily designed structures based on the design criteria for the phase one structures will simplify phase two design and construction making the second phase of the Willits bypass very competitive for any future Federal incentive funding or statewide savings that might become available for projects ready to construct.* (CT 12)

Applicant response to comment of partial construction concerns: *Project Phasing and Assurance for Full Project: The Willits Bypass project is four-lane grade separated freeway project to improve interregional traffic operation, improve safety, and provide a level of service rating of C or better. The project is being phased due to financial constraints. The FEIS/R and Project Report discuss the possibility of phasing the project due to funding.* (CT 3)

Section 2.2 of the FEIS/R states, "Upon environmental approval and appropriation of funding, the Department could design and construct all or part of the proposed project depending on funding availability. In an effort to balance potential funding limitations and the need for the project, the Willits bypass could be constructed in phases, whereby a functional interim facility would be constructed initially, and completion of the full facility would occur at a later date when additional funding is available." (CT 3)

The first phase consists of a four-lane interchange at the south end of the project conforming to an interim two-lane freeway before crossing East Hill Road. The interim two-lane freeway will utilize the southbound lanes of the ultimate four-lane freeway. The northern terminus of the project contains a two-lane grade separated interchange configured to allow the full four-lane ultimate interchange to use the existing roadway and structures. (CT 3)

For the first phase, once a contract is awarded, the full funds allocated will be available. Funding for the second phase has not yet been identified. The current construction climate with the highly competitive bidding environment is creating more funding options than in the recent past. Willits Bypass, having an environmental document in place and permits to construct the second phase, is very close to "shovel ready" (ready to construct). With the four-lane fill in place, parallel easily designed structures based on the design criteria for the phase one structures will simplify phase two design and construction making the second phase of the Willits

bypass very competitive for any future Federal incentive funding or statewide savings that might become available for projects ready to construct. (CT 3)

Applicant response to construction delay concerns: *The California Transportation Commission (CTC) will allocate funds for the construction contract. Once a contract is awarded, the full funds allocated will be available. There is no reason to believe there will be delays following the award of the contract due to funding shortfalls.* (CT 30)

13. Seven letters received commenting that the project costs too much.

Applicant response to comment: *Achieving the Project Need with the Least Cost:Caltrans studied numerous alternatives with the intent of meeting purpose and need, while resulting in the least environmental impacts as possible. Lower cost solutions than the Modified J1T alternative were explored, however none of these alternatives would have met the purpose and need of the project, or have less impacts than the selected alternative.* (CT 7)

The CTC did not vote Proposition 19 bond funds for the Willits Bypass at the 2007 CTC meeting that distributed the bond funds throughout the State. In April 2007 the CTC Executive Director, two CTC commissioners, and Caltrans Director Will Kempton flew to Willits to meet with the City in the City Council chambers. Will Kempton received a commitment from the CTC representatives to request funding for the first phase of the Willits Bypass at the May 2007 STIP augmentation. The funds for phase one of the Willits Bypass were approved in the May 2007 STIP augmentation. The CTC has provided consistent support for phase one funding. (CT 8)

14. Three letters received with mitigation management concerns.

Applicant response to comment: *Mitigation Plan Funding Assurance: Caltrans has stated its commitment to fully carrying out mitigation commitments. Caltrans will request the CTC to vote funds for bypass construction and also to establish separate projects for project mitigation. Once the CTC takes action, funding will be available for the mitigation project. As evidence of its commitment Caltrans has already acquired fee title or an option to purchase most of the proposed mitigation lands. (CT 3)*

Long-term Management Plan: Caltrans has developed short- and long-term management plans that will be implemented for each parcel to preserve and enhance existing wetlands (Chapters 10 and 11 in MMP). Biological monitoring will continue during the long-term management phase (after success criteria is met) at years 5, 10, 15 and every ten years thereafter. An adaptive management plan is also included in the MMP which will guide the long-term management of the offsite mitigation parcels in the event of changes in hydrology, fire, extensive adjacent development, or other unanticipated site degradation (Chapter 12 in MMP). (CT 3)

Endowment:The funding for long-term management of mitigation sites, which require protection in perpetuity, will be provided through the establishment of non-wasting endowments. The money to fund the endowments will come from the Willits Bypass EA. The amount of endowment funds will be established by running a property analysis record (PAR) for each parcel, or for each group of parcels if such an approach is determined to be more efficient. The endowments will be held and managed by CDFG. (CT 3)

For additional information please see Attachment 1 (Attached). **PLEASE NOTE: Attachment 1 contains information submitted by Caltrans on June 3, 2010, prior to MMP development, and may not be accurate)**

15. One letter received questioning how will constructed wetlands off-set wetland impacts?
Applicant response to comment: Please see Attachment 1 (Attached). **PLEASE NOTE: Attachment 1 contains information submitted by Caltrans on June 3, 2010, prior to MMP development, and may no longer be accurate)**

16. Six letters received with comments regarding noise pollution concerns: project will result in too much noise; noise pollution during construction concerns.

Applicant response to comment: *Noise impacts were discussed in Vol. 1, Chapters 3.11 (Noise) and 3.18 (Construction Impacts) of the FEIS/R. The noise studies indicated that the impacts were not significant. As explained in Chapter 3-11 of the FEIS/R, noise abatement measures, such as sound walls, were not required for the proposed bypass project, since the projected noise levels were below the Noise Abatement Criteria. Impacts to noise were also discussed in various responses to public comments, Vol. 2 of the FEIS/R, including 7-4, 9-73, 12-39, 30-2, 34-11, 34-88, 34-89, 34-91, 34-97, 34-99, 47-6, 54-2, 57-2, 73-1, 90-4, 113-1, 116-1, 130-3, 137-1, 139-1, 139-3, 165-10, 167-6, 220-33, 236-1, 273-1, 249.2, and 296-1. Pile driving impacts are discussed in Vol. 1, Ch. 3.18.3 of the FEIS/R. Mitigation measures proposed to reduce noise impacts were included in Section 10 of Appendix A of the FEIS/R.* (CT 16)

Caltrans decision to mitigate for noise impacts is based on regulation. As explained in Chapter 3-11 of the FEIS/R, noise abatement measures, such as sound walls, were not required for the proposed bypass project, since the projected noise levels were below the Noise Abatement Criteria. (CT 32)

17. Three letters received regarding concerns for air pollution: project will result in too much air pollution; air pollution during construction concerns.
Applicant response to comment: *Air quality impacts were discussed in Vol. 1, Chapters 3.12 (Air Quality) and 3.18 (Construction Impacts) of the FEIS/R. Impacts to air quality were also discussed in various responses to public comments, Vol. 2 of the FEIS/R, including 19.1 – 19.6, 73-12, 73-15, 167-8, and 167-9. Air quality mitigation measures were included Section 1 of Appendix A, of the FEIS/R. The FEIS/R concluded that the air quality impacts of the Modified Alternative J1T alignment would not be substantial.* (CT 16)
At the time of the FEIS/R no greenhouse gas analysis protocol had been established. Based on a qualitative assessment, Caltrans concludes that the project would decrease GHG compared to the future No Build condition. A qualitative analysis is an acceptable means of assessing impacts from GHG even under the most recent CEQA Guideline amendments (see CEQA Guideline 15064.4). (CT 13)
While climate change and GHG reduction is a concern at the federal level; no legislation or regulations have been enacted specifically addressing GHG emissions reductions and climate change. In December 2009, EPA did issue final endangerment findings for GHGs but has not issued any regulations. (CT 13)
Caltrans and its parent agency, the Business, Transportation, and Housing 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 (see Climate Action Program at Caltrans (December 2006), Caltrans has created and is implementing the Climate Action Program at

Caltrans that was published in December 2006. This document can be found at: http://www.dot.ca.gov/docs/ClimateReport.pdf (CT 13)
One of the main strategies in the Department's Climate Action Program to reduce GHG emissions is to make California's transportation system more efficient. The highest levels of carbon dioxide from mobile sources, such as automobiles, occur at stop-and-go speeds (0-25 miles per hour) and speeds over 55 mph; the most severe emissions occur from 0-25 miles per hour (see Figure below). To the extent that a project relieves congestion by enhancing operations and improving travel times in high congestion travel corridors GHG emissions, particularly CO_2, may be reduced. This is the basis of the conclusion in the FEIS/R. (CT 13)

18. One letter received wondering if there is there a bicycle lane proposed. Bicycle lane access.
Applicant response to comment: no response provided.

19. One letter received regarding relinquished roadway safety hazard concerns.
Applicant response to comment: *Highway relinquishment was discussed in responses to public comments, Vol. 2 of the FEIS/R, including 9-1, 9-18, 9-36, 9-40, and 12-17. Further, Caltrans is statutorily obligated to place the roadway in a "state of good repair" prior to relinquishment. "State of good repair" requires that the roadway and attendant facilities be in "safe and usable" conditions. (See, Streets and Highways Code sections 73 and 27.) If the City accomplishes the work, then Caltrans would provide payment for the action. A condition of bringing the facility to good repair will be ADA compliance. Meeting ADA standards would further improve safety beyond the removal of interregional traffic.* (CT 31)
Section 2.2.2 of the FEIS/EIR describes traffic safety benefits of the proposed bypass. Based on statewide collision rates for similar facilities, traffic safety is expected to improve in the relinquished portion of existing US 101. (CT 31)

20. One letter received regarding concern for lack of public input on project.
Applicant response to comment: no response provided.

21. One letter received suggesting archeological impacts too great.
Applicant response to comment: *Impacts to cultural resources were addressed in Vol. 1, Chapter 3.8 (Cultural Resources) of the FEIS/R. No cultural resources were affected by the project. The State Historic Preservation Officer concurred with the findings in a letter dated December 6, 2005 (Appendix C of the FEIS/R).* (CT 22)

22. Two letters received with concern that agricultural land impacts too great.
Applicant response to comment: *Farmland impacts were discussed in Vol. 1, Chapters 1.10 (Resolution of Controversial Issues), 3.4 (Farmland), and 3.19 (Cumulative Impacts) of the FEIS/R. Farmland impacts were also discussed in various responses to public comments, Vol. 2 of the FEIS/R, including 9-53, 9-59, 34-60, 34-63, 34-64, 34-65, 34-68, 80-8, 93-1, 130-6, 180-7, 206-2, and 220-23. Farmland mitigation measures were included Section 6 (Farmland) of Appendix A, FEIS/R.* (CT 26)
In February 2010, Caltrans completed a Farmland Conversion Impact Rating For Corridor Type Projects form for submittal to the Natural Resources Conservation Service (NRCS). The form provides a basis for assessing the extent of farmland impacts relative to federally

established criteria. The score for the alignment was 154. Pursuant to the Farmland Protection Policy Act, scores above the 160-point level are considered an adverse impact. Although the score for this project remains under this level, Caltrans will minimize impacts to farmland by protecting farmland in Little Lake Valley through conservation easement. (CT 26)
The project alignment will affect approximately 31.7 acres of Williamson Act Lands, which represents 0.006% of Williamson Act Lands within Mendocino County. (CT 26)

23. One letter received regarding aesthetic impacts concerns.
Applicant response to comment: no response provided.

24. Two letters received regarding flooding concerns.
Applicant response to comment: *As discussed in the FEIS/R, the construction of the bypass within the floodplain would have minimal impacts related to additional impervious surface area or to beneficial floodplain values because of the relatively small areas involved. Floodplain impacts were discussed in Vol. 1, Chapters 3.6 (Floodplain) and 3.19 (Cumulative Impacts) of the FEIS/R. Floodplain impacts were also discussed in various responses to public comments, Vol. 2 of the FEIS/R, including 2-5, 3-6, 4-15, 30-2, 32-4, 35-27(a), 50-2, 81-2, 114-3, and 180-6.* (CT 27)
Near Baechtel Creek Reinforced Concrete Box culverts are proposed on either side of the fill cone for the viaduct. The culverts are sized to maintain the existing water elevations after the project is completed. The proposed Viaduct does not change the existing water elevations. At the north end of the project culverts were installed to maintain existing water surface elevations. (CT 27)

25. Six letters received questioning the traffic studies.
Applicant response to comment: *The commenters suggest that traffic forecasts for the project are not valid and assumptions used to determine bypass traffic are incorrect. Traffic forecasts for the project were developed based on projections for growth not just in Willits and Brooktrails, but in the County and region as well. Both the Willits and County of Mendocino general plans project additional growth. The Brooktrails Specific Plan calls for an additional 3,500 residents. The State of California, Department of Finance, Demographic Research Unit, indicates an additional 2 million residents will be added to the State by 2015 (source: State of California, Department of Finance, P-2 Short-term Statewide Population Projections 1995-2015, Sacramento, California, May 2010). It would be unreasonable to assume that population increases would not occur in Willits and surrounding regions. Traffic comes with population growth and any new highway project must "... adequately serve the existing and planned future traffic of a highway." (Source: 23 U.S.C. §109(a)(1))* (CT 7)

As the commenters note, there has been a short-term decline in traffic on US 101 in recent years. This phenomenon is not unique to Willits or the region. The current economic recession has affected traffic levels throughout the country. There are record unemployment rates and lack of consumer spending. According to the traffic research firm Inrix, "population centers experiencing high unemployment, reduced tourism and/or less convention activity, experienced the highest drops in traffic congestion.....". Inrix finds that this trend is starting to reverse in major urban areas where congestion levels have started to rise (source: INRIX National Traffic

Scorecard). Rural areas generally lag behind when it comes to economic recovery; consequently, traffic levels in Willits may not rebound as quickly. (CT 7)

The commenters question assumptions used to determine who will use the bypass and states that Caltrans "attempted to inflate the volume of traffic likely to use the bypass." The methodology used to generate the estimated numbers of bypass users are based on well established rules used in modeling. The primary rule is the concept of "least cost." When all other factors are equal a driver will follow a path of least cost. In traffic modeling, least cost equates to time savings. Intuitively it makes perfect sense when a driver is given two options to reach a destination (one takes more time and one takes less) the driver will chose the one that takes less time even if it requires traveling further in distance. In the Willits Bypass case, residents of Brooktrails can access the bypass by driving a little out of direction and avoid the delays and congestion in Willits. Other Willits residents will also use the Bypass for the same reason. (CT 7)

Growth inducement was discussed in Vol. 1, Chapter 3.16 (Growth Inducement) of the FEIS/R. Growth inducement was also discussed in various responses to public comments, Vol. 2 of the FEIS/R, including 9-77, 34-7, 34-58, 73-3, and General Response 1.12. The project was not considered to be growth inducing pert the FEIS/R. The proposed project does not include a center valley interchange and opportunities for growth at the northern and southern interchanges are limited. Although, the northern interchange has moved location, much of the adjacent and surrounding land will be preserved in perpetuity as part of the project mitigation. (CT 33)

26. One letter received request for permit denial.

Applicant response to comment: no response provided.

27. One letter received stating the project will interfere with the Willits Wastewater Treatment Plant mitigation project.

Applicant response to comment: *Construction of the Viaduct Interfering with Construction of the WWTP: There will be standard cooperation language in the special provisions requiring Caltrans contractor not to interfere with concurrent construction in the area of the bypass construction. There will be a mandatory pre-construction meeting for all bidders and the WWTP project will be discussed with the contractors to prevent surprises during construction.* (CT 34)
Viaduct Structure Conflicts with Wetland Creation Opportunities: The City has claimed that the viaduct crosses an area north of the WWTP containing upland that could be converted to wetland to mitigate for the WWTP project. The City's EIR Addendum (February 2004) states that an unspecified amount of the City's "west expansion parcel" (APN 108-040-03) will be utilized for implementation of the majority of the WWTP project's wetland mitigation. The west expansion parcel contains 125 acres, while the bypass structure will occupy less than 10 acres, leaving the City with a significant majority of its designated mitigation acreage. (CT 34)

PREPARED BY:

_____ _____

David M. Wickens Date
Senior Regulatory Project Manager

Commenter	Organization	address	Comments	Comment category
Dr. T. C. Dewberry Date: 4/16/2010	For the Willits Environmental Center	89580 Dick, Florence OR, 97439	*How is mitigation self sustaining? How will mitigation be managed into perpetuity? How will mitigation for salmonids occur? No stream enhancement proposed in most viable streams: Baechtel, Broaddus, Mill creeks. Is there net benefit to salmonids? What will be the net benefit to salmonids?*	14, 4
David Drell Dates: 3/11/10 4/13/2010	Willits Environmental Center	630 S. Main St., Willits, CA 95490	*MMP not final, MMP does not satisfy criteria in Regs, 33 C.F.R. Part 332 Section 332.4(c)(2)--(14), MMP lacks ecologically based performance standards, MMP lacks monitoring framework, MMP performance cannot be monitored, MMP not funded into perpetuity*	1, 14
Ellen Drell with 8 additional signatures Date: 4/9/2010	Willits Environmental Center	630 S. Main St., Willits, CA 95490	*Willits Environmental Center not involved in development of the MMP, Proposed project is not the LEDPA, MMP not final, economic impacts not considered, 4 lane bypass not needed, there needs to be an analysis into whether or not full project will be constructed. how will MMP enhancement be measured? How enhanced wetlands be monitored into perpetuity? How will created wetlands be managed into perpetuity? Who will manage wetlands into perpetuity? How will created wetlands compensate for impacted wetlands?*	1, 8, 7, 12, 6, 13, 14, 15,
Willits/Outlet Creek Watershed Group Dates: 3/21/2010, 4/10/2010	Willits/Outlet Creek Watershed Group	P.O. Box 2218, Willits, CA 95490	*All aspects of the MMP questioned. MMP is not final. Requests to comment on final MMP. Public did not have chance to comment on final MMP. MMP management and funding questioned.*	1
Brian Weller, Date: 4/6/2010		24378 Birch Drive, Willits, CA 95490	*Significant changes have been made to the EIS. Public did not receive a chance to comment on the final MMP. Requests a Public Hearing*	11, 1, 6

Commenter	Organization	address	Comments	Comment category
Ann Waters Date: 4/6/2010		190 North St. Willits CA, 95490	*Smaller project should be considered. Public did not receive opportunity to comment on final MMP. Public Hearing requested.*	1, 8, 25, 6
Hollis Rose Date: 4/7/2010		353 West Mendocino Ave., Willits, CA 95490	*No need for the project. Requests 2 lane project. Requests a Public Hearing.*	8, 6
Carlin Diamond Date: 4/12/2010			*Did not have opportunity to comment on final MMP. Project design changed significantly since EIS. Requests Public Hearing.*	1, 11, 6
Martha Carol Date: 4/14/2010		21361 Locust St., Willits, CA 95490	*Public Notice different from the EIS. MMP not final. Requests a Public Hearing.*	11, 1, 6
Mabel Long. Date: 4/5/2010		24378 Birch Dr, Willits, CA 95490	*Environmental impacts too significant. Project not needed. Requests a Public Hearing.*	9, 8, 6
Freddie Long Date: 4/2/2010, 4/21/2010		24378 Birch Dr, Willits, CA 95490	*Economic impacts too significant. Seeks smaller project. Public did not have opportunity to comment on final MMP. Project not needed.*	7, 8
Craig Thayer Date: 4/9/2010		3568 Chinquapin Dr, Willits CA, 95490	*Information in the PN different from the EIS. Public not afforded a chance to comment on final MMP. Requests a Public Hearing.*	11, 6, 1
Richard Eastbrook Date: 4/11/2010	Willits Citizens for Good Planning	2026 Primrose Drive, Willits, CA 95490	*Did not have opportunity to comment on final MMP. Requests comment period be suspended until public can comment on final MMP*	1

Commenter	Organization	address	Comments	Comment category
Ronald S. Lippert Date: 4/16/2010		315 South Main Street, PO Box 952, Willits, CA 95490	*Public does not want the project. Noise impacts too significant. Economic impacts too significant. Requests a Public Hearing.*	8, 16, 7, 6
William Ray Date: 4/3/2010	Save the Valley Eternally	22641 East Side Road, Willits, CA 95490	*Environmental impacts too significant. MMP will not work from an ecological standpoint.*	9, 1
Larry Desmond Date: 4/10/2010			*How will traffic be mitigated during construction? Road noise impacts addressed how? How will project benefit Willits? Is a bicycle lane proposed? Requests a Public hearing.*	16, 10, 18, 6, 7
Rosamond Chowder Date: 4/12/2010			*Public needs to comment on final MMP. Request for Public Hearing.*	1, 6
David Partch Date: 2/25/2010	Willits Outlet Creek Watershed Group	429 Redwood Avenue, Willits, CA 95490	*cumulative impacts to the watershed questioned. How will environmental laws be followed. How will streams be protected during and after construction?*	3, 2, 4
Charles Ucker Date: 3/16/2010		301 Southern Hills Drive, Rio Vista, CA 94571-2153	*in favor of the project; do the people of Willits want the project?*	5
Robert Gwin Date: 4/2/2010			*Requests a Public Hearing.*	6
Pamela Parker Date: 4/3/2010		30651 Timberline, Willits, CA 95490	*project too big. Caltrans needs alt. proposed for smaller project dealing with truck traffic; public did not have an opportunity to comment on MMP; requests a Public Hearing.*	8, 6, 1

Commenter	Organization	address	Comments	Comment category
Margaret S. Graham Date: 4/5/2010		3720 2nd Gate Road, Willits, CA 95490	*the only time Willits will have unbearable traffic will be during construction of the project; project not needed and a waste of taxpayer money; requests a Public Hearing.*	10, 6, 8, 13
Sulin Bell Date: 4/5/2010		619 North Pine Street, Ukiah, CA 95482	*proposed project has changed since the EIS was signed in 2007; MMP needs public review; requests a Public Hearing*	1, 11, 6
Michael H. Norris Date:4/5/2010		3881 Willows Ranch Road, Willits, CA 95490	*project described in PN significantly different from project described in EIS from 2007; was not afforded an opportunity to comment on the final MMP; requests a Public Hearing.*	1, 11, 6
Kate Black Date:4/6/2010			*the project is harmful environmentally, economically. Requests a Public Hearing.*	9, 7, 6
Gregory Byers Date: 4/8/2010		15000 Hearst Road, Willits, CA 95490	*project has been significantly redesigned since the EIS of 2007. MMP not finalized and will not receive public comment; requests Public Hearing.*	11, 1, 6
Pam Brown Date:4/10/2010.			*wetland impacts too great; noise pollution too great; air pollution too great; economy of Willits will be damaged; requests a Public Hearing.*	9, 16, 17, 6, 7
Paul C. Craig Date:4/10/2010		14816 Mariposa Creek, Willits, CA 95490	*the project described in the PN significantly different from EIS; MMP not made public for comments; requests a Public Hearing.*	11, 6
Mary Zellachild Date:4/12/2010			*PN very different from EIS and public was not involved in those changes; MMP was not in PN and public was not offered an opportunity to study it; requests Public Hearing to learn about MMP.*	11, 1, 6

Commenter	Organization	address	Comments	Comment category
Marilynn Boosinger Date: 4/12/2010			*alternatives to 4-lane bypass should be considered, 4-lane bypass not needed; project is not in the interest of Willits; requests a Public Hearing.*	8, 7, 6
W. Boosinger Date: 4/12/2010			*project is unsupported by people of Willits; proposed project lacks public support and public needs more input; requests a Public Hearing.*	8, 6
Donna S. Kerr Date:4/13/2010	Mendocino County Librarian	Mendocino Co Library, Willits Branch, 390 E. Commercial St., Willits, CA, 95490	*MMP not included in Public Notice. If MMP cannot be included in the PN then the Willits Librarian requests a Public Hearing.*	1, 6
Karina McAbee Date: 4/13/2010	Little Lake Grange No. 670 Organization of 160 members	291 School Street, Willits, CA 95490	*costs vs. need makes project inappropriate; project not needed; too much agricultural. land impacted; too much wetlands impacted; noise pollution too great; EIS was revised too much compared to PN with no public input along the way; better alternatives exist; Public Hearing requested.*	8, 13, 9, 16, 22, 11, 6
Tom Woodhouse Date: 4/14/2010		Creekside Properties 2 North Street, Willits, CA 95490	*Project has changed since the public last saw the PN for the EIS document in 2007; the MMP needs to be depicted in its entirety for public comment and the comment period extended; Construction funding not adequate and there is nothing to prevent construction delays and partial construction of the project; the relinquished roadway will continue to have safety hazards. Based on this a Public Hearing is requested*	1, 11, 12, 19, 6
Christopher Martin Date:4/14/2010			*MMP inadequate and not final; LEDPA and EIS are false because traffic studies are false. Requests a Public Hearing.*	1, 25, 6

Commenter	Organization	address	Comments	Comment category
Marc Harden Date: 4/15/2010			*Economy of Willits will die like Cloverdale; Money will be wasted on an unwanted/unneeded project; traffic studies not true. Never had to wait in traffic in 30+ years longer than 18 minutes; pollution impacts of construction.*	17, 8, 25, 7, 17
Randi Dalton Date: 4/15/2010			*4-lanes are not needed; where is the funding for this project coming from if the State is broke?; lack of public input; Archeological impacts too great; impacts to environment too great; impacts to agricultural land too great; aesthetic impacts (elevated roadway) too great; flooding impacts too great; requests a Public Hearing.*	20, 8, 22, 21, 13, 24, 23, 6
Josephine Silva Date: 4/15/2010			*Bypass not needed; Bypass too expensive to build; traffic estimates are incorrect, there is no traffic problem; an alternative north/south road wasn't considered as an alternative; the bypass will cause flooding; MMP inadequate. Requests a Public Hearing based on these concerns.*	8, 13, 25, 24, 1, 6
Cepulie Beausiau & Joe Hyles Date: 4/16/2010			*project not needed based on his assessment of traffic; MMP was created without public input. Based on this requests a Public Hearing.*	25, 1, 6
Elaine Mancine Date: 4/16/210			*Impacts to local economy too great; Viaduct noise impacts too great; what do the traffic studies show for the past five years? Is there evidence traffic is getting worse? Because she has never had to wait in traffic for more than 3 minutes; what will the economic impacts be to Willits? Will they be the same for what happened to Cloverdale? Requests a Public Hearing.*	7, 16, 25, 6

Commenter	Organization	address	Comments	Comment category
Heidi Ahders Date: 4/16/2010			*wetland impacts are too great; construction noise pollution too great; construction air pollution too great; raised highway will create noise pollution that is too great and will affect home values; economic impacts to downtown too great; cost to build project is too great.*	17, 9, 16, 13, 7
Jeremy Mills Date: 4/16/2010		1616 F Street, Apt. A, Eureka, CA 95501	*Project is not in the best interest of the people. Habitat will be fragmented. Alternatives were erroneously removed from consideration—using alternative north/south roads in urbanized parts of Willits should be considered. Requests for Corps to deny permit.*	8, 9, 26
Paul Cayler Date: 4/16/2010	City of Willits, City Manager	111 East Commercial St., Willits, CA 95490	*the project will interfere with the City's contractor hired to construct wetland mitigation for the WWTP.*	27
Environmental Protection Agency		San Francisco, CA	*Final mitigation plan required before issuing a permit. Current MMP submittal does not contain level of detail to be considered a final plan. Proposed preservation must comply with the mitigation rule.*	1
Mr. Craig Martz	CA F/G, Region 1			

Commenter	Organization	address	Comments	Comment category
Mr. Jeremiah Puget	CA RWQCB, North Coast Region	Santa Rosa, CA		
Mr. Ray Bosch	US FWS, Region 8			
Mr. Tom Daugherty	NOAA Fisheries			
	W/OC Watershed Group	PO Box 2218, Willits, CA 95490		
	R.O.N. of Willits California	PO Box 952, Willits, CA 95490		
Mr. Larry Cottler		1517 Casteel Drive, Willits, CA 95490		
Mr. Greg Kanne, Councilman	City of Willits	111 E. Commercial St., Willits, CA 95490		
The Willits News		77 West Commercial Street, Willits, CA 95490		

Commenter	Organization	address	Comments	Comment category
Mr. Mike Chapman	General Manager, Brooktrails Township Community Services District	24860 Birch Street, Willits, CA 95490		

APPENDIX 2
Special Public Notice for
Willits Bypass Project MMP dated October 6, 2011
Corps File #1991-19474N

SYNOPSIS OF PUBLIC COMMENTS RECEIVED:

1. Fourteen letters received that commented: The project isn't the least environmentally damaging practicable alternative (LEDPA) because the project is really only a two lane bypass. Therefore, the MMP isn't valid because all fill is unnecessary.

2. Thirty-two letters received commenting with: General Opposition to the MMP for the following general reasons: MMP is incomplete; negative impacts to farmers/ranchers; MMP does not offset project impacts; impacts of MMP greater than benefits; MMP too complicated; MMP doesn't disclose cumulative impacts; MMP doesn't use best available science; MMP is arbitrary and capricious.

3. Eighteen letters received with comment: The MMP must present mitigation for both phases of project construction based on the following reasons: because of cumulative impacts; fails 404(b)(1)Guidelines; Phase II impacts unknown; no Caltrans plan to mitigate for Phase II raises question if they even can mitigate for Phase II.

4. Twenty-nine letters received with concern: The EIR/EIS is not valid. Following reasons cited: MMP does not resemble the conceptual MMP from 2006; new MMP does not consider social, economic impacts; EIR/EIS must be revised; EIR/EIS procedural error because the amount of farmland conversion for mitigation was not disclosed, evaluated, or considered; traffic studies in EIR/EIS were incorrect.

5. Nine letters received with comments that the MMP has significant impacts. Following reasons cited: land amount needed for mitigation so great that the MMP needs its own environmental review per CEQA and NEPA requirements; MMP impacts were not analyzed per CEQA and NEPA; Phase II mitigation impacts not analyzed.

6. Thirty-one letters received with comments concerning Economic impacts of MMP (due to removal of grazing). Following reasons cited: the amount of land removed from the Mendocino County tax base has not been considered; Economic impacts to agriculture not considered; where is the documentation (informational proof) that removal of grazing should be primary tool to enhance wetlands?

7. Sixteen letters received requesting a Public Hearing be held regarding the final MMP.

8. Twenty people submitted comments unrelated to the MMP. Comment regarding the Bypass, not the MMP.

9. Twenty-eight letters in support of the MMP/Project were received. Support of the MMP. General reasons are: meets or exceeds mitigation requirements; LLV will benefit from public management of mitigation lands; socio-economic benefits; educational benefits.

10. Six letters received with comments regarding Grazing Plans: grazing plans (prescriptions) have not been presented to the public; what is the science behind the grazing plans?; what are the goals of the grazing plans? How does grazing affect wetlands?; Corps needs final grazing plans to be able to assess impacts in order to know if MMP will offset those impacts.

11. Three letters received commenting: how is the MMP consistent with the Mendocino General Plan which contains numerous goals and policies specific to the protection of agriculture?

12. Seven letters received regarding: Wetland Establishment: how will it be constructed; how will it be managed; will conflict occur if neighboring parcels are managed for agriculture and wetlands?; opposed to new establishment sites (in the fluvaquents) because lacks information; is there an adequate source of native plant material?; establishment credits proposed where wetlands presently occur; what if hydrologic data is incorrect?

13. Three comments received with concerns that the MMP actions conflict with agriculture: if wetland succession retains sediment which results in a raised water table it will adversely affect property managed for agriculture. How will that condition be resolved?

14. Three comments received regarding the Adaptive Management Plan: not feasible from the following standpoint; sediment accretion will be incompatible with adaptive management plan.

15. Six comments received regarding Mitigation for salmonids: greater toxicity from chemicals off roadway, how will it be mitigated for; how does fish passage mitigate for salmonid impacts if there is lack of rearing habitat upstream of fish passage; sedimentation in streams will affect salmonids; mitigation for salmonids not adequate; adverse impacts to salmonids from grazing; NMFS consultation should be re-initiated.

16. Four comments received with concerns regarding: MMP Monitoring: MMP has no monitoring plan for other waters; who will monitor such a large plan?

17. Eight comments received with concerns regarding: wetland Credits/Ratios: how does enhancement crediting method substantiate claim that the proposed mitigation adequately off-sets impacts?; Accounting of credits incorrect/not understandable; wetland mitigation measures should be revised to show both acreage and credits for various mitigation actions; Ratios are arbitrary; does not use best available science; "best professional judgment" questioned.

18. Four comments received with concerns that: MMP doesn't address impacts to subsurface flows; doesn't address the use of groundwater wells during construction and those effects.

19. Three letters received with concerns about the Management Plan: is there a land manager?; Will monitoring reports be available to the public?; Will land manager have adequate funds

20. Four letters received with concerns that MMP needs a watershed approach; MMP does not integrate mitigation goals.

21. Four letters received with concerns that Wetland rehabilitation and/or preservation credits should be allowed for parcels with grazing plans; agricultural use/grazing should be considered compatible with wetland goals.

22. One letter received with concerns that the MMP falsely presumes agriculture altered Little Lake Valley's natural state. Why isn't urban development considered as the primary factor that altered the natural state?

23. Two letters received concerning Performance Standards: MMP needs finalized performance standards; performance standards need to be bolstered.

24. Two letters received with concern that the Williamson Act was violated.

25. Two letters received with concern the Farmland Protection Act was violated.

26. Two letters received with concerns the Prior Converted Croplands Rule was violated.

27. Six letters received alleging the MMP is biased against agriculture/ranching/grazing based on: wetland enhancement derived climax community transition is unfounded and biased against agriculture, not based in science and not properly explained; MMP suggests agriculture adversely impacts soil and hydrology; MMP pre-determined no credit for grazing; how can grazing for wetland enhancement be unacceptable if final grazing plans have not been analyzed?

28. One letter received with public comment that temporary impacts should not require compensatory mitigation because there is no impact on wetland function.

29. Three letters received with Wetland Enhancement concerns: wetland enhancement via soil and/or hydrology not considered; mitigation ratios are not supported by best available science.

30. One letter received with comment that no mitigation credit is given for grazing with goals for Baker's meadow-foam. Why?

31. Three letters received with comment: Errors in calculating wet season flows and drainage.

32. Four letters received with Financial assurances concerns: PAR analysis needs to be more detailed; PAR analysis needed for Phase II mitigation properties; financial assurances information incomplete.

33. Two letters received with concern: Adverse impacts from wild animals (stream nutrient loads) not considered if vast tracts of land are put to fallow state.

34. Three letters received with concern that Hydrology data lacking; is there a water quality analysis?

35. Two letters received with comment of: Viaduct impacts on birds, in terms of loss of wetland habitat, not analyzed.

36. One letter received concerning Preservation credits concerns: why none allowed by MMP?

37. Five letters received regarding Temporary impacts concerns: if existing vegetation is removed during wetland enhancement that area should be counted in temporary impact amounts ledger; temporary impacts will result in permanent damage to wetlands; temporary impacts will disrupt storm drainage; condition of wetlands temporarily impacted has not been analyzed; amounts/locations of temporary impacts should not be left to the contractor who is not obligated to disclosure.

38. Three letters received with Baseline Report concerns: MMP does not comply with Spring 2011 baseline study conclusions (concluded grazing activities adversely affect wetlands). Baseline report must validate no-net-loss conclusion.

39. Two letters received with public concern regarding impacted wetlands: impacted wetlands and their functions lost should be related back to restored wetlands and the functions gained/replaced; unclear how certain types of impacted wetlands will be mitigated for; what is the condition of the impacted wetlands.

40. Two letters received concerning fire danger from removal of grazing.

41. Two letters received with concern: MMP does not include same impact amounts disclosed from permit application submittal package.

42. One letter received with comment: Stream impacts unclear.

43. One letter received with comment: Interchange design has changed, thus, fill amount is wasteful.

44. One letter received with comment: failure by Corps to disclose documents under the Freedom of Information Act (FOIA).

Seven letters were received that question the safety of building only two lanes of a project that was designed for four lanes based, in some part, for safety reasons. These comments are not directly related to the purpose of the public notice, which was to solicit comments for the MMP. However, it does indirectly question project purpose and the associated impacts to waters of the United States.

APPENDIX 2
Memo for Record

Corps Review of Applicant Response to Comments on
Special Public Notice for
Willits Bypass Project MMP dated October 6, 2011
Corps File #1991-19474N

Note: Caltrans provided responses via emails: November 17, 2011; November 30, 2011; and December 5, 2011. The responses are synopsized in this Memo for Record, hardcopy located in file.

Comment Categories and Caltrans' responses (in italics):

1. **Fourteen letters received that commented: The project isn't the least environmentally damaging practicable alternative (LEDPA) because the project is really only a two lane bypass. Therefore, the MMP isn't valid because all fill is unnecessary.**

Applicant response to public comment that the project isn't the LEDPA: *Impacts to wetlands have been reduced to the extent practicable. USACE and EPA issued their respective determinations that the current alternative (Modified J1T) was the LEDPA in 2005. Permanent impacts of the full four-lane project were identified as 50.8 acres in the FEIS/R. Based on the FEIS/R, the Federal Highway Administration issued a Record of Decision for the Willits Bypass Project on December 18, 2006, with the Modified J1T as the selected alternative. The current mitigation plan (Section 2.2) identifies 50.4 acres of permanent impacts for the Ultimate four-lane facility.* (CT152)

The Willits Bypass project is a four-lane grade separated freeway project to improve interregional traffic operation, improve safety, and provide a level of service rating of C or better. The project is being phased due to financial constraints. The FEIS/R and Project Report discuss the possibility of phasing the project due to funding. (CT 232)

As was indicated in the responses to comments associated with the FEIS/R, Main Street would continue to be utilized by travelers connecting from Highway 20 to Highway 101 and vice-versa. Traffic on Main Street would be reduced due to vehicles utilizing the bypass. (CT 232)

General Response 1.9 also contained as part of the FEIS/R elaborates on the rationale for not including a center valley interchange during the development of project alternatives. The Modified J1T alternative was identified as the LEDPA and was selected as the proposed project alternative. (CT 232)

The Phase 1 project will be a fully functional interim facility on the Modified J1T alignment as selected in the NEPA 404 Integration Process. Right-of-way was purchased for a four lane project. The NEPA 404 process considered multiple alignments through the Little Lake Valley and determined that the Modified J1T would be the least damaging practicable alternative (LEDPA). Phase I constructs a four-lane southern interchange and 1.7 miles of the ultimate four-lane freeway before conforming to the future southbound lanes and bridges as an interim facility. The current project reflects the Phase 1 (22'median) fill only. The original project encumbered the phase 2 footprint with a small sliver fill and a very flat 1:10 slope. The removal of the sliver fill resulted in a modest decrease in the amount of fill being placed and a decrease of the project footprint and ultimately the area of impact.(CT74)

Four different alignments were analyzed in the 2002 Draft EIS/R (E3, C1T, L/C, LT, and J1T). Furthermore, 24 other alternatives were considered, but rejected for a variety of reasons, including not meeting the project's purpose and need and greater environmental impacts. Following public circulation of the Draft EIS/R and input from the public and resource/regulatory agencies, Alternative J1T with modifications (Modified Alternative J1T) was identified as the Least Environmentally Damaging Practicable Alternative (LEDPA)/Environmentally Superior Alternative. In accordance with Section 404(b)(1) Guidelines (Clean Water Act), the U.S. Army Corps of Engineers (USACE) and the United States Environmental Protection Agency (USEPA) concurred that Modified Alternative J1T is the LEDPA and that Alternatives E3, C1T, L/C, LT, and J1T do not meet LEDPA criteria because of their overall environmental impacts. The Section 404(b)(1) Final Alternatives Analysis (FAA) in the Final EIS/R included a comparison of all alternatives considered, as well as their corresponding impacts to resources, and described why Modified Alternative J1T was identified as the LEDPA. (CT 60)

<u>*Alternative Selection*</u>
Early alternatives included the use of existing roadways in and around Willits. Those alternatives were rejected by the Project Development Team (PDT). The PDT included members from: Caltrans, Mendocino Council of Governments, Mendocino County Board of Supervisors, Mendocino County Planning Department, North Coast County Supervisors Association, Willits City Council, Willits Planning Department, Brooktrails Township Community Services District, Sherwood Valley Rancheria, California Department of Fish and Game, California Highway Patrol, Federal Highways Administration, US Army Corps of Engineers, US Environmental Protection Agency and the US Fish and wildlife Service.

Following public circulation of the May 2002 Draft EIS/R and input from the public and resource/regulatory agencies, Modified Alternative J1T was identified as the Least Environmentally Damaging Practicable Alternative (LEDPA)/Environmentally Superior Alternative. In accordance with Section 404(b)(1) Guidelines (Clean Water Act), the U.S. Army Corps of Engineers (USACE) and the United States Environmental Protection Agency (USEPA) concurred that Modified Alternative J1T is the LEDPA. The USACE and the USEPA issued letters of concurrence that Modified Alternative J1T is the LEDPA for the Willits Bypass project. (CT 61)

Modified Alternative J1T was determined to be the LEDPA/Preferred Alternative because it would have the least overall impact to the natural and community resources, while still meeting the purpose and need for the project. (CT 61)

The analysis utilized for LEDPA determination analyzed the full spectrum of potential environmental impacts. Mitigation requirements for the other valley alternatives would have all required similar or greater mitigation for environmental resources. The degree of mitigation and resulting changes from the mitigation effort would therefore have been as great or greater with any of these alternatives. The E3 alternative, outside Little Lake Valley, would have included substantial residential and business displacements, greater impacts to salmonids and northern spotted owl, archaeological impacts, and oak woodland impacts in excess of the selected alternative. These factors would still result in the conclusion that the Modified J1T is the LEDPA. (CT 195)

As the commenter suggests the project is a four lane project as necessitated by the project purpose and need. Caltrans analyzed the concept of a two-lane bypass but did not add a two-lane alternative because a two-lane facility would fail to achieve a minimum LOS "C" and would only provide a LOS "D" (unstable traffic flow) at peak hour upon construction, as well as throughout the 20-year design period. Thus, a new two-lane highway would fail to meet the purpose and need of the project. A four-lane bypass would provide a LOS "A" upon construction, as well as throughout the 20-year design period; therefore, a four-lane bypass meets the purpose and need for the project.

A full analysis of project impacts has been conducted. Impacts of the project for both Phase 1 and Phase 2 are discussed in the MMP, see Section 2.2.

The Willits Bypass project is a four-lane grade separated freeway project to improve interregional traffic operation, improve safety, and provide a level of service rating of C or better. The project is being phased due to financial constraints. The FEIS/R and Project Report discuss the possibility of phasing the project due to funding. The phase-one project is a grade separated access controlled facility that will meet current design standards for a two-lane two-way highway. (CT171)

A 2-lane alternative was dropped from consideration for several reasons. The purpose and need for the project is to provide for a Level of Service "C". Contrary to commenter's assertion, a 2-lane facility cannot achieve Level of Service "C". Once again, it is well documented in the public record that traffic capacity analysis was completed several times for a 2-lane alternative. A 2-lane facility was shown to be inadequate and could only achieve LOS "D". The 1999 study cited by the commenter was based on faulty assumptions (an at-grade roadway with passing lanes) which generated unreasonable results.(CT 174)

The minimum LOS of "C" is a goal and policy established through cooperation between Caltrans, the Mendocino Council of Government (MCOG), the County of Mendocino, and the City of Willits. It is included in the Caltrans Transportation Concept Report for

US 101, in the MCOG Regional Transportation Plan, and the General Plans for Mendocino County and the City of Willits. Establishing a minimum LOS for a National Highway System facility (US 101) which serves as a transportation "lifeline" for northwest California is not only appropriate, but is in keeping with established transportation policy in the U.S. (CT179)

A need for the project has been identified with local stakeholder and resource agency involvement. A careful and thorough process was undertaken to ensure that an appropriate scope was chosen and that environmental impacts were reduced to the greatest extent practicable. Modified Alternative J1T was determined by Caltrans, FHWA, USEPA and the USACE to be the LEDPA/Preferred Alternative because it would have the least overall impact to the natural and community resources, while still meeting the purpose and need for the project. (CT226)

Caltrans analyzed the concept of a two-lane bypass but did not add a two-lane alternative because a two-lane facility would fail to achieve a minimum LOS "C" and would only provide a LOS "D" (unstable traffic flow) at peak hour upon construction, as well as throughout the 20-year design period. Thus, a new two-lane highway would fail to meet the purpose and need of the project. A four-lane bypass would provide a LOS "A" upon construction, as well as throughout the 20-year design period; therefore, a four-lane bypass meets the purpose and need for the project. (CT226)

Greenhouse Gas
One of the main strategies in the Department's Climate Action Program to reduce GHG emissions is to make California's transportation system more efficient. The highest levels of carbon dioxide from mobile sources, such as automobiles, occur at stop-and-go speeds (0-25 miles per hour) and speeds over 55 mph; the most severe emissions occur from 0-25 miles per hour (see Figure below). To the extent that a project relieves congestion by enhancing operations and improving travel times in high congestion travel corridors GHG emissions, particularly CO_2, may be reduced. This is the basis of the conclusion in the FEIS/R. A qualitative analysis is an acceptable means of assessing impacts from GHG even under the most recent CEQA Guideline amendments of 2011 (see CEQA Guideline 15064.4). (CT 6)

While climate change and GHG reduction is a concern at the federal level; no legislation or regulations have been enacted specifically addressing GHG emissions reductions and climate change. In December 2009, EPA did issue final endangerment findings for GHGs but has not issued any regulations (CT 160).

2. **Thirty-two letters received commenting with: General Opposition to the MMP for the following general reasons: MMP is incomplete; negative impacts to farmers/ranchers; MMP does not offset project impacts; impacts of MMP greater than benefits; MMP too complicated; MMP doesn't disclose cumulative impacts; MMP doesn't use best available science; MMP is arbitrary and capricious.**

Applicant response to public comment that the MMP is incomplete: *Caltrans disagrees that the mitigation proposed is insufficient. Despite the lower "credit ratio" received for Group 2 wetlands, once all the wetland establishment sites are successful Caltrans will have created more surface area of mitigation wetlands than what will be impacted by Phase 1. The wetland establishment acreage coupled with the extensive rehabilitation actions provides sufficient mitigation to off-set Phase 1 impacts.* (CT 219)

The MMP was developed based on information obtained in previous reports and studies including baseline field studies performed in 2010 – 2011. Previous studies and the recent baseline studies performed in the mitigation parcels included wetland delineations, wetland inundation mapping, vegetation analysis, special-status plant surveys, an evaluation of valley drainage patterns, erosion assessments, and water quality analysis. All of this information was used to develop the mitigation establishment and rehabilitation measures identified in the MMP. The extensive amount of time Caltrans has spent collecting data and observing the current conditions of the valley increases, to the most practical extent possible, the likelihood of mitigation success. (CT13)

An intensive performance monitoring and reporting program, site maintenance and short- and long-term management strategies, and adaptive management strategies have been developed in coordination with the resource agencies. The mitigation wetlands will be monitored for a 10-year period following initial mitigation implementation. If some of the wetland mitigation does not achieve the year 10 success criteria, or are not trending toward meeting the year 10 success criteria, Caltrans will be required to develop and implement remedial mitigation actions in coordination with the resource agencies.(CT13)

Mitigation will be conducted concurrent with the phasing of project construction. The current MMP addresses the mitigation needs for construction of Phase 1. A separate mitigation plan will be developed prior to construction of Phase 2 of the Willits Bypass Project. USACE approval of this additional proposal will be required prior to the beginning of the work associated with Phase 2. The Phase 1 project will be a fully functional interim facility on the Modified J1T alignment as selected in the NEPA 404 Integration Process. Right-of-way was purchased for a four lane project. The NEPA 404 process considered multiple alignments through the Little Lake Valley and determined that the Modified J1T would be the least damaging practicable alternative (LEDPA). Phase I constructs a four-lane southern interchange and 1.7 miles of the ultimate four-lane freeway before conforming to the future southbound lanes and bridges as an interim facility.(CT3)

Applicant response to public comment that the MMP will result in negative impacts to farmers/ranchers: *Farmland The original FEIS/R in 2006 (section 3.4) and the March 2010 Farmland Addendum included a discussion of project impacts to farmlands and concluded that no significant impacts would occur. Current conclusions remain the same, even in view of increases in agricultural lands acquired for mitigation purposes and changes to the potential uses on a limited number of such parcels.* (CT 7)

Agricultural production will be limited only in the areas that will be receiving credits from USACE for wetland mitigation. (CT 7)

Pursuant to its responsibilities under CEQA and NEPA, Caltrans completed a Farmland Conversion Impact Rating form (NRCS Form AD-1006 (03-02)) for submittal to the NRCS. The form employs a Land Evaluation and Site Assessment Model (LESA) developed by the U.S. Soil Conservation Service and recognized by the California Resources Agency. (CT 7)

The LESA provides lead agencies with a methodology to ensure that potentially significant effects on the environment of agricultural conversions are quantitatively and consistently considered in the environmental review process, including CEQA reviews. (Public Resources Code sec. 21095.) (CT 7)

The LESA evaluates measures of soil resource quality (representing potential farming practices as opposed to actual current uses), a given project's size, water resource availability, surrounding agricultural lands, and surrounding protected resource lands. For a given project, the factors are rated, weighted, and combined, resulting in a numeric score. The LESA score becomes the basis for making a determination of the project's potential significance. (CT 7)

For the Willits Bypass Project, the NRCS completed parts IV, V, and VII of the form. As a result of the combined assessment, the Willits Bypass Project (including the Ultimate Project alignment and mitigation) scored just under 147 points. According to the FPPA, sites receiving a total score of less than 160, need not be given further consideration for protection, and no additional sites need to be evaluated. (CT 7)

Since the submittal of the LESA to NRCS in May 2011, the amount of grazing to be eliminated has been reduced from nearly 1000 acres to roughly 400. Accordingly, the LESA score would be reduced commensurately. (CT 7)

Notably, areas designated for elimination of grazing were compared to mapping developed by the FMMP. All of the land slated for grazing removal is mapped as Grazing land on FMMP maps. No land within the areas set for grazing elimination was mapped as farmland (Prime Farmland, Farmland of Statewide Importance, Unique Farmland, or Farmland of Local Importance). Currently, agricultural activities on the mitigation parcels are limited to hay production and grazing. There are no row crops being cultivated. (CT 7)

According to the FPPA, the removal of grazing land from agricultural production would be considered an "indirect" conversion – a limitation on or restriction of access to agricultural uses. That is, the landscape would still retain the properties that currently allow grazing to occur. As such, the project impact would not cause an irretrievable commitment of, or irreversible change in, a non-renewable resource such as the agricultural lands here. As the biological mitigation continues to evolve, it is conceivable that areas currently slated for elimination of grazing may be reconsidered

for restoration of grazing. Such application of grazing in the future would be limited to areas that have received agency approval and/or by adaptive management provisions in the Mitigation and Monitoring Plan. (CT 7)

Measures to reduce project mitigation related impacts include the continuing support of grazing throughout the Little Lake Valley where possible. Grazing on areas with special status plant populations will be continued in accordance with Caltrans consultation with DFG. Easements placed on these properties are intended to allow continued grazing on these properties in perpetuity. (CT 7)

It should be noted that as part of its analysis in Part IV of Form AD-1006, NRCS reassessed its previous analysis of farmland impacts. Based on additional information of the extent of irrigated land containing prime farmland soils, NRCS identified 353 acres of impacts to Prime and Unique Farmlands. An inquiry made to NRCS revealed that the 353 acres were comprised of 20 acres of direct impacts within the Ultimate Project alignment and 333 acres of indirect impacts within the mitigation parcels. Caltrans requested and was provided GIS mapping of the areas identified by NRCS as Prime Farmland. Subsequent to the correspondence with NRCS, the amount of land requiring grazing restriction was reduced due to concerns related to Bakers meadowfoam. As a result of these changes, Caltrans utilized the mapping received from NRCS to calculate the acreage of grazing restriction on Prime and Unique Farmlands. A total of 215.8 acres of NRCS identified Prime and Unique Farmlands will be indirectly impacted within the mitigation parcels, down from the previous total of 333 acres. It should be noted that 226.6 acres of Prime and Unique Farmlands will continue to have grazing on the mitigation parcels. The 20 acres of direct impacts within the Ultimate Project alignment would not change. A revised AD-1006 form has not been prepared, since the total indirect impact has gone down, since the time of the NRCS analysis and the previous score (147) was already below the 160 point level. (CT 7)

Accordingly, Caltrans concludes that current circumstances and information lead to no substantial or significant changes in earlier results. An addendum/revalidation to the EIS/R setting forth the foregoing efforts to identify and address significant impacts is being prepared. (CT 7)

Grazing experts associated with the University of California of Davis were consulted on the topic. The scale of grazing reduction in the draft MMP would likely result in a reduction of $50,000-$60,000 annually. The 2010 Mendocino County Crop report indicates that there are 6,000 acres of irrigated pasture in Mendocino County, which generated a total of $1,026,000. It should be noted that not all the land targeted for wetland rehabilitation is irrigated pasture and yields from non-irrigated pasture are generally less. Therefore, average yield in 2010 for Mendocino County was $171/acre of irrigated pasture. Applying this yield to the acreage identified for wetland rehabilitation results in a reduction of approximately $60,000 annually. This further confirms the estimates provided by the grazing experts. (CT 167)

In addition, the grazing experts indicated that grazing has an economic multiplier effect. The multiplier effect was calculated by a software program, IMPLAN, which utilizes input–output analysis to incorporate the ripple effects of the economic activity associated with the increased values of meat processing and livestock production. The model included two livestock industries—cattle ranching and other livestock (includes sheep, hogs, goats, and various minor species, but not poultry)—and animal slaughter. IMPLAN considered the direct, indirect and induced effects; induced effects incorporate the local household spending on goods and services resulting from the labor income generated through the direct and indirect effects. (CT 167)

The multiplier for cattle grazing was 6.0. The 6.0 value-added multiplier for cattle ranching implies that every $1.0 million of value added in cattle ranching through employee compensation, indirect business taxes, proprietary and other property type income results in $5.0 million of value added in other industries. (CT 167)

With the multiplier effect the economic effect of reduced cattle grazing from the wetland rehabilitation actions in the October 2011 draft MMP are estimated at $300,000 annually. (CT 167)

It should be further noted that the project will have an endowment that according to Chapter 13 of the MMP, will generate approximately $240,000 annually for on-going land management and biological monitoring activities. The multiplier effect of the value added by this activity is undetermined. (CT 167)

Applicant response to public comment that the MMP does not off-set project impacts:
Caltrans assumes that the commenter is referring to Phase I of the project since it is Phase I mitigation being proposed in this MMP. Caltrans disagrees that the MMP does not demonstrate it can adequately mitigate wetland losses. Despite the lower "credit ratio" received for Group 2, once all the wetland establishment sites are successful Caltrans will have created more surface area of mitigation wetlands than what will be impacted by Phase 1. The wetland establishment acreage coupled with the extensive rehabilitation actions provides sufficient mitigation to off-set Phase 1 impacts. To ensure success, Caltrans will monitor and maintain the mitigation areas during the 10 year monitoring program and will be required to achieve the success criteria identified in the USACE MMP. In the event that the portions of the mitigation areas do not meet the success criteria Caltrans will be required to implement an adaptive management plan to insure the successful establishment of the wetland mitigation. (CT 185)

USACE and Caltrans staff worked collaboratively to identify establishment, enhancement and rehabilitation efforts to comply with Clean Water Act requirements. The identified mitigation efforts include over 50 acres of wetland establishment and approximately 350 acres of wetland rehabilitation. In addition, re-establishment of temporarily impacted wetlands will be required. Successful implementation of the mitigation efforts will result in a net increase in wetland area (50 acres of establishment versus approximately 40 acres of permanent impact). Crediting levels for Group 2 wetlands resulted in less than 1 credit per acre of mitigation. As a result, in addition to the 50 acres of establishment, a

substantial amount of rehabilitation efforts will be undertaken to compensate for uncertainties of wetland establishment. In addition, rehabilitation efforts will cover temporal losses of the mitigation effort. (CT 185)

Successful wetland mitigation efforts are dependent on numerous factors. Caltrans will be held to the performance standards identified in Chapter 9 of the MMP. Adaptive management measures are included in Chapter 12, if the intended results are not achieved. (CT 185)

To be considered mitigation, USACE requires that there be no-net-loss of wetlands. Because the mitigation parcels are predominantly composed of existing wetlands there is not a sufficient amount of land area on which to establish (create) the amount of wetland area needed to meet the no-net-loss policy, once the mitigation ratios are applied. USACE has agreed to allow Caltrans to mitigate for the deficit of wetland establishment acres by implementing a wetland rehabilitation strategy that would result in a "functional lift (improvement/change)" in wetland services, attributes and value over baseline conditions. This functional lift gained by rehabilitating the wetlands to perform better can be identified as mitigation credits. (CT 35)

The mitigation crediting system developed by the USACE accounts for the temporal loss of habitat and uses a conservative approach to assigning wetland credits (i.e., the higher the confidence level the higher the mitigation credit ratio). For example, Group 1 wetlands which were previously identified in 2010 MMP and have gone through several agency reviews during the design phase, are assigned a 1:1 credit ratio because the USACE. Group 2 wetland establishment areas, which were identified in 2011, are assigned a 0.3:1 credit ratio (i.e., Caltrans receives 0.3 acre of wetland mitigation credit for every 1.0 acre of wetland established. Type 1 – 5 wetland rehabilitation actions have been assigned mitigation ratios of 0.05:1 – 0.3:1 based on the USACE assessment of existing habitat quality, the level of work proposed for each rehabilitation type, and the associated higher success criteria. (CT 35)

The MMP was developed based on information obtained in previous reports and studies including baseline field studies performed in 2010 – 2011. Previous studies and the recent baseline studies performed in the mitigation parcels included wetland delineations, wetland inundation mapping, vegetation analysis, special-status plant surveys, an evaluation of valley drainage patterns, erosion assessments, and water quality analysis. All of this information was used to develop the mitigation establishment and rehabilitation measures identified in the MMP. (CT 35)

The wetland establishment (creation) sites involve far more than just "planting a few species under artificial conditions". The proposed wetland sites involve grading and re-contouring the landscape so that it has the hydrologic system necessary to allow the development of hydric soils and a vegetation community dominated by wetland species. While it is likely that wetland plants species will colonize on their own once the ground contours allow for the extended hydrology necessary for wetland development it is good practice to jumpstart this process by "artificially" seeding and planting the wetland with

the desired species. This jumpstart reduces temporal losses. During this early plant establishment period (usually the first three years) the plants will be watered to help with survival rates. After this initial period, human intervention will cease, at which time a successful wetland will be able to sustain itself. At this point, the wetland is providing the needed functions to the environment and it becomes irrelevant whether the wetland originated through mechanical contouring or a natural event. (CT 35)

The Federal Mitigation Rule allows for credits to be assigned for restoration (re-establishment & rehabilitation), establishment, and preservation activities. The amount of credit is dependent upon the increase of aquatic functions at a compensatory mitigation site. The functions are the physical, chemical, and biological processes that occur in ecosystems. (CT1)

Caltrans mitigation activities will result in changes to the current aquatic functions on the mitigation sites. As stated in Section 2.6.2, establishment, rehabilitation, and re-establishment efforts will result in improved aquatic functions. (CT1)

Credits were assigned by the USACE pursuant to the degree of improved aquatic functions on a given mitigation area. Rehabilitation efforts were assigned a range of credits between 0.05 and 0.3 credits per acre based on the degree of improvement to the aquatic functions. Establishment efforts were granted either 0.3 or 1.0 credit per acre. In order to achieve mitigation success, Caltrans will be required to meet the performance standards as identified in Chapter 9 of the Mitigation and Monitoring Proposal (MMP). (CT1)

With Respect to temporary impacts, applicant response is: *The haul road, a temporary impact, will be designed by the Contractor within the footprint that is being mitigated. Construction of the haul road must meet a set of guidelines that will require addressing seasonal conditions and meeting all permit requirements. The Contractor will be required to submit a floodplain analysis that models the haul road in the existing floodplain demonstrating the haul road will not impact the 100 year flood event.* (CT 108)

The location of the proposed haul roads were within the impact footprint of the project, and thus considered in the impact and mitigation discussions (including wetlands and streams) in the MMP. (CT 108)

Applicant response to public comment that impacts of MMP greater than benefits: *The mitigation actions proposed (wetland establishment, tree, shrub and herbaceous plantings), and the manner in which they will be implemented, are standard practices that are done routinely across California and the U.S. There are numerous documented cases of successful establishment and enhancement projects implemented by government agencies, private companies, and non-profit organizations alike that involve creating wetlands, planting trees, shrubs and herbaceous wetland vegetation. To ensure success, Caltrans will maintain the mitigation areas during the 10 year monitoring program and will be required to achieve the success criteria identified in the USACE MMP. In the*

event that the portions of the mitigation areas do not meet the success criteria Caltrans will be required to implement an adaptive management plan to insure the successful establishment of the wetland mitigation.(CT100)

As indicated in Section 2.2, the MMP does indicate that permanent wetland impacts will occur. The measures contained in the MMP are realistic goals to achieve no net loss of wetlands and other waters.(CT100)

Measures to reduce project mitigation related impacts include the continuing support of grazing throughout the Little Lake Valley where possible. Grazing on areas with special status plant populations will be continued in accordance with Caltrans consultation with DFG. Easements placed on these properties are intended to allow continued grazing on these properties in perpetuity. (CT 7)

Applicant response to public comment that MMP too complicated: *The MMP is based on extensive field investigations and close coordination with the USACE. While the large size of this mitigation project can seem daunting at first glance, the mitigation actions proposed (wetland establishment, tree, shrub and herbaceous plantings), and the manner in which they will be implemented, are standard practices that are done routinely across California and the U.S. There are numerous documented cases of successful establishment and enhancement projects implemented by government agencies, private companies, and non-profit organizations alike that involve creating wetlands, planting trees, shrubs and herbaceous wetland vegetation. To ensure success, Caltrans will maintain the mitigation areas during the 10 year monitoring program and will be required to achieve the success criteria identified in the USACE MMP. In the event that the portions of the mitigation areas do not meet the success criteria Caltrans will be required to implement an adaptive management plan to insure the successful establishment of the wetland mitigation.*(CT100)

The MMP was strengthened by removing and editing errors in the mapping and data. The above adjustments resulted in the requirement for Caltrans to increase its level of wetland rehabilitation (e.g. Type 2 rehabilitation areas may now be targeted for Type 4 rehabilitation). (CT9)

The mitigation crediting system developed by the USACE accounts for the temporal loss of habitat and uses a conservative approach to assigning wetland credits (i.e., the higher the confidence level the higher the mitigation credit ratio). For example, Group 1 wetlands, which were previously identified in 2010 MMP and have gone through several agency reviews during the design phase, are assigned a 1:1 credit ratio because the USACE. Group 2 wetland establishment areas, which were identified in 2011, are assigned a 0.3:1 credit ratio (i.e., Caltrans receives 0.3 acre of wetland mitigation credit for every 1.0 acre of wetland established. Type 1 – 5 wetland rehabilitation actions have been assigned mitigation ratios of 0.05:1 – 0.3:1 based on the USACE assessment of existing habitat quality, the level of work proposed for each rehabilitation type, and the associated higher success criteria. (CT 35)

Applicant response to public comment that MMP doesn't disclose cumulative impacts:

Four different alignments were analyzed in the 2002 Draft EIS/R (E3, C1T, L/C, LT, and J1T). Furthermore, 24 other alternatives were considered, but rejected for a variety of reasons, including not meeting the project's purpose and need and greater environmental impacts. Following public circulation of the Draft EIS/R and input from the public and resource/regulatory agencies, Alternative J1T with modifications (Modified Alternative J1T) was identified as the Least Environmentally Damaging Practicable Alternative (LEDPA)/Environmentally Superior Alternative. In accordance with Section 404(b)(1) Guidelines (Clean Water Act), the U.S. Army Corps of Engineers (USACE) and the United States Environmental Protection Agency (USEPA) concurred that Modified Alternative J1T is the LEDPA and that Alternatives E3, C1T, L/C, LT, and J1T do not meet LEDPA criteria because of their overall environmental impacts. The Section 404(b)(1) Final Alternatives Analysis (FAA) in the Final EIS/R included a comparison of all alternatives considered, as well as their corresponding impacts to resources, and described why Modified Alternative J1T was identified as the LEDPA. (CT 195)

The analysis utilized for LEDPA determination analyzed the full spectrum of potential environmental impacts. Mitigation requirements for the other valley alternatives would have all required similar or greater mitigation for environmental resources. The degree of mitigation and resulting changes from the mitigation effort would therefore have been as great or greater with any of these alternatives. The E3 alternative would have included substantial residential and business displacements, greater impacts to salmonids and northern spotted owl, archaeological impacts, and oak woodland impacts in excess of the selected alternative. These factors would still result in the conclusion that the Modified J1T is the LEDPA. (CT 195)

<u>*Economics*</u>
A discussion of economic effects of the bypass project were analyzed as part of the FEIS/R in Section 3.3.9 and the DEIS/R Section 5.2.5.9. (CT 195)

Economic effects from the removal of grazing were not considered in the FEIS/R. Grazing experts associated with the University of California of Davis were consulted on the topic. The scale of grazing reduction in the draft MMP would likely result in a reduction of $50,000-$60,000 annually. The 2010 Mendocino County Crop report indicates that there are 6,000 acres of irrigated pasture in Mendocino County, which generated a total of $1,026,000. It should be noted that not all the land targeted for wetland rehabilitation is irrigated pasture and yields from non-irrigated pasture are generally less. Therefore, average yield in 2010 for Mendocino County was $171/acre of irrigated pasture. Applying this yield to the acreage identified for wetland rehabilitation results in a reduction of approximately $60,000 annually. This further confirms the estimates provided by the grazing experts. (CT 195)

In addition, the grazing experts indicated that grazing has an economic multiplier effect. The multiplier effect was calculated by a software program, IMPLAN, which utilizes input–output analysis to incorporate the ripple effects of the economic activity associated with the increased values of meat processing and livestock production. The model included two livestock industries—cattle ranching and other livestock (includes sheep,

hogs, goats, and various minor species, but not poultry)—and animal slaughter. IMPLAN considered the direct, indirect and induced effects; induced effects incorporate the local household spending on goods and services resulting from the labor income generated through the direct and indirect effects. (CT 195)

The multiplier for cattle grazing was 6.0. The 6.0 value-added multiplier for cattle ranching implies that every $1.0 million of value added in cattle ranching through employee compensation, indirect business taxes, proprietary and other property type income results in $5.0 million of value added in other industries. (CT 195)

With the multiplier effect the economic effect of reduced cattle grazing from the wetland rehabilitation actions in the October 2011 draft MMP are estimated at $300,000 annually. (CT 195)

It should be further noted that the project will have an endowment that according to Chapter 13 of the MMP, will generate approximately $240,000 annually for on-going land management and biological monitoring activities. The multiplier effect of the value added by this activity is undetermined. (CT 195)

Aesthetics

Section 3.10 of the FEIS/R evaluated aesthetics (visual resources). Since, completion of the FEIS/R modifications to the project have been relatively minor. The project remains a four-lane bypass with several bridge structures that span creeks and local roads, a floodway viaduct, and interchanges at the north and south ends. As such, the visual impacts of the project are similar to Modified Alternative J1T. One exception is the addition of a roundabout near the north end of the project. Context sensitive solutions for the roundabout will be implemented as a final design component of the project. (CT 195)

Establishment of the mitigation parcels would create a permanent open space in areas east of the existing Route 101. This would result in minimal to no visual impact. (CT 195)

The additional information above does not change the findings and assessments for visual impacts made in the Final EIS/R. (CT 195)

Historical Properties

Caltrans has reviewed the parcels identified in the MMP for potential historic resources.

No substantial change in the evaluation of impacts to cultural has occurred since completion of the Final (CT 195)

Land Use

A change in land uses will be a required component of the mitigation plan. The mitigation proposal will result in a reduction in agricultural land use. These lands will become open space areas protected by conservation easements. The change in land use

provides benefits to the natural environment. This trade-off is necessitated by Caltrans need to satisfy its mitigation obligations from the Willits Bypass Project. (CT 195)

Food and Fiber Production

The original FEIS/R in 2006 (section 3.4) and the March 2010 Farmland Addendum included a discussion of project impacts to farmlands and concluded that no significant impacts would occur. Current conclusions remain the same, even in view of increases in agricultural lands acquired for mitigation purposes and changes to the potential uses on a limited number of such parcels. (CT 195)

Agricultural production will be limited only in the areas that will be receiving credits from USACE for wetland mitigation. (CT 195)

Pursuant to its responsibilities under CEQA and NEPA, Caltrans completed a Farmland Conversion Impact Rating form (NRCS Form AD-1006 (03-02)) for submittal to the NRCS. The form employs a Land Evaluation and Site Assessment Model (LESA) developed by the U.S. Soil Conservation Service and recognized by the California Resources Agency. (CT 195)

The LESA provides lead agencies with a methodology to ensure that potentially significant effects on the environment of agricultural conversions are quantitatively and consistently considered in the environmental review process, including CEQA reviews. (Public Resources Code sec. 21095.) (CT 195)

The LESA evaluates measures of soil resource quality (representing potential farming practices as opposed to actual current uses), a given project's size, water resource availability, surrounding agricultural lands, and surrounding protected resource lands. For a given project, the factors are rated, weighted, and combined, resulting in a numeric score. The LESA score becomes the basis for making a determination of the project's potential significance. (CT 195)

For the Willits Bypass Project, the NRCS completed parts IV, V, and VII of the form. As a result of the combined assessment, the Willits Bypass Project (including the Ultimate Project alignment and mitigation) scored just under 147 points. According to the FPPA, sites receiving a total score of less than 160, need not be given further consideration for protection, and no additional sites need to be evaluated. (CT 195)

Since the submittal of the LESA to NRCS in May 2011, the amount of grazing to be eliminated has been reduced from nearly 1000 acres to roughly 400. Accordingly, the LESA score would be reduced commensurately. (CT 195)

Notably, areas designated for elimination of grazing were compared to mapping developed by the FMMP. All of the land slated for grazing removal is mapped as Grazing land on FMMP maps. No land within the areas set for grazing elimination was mapped as farmland (Prime Farmland, Farmland of Statewide Importance, Unique Farmland, or Farmland of Local Importance). Currently, agricultural activities on the

mitigation parcels are limited to hay production and grazing. There are no row crops being cultivated. (CT 195)

According to the FPPA, the removal of grazing land from agricultural production would be considered an "indirect" conversion – a limitation on or restriction of access to agricultural uses. That is, the landscape would still retain the properties that currently allow grazing to occur. As such, the project impact would not cause an irretrievable commitment of, or irreversible change in, a non-renewable resource such as the agricultural lands here. As the biological mitigation continues to evolve, it is conceivable that areas currently slated for elimination of grazing may be reconsidered for restoration of grazing. Such application of grazing in the future would be limited to areas that have received agency approval and/or by adaptive management provisions in the Mitigation and Monitoring Plan. (CT 195)

Measures to reduce project mitigation related impacts include the continuing support of grazing throughout the Little Lake Valley where possible. Grazing on areas with special status plant populations will be continued in accordance with Caltrans consultation with DFG. Easements placed on these properties are intended to allow continued grazing on these properties in perpetuity. (CT 195)

It should be noted that as part of its analysis in Part IV of Form AD-1006, NRCS reassessed its previous analysis of farmland impacts. Based on additional information of the extent of irrigated land containing prime farmland soils, NRCS identified 353 acres of impacts to Prime and Unique Farmlands. An inquiry made to NRCS revealed that the 353 acres were comprised of 20 acres of direct impacts within the Ultimate Project alignment and 333 acres of indirect impacts within the mitigation parcels. Caltrans requested and was provided GIS mapping of the areas identified by NRCS as Prime Farmland. Subsequent to the correspondence with NRCS, the amount of land requiring grazing restriction was reduced due to concerns related to Bakers Meadowfoam. As a result of these changes, Caltrans utilized the mapping received from NRCS to calculate the acreage of grazing restriction on Prime and Unique Farmlands. A total of 215.8 acres of NRCS identified Prime and Unique Farmlands will be indirectly impacted within the mitigation parcels, down from the previous total of 333 acres. It should be noted that 226.6 acres of Prime and Unique Farmlands will continue to have grazing on the mitigation parcels. The 20 acres of direct impacts within the Ultimate Project alignment would not change. A revised AD-1006 form has not been prepared, since the total indirect impact has gone down, since the time of the NRCS analysis and the previous score (147) was already below the 160 point level. (CT 195)

Accordingly, Caltrans concludes that current circumstances and information lead to no substantial or significant changes in earlier results. An addendum/revalidation to the EIS/R setting forth the foregoing efforts to identify and address significant impacts is being prepared. (CT 195)

Considerations of Property Ownership

Property ownership was a consideration during the selection of the preferred alternative and also in the determination of mitigation properties. In fact, one of the factors that led to the dismissal of the E3 alternative was the substantial residential and business displacements. (CT 195)

The willingness of property owners to sell was a consideration throughout the selection of mitigation properties. Ultimately, no mitigation properties required condemnation. Caltrans reached agreement with all of the property owners through negotiated agreements based upon fair market value appraisals. (CT 195)

Needs and Welfare of the People
The local community has been considered throughout the development of the project. The project development team included various stakeholders to ensure that the interests of the community were fully considered. The PDT included members from: Caltrans, Mendocino Council of Governments, Mendocino County Board of Supervisors, Mendocino County Planning Department, North Coast County Supervisors Association, Willits City Council, Willits Planning Department, Brooktrails Township Community Services District, Sherwood Valley Rancheria, California Department of Fish and Game, California Highway Patrol, Federal Highways Administration, US Army Corps of Engineers, US Environmental Protection Agency and the US Fish and Wildlife Service. (CT 195)

Impacts of the project for both Phase 1 and Phase 2 are discussed in the MMP, see Section 2.2. The 2010 MMP, where fill for all four lanes was sought, also discussed impacts of the complete project for USACE's consideration. (CT 101)

Mitigation will be conducted concurrent with the phasing of project construction. The current MMP addresses the mitigation needs for construction of Phase 1. A separate mitigation plan will be developed prior to construction of Phase 2 of the Willits Bypass Project. USACE approval of this additional proposal will be required prior to the beginning of the work associated with Phase 2. The NEPA 404 process considered multiple alignments through the Little Lake Valley and determined that the Modified J1T would be the least damaging practicable alternative (LEDPA). (CT 101)

Applicant response to public comment that MMP doesn't use best available science: *As stated in the MMP, the absence of a practical or institutionally recommended functional assessment process under the 2008 Mitigation Rule requires USACE to rely on best professional judgment. Typically, determinations are based on rendered field observations at the impact and mitigation sites. In this case, best professional judgment is supported by numerous field investigations by USACE and Caltrans, and their consultant staff experienced in fields such as restoration ecology, soil science and botany. During field investigations hydrology, soils, vegetation, soil deposition, erosion, and current land condition, were examined and considered as part of the best professional judgment determinations. The extensive amount of time Caltrans has spent collecting data and observing the current conditions of the valley increases, to the most practical extent possible, the likelihood of mitigation success.* (CT 205)

To determine what was needed for no net loss of functions and services of waters of the United States, USACE undertook a direct assessment (USACE Phase 1 Impact Assessment) of the permanent and temporary impacts on waters of the United States to evaluate the quality of existing wetlands (which are predominantly wet meadow), during winter 2010 – 2011 and developed a credit rating system for wetland rehabilitation actions. (CT 205)

This assessment was used to assign preliminary mitigation ratios to impacts based on the current functions and services of the affected wetlands. Subsequent to the assessment, USACE and Caltrans held several meetings to discuss the wetland mitigation approach and associated mitigation ratios. The result of these meetings was the basis for the mitigation action approach and wetland mitigation crediting system. (CT 205)

The mitigation crediting system developed by the USACE accounts for the temporal loss of habitat and uses a conservative approach to assigning wetland credits (i.e., the higher the confidence level the higher the mitigation credit ratio). For example, Group 1 wetlands, which were previously identified in 2010 MMP and have gone through several agency reviews during the design phase, are assigned a 1:1 credit ratio because the USACE. Group 2 wetland establishment areas, which were identified in 2011, are assigned a 0.3:1 credit ratio (i.e., Caltrans receives 0.3 acre of wetland mitigation credit for every 1.0 acre of wetland established. Type 1 – 5 wetland rehabilitation actions have been assigned mitigation ratios of 0.05:1 – 0.3:1 based on the USACE assessment of existing habitat quality, the level of work proposed for each rehabilitation type, and the associated higher success criteria. (CT 35)

The types of mitigation actions proposed in this plan (i.e., tree planting, herbaceous planting) to rehabilitate (enhancement) wetlands are standard practices and are done across the State of California and the U.S. on a regular basis. There are numerous documented successful enhancement projects implemented by government agencies, private companies, and non-profit organizations alike that involve planting trees, shrubs and herbaceous wetland vegetation. Caltrans has implemented successful mitigation projects such as Beach Lake Mitigation Bank. Beach Lake is a Caltrans-created mitigation bank that has been in successful operation for over a decade and comprises 92 acres of wetlands and riparian habitat. This bank has been approved by multiple federal and state resource agencies. Other recent examples include Caltrans' mitigation for Lincoln Bypass in Placer County, and the Cleone Mitigation Bank in Mendocino County. (CT 153)

To ensure success, Caltrans will maintain the mitigation areas during the 10 year monitoring program and will be required to achieve the success criteria identified in the USACE MMP. In the event that the portions of the mitigation areas do not meet the success criteria Caltrans will be required to implement an adaptive management plan to insure the successful establishment of the wetland mitigation. The adaptive management plan requirements are described in Chapter 12 of the USACE MMP. (CT 153)

The Corps supplements the above response with the following: There is no scientific consensus on the best means or methods to evaluate wetland functions and identifying measurable performance standards for wetland rehabilitation. The Mitigation Rule allows for the use of best professional judgment in the absence of a clear accepted evaluation protocol.

Applicant response to public comment that MMP is arbitrary and capricious: *As stated in the MMP, the absence of a practical or institutionally recommended functional assessment process under the 2008 Mitigation Rule requires USACE to rely on best professional judgment. Typically, determinations are based on rendered field observations at the impact and mitigation sites. In this case, best professional judgment is supported by numerous field investigations by USACE and Caltrans, and their consultant staff experienced in fields such as restoration ecology, soil science and botany. During field investigations hydrology, soils, vegetation, soil deposition, erosion, and current land condition, were examined and considered as part of the best professional judgment determinations. The extensive amount of time Caltrans has spent collecting data and observing the current conditions of the valley increases, to the most practical extent possible, the likelihood of mitigation success.* (CT 205)

3. **Eighteen letters received with comment: The MMP must present mitigation for both phases of project construction based on the following reasons: because of cumulative impacts; fails 404(b)(1)Guidelines; Phase II impacts unknown; no Caltrans plan to mitigate for Phase II raises question if they even can mitigate for Phase II.**

Applicant Response to public comment that Caltrans should be required to submit complete mitigation plans for both phases of the project before any construction begins:
Mitigation Phasing
Phasing of the project was identified as a possibility due to funding in the FEIS/R. Section 2.2 of the FEIS/R states, "Upon environmental approval and appropriation of funding, the Department could design and construct all or part of the proposed project depending on funding availability. In an effort to balance potential funding limitations and the need for the project, the Willits bypass could be constructed in phases, whereby a functional interim facility would be constructed initially, and completion of the full facility would occur at a later date when additional funding is available."
A full analysis of project impacts has been conducted. Impacts of the project for both Phase 1 and Phase 2 are disclosed in the MMP, see Section 2.2. (CT148)

Mitigation will be conducted concurrent with the phasing of project construction. The current MMP addresses the mitigation needs for construction of Phase 1. A separate mitigation plan will be developed prior to construction of Phase 2 of the Willits Bypass Project. USACE approval of this additional proposal will be required prior to the beginning of the work associated with Phase 2. The Phase 1 project will be a fully functional interim facility on the Modified J1T alignment as selected in the NEPA 404 Integration Process. Right-of-way was purchased for a four lane project. The NEPA 404 process considered multiple alignments through the Little Lake Valley and determined

that the Modified J1T would be the least damaging practicable alternative (LEDPA). Phase I constructs a four-lane southern interchange and 1.7 miles of the ultimate four-lane freeway before conforming to the future southbound lanes and bridges as an interim facility. (CT 20)

The discussion of impacts in Section 2.2 is inclusive of temporary impacts. The phasing of the project allows for temporary impacts to attenuate over time with appropriate mitigation; therefore, any lag time between phases would not create an independent, exacerbating effect. If Phase 2 is funded and built within a similar timeframe as Phase 1, then re-establishment efforts for both project phases would occur immediately after construction. (CT 103)

The cited regulation does not require that all mitigation be performed in the first phase of a phased project. (CT 103)

Applicant response to public concern that impacts from Phase II (construction and mitigation) are unknown is: *Impacts of the project for both Phase 1 and Phase 2 are disclosed in the MMP, see Section 2.2.* (CT 103)

Applicant response to public questioning if Caltrans will be able to mitigate for Phase II impacts: Successful wetland creation, restoration, and enhancement projects have been implemented and documented throughout California and the U.S. Additionally, Caltrans has implemented successful mitigation projects such as Beach Lake Mitigation Bank. Beach Lake is a Caltrans-created mitigation bank that has been in successful operation for over a decade and comprises 92 acres of wetlands and riparian habitat. This bank has been approved by multiple federal and state resource agencies. Other recent examples include Caltrans' mitigation for Lincoln Bypass in Placer County, and the Cleone Mitigation Bank in Mendocino County. (CT 13)

The MMP was developed based on information obtained in previous reports and studies including baseline field studies performed in 2010 – 2011. Previous studies and the recent baseline studies performed in the mitigation parcels included wetland delineations, wetland inundation mapping, vegetation analysis, special-status plant surveys, an evaluation of valley drainage patterns, erosion assessments, and water quality analysis. All of this information was used to develop the mitigation establishment and rehabilitation measures identified in the MMP. The extensive amount of time Caltrans has spent collecting data and observing the current conditions of the valley increases, to the most practical extent possible, the likelihood of mitigation success. (CT 13)

An intensive performance monitoring and reporting program, site maintenance and short- and long-term management strategies, and adaptive management strategies have been developed in coordination with the resource agencies. The mitigation wetlands will be monitored for a 10-year period following initial mitigation implementation. If some of the wetland mitigation does not achieve the year 10 success criteria, or are not trending toward meeting the year 10 success criteria, Caltrans will be required to develop and

implement remedial mitigation actions in coordination with the resource agencies. (CT 13)

The statement that the temporary impacts are likely to cause permanent impacts is speculative. Caltrans' staff has extensive experience in analyzing temporary and permanent impacts caused by our projects. In the rare event that an impact originally thought to be temporary turns out to have permanent consequences and cannot be rectified Caltrans is required to do additional mitigation to account for the permanent nature of the impact. (CT 13)

4. **Twenty-nine letters received with concern: The EIR/EIS is not valid. Following reasons cited: MMP does not resemble the conceptual MMP from 2006; new MMP does not consider social, economic impacts; EIR/EIS must be revised; EIR/EIS procedural error because the amount of farmland conversion for mitigation was not disclosed, evaluated, or considered; traffic studies in EIR/EIS were incorrect.**

Applicant Response to public comment that the current MMP does not resemble the 2006 CMMP: *The MMP is consistent with the intent of the DEIS/R. The DEIS/R states that a mitigation plan will be developed to provide mitigation details, including the approved mitigation sites, implementation design and construction, and a minimum five-year monitoring plan. Compensated wetlands will be designed to equal or exceed the values of wetlands impacted by the project. Methods for creation and enhancement of wetlands and other waters of the U.S. will be developed with USACE and CDFG.* (CT 6)

The MMP is also consistent with the FEIS/R, including the CMP. The FEIS/R and CMP were issued at the same time and combine to form the mitigation strategy at the project approval stage. (CT 6)

The CMP is a conceptual plan. The introduction states that the extent of impacts and mitigation measures presented should be considered "preliminary and approximate" based on the level of information available at the time of preparation. Its purpose was to review the potential of the project to impact natural resources within its limits and the general extent and nature of mitigation strategies being formulated to offset those impacts. (CT 6)

Permanent impacts of the full four-lane project were identified as 50.8 acres in the CMP. The current mitigation plan identifies 50.4 acres of permanent impacts for the Ultimate four-lane facility. (CT 6)

Ratios in the CMP were focused on creation (establishment) of new wetlands because initial feasibility studies indicated that Caltrans would be able to meet its obligations via creation. However, the USACE LEDPA determination and the FEIS/R both indicate that a combination of measures would be considered, including the creation of wetlands and other waters, and the restoration, enhancement and preservation of existing wetlands and

other waters in the Little Lake Valley. This is consistent with the approach in the current MMP which includes a combination of the same mitigation types. (CT 6)

It is normal practice for an MMP to be modified following the public notice period based on comments received from the public, USACE, and the other resource agencies. There is no obligation to reopen public comment periods whenever a change has been made to an application document as a result of public comments or agency input; were comment periods to continue in a never-ending cycle, the public interest would not be served. In this instance, the Corps has not determined that there has been a change in the application data that would affect the public's review of the proposal. Therefore, additional comment periods are not required. 33 C.F.R. § 325.2. The framework assessment meeting referenced in this comment followed discussions with USACE during which time USACE indicated that specific modifications to the MMP would be required. (CT 125)

Applicant response to public comment that the revised MMP does not consider social, economic impacts: *The 2009 assessed value of the properties identified in the MMP was approximately $1.11 million. In 2009, the County collected approximately $12,000 in taxes on these properties. Property tax collections in Mendocino County are allocated to city, county, school, and other funds according to predetermined ratios. Mendocino County projects 2009 tax revenues of approximately $40 million. The $12,000 lost from converting the mitigation properties to tax-exempt status represents approximately 0.003% of the total tax revenue collected. It is also noted that approximately 1000 acres of property acquired for mitigation will be leased by Caltrans to private lessees. Leases may be short- or long-term depending on whether and when mitigation uses no longer allow for a leasehold. In accordance with California Streets and Highways Code sections 104.6 and 104.10, 24% of lease rental payments to Caltrans have been and will continue to be allocated to the County.* (CT 22)

Grazing experts associated with the University of California of Davis were consulted on the topic. The scale of grazing reduction in the draft MMP would likely result in a reduction of $50,000-$60,000 annually. The 2010 Mendocino County Crop report indicates that there are 6,000 acres of irrigated pasture in Mendocino County, which generated a total of $1,026,000. It should be noted that not all the land targeted for wetland rehabilitation is irrigated pasture and yields from non-irrigated pasture are generally less. Therefore, average yield in 2010 for Mendocino County was $171/acre of irrigated pasture. Applying this yield to the acreage identified for wetland rehabilitation results in a reduction of approximately $60,000 annually. This further confirms the estimates provided by the grazing experts. (CT 167)

In addition, the grazing experts indicated that grazing has an economic multiplier effect. The multiplier effect was calculated by a software program, IMPLAN, which utilizes input–output analysis to incorporate the ripple effects of the economic activity associated with the increased values of meat processing and livestock production. The model included two livestock industries—cattle ranching and other livestock (includes sheep, hogs, goats, and various minor species, but not poultry)—and animal slaughter. IMPLAN

considered the direct, indirect and induced effects; induced effects incorporate the local household spending on goods and services resulting from the labor income generated through the direct and indirect effects. (CT 167)

The multiplier for cattle grazing was 6.0. The 6.0 value-added multiplier for cattle ranching implies that every $1.0 million of value added in cattle ranching through employee compensation, indirect business taxes, proprietary and other property type income results in $5.0 million of value added in other industries. (CT 167)

With the multiplier effect the economic effect of reduced cattle grazing from the wetland rehabilitation actions in the October 2011 draft MMP are estimated at $300,000 annually. (CT 167)

It should be further noted that the project will have an endowment that according to Chapter 13 of the MMP, will generate approximately $240,000 annually for on-going land management and biological monitoring activities. The multiplier effect of the value added by this activity is undetermined. (CT 167)

Applicant response to public comment that the EIR/EIS must be revised: *Since the completion of the Final EIS/R in 2006, Caltrans has prepared an environmental revalidation in 2010 and 2011. An environmental re-validation, or re-evaluation under NEPA (§ 23 CFR 771.129), is triggered when at least one of the following occurs:*

1. *Project is proceeding to the next major federal approval*
2. *Project changes*
3. *Three year timeline for an EIS*

A reevaluation is an analysis of any changes in a proposed action, affected environment, anticipated impacts, and mitigation measures at specific times in the project development process. Guidance regarding the revalidation/re-evaluation is located at www.dot.ca.gov/ser/vol1/sec4/ch33reeval/chap33reeval.htm
The purpose of a reevaluation is to determine whether an approved environmental document remains valid and to determine whether significant changes require preparation of a supplemental or new environmental document.
The revalidations analyzed changes to environmental impacts of the project (e.g., a new type of impact, or a change in the magnitude of an existing impact), including the mitigation parcels. The 2010 revalidation analyzed potential changes to air quality, biology, community impacts, cultural resources, farmland, floodplain, hazardous waste, noise, visual, and water quality. The 2011 revalidation included potential impacts to Baker's meadowfoam and farmland (to document removal of grazing). Technical studies were prepared for each resource. Based on the environmental revalidations and supporting documentation, Caltrans concluded that a new or supplemental EIS/R was not required. (CT 21)

Applicant response to public comment that there was an EIR/S procedural error because the amount of farmland conversion for mitigation was not disclosed, evaluated, or considered: *A reevaluation is an analysis of any changes in a proposed action, affected environment, anticipated impacts, and mitigation measures at specific times in the*

project development process. Guidance regarding the revalidation/re-evaluation is located at www.dot.ca.gov/ser/vol1/sec4/ch33reeval/chap33reeval.htm
The purpose of a reevaluation is to determine whether an approved environmental document remains valid and to determine whether significant changes require preparation of a supplemental or new environmental document. The revalidations analyzed changes to environmental impacts of the project (e.g., a new type of impact, or a change in the magnitude of an existing impact), including the mitigation parcels. The 2010 revalidation analyzed potential changes to air quality, biology, community impacts, cultural resources, farmland, floodplain, hazardous waste, noise, visual, and water quality. The 2011 revalidation included potential impacts to Baker's meadowfoam and farmland (to document removal of grazing). Technical studies were prepared for each resource. Based on the environmental revalidations and supporting documentation, Caltrans concluded that a new or supplemental EIS/R was not required. (CT 21)

The original FEIS/R in 2006 (section 3.4) and the March 2010 Farmland Addendum included a discussion of project impacts to farmlands and concluded that no significant impacts would occur. Current conclusions remain the same, even in view of increases in agricultural lands acquired for mitigation purposes and changes to the potential uses on a limited number of such parcels. (CT 7)

Agricultural production will be limited only in the areas that will be receiving credits from USACE for wetland mitigation. (CT 7)

Pursuant to its responsibilities under the FPPA, Caltrans completed a Farmland Conversion Impact Rating For Corridor Type Projects (Form NRCS-AD-1006) form for submittal to the Natural Resource Conservation Service. The AD-1006 provides a basis for assessing the extent of farmland impacts relative to federally established criteria. The NRCS evaluates impacts based on soil classifications and is therefore a representation of potential farming practices rather than current uses. Crop production in the subject area is limited by the high water table and limited growing season due to late spring frosts. Agricultural activities on the mitigation parcels are limited to hay production and grazing. (CT 140)

The LESA provides lead agencies with a methodology to ensure that potentially significant effects on the environment of agricultural conversions are quantitatively and consistently considered in the environmental review process, including CEQA reviews. (Public Resources Code sec. 21095.) (CT 7)

The LESA evaluates measures of soil resource quality (representing potential farming practices as opposed to actual current uses), a given project's size, water resource availability, surrounding agricultural lands, and surrounding protected resource lands. For a given project, the factors are rated, weighted, and combined, resulting in a numeric score. The LESA score becomes the basis for making a determination of the project's potential significance. (CT 7)

For the Willits Bypass Project, the NRCS completed parts IV, V, and VII of the form. As a result of the combined assessment, the Willits Bypass Project (including the Ultimate

Project alignment and mitigation) scored just under 147 points. According to the FPPA, sites receiving a total score of less than 160, need not be given further consideration for protection, and no additional sites need to be evaluated. (CT 7)

It should be noted that as part of its analysis in Part IV of Form AD-1006, NRCS reassessed its previous analysis of farmland impacts. Based on additional information of the extent of irrigated land containing prime farmland soils, NRCS identified 353 acres of impacts to Prime and Unique Farmlands. An inquiry made to NRCS revealed that the 353 acres were comprised of 20 acres of direct impacts within the Ultimate Project alignment and 333 acres of indirect impacts within the mitigation parcels. Caltrans requested and was provided GIS mapping of the areas identified by NRCS as Prime Farmland. Subsequent to the correspondence with NRCS, the amount of land requiring grazing restriction was reduced due to concerns related to Bakers meadowfoam. As a result of these changes, Caltrans utilized the mapping received from NRCS to calculate the acreage of grazing restriction on Prime and Unique Farmlands. A total of 215.8 acres of NRCS identified Prime and Unique Farmlands will be indirectly impacted within the mitigation parcels, down from the previous total of 333 acres. It should be noted that 226.6 acres of Prime and Unique Farmlands will continue to have grazing on the mitigation parcels. The 20 acres of direct impacts within the Ultimate Project alignment would not change. A revised AD-1006 form has not been prepared, since the total indirect impact has gone down, since the time of the NRCS analysis and the previous score (147) was already below the 160 point level. (CT 7)

Since the submittal of the LESA to NRCS in May 2011, the amount of grazing to be eliminated has been reduced from nearly 1000 acres to roughly 500. Accordingly, the LESA score would be reduced commensurately. (CT 7)

Notably, areas designated for elimination of grazing were compared to mapping developed by the FMMP. All of the land slated for grazing removal is mapped as Grazing land on FMMP maps. No land within the areas set for grazing elimination was mapped as farmland (Prime Farmland, Farmland of Statewide Importance, Unique Farmland, or Farmland of Local Importance). Currently, agricultural activities on the mitigation parcels are limited to hay production and grazing. There are no row crops being cultivated. (CT 7)

It is correct that an indirect conversion of grazing land will be required for the project. Parcels were selected based on their ability to fulfill mitigation requirements of the Willits Bypass Project. The project requires extensive biological mitigation with the current proposal including approximately 1,800 acres of land. The draft MMP identified wetland mitigation actions on approximately 400 acres, which would require the indirect conversion of grazing land. (CT 140)

According to the FPPA, the removal of grazing land from agricultural production would be considered an "indirect" conversion – a limitation on or restriction of access to agricultural uses. That is, the landscape would still retain the properties that currently allow grazing to occur. As such, the project impact would not cause an irretrievable

commitment of, or irreversible change in, a non-renewable resource such as the agricultural lands here. As the biological mitigation continues to evolve, it is conceivable that areas currently slated for elimination of grazing may be reconsidered for restoration of grazing. Such application of grazing in the future would be limited to areas that have received agency approval and/or by adaptive management provisions in the Mitigation and Monitoring Plan. (CT 7)

Measures to reduce project mitigation related impacts include the continuing support of grazing throughout the Little Lake Valley where possible. Grazing on areas with special status plant populations will be continued in accordance with Caltrans consultation with DFG. Easements placed on these properties are intended to allow continued grazing on these properties in perpetuity. (CT 7)

Accordingly, Caltrans concludes that current circumstances and information lead to no substantial or significant changes in earlier results. An addendum/revalidation to the EIS/R setting forth the foregoing efforts to identify and address significant impacts is being prepared. (CT 7)

Applicant response to public comment that traffic studies cited during the EIR/S process were incorrect: *The commenter's suggest that traffic forecasts for the project are not valid and assumptions used to determine bypass traffic are incorrect. Traffic forecasts for the project were developed based on projections for growth not just in Willits and Brooktrails, but in the County and region as well. Both the Willits and County of Mendocino general plans project additional growth. The Brooktrails Specific Plan calls for an additional 3,500 residents. The State of California, Department of Finance, Demographic Research Unit, indicates an additional 2 million residents will be added to the State by 2015 (source: State of California, Department of Finance, P-2 Short-term Statewide Population Projections 1995-2015, Sacramento, California, May 2010). It would be unreasonable to assume that population increases would not occur in Willits and surrounding regions. Traffic comes with population growth and any new highway project must "... adequately serve the existing and planned future traffic of a highway." (Source: 23 U.S.C. §109(a)(1))*(CT 6)

As the commenter notes, there has been a short-term decline in traffic on US 101 in recent years. This phenomenon is not unique to Willits or the region. The current economic recession has affected traffic levels throughout the country. There are record unemployment rates and lack of consumer spending. According to the traffic research firm Inrix, "population centers experiencing high unemployment, reduced tourism and/or less convention activity, experienced the highest drops in traffic congestion.....". Inrix finds that this trend is starting to reverse in major urban areas where congestion levels have started to rise (source: INRIX National Traffic Scorecard). Rural areas generally lag behind when it comes to economic recovery; consequently, traffic levels in Willits may not rebound as quickly. In sum, there is no valid basis for assuming any recent decrease in local traffic volume is of a permanent nature. (CT 6)

One of the early alternatives was Alternative TSM, a two-way non-freeway facility using a combination of new and existing roadways. Alternative TSM was rejected by the Project Development Team (PDT) because it did not meet the project purpose and need of reducing delay, or improving safety for interregional traffic and because of severe environmental impacts. The PDT included members from: Caltrans, Mendocino Council of Governments, Mendocino County Board of Supervisors, Mendocino County Planning Department, North Coast County Supervisors Association, Willits City Council, Willits Planning Department, Brooktrails Township Community Services District, Sherwood Valley Rancheria, California Department of Fish and Game, California Highway Patrol, Federal Highways Administration, US Army Corps of Engineers, US Environmental Protection Agency and the US Fish and Wildlife Service. (CT 72)

Greenhouse Gas
One of the main strategies in the Department's Climate Action Program to reduce GHG emissions is to make California's transportation system more efficient. The highest levels of carbon dioxide from mobile sources, such as automobiles, occur at stop-and-go speeds (0-25 miles per hour) and speeds over 55 mph; the most severe emissions occur from 0-25 miles per hour (see Figure below). To the extent that a project relieves congestion by enhancing operations and improving travel times in high congestion travel corridors GHG emissions, particularly CO_2, may be reduced. This is the basis of the conclusion in the FEIS/R. A qualitative analysis is an acceptable means of assessing impacts from GHG even under the most recent CEQA Guideline amendments of 2011 (see CEQA Guideline 15064.4).

While climate change and GHG reduction is a concern at the federal level; no legislation or regulations have been enacted specifically addressing GHG emissions reductions and climate change. In December 2009, EPA did issue final endangerment findings for GHGs but has not issued any regulations (CT 160).

A direct link to Global Climate Change can't be made. Greenhouse gasses such as CO2 are reduced when congestion is reduced. Most air quality models and the information above does indicate that emissions decrease as speeds increase up to a certain level (for example 55 MPH). From that point as speeds increase the level of emissions increase. An example of a government site showing the NOx curve is:
http://ntl.bts.gov/DOCS/images/images/EMVEM/MOBF7.GIF

5. **Nine letters received with comments that the MMP has significant impacts. Following reasons cited: land amount needed for mitigation so great that the MMP needs its own environmental review per CEQA and NEPA requirements; MMP impacts were not analyzed per CEQA and NEPA; Phase II mitigation impacts not analyzed.**

Applicant response to public comment that the MMP has its own significant impacts requiring a separate NEPA & CEQA review (based on land requirements impacts primarily): **See response to comment #4.**

Applicant response to public comment that MMP impacts were not analyzed per CEQA and NEPA: **See response to comment #2.**

Applicant response to public comment that Phase II mitigation impacts were not analyzed:

Mitigation Phasing

Impacts of the project for both Phase 1 and Phase 2 are disclosed in the MMP, see Section 2.2.

Mitigation will be conducted concurrent with the phasing of project construction. The current MMP addresses the mitigation needs for construction of Phase 1. A separate mitigation plan will be developed prior to construction of Phase 2 of the Willits Bypass Project. USACE approval of this additional proposal will be required prior to the beginning of the work associated with Phase 2. The Phase 1 project will be a fully functional interim facility on the Modified J1T alignment as selected in the NEPA 404 Integration Process. Right-of-way was purchased for a four lane project. The NEPA 404 process considered multiple alignments through the Little Lake Valley and determined that the Modified J1T would be the least damaging practicable alternative (LEDPA). Phase I constructs a four-lane southern interchange and 1.7 miles of the ultimate four-lane freeway before conforming to the future southbound lanes and bridges as an interim facility.

6. **Thirty-one letters received with comments concerning Economic impacts of MMP (due to removal of grazing). Following reasons cited: the amount of land removed from the Mendocino County tax base has not been considered; Economic impacts to agriculture not considered; where is the documentation (informational proof) that removal of grazing should be primary tool to enhance wetlands?**

Applicant Response to public comment regarding economic impacts to local tax base caused by MMP: *The 2009 assessed value of the properties identified in the MMP was approximately $1.11 million. In 2009, the County collected approximately $12,000 in taxes on these properties. Property tax collections in Mendocino County are allocated to city, county, school, and other funds according to predetermined ratios. Mendocino County projects 2009 tax revenues of approximately $40 million. The $12,000 lost from converting the mitigation properties to tax-exempt status represents approximately 0.003% of the total tax revenue collected (based on annual figures from 2009). It is also noted that approximately 1000 acres of property acquired for mitigation will be leased by Caltrans to private lessees. Leases may be short- or long-term depending on whether and when mitigation uses no longer allow for a leasehold. In accordance with California Streets and Highways Code sections 104.6 and 104.10, 24% of lease rental payments to Caltrans have been and will continue to be allocated to the County. (CT 22) Caltrans collects $65,960 per year in total rental income from the Willits properties at this time. The 24% is allocated to the County, which equates to a $15,830.40/yr. payment. These totals are subject to change based on any revisions to the tenancy options. (CT)*

Applicant response to public comment that economic impacts to agriculture were not considered: *Grazing experts associated with the University of California of Davis were consulted on the topic. The scale of grazing reduction in the draft MMP would likely result in a reduction of $50,000-$60,000 annually. The 2010 Mendocino County Crop report indicates that there are 6,000 acres of irrigated pasture in Mendocino County, which generated a total of $1,026,000. It should be noted that not all the land targeted for wetland rehabilitation is irrigated pasture and yields from non-irrigated pasture are generally less. Therefore, average yield in 2010 for Mendocino County was $171/acre of irrigated pasture. Applying this yield to the acreage identified for wetland rehabilitation results in a reduction of approximately $60,000 annually. This further confirms the estimates provided by the grazing experts.* (CT 167)

In addition, the grazing experts indicated that grazing has an economic multiplier effect. The multiplier effect was calculated by a software program, IMPLAN, which utilizes input–output analysis to incorporate the ripple effects of the economic activity associated with the increased values of meat processing and livestock production. The model included two livestock industries—cattle ranching and other livestock (includes sheep, hogs, goats, and various minor species, but not poultry)—and animal slaughter. IMPLAN considered the direct, indirect and induced effects; induced effects incorporate the local household spending on goods and services resulting from the labor income generated through the direct and indirect effects. (CT 167)

The multiplier for cattle grazing was 6.0. The 6.0 value-added multiplier for cattle ranching implies that every $1.0 million of value added in cattle ranching through employee compensation, indirect business taxes, proprietary and other property type income results in $5.0 million of value added in other industries. (CT 167)

With the multiplier effect the economic effect of reduced cattle grazing from the wetland rehabilitation actions in the October 2011 draft MMP are estimated at $300,000 annually. (CT 167)

It should be further noted that the project will have an endowment that according to Chapter 13 of the MMP, will generate approximately $240,000 annually for on-going land management and biological monitoring activities. The multiplier effect of the value added by this activity is undetermined. (CT 167)

Farmland

The original FEIS/R in 2006 (section 3.4) and the March 2010 Farmland Addendum included a discussion of project impacts to farmlands and concluded that no significant impacts would occur. Current conclusions remain the same, even in view of increases in agricultural lands acquired for mitigation purposes and changes to the potential uses on a limited number of such parcels. (CT 7)

Agricultural production will be limited only in the areas that will be receiving credits from USACE for wetland mitigation. (CT 7)

Pursuant to its responsibilities under CEQA and NEPA, Caltrans completed a Farmland Conversion Impact Rating form (NRCS Form AD-1006 (03-02)) for submittal to the NRCS. The form employs a Land Evaluation and Site Assessment Model (LESA) developed by the U.S. Soil Conservation Service and recognized by the California Resources Agency. (CT 7)

The LESA provides lead agencies with a methodology to ensure that potentially significant effects on the environment of agricultural conversions are quantitatively and consistently considered in the environmental review process, including CEQA reviews. (Public Resources Code sec. 21095.) (CT 7)

The LESA evaluates measures of soil resource quality (representing potential farming practices as opposed to actual current uses), a given project's size, water resource availability, surrounding agricultural lands, and surrounding protected resource lands. For a given project, the factors are rated, weighted, and combined, resulting in a numeric score. The LESA score becomes the basis for making a determination of the project's potential significance. (CT 7)

For the Willits Bypass Project, the NRCS completed parts IV, V, and VII of the form. As a result of the combined assessment, the Willits Bypass Project (including the Ultimate Project alignment and mitigation) scored just under 147 points. According to the FPPA, sites receiving a total score of less than 160, need not be given further consideration for protection, and no additional sites need to be evaluated (see Re-Evaluation, pages 78-80). (CT 7)

Since the submittal of the LESA to NRCS in May 2011, the amount of grazing to be eliminated has been reduced from nearly 1000 acres to roughly 400. Accordingly, the LESA score would be reduced commensurately. (CT 7)

Notably, areas designated for elimination of grazing were compared to mapping developed by the FMMP. All of the land slated for grazing removal is mapped as Grazing land on FMMP maps. No land within the areas set for grazing elimination was mapped as farmland (Prime Farmland, Farmland of Statewide Importance, Unique Farmland, or Farmland of Local Importance). Currently, agricultural activities on the mitigation parcels are limited to hay production and grazing. There are no row crops being cultivated. (CT 7)

According to the FPPA, the removal of grazing land from agricultural production would be considered an "indirect" conversion – a limitation on or restriction of access to agricultural uses. That is, the landscape would still retain the properties that currently allow grazing to occur. As such, the project impact would not cause an irretrievable commitment of, or irreversible change in, a non-renewable resource such as the agricultural lands here. As the biological mitigation continues to evolve, it is conceivable that areas currently slated for elimination of grazing may be reconsidered for restoration of grazing. Such application of grazing in the future would be limited to

areas that have received agency approval and/or by adaptive management provisions in the Mitigation and Monitoring Plan. (CT 7)

Measures to reduce project mitigation related impacts include the continuing support of grazing throughout the Little Lake Valley where possible. Grazing on areas with special status plant populations will be continued in accordance with Caltrans consultation with DFG. Easements placed on these properties are intended to allow continued grazing on these properties in perpetuity. (CT 7)

It should be noted that as part of its analysis in Part IV of Form AD-1006, NRCS reassessed its previous analysis of farmland impacts. Based on additional information of the extent of irrigated land containing prime farmland soils, NRCS identified 353 acres of impacts to Prime and Unique Farmlands. An inquiry made to NRCS revealed that the 353 acres were comprised of 20 acres of direct impacts within the Ultimate Project alignment and 333 acres of indirect impacts within the mitigation parcels. Caltrans requested and was provided GIS mapping of the areas identified by NRCS as Prime Farmland. Subsequent to the correspondence with NRCS, the amount of land requiring grazing restriction was reduced due to concerns related to Bakers Meadowfoam. As a result of these changes, Caltrans utilized the mapping received from NRCS to calculate the acreage of grazing restriction on Prime and Unique Farmlands. A total of 215.8 acres of NRCS identified Prime and Unique Farmlands will be indirectly impacted within the mitigation parcels, down from the previous total of 333 acres. It should be noted that 226.6 acres of Prime and Unique Farmlands will continue to have grazing on the mitigation parcels. The 20 acres of direct impacts within the Ultimate Project alignment would not change. A revised AD-1006 form has not been prepared, since the total indirect impact has gone down, since the time of the NRCS analysis and the previous score (147) was already below the 160 point level. (CT 7)

Accordingly, Caltrans concludes that current circumstances and information lead to no substantial or significant changes in earlier results. An addendum/revalidation to the EIS/R setting forth the foregoing efforts to identify and address significant impacts is being prepared. (CT 7)

Applicant response to public concern for informational proof regarding the conclusion that removal of grazing should be the primary tool to enhance wetlands: *The statement that the removal of grazing (and the rehabilitation of herbaceous and woody vegetation) is expected to result in decreases in soil compaction, erosion and nutrient/sediment loads appears in section 2.6.2.2 (Objectives - Summary of Mitigation Actions – Rehabilitation). While the stated objectives of wetland and other waters rehabilitation activities include decreases in soil compaction, erosion and nutrient/sediment loads, actual USACE-approved mitigation credit for proposed mitigation actions, outlined in Chapter 6 of the MMP, are restricted to vegetation structural development and successional composition change.* (Caltrans 1/11/12)

Caltrans agrees that properly managed grazing practices can maintain healthy wetland vegetation conditions for certain wetland habitat types and reduce competition from

nonnative vegetation. The purpose of the proposed removal of grazing to allow successional development and planting of herbaceous and woody wetland species so that those areas can reach their climax community, which is a different habitat type than what exists in the presence of grazing. (Caltrans 1/11/12)

To be considered mitigation, USACE requires that there be no-net-loss of wetlands. Because the mitigation parcels are predominantly composed of existing wetlands there is not a sufficient amount of land area on which to establish (create) the amount of wetland area needed to meet the no-net-loss policy. USACE has agreed to allow Caltrans to mitigate for the deficit of wetland establishment acres by implementing a wetland rehabilitation strategy that would result in a "functional lift (improvement/change)" in habitat quality and value over baseline conditions. (Caltrans 1/11/12)

The removal of grazing is expected to result in decreases in erosion and decreases in sediment/nutrient/bacteria load by increasing the amount of residual dry matter on the ground, both in uplands and in wetlands, thereby reducing the amount of sediment entering drainages. Many studies conducted on grasslands in temperate areas of the United States have shown that the amount of runoff is significantly influenced by the amount of vegetation. Runoff decreases with increasing vegetation. The vegetation retards runoff and generally allows a greater opportunity for infiltration into the soil and reduces soil erosion. Standing dry or dead vegetation may also reduce runoff by increasing net rain loss due to interception and direct evaporation. Areas under complete rest from grazing have rates of infiltration that are statistically higher than grazed areas at any intensity. Under complete rest from grazing infiltration, percolation, and water storage capacity are increased. These factors may eventually affect vegetational change. Increased vegetative cover and the corresponding decreases in runoff and increases in infiltration are expected to improve the USACE and EPA-defined wetland functions of groundwater recharge, flood-flow attenuation, sediment and toxicant retention, and nutrient removal and transformation. (Caltrans 1/11/12)

7. **Sixteen letters received requesting a Public Hearing be held regarding the final MMP.**

Applicant Response: Response from applicant not required.

8. **Twenty people submitted comments unrelated to the MMP. Comment regarding the Bypass, not the MMP.**

Applicant Response: Response from applicant not required.

9. **Twenty-eight letters in support of the MMP/Project were received. Support of the MMP. General reasons are: meets or exceeds mitigation requirements; LLV will benefit from public management of mitigation lands; socio-economic benefits; educational benefits.**

Applicant Response public comment in favor of the MMP: *The USACE found that some elements of the Draft Mitigation and Monitoring Proposal required edits. Edits to the*

MMP were made to the performance standards for rehabilitation sites, to fix data errors, and a final decision was made on the assessment of mitigation for temporary impacts.

Performance standards for rehabilitation sites will now require that Caltrans achieve a lift on a specified sub-set of species within the targeted area. The percent of native species cover now applies to the entire targeted area. Under the initial proposal only the areas of non-native species were targeted for increases in native species composition. To receive 0.1 credit/acre, a 10 percentage point increase in selected native species composition will be required. To receive 0.2 credit/acre, a 40 percentage point increase in selected native species composition will be required. To receive 0.3 credit/acre, a 70 percentage point increase in selected native species composition will be required. (CT 28)

For temporary impacts, the USACE required that Caltrans mitigate at the ratios specified in Section 2.3.1, rather than Caltrans proposal in Section 2.3.2. USACE agreed that no mitigation would be required for areas that would not be filled. (CT 28)

The MMP was strengthened by removing and editing errors in the mapping and data. The above adjustments resulted in the requirement for Caltrans to increase its level of wetland rehabilitation (e.g. Type 2 rehabilitation areas may now be targeted for Type 4 rehabilitation). (CT 28)

10. **Six letters received with comments regarding Grazing Plans: grazing plans (prescriptions) have not been presented to the public; what is the science behind the grazing plans?; what are the goals of the grazing plans? How does grazing affect wetlands?; Corps needs final grazing plans to be able to assess impacts in order to know if MMP will offset those impacts.**

Applicant response to public concern that grazing plans were presented to the public for comment: *None of the properties covered in this plan and included as part of the proposed Section 404 mitigation will be grazed by livestock. The areas that were shown as grazed mitigation parcels satisfy the needs of the RWQCB and DFG mitigation requirements, but are not considered as mitigation in this MMP. For continuity, Caltrans included information on the areas that continue to be part of the overall mitigation effort. The grazing plan associated with the grazed parcels will be included in the State MMP, or will be provided to the RWQCB and DFG as a standalone document for their review.* (CT 164)

The draft MMP circulated in October of 2011 included wetland mitigation actions on approximately 400 acres that required the removal of grazing to achieve credit toward meeting no-net loss. Since, grazing will be removed, a grazing management plan was not provided as part of the MMP considered by USACE. In addition, no credits were applied to the areas that would continue to have cattle grazing. (CT 164)

Applicant response to public concern regarding the science behind the grazing plans: *None of the properties covered in this plan and included as part of the proposed Section 404 mitigation will be grazed by livestock. The areas that were shown as grazed*

mitigation parcels satisfy the needs of the RWQCB and DFG mitigation requirements, but are not considered as mitigation in this MMP. For continuity, Caltrans included information on the areas that continue to be part of the overall mitigation effort. The grazing plan associated with the grazed parcels will be included in the State MMP, or will be provided to the RWQCB and DFG as a standalone document for their review. (CT 164)

The draft MMP circulated in October of 2011 included wetland mitigation actions on approximately 400 acres that required the removal of grazing to achieve credit toward meeting no-net loss. Since, grazing will be removed, a grazing management plan was not provided as part of the MMP considered by USACE. In addition, no credits were applied to the areas that would continue to have cattle grazing. (CT 164)

As stated in the MMP, the absence of a practical or institutionally recommended functional assessment process under the 2008 Mitigation Rule requires USACE to rely on best professional judgment.. Typically, determinations are based on rendered field observations at the impact and mitigation sites. In this case, best professional judgment is supported by numerous field investigations by USACE and Caltrans, and their consultant staff experienced in fields such as restoration ecology, soil science and botany. During field investigations hydrology, soils, vegetation, soil deposition, erosion, and current land condition, were examined and considered as part of the best professional judgment determinations. The extensive amount of time Caltrans has spent collecting data and observing the current conditions of the valley increases, to the most practical extent possible, the likelihood of mitigation success.(CT 112)

To determine what was needed for no net loss of functions and services of waters of the United States, USACE undertook a direct assessment (USACE Phase 1 Impact Assessment) of the permanent and temporary impacts on waters of the United States to evaluate the quality of existing wetlands (which are predominantly wet meadow), during winter 2010 – 2011 and developed a credit rating system for wetland rehabilitation actions.

This assessment was used to assign preliminary mitigation ratios to impacts based on the current functions and services of the affected wetlands. Subsequent to the assessment, USACE and Caltrans held several meetings to discuss the wetland mitigation approach and associated mitigation ratios. The result of these meetings was the basis for the mitigation action approach and wetland mitigation crediting system.

Caltrans agrees that properly managed grazing practices can maintain healthy wetland vegetation conditions for certain wetland habitat types and reduce competition from nonnative vegetation. The purpose of the proposed removal of grazing to allow successional development and planting of herbaceous and woody wetland species so that those areas can reach their climax community, which is a different habitat type than what exists in the presence of grazing. (CT 19)

To be considered mitigation, USACE requires that there be no-net-loss of wetlands. Because the mitigation parcels are predominantly composed of existing wetlands there is

not a sufficient amount of land area on which to establish (create) the amount of wetland area needed to meet the no-net-loss policy. USACE has agreed to allow Caltrans to mitigate for the deficit of wetland establishment acres by implementing a wetland rehabilitation strategy that would result in a "functional lift (improvement/change)" in habitat quality and value over baseline conditions. (CT 19)

USACE performed an assessment of the quality of existing wetlands, which are predominantly wet meadow, during winter 2010 – 2011 and developed a credit rating system for wetland rehabilitation actions (see response to comment 13). The assessment concluded that continued grazing would not result in a functional lift over baseline conditions because it would not result in a manipulation to the current herbaceous wetland habitat (e.g., an increase in native species cover (area) or species composition, an increase in habitat structure provided by herbaceous and woody vegetation). (CT 19)

Applicant response to public comment inquiry with respect to grazing and how it relates to the MMP: what are the goals of the grazing plans? *Since the USACE mitigation strategy does not incorporate grazing a grazing plan it is not a necessary component of the USACE MMP. The grazing plan that is currently under development will be incorporated into the State MMP, which will include grazing.* (CT 190)

Applicant response to public comment inquiry with respect to grazing and how it relates to the MMP: how does grazing affect wetlands?: *Caltrans agrees that properly managed grazing practices can maintain healthy wetland vegetation conditions for certain wetland habitat types and reduce competition from nonnative vegetation. The purpose of the proposed removal of grazing to allow successional development and planting of herbaceous and woody wetland species so that those areas can reach their climax community, which is a different habitat type than what exists in the presence of grazing.* (CT 19)

Applicant response to public comment that the Corps needs final grazing plans to properly assess impacts to wetlands vs. what will off-set those impacts: *None of the properties covered in this plan and included as part of the proposed Section 404 mitigation will be grazed by livestock. The areas that were shown as grazed mitigation parcels satisfy the needs of the RWQCB and DFG mitigation requirements, but are not considered as mitigation in this MMP. For continuity, Caltrans included information on the areas that continue to be part of the overall mitigation effort. The grazing plan associated with the grazed parcels will be included in the State MMP, or will be provided to the RWQCB and DFG as a standalone document for their review.* (CT 164)

The draft MMP circulated in October of 2011 included wetland mitigation actions on approximately 400 acres that required the removal of grazing to achieve credit toward meeting no-net loss. Since, grazing will be removed, a grazing management plan was not provided as part of the MMP considered by USACE. In addition, no credits were applied to the areas that would continue to have cattle grazing. (CT 164)

Since the USACE mitigation strategy does not incorporate grazing a grazing plan it is not a necessary component of the USACE MMP. The grazing plan that is currently

under development will be incorporated into the State MMP, which will include grazing. (CT 190)

Areas with grazing prescriptions have not been evaluated for credit by the USACE and are not a subject of the current MMP under review as part of the 404 permit review. Both the RWQCB and CDFG prepared their permits and agreements based on the 2010 MMP, which did include the requirement for prescribed grazing. Conditions within these permits and agreements require that a grazing management plan be prepared. Implementation of this grazing management plan will be required to be concurrent with project construction. The grazing management plan has yet to be finalized by Caltrans in coordination with RWQCB and CDFG. (CT 29)

11. Three letters received commenting: how is the MMP consistent with the Mendocino General Plan which contains numerous goals and policies specific to the protection of agriculture?

Applicant Response: *Mendocino County's General Plan contains many principals, goals, and policies designed to protect its agriculture lands and open space, including:*

- *Principle 2-1a: Conservation of Mendocino County's natural resources, farmland, forest land, and open spaces is essential to the rural quality of life desired by residents and visitors alike.*
- *Policy RM-100: Maintain extensive agricultural land areas and limit incompatible uses.*
- *Policy RM-101: The County supports policies and programs to maintain and enhance the viability of agricultural operations and retention of agricultural land.*
- *Policy RM-126: New development should incorporate open space and resource conservation measures, coordinated with the surrounding area.*
- *Policy RM-127: Support land trusts and similar organizations in identifying and protecting lands and corridors with significant resource, recreational or scenic values.* (CT 31)

The County also supports the use of land conservancies and conservation easements as tools to protect agriculture and open space (The County of Mendocino General Plan, Chapter 4: Resource Management Element, Aug. 2009). The project includes conservation easements on several mitigation parcels. (CT 31)

The acquisition of property for mitigation is consistent with the current policies and plans of Mendocino County. (CT 31)

12. Seven letters received regarding: Wetland Establishment: how will it be constructed; how will it be managed; will conflict occur if neighboring parcels are managed for agriculture and wetlands?; opposed to new establishment sites (in the fluvaquents) because lacks information; is there an adequate source of native plant material?; establishment credits proposed where wetlands presently occur; what if hydrologic data is incorrect?

Applicant response to public comment regarding wetland establishment construction: *The wetland establishment design approach is summarized in Section 7.1.1.1 of the Draft*

MMP. The wetland "establishment" implementation actions are summarized on a parcel-by-parcel basis in Section 7.3, and include site specific graphics (Figures 7-3 through 7-6), and with further detailed in Section 7.3.2.1

The wetland establishment (creation) sites involve far more than just "planting a few species under artificial conditions". The proposed wetland sites involve grading and re-contouring the landscape so that it has the hydrologic system necessary to allow the development of hydric soils and a vegetation community dominated by wetland species. While it is likely that wetland plants species will colonize on their own once the ground contours allow for the extended hydrology necessary for wetland development it is good practice to jumpstart this process by "artificially" seeding and planting the wetland with the desired species. This jumpstart reduces temporal losses. During this early plant establishment period (usually the first three years) the plants will be watered to help with survival rates. After this initial period, human intervention will cease, at which time a successful wetland will be able to sustain itself. At this point, the wetland is providing the needed functions to the environment and it becomes irrelevant whether the wetland originated through mechanical contouring or a natural event.

Caltrans is proposing to create wetlands that meet the definition of the Section 404 of the Clean Water Act. (CT 142)

Caltrans has successfully implemented countless mitigation projects, including a large wetland mitigation bank that has been active for over a decade. Additionally, Caltrans has implemented successful mitigation projects such as Beach Lake Mitigation Bank. Beach Lake is a Caltrans-created mitigation bank that has been in successful operation for over a decade and comprises 92 acres of wetlands and riparian habitat. This bank has been approved by multiple federal and state resource agencies. Other recent examples include Caltrans' mitigation for Lincoln Bypass in Placer County, and the Cleone Mitigation Bank in Mendocino County. (CT 219)

Wetland establishment on the Watson parcel will occur where small inclusions of existing upland occur within the wet meadow complex. The upland areas will be graded to match, or be slightly lower than, the elevation of adjacent wetland habitat and will be seasonally saturated or inundated by rainfall and/or groundwater. The newly graded wetlands will be tied into existing topographic contours. (CT 119)

Applicant response to public comment regarding management of wetland establishment sites: *The MCRCD and CDFG have provided Caltrans with a "letter of intent" expressing their willingness to act as the land manager/property owner and endowment holder/CE holder, respectively. In addition, the permits issued by CDFG in 2010, require that the endowment funds be deposited with CDFG. This represents both an obligation on the behalf of Caltrans to supply the endowment funds and of CDFG to accept them. Cooperative agreements between Caltrans and these agencies will be executed after permits are issued and the CTC has voted to approve the project. This is consistent with Caltrans standard practice for executing cooperative agreements based upon permit requirements. It is impractical for Caltrans to execute cooperative agreements that are*

based upon assumed permit requirements, prior to issuance of the permits. It is not standard practice to include these agreements in an MMP. (CT234)

Applicant response to public comment/concern regarding resolution if conflict occurs between neighboring parcels managed for agriculture and wetlands: *If the non-grazed mitigation areas become a fire hazard due to thatch or understory accumulation, as determined by local fire officials, those areas in question can be thinned, mowed, or control burned to the minimum extent necessary to no longer pose a threat. Another option is to provide a firebreak around the perimeter of the area, if the fire officials consider this efficient; however firebreak placement would need to consider and avoid potential effects on sensitive resources (e.g., disking in wet meadow). Care would be taken to implement the least amount of human management as possible to remediate the problem in the ungrazed mitigation areas. Chapter 12 contains language for fire hazard management. In emergency situations human safety and the protection of private property will take priority over complying with mitigation commitments.*

Localized flooding in the valley is generally related to debris or erosion problems in the creeks. In cases where it is clear that an action taken by the land manager (or in some cases a lack of action) in order to comply with the long-term management commitments threatens to flood a neighboring property immediate action will be taken to prevent such flooding. For example, where flood debris related to our mitigation threatens to cause a back up of water and potentially flood a neighboring property, or threatens culverts, bridges, or other structures, the debris will be removed. Language in the final MMP has been strengthened to clarify that the land manager will take immediate action to protect the interests of the neighboring properties should they be threatened by actions related to Caltrans' mitigation. In emergency situations human safety and the protection of private property will take priority over complying with mitigation commitments.

One of the stated objectives of the MMP is to manage invasive plants and maintain their cover below baseline (existing) levels on the offsite mitigation properties (page 2-19). The invasive plant performance standard will be used to measure this objective. This very restrictive performance standard, which will be in effect in perpetuity, will ensure that there is no increase in invasive species on Caltrans lands. Because there will be no increase in invasive species there are no foreseeable impacts to neighboring properties. Chapters 8, 9, 10 and 11 of the MMP discuss the performance standard and lay out how invasive species will be monitored and managed.

Caltrans, as well as the resource agencies, recognizes the concerns of valley landowners regarding the subject of stream maintenance on the stream segments that transect the mitigation parcels. While stream management serves a purpose for landowners it does result in some degradation of stream corridors which provides habitat for salmonids and other aquatic resources. Caltrans understands that there may be a need to address sedimentation accumulation in streams such as Outlet and Davis Creek if it jeopardizes threatened or endangered species or threatens to induce flooding of a neighboring property. Caltrans has added a section in the adaptive management chapter that will allow the land manager the flexibility to work with the stakeholder regulatory agencies to perform maintenance on streams if needed. Caltrans will consider the following items

when developing future stream management practices: the need for, and type of, ongoing maintenance practices, existing agreements between landowners and DFG, baseline survey results, and the mitigation requirements for stream corridors (e.g., riparian vegetation establishment, increase in shade provided by riparian vegetation).

Applicant response to public comment opposing new establishment sites in fluvaquent soil types adjacent to stream (opposition based on alleged lack of information): *The Group 2 wetland locations are not located on existing wetlands. The jurisdictional wetland delineations determined that the land surfaces on which the Group 2 wetlands are now proposed are uplands. The Group 2 wetland locations are not located along streams but occur on the adjacent floodplain which is only hydrologically connected to the streams during high flow events. The design for the establishment of Group 2 wetlands does not include the removal of natural or man-made berms.*

Caltrans has performed baseline erosion and drainage studies as part of the MMP planning process. The assessment of drainage patterns and deposition identified that overbank deposition is somewhat limited within the upper stream reaches in the impact and mitigation areas, due to the incised nature and flashy hydrologic regime of most of these reaches. Stream banks and/or constructed levees are generally very high (ranging from 5 to over 20 feet). Flow is typically confined in these channels during almost all flow events, except for large flood events greater than the 5- to 10-year peak discharge. Overbank deposition areas do appear adjacent to stream reaches with lower banks and levees. Most of these areas are in the northern part of Little Lake Valley where the channels tend to be wider and shallower (with generally lower stream banks).

Overbank flow and sediment deposition is a natural process associated with all stream channels and floodplains and some level of sediment deposition is expected to occur on all the mitigation lands, including existing wet meadows and riparian habitat. Based on site observations, there are no recent, noticeable sediment deposition areas at the Group 2 wetland sites. The geomorphic assessment concluded that the most significant sediment deposition occurred primarily as a result of upstream land uses (e.g., logging). Since that time, and with changes to upstream land uses, there do not appear to have been recent episodes of large sediment deposit. Current sediments carried in the stream channels are expected to primarily be the result of localized bank erosion and natural stream processes and are contained within the stream corridors except during high flows at which time the sediments predominantly consist of fines.

Another factor that would reduce the likelihood of significant sediment deposition in Group 2 wetlands is that the riparian corridors will be widened behind their current extent (i.e., woody riparian plants will be planted on the upland areas between the stream corridors and the proposed Group 2 wetlands).

Wetland establishment (creation) for any project requires that upland habitat be converted to wetlands thereby resulting in a decrease in upland surfaces. Group 1 and 2 wetland establishment will result in a decrease in upland habitat however uplands will still be present adjacent to these wetlands.

Applicant response to public concern that there could be a lack of native plant material to plant establishment sites with: *Caltrans recognizes that the proposed mitigation for the USACE mitigation will require a significant quantity of plant and seed material. Caltrans biologists and ecologists are currently coordinating to identify potential sources for plant and seed material. It is anticipated that Caltrans will contract with one or more native plant nurseries to propagate container plant stock. Several of the species identified in the seed mix are commercially available while others will need to be collected from onsite or other sources. The application rate for some species may be modified if sufficient seed material cannot be collected. The application for one or more of the other species in the seed mix would be increased should this situation arise.* (CT 128)

Applicant response to public concern that MMP proposes establishment credits where wetlands presently exist: *The MMP accounts for the temporary impacts associated with implementing wetland establishment at these locations. The areas in existing wetlands temporarily impacted are not considered wetland establishment areas and as such do not contribute to Caltrans' creation credit. When the USACE MMP is finalized, Appendix C mitigation action maps will identify the location and quantity of temporary impacts associated with each established wetland. These temporary impact areas will be restored during the construction of Group 1 wetlands.*

Wetland establishment on the Watson parcel will occur where small inclusions of existing upland occur within the wet meadow complex. The upland areas will be graded to match, or be slightly lower than, the elevation of adjacent wetland habitat and will be seasonally saturated or inundated by rainfall and/or groundwater. The newly graded wetlands will be tied into existing topographic contours.

The MMP accounts for the temporary impacts associated with implementing wetland establishment at these locations. When the USACE MMP is finalized, Appendix C mitigation action maps will identify the location and quantity of temporary impacts associated with each established wetland. These temporary impact areas will be restored during the construction of Group 1 wetlands.

The Group 2 wetland locations are not located on existing wetlands. The jurisdictional wetland delineations determined that the land surfaces on which the Group 2 wetlands are now proposed are uplands. The Group 2 wetland locations are not located along streams but occur on the adjacent floodplain which is only hydrologically connected to the streams during high flow events. The design for the establishment of Group 2 wetlands does not include the removal of natural or man-made berms.

Applicant response to public comment: what corrective actions would be taken if hydrologic data at establishment sites are incorrect? *Sedimentation/Flooding*
As stated in earlier responses in the document, Caltrans, as well as the resource agencies, recognizes the concerns of valley landowners regarding the subject of stream maintenance on the stream segments that transect the mitigation parcels. While stream management serves a purpose for landowners it does result in some degradation of stream corridors which provides habitat for salmonids and other aquatic resources.

Caltrans understands that there may be a need to address sedimentation accumulation in streams such as Outlet and Davis Creek if it jeopardizes threatened or endangered species or threatens to induce flooding of a neighboring property. Caltrans has added a section in the adaptive management chapter that will allow the land manager the flexibility to work with the stakeholder regulatory agencies to perform maintenance on streams if needed. Caltrans will consider the following items when developing future stream management practices: the need for, and type of, ongoing maintenance practices, existing agreements between landowners and DFG, baseline survey results, and the mitigation requirements for stream corridors (e.g., riparian vegetation establishment, increase in shade provided by riparian vegetation). (CT 78)

Overbank flow and sediment deposition is a natural process associated with all stream channels and floodplains and some level of sediment deposition is expected to occur on all the mitigation lands, including existing wet meadows and riparian habitat. The geomorphic assessment concluded that the most significant sediment deposition occurred primarily as a result of upstream land uses (e.g., logging). Since that time, and with changes to upstream land uses, there do not appear to have been recent episodes of large sediment deposit. Current sediments carried in the stream channels are expected to primarily be the result of localized bank erosion and natural stream processes and are contained within the stream corridors except during high flows at which time the sediments predominantly consist of fines. (CT 78)

The mitigation plan does not include significantly altering stream corridors, or propose other mitigating actions or long-term management that will contribute to an overall increase in floodplain elevation.(CT 78)

13. Three comments received with concerns that the MMP actions conflict with agriculture: if wetland succession retains sediment which results in a raised water table it will adversely affect property managed for agriculture. How will that condition be resolved?

Applicant response: *Sedimentation/Flooding*
As stated in earlier responses in the document, Caltrans, as well as the resource agencies, recognizes the concerns of valley landowners regarding the subject of stream maintenance on the stream segments that transect the mitigation parcels. While stream management serves a purpose for landowners it does result in some degradation of stream corridors which provides habitat for salmonids and other aquatic resources. Caltrans understands that there may be a need to address sedimentation accumulation in streams such as Outlet and Davis Creek if it jeopardizes threatened or endangered species or threatens to induce flooding of a neighboring property. Caltrans has added a section in the adaptive management chapter that will allow the land manager the flexibility to work with the stakeholder regulatory agencies to perform maintenance on streams if needed. Caltrans will consider the following items when developing future stream management practices: the need for, and type of, ongoing maintenance practices, existing agreements between landowners and DFG, baseline survey results, and the mitigation requirements for stream corridors (e.g., riparian vegetation establishment, increase in shade provided by riparian vegetation). (CT 78)

Overbank flow and sediment deposition is a natural process associated with all stream channels and floodplains and some level of sediment deposition is expected to occur on all the mitigation lands, including existing wet meadows and riparian habitat. The geomorphic assessment concluded that the most significant sediment deposition occurred primarily as a result of upstream land uses (e.g., logging). Since that time, and with changes to upstream land uses, there do not appear to have been recent episodes of large sediment deposit. Current sediments carried in the stream channels are expected to primarily be the result of localized bank erosion and natural stream processes and are contained within the stream corridors except during high flows at which time the sediments predominantly consist of fines.(CT 78)

The mitigation plan does not include significantly altering stream corridors, or propose other mitigating actions or long-term management that will contribute to an overall increase in floodplain elevation. (CT 78)

14. Three comments received regarding the Adaptive Management Plan: not feasible from the following standpoint; sediment accretion will be incompatible with adaptive management plan.

Applicant response: *Overbank flow and sediment deposition is a natural process associated with all stream channels and floodplains and some level of sediment deposition is expected to occur on all the mitigation lands, including existing wet meadows and riparian habitat. The geomorphic assessment concluded that the most significant sediment deposition occurred primarily as a result of upstream land uses (e.g., logging). Since that time, and with changes to upstream land uses, there do not appear to have been recent episodes of large sediment deposit. Current sediments carried in the stream channels are expected to primarily be the result of localized bank erosion and natural stream processes and are contained within the stream corridors except during high flows at which time the sediments predominantly consist of fines.*(CT 78)

The mitigation plan does not include significantly altering stream corridors, or propose other mitigating actions or long-term management that will contribute to an overall increase in floodplain elevation. (CT 78)

15. Six comments received regarding Mitigation for salmonids: greater toxicity from chemicals off roadway, how will it be mitigated for; how does fish passage mitigate for salmonid impacts if there is lack of rearing habitat upstream of fish passage; sedimentation in streams will affect salmonids; mitigation for salmonids not adequate; adverse impacts to salmonids from grazing; NMFS consultation should be re-initiated.

Applicant Response to public comment that MMP should contain provisions to off-set impacts to fish due to elevated toxicity/chemicals from roadway: (see answer below)

Applicant response to public comment regarding mitigation for impacts to salmonids:
Potential Effects to Salmonids

An addendum to the 2005 Biological Assessment and 2006 Biological Opinion was prepared in February 2010. Since issuance of the BO in September 2006, and publication of the proposed project's Final Environmental Impact Statement/Environmental Impact Report (EIS/EIR) in December 2006, the selected project alternative, Modified Alternative J1T, had undergone several design revisions. The primary reasons for the design revisions were: (1) to avoid conflicts with the Willits Wastewater Treatment Plant (WWTP) expansion project and (2) to accommodate phasing the construction of the proposed project. This addendum to the 2005 BA was been prepared to update the assessment by evaluating changes made to the original proposed project and potential effects on species listed under the federal Endangered Species Act (ESA; listed salmonid species included southern Oregon/northern California coasts coho salmon evolutionarily significant unit (ESU)Also listed under the California Endangered Species Act (CESA) as threatened. , California coastal Chinook salmon ESU, and northern California steelhead distinct population segment (DPS)—and designated critical habitat). The addendum also addresses potential mitigation construction impacts, as they were known in February 2010; only the general extent and nature of the project's mitigation actions were known at the time the 2006 BO was issued. On July 22, 2010 NMFS/NOAA published its updated Biological Opinion.
An "Incidental Take Permit" (ITP) application was prepared for CDFG to satisfy the requirements of the California endangered Species Act (CESA) in February 2010, which covered listed salmonids the CESA-listed southern Oregon/Northern Coastal California ESU Coho Salmon and CESA-listed North Coast Semaphore Grass. The ITP application described the project as it was known in February 2010, and included discussions project the current project phasing plan, as well as description of the mitigation actions as they were known in February 2010. On July 14, 2010 CDFG finalized its CESA ITP. (CT 201)

Caltrans is currently re-initiating consultation with NMFS/NOAA and CDFG based upon the newly proposed erosion control and "group 2" wetland establishment sites occurring within or adjacent to listed salmonid habitat. These actions were recently proposed and therefore are not described in the 2010 ITP application. A field review of the recently proposed erosion control and wetland establishment sites was undertaken on November 7, 2011 by representatives from NOAA/NMFS, CDFG and Caltrans. It was determined that the proposed new mitigation actions may affect, but are not likely to adversely affect listed salmonids. (CT 201)

Applicant response to public comment regarding mitigation to off-set impacts to salmonids resulting from elevated sedimentation: *Sedimentation/Flooding*
As stated in earlier responses in the document, Caltrans, as well as the resource agencies, recognizes the concerns of valley landowners regarding the subject of stream maintenance on the stream segments that transect the mitigation parcels. While stream management serves a purpose for landowners it does result in some degradation of stream corridors which provides habitat for salmonids and other aquatic resources. Caltrans understands that there may be a need to address sedimentation accumulation in streams such as Outlet and Davis Creek if it jeopardizes threatened or endangered species or threatens to induce flooding of a neighboring property. Caltrans has added a section in the adaptive management chapter that will allow the land manager the

flexibility to work with the stakeholder regulatory agencies to perform maintenance on streams if needed. Caltrans will consider the following items when developing future stream management practices: the need for, and type of, ongoing maintenance practices, existing agreements between landowners and DFG, baseline survey results, and the mitigation requirements for stream corridors (e.g., riparian vegetation establishment, increase in shade provided by riparian vegetation).(CT 77)

Overbank flow and sediment deposition is a natural process associated with all stream channels and floodplains and some level of sediment deposition is expected to occur on all the mitigation lands, including existing wet meadows and riparian habitat. The geomorphic assessment concluded that the most significant sediment deposition occurred primarily as a result of upstream land uses (e.g., logging). Since that time, and with changes to upstream land uses, there do not appear to have been recent episodes of large sediment deposit. Current sediments carried in the stream channels are expected to primarily be the result of localized bank erosion and natural stream processes and are contained within the stream corridors except during high flows at which time the sediments predominantly consist of fines.(CT 77)

The mitigation plan does not include significantly altering stream corridors, or propose other mitigating actions or long-term management that will contribute to an overall increase in floodplain elevation. (CT 78)

Applicant response to public comment regarding adverse impacts to salmonids due to grazing activities: *Grazing may be managed in existing and created oak woodland and riparian habitats, and on streambanks, as appropriate, if these sensitive biological resources show signs of being negatively affected by grazing practices (e.g., streambanks with soil compaction or denuded banks). Grazing management will focus on three grazing management measures: exclusion fencing, grazing rotation, and designated livestock stream crossings. These measures have been shown to limit cattle access to stream and riparian areas and minimize effects on water quality. (Hoorman and McCutcheon 2005).*

Exclusion fencing would reduce sediment input in several ways. First, exclusion of cattle from the riparian corridor would stop the erosion associated with cattle trampling streambanks. In addition, exclusion would prevent cattle from grazing on and trampling riparian vegetation. This would increase growth, recruitment, and germination of riparian vegetation, and this vegetation would then stabilize eroding banks and intercept sediment. Finally, exclusion fencing would improve water quality by greatly reducing the fecal matter entering the stream.

Grazing rotation would improve water quality by reducing the amount of overgrazed pastures. By reducing the grazing pressure on each GMU, vegetation would not be overgrazed and would be allowed time for regrowth, thereby reducing the bare ground that would contribute sediment to the stream during storms.

Currently, 40 to 50 scattered livestock crossings exist on the offsite mitigation parcels. Many of these crossings are not improved crossings (graded for access and stability) and

were formed by livestock creating paths through the riparian areas and down to and across creeks. As such, most of these crossings are subsequently vulnerable to erosion caused by precipitation and inundation by high flows. Under the grazing management plan, a limited number (approximately 12) of the improved livestock crossings would be utilized to facilitate GMU rotation. The stream crossings would be located at the existing improved crossings. These permanent stream crossings would be designed to reduce erosion and restrict livestock access to the stream and riparian corridors during crossings. All engineered crossings would be controlled with gates and the crossings would be fenced with barbed wire running across the stream to prevent livestock from entering the stream and riparian corridors during crossings. Most crossings would be used during the dry season (June through October) when creeks have relatively little flow or are dry.

To facilitate livestock crossings, the gates will be opened for 1 to 2 days to allow livestock to move into the greener pasture at a slow pace. No round-up or herding of animals will occur. This gentle movement of livestock would result in less disturbance to the stream bed and banks that otherwise could occur if a large number of animals initiate a crossing at the same time.

Applicant response to public comment that NMFS consultation should be re-initiated: *An addendum to the 2005 Biological Assessment and 2006 Biological Opinion was prepared in February 2010. Since issuance of the BO in September 2006, and publication of the proposed project's Final Environmental Impact Statement/Environmental Impact Report (EIS/R) in December 2006, the selected project alternative, Modified Alternative J1T, had undergone several design revisions. The primary reasons for the design revisions were: (1) to avoid conflicts with the Willits Wastewater Treatment Plant (WWTP) expansion project and (2) to accommodate phasing the construction of the proposed project. This addendum to the 2005 BA was been prepared to update the assessment by evaluating changes made to the original proposed project and potential effects on species listed under the federal Endangered Species Act (ESA; listed salmonid species included southern Oregon/northern California coasts coho salmon evolutionarily significant unit (ESU) (also listed under the California Endangered Species Act (CESA) as threatened), California coastal Chinook salmon ESU, and northern California steelhead distinct population segment (DPS)—and designated critical habitat). The addendum also addresses potential mitigation construction impacts, as they were known in February 2010; only the general extent and nature of the project's mitigation actions were known at the time the 2006 BO was issued. On July 22, 2010 NMFS/NOAA published its updated Biological Opinion.*(CT 278)

An "Incidental Take Permit" (ITP) application was prepared for CDFG to satisfy the requirements of the California endangered Species Act (CESA) in February 2010, which covered listed salmonids the CESA-listed southern Oregon/Northern Coastal California ESU Coho Salmon and CESA-listed North Coast Semaphore Grass. The ITP application described the project as it was known in February 2010, and included discussions project the current project phasing plan, as well as description of the mitigation actions as they were known in February 2010. On July 14, 2010 CDFG finalized its CESA ITP. (CT 278)

Caltrans is currently re-initiating consultation with NMFS/NOAA and CDFG based upon the newly proposed erosion control and "group 2" wetland establishment sites occurring within or adjacent to listed salmonid habitat. These actions were recently proposed and therefore are not described in the 2010 ITP application. A field review of the recently proposed erosion control and wetland establishment sites was undertaken on November 7, 2011 by representatives from NOAA/NMFS, CDFG and Caltrans. It was determined that the proposed new mitigation actions may affect, but are not likely to adversely affect listed salmonids. (CT 278)

16. Four comments received with concerns regarding: MMP Monitoring: MMP has no monitoring plan for other waters; who will monitor such a large plan?

Applicant Response to public comment regarding MMP monitoring plan for other waters: *A summary of the impacts to jurisdictional "Other Waters Of the United States (OWUS)" is presented in Section 6.1; a summary of the mitigation actions proposed for OWUS are summarized in Section 6.3; the determination of credits for OWUS mitigation actions are summarized in Section 6.3.2. of the Draft MMP.*

A summary of the OWUS onsite rehabilitation design approach is presented in Section 7.1.1.3; a summary of the OWUS off-site rehabilitation approach is detailed in Section 7.3.2.3. of the Draft MMP.

A summary of the performance standards for re-established OWUS is presented in in Section 9.3; a summary of the performance standards for re-habilitated OWUS is presented in Section 9.4. Monitoring requirements are presented in Section 10.1. of the Draft MMP.

17. Eight comments received with concerns regarding: wetland Credits/Ratios: how does enhancement crediting method substantiate claim that the proposed mitigation adequately off-sets impacts?; Accounting of credits incorrect/not understandable; wetland mitigation measures should be revised to show both acreage and credits for various mitigation actions; Ratios are arbitrary; does not use best available science; "best professional judgment" questioned.

Applicant response to public comment requesting substantiation of MMP claim that wetland enhancement credit amounts are correct for projecting their contribution towards off-setting project impacts: *USACE has agreed to allow Caltrans to mitigate for the deficit of wetland establishment acres by implementing a wetland rehabilitation strategy that would result in a "functional lift (improvement/change)" in wetland services, attributes and value over baseline conditions. This functional lift gained by rehabilitating the wetlands to perform better can be identified as mitigation credits.* (CT 35)

For additional information see response to Comment #2.

Applicant response to public comment that accounting of mitigation credits is incorrect and/or not understandable: *The MMP was strengthened by removing and editing errors in*

the mapping and data. The above adjustments resulted in the requirement for Caltrans to increase its level of wetland rehabilitation (e.g. Type 2 rehabilitation areas may now be targeted for Type 4 rehabilitation). (CT 28)

The explanation pertaining to calculation of credits for wetland enhancement is provided in Chapter 6 of the MMP. The USACE has determined that the mitigation must increase wetland functions directed towards the wetland's "best attainable state" to receive enhancement credit. The USACE has stated that the best attainable state is the long term, un-managed successional climax condition for soil, vegetation, and hydrology. During their wetland mitigation assessment, described in section 6.3.1.3 of the MMP, the USACE determined that the current circumstances of the wetlands on the offsite mitigation parcels are "fully functional" for wetland hydrology within their landscape positions, and that there is no discernable "lift" (credit) that could be obtained through hydrologic manipulation. The most direct expression of current land management practices is pervasive nonnative perennial pasture grasses. Based on observations from field studies, USACE determined that successional plant development offered the best opportunity to provide fully functional wetlands with sustainable increases in functions that would improve the quality and quantity of aquatic functions and help fulfill the ecological needs in the watershed. Improvements in vegetative cover and structure and the corresponding decreases in runoff and increases in residual dry matter and infiltration, are expected to improve the USACE and EPA-defined wetland functions of groundwater recharge, flood-flow attenuation, sediment and toxicant retention, and nutrient removal and transformation. (CT 83)

The functional lift is considered very minor (between 0.05 and 0.3 credit per acre) because the departure from the best attainable wetland state is restricted to vegetation structural development and successional composition change. Wetland rehabilitation will include clearing existing patches of nonnative wetland vegetation and replanting and seeding with native hydrophytic species. In addition to planting and seeding, each rehabilitation type includes some level of successional development in untreated areas on which native vegetation currently exists. Each rehabilitation type also has specific performance standards and success criteria. Five types of wetland rehabilitation actions were developed. The various types are based on the existing state of the wetland, the amount of habitat manipulation needed to increase wetland functions, and the ability to attain the rehabilitation type-specific performance standards and success criteria. (CT 83)

Applicant response to public concern that mitigation ratios are arbitrary, do not use best available science: *The MMP was developed based on information obtained in previous reports and studies including baseline field studies performed in 2010 – 2011. Previous studies and the recent baseline studies performed in the mitigation parcels included wetland delineations, wetland inundation mapping, vegetation analysis, special-status plant surveys, an evaluation of valley drainage patterns, erosion assessments, and water quality analysis. All of this information was used to develop the mitigation establishment and rehabilitation measures identified in the MMP.*

The mitigation crediting system developed by the USACE accounts for the temporal loss of habitat and uses a conservative approach to assigning wetland credits (i.e., the higher the confidence level the higher the mitigation credit ratio). For example, Group 1 wetlands, which were previously identified in 2010 MMP and have gone through several agency reviews during the design phase, are assigned a 1:1 credit ratio because the USACE. Group 2 wetland establishment areas, which were identified in 2011, are assigned a 0.3:1 credit ratio (i.e., Caltrans receives 0.3 acre of wetland mitigation credit for every 1.0 acre of wetland established. Type 1 – 5 wetland rehabilitation actions have been assigned mitigation ratios of 0.05:1 – 0.3:1 based on the USACE assessment of existing habitat quality, the level of work proposed for each rehabilitation type, and the associated higher success criteria. (CT 112)

For additional information see response to Comment #2.

Applicant response to public comment that questions "best professional judgment" process of decision making: *As stated in the MMP, the absence of a practical or institutionally recommended functional assessment process under the 2008 Mitigation Rule requires USACE to rely on best professional judgment. Typically, determinations are based on rendered field observations at the impact and mitigation sites. In this case, best professional judgment is supported by numerous field investigations by USACE and Caltrans, and their consultant staff experienced in fields such as restoration ecology, soil science and botany. During field investigations hydrology, soils, vegetation, soil deposition, erosion, and current land condition, were examined and considered as part of the best professional judgment determinations. The extensive amount of time Caltrans has spent collecting data and observing the current conditions of the valley increases, to the most practical extent possible, the likelihood of mitigation success.* (CT 112)

The explanation pertaining to calculation of credits for wetland enhancement is provided in Chapter 6 of the MMP. The USACE has determined that the mitigation must increase wetland functions directed towards the wetland's "best attainable state" to receive enhancement credit. The USACE has stated that the best attainable state is the long term, un-managed successional climax condition for soil, vegetation, and hydrology. During their wetland mitigation assessment, described in section 6.3.1.3 of the MMP, the USACE determined that the current circumstances of the wetlands on the offsite mitigation parcels are "fully functional" for wetland hydrology within their landscape positions, and that there is no discernable "lift" (credit) that could be obtained through hydrologic manipulation. The most direct expression of current land management practices is pervasive nonnative perennial pasture grasses. Based on observations from field studies, USACE determined that successional plant development offered the best opportunity to provide fully functional wetlands with sustainable increases in functions that would improve the quality and quantity of aquatic functions and help fulfill the ecological needs in the watershed. Improvements in vegetative cover and structure and the corresponding decreases in runoff and increases in residual dry matter and infiltration, are expected to improve the USACE and EPA-defined wetland functions of groundwater recharge, flood-flow attenuation, sediment and toxicant retention, and nutrient removal and transformation. (CT 83)

The functional lift is considered very minor (between 0.05 and 0.3 credit per acre) because the departure from the best attainable wetland state is restricted to vegetation structural development and successional composition change. Wetland rehabilitation will include clearing existing patches of nonnative wetland vegetation and replanting and seeding with native hydrophytic species. In addition to planting and seeding, each rehabilitation type includes some level of successional development in untreated areas on which native vegetation currently exists. Each rehabilitation type also has specific performance standards and success criteria. Five types of wetland rehabilitation actions were developed. The various types are based on the existing state of the wetland, the amount of habitat manipulation needed to increase wetland functions, and the ability to attain the rehabilitation type-specific performance standards and success criteria. (CT 83)

The Corps supplements the above response with the following: There is no scientific consensus on the best means or methods to evaluate wetland functions and identifying measurable performance standards for wetland rehabilitation. The Mitigation Rule allows for the use of best professional judgment in the absence of a clear accepted evaluation protocol.

18. Four comments received with concerns that: MMP doesn't address impacts to subsurface flows; doesn't address the use of groundwater wells during construction and those effects.

Applicant response to public comment: *Caltrans is proposing mitigation (wetland establishment or rehabilitation) only in areas that were shown to support it, according to our baseline studies. It is not necessary to do a geomorphic study of the entire valley in order to propose standard mitigations actions in areas where all evidence shows that it has a high likelihood for success.* (CT92).

19. Three letters received with concerns about the Management Plan: is there a land manager?; Will monitoring reports be available to the public?; Will land manager have adequate funds to manage MMP?

Applicant response to public comment regarding the management plan: *a) The MCRCD and CDFG have provided Caltrans with a "letter of intent" expressing their willingness to act as the land manager/property owner and endowment holder/CE holder, respectively. In addition, the permits issued by CDFG in 2010, require that the endowment funds be deposited with CDFG. This represents both an obligation on the behalf of Caltrans to supply the endowment funds and of CDFG to accept them. Cooperative agreements between Caltrans and these agencies will be executed after permits are issued and the CTC has voted to approve the project. This is consistent with Caltrans standard practice for executing cooperative agreements based upon permit requirements. It is impractical for Caltrans to execute cooperative agreements that are based upon assumed permit requirements, prior to issuance of the permits.*

b) Records such as the maintenance and monitoring information discussed by the commenter are available under the California Public Records Act (CPRA) (found in

California Government Code section 6250, et seq.) from Caltrans, MCRCD and other State/local agencies that may have them. Records from the USACE would be available pursuant to the provisions of the Freedom of Information Act (FOIA).

c) Documents supporting the endowment calculation have been added to the Final MMP. These documents include the calculations and assumptions. Caltrans uses a systematic and thorough process to account for the foreseeable long-term maintenance activities and also includes a contingency factor in the endowment to cover unforeseen circumstances.

The non-wasting endowment will be a one-time cash payment from Caltrans into an account held by the CDFG. The account will be interest bearing. The endowment is considered non-wasting because it identifies a sum of money that will not decrease in value, and earnings would be enough to cover the annual stewardship costs under an investment strategy also intended to offset inflation. Withdrawals from the account will be made by CDFG and paid out to the Land Manager (MCRCD) to pay for the management activities identified in the mitigation plan. Caltrans has coordinated with both the RCD and CDFG in putting together the endowment estimate - to help ensure all the tasks associated with the long term management of the properties are captured.

PAR is proprietary software developed by the Center for Natural Lands Management. Caltrans and its consultants used this software to assist in the determination of the costs of the endowment.

20. Four letters received with concerns that MMP needs a watershed approach; MMP does not integrate mitigation goals.

Applicant response to public comment suggesting the MMP needs a watershed approach:
The USACE determined that a watershed approach, as defined by the 2008 mitigation rule, is not practicable for this project. Because the mitigation parcels, as well as those considered but not purchased, are predominantly composed of existing wetlands there is not a sufficient amount of land area on which to establish the amount of wetland area needed to meet the no-net-loss policy. After Caltrans conducted an exhaustive search of potential wetland establishment sites, USACE agreed to allow Caltrans to mitigate for the deficit of wetland establishment acres by implementing a wetland rehabilitation strategy that would result in a "functional lift (improvement/change)" in habitat quality and value over baseline conditions.

The mitigation parcels which were ultimately purchased were not solely selected to mitigate for wetland impact. The evaluation and purchase of parcels also considered the compensatory requirements for impacts to other resources including Baker's meadowfoam, North Coast semaphore grass, riparian and oak woodland habitat and farmland preservation.

Whereas the USACE MMP focuses on mitigation for impacts on jurisdictional wetlands the State MMP will consider all of the mitigation opportunities as a whole, including parcels that will be managed for successional development (as per the USACE MMP)

and the remaining Caltrans mitigation lands. The State MMP promotes that the mitigation parcels be evaluated at a watershed level and how all of the mitigation actions will benefit Little Lake Valley (note: an assessment of the anticipated watershed improvements will be included in the State MMP).

The Corps supplements the above response with the following: The USACE determined that a watershed approach, as defined by the 2008 mitigation rule, is not practicable for this project. A watershed study on the Santa Rosa Plain took 5 to 7 years to complete, had congressional funding, involved over 25 federal, state, county, city, local, non-profit, and private stakeholder organizations, and resulted in an informed watershed plan (Phase I Final Report, Santa Rosa Plain Vernal Pool Preservation Plan, Prepared for the Santa Rosa Plain Vernal Pool Task Force, June 30, 1995). Additionally, any informed watershed study would have had to have been complete prior to the selection of the mitigation parcels. With a knowledge of the watershed state, potential mitigation parcels could have been evaluated and prioritized to achieve improvements to critical watershed states.

Because the mitigation parcels, as well as those considered but not purchased, are predominantly composed of existing wetlands there is not a sufficient amount of land area on which to establish the amount of wetland area needed to meet the no-net-loss policy. After Caltrans conducted an exhaustive search of potential wetland establishment sites, USACE agreed to allow Caltrans to mitigate for the deficit of wetland establishment acres by implementing a wetland rehabilitation strategy that would result in a "functional lift (improvement/change)" in habitat quality and value over baseline conditions.

The mitigation parcels which were ultimately purchased were not solely selected to mitigate for wetland impact. The evaluation and purchase of parcels also considered the compensatory requirements for impacts to other resources including Baker's meadowfoam, North Coast semaphore grass, riparian and oak woodland habitat and farmland preservation.

Whereas the USACE MMP focuses on mitigation for impacts on jurisdictional wetlands the State MMP will consider all of the mitigation opportunities as a whole, including parcels that will be managed for successional development (as per the USACE MMP) and the remaining Caltrans mitigation lands. The State MMP promotes that the mitigation parcels be evaluated at a watershed level and how all of the mitigation actions will benefit Little Lake Valley (note: an assessment of the anticipated watershed improvements will be included in the State MMP).

Applicant response to public comment alleging the MMP does not integrate mitigation goals: *The mitigation parcels which were ultimately purchased were not solely selected to mitigate for wetland impact. The evaluation and purchase of parcels also considered the compensatory requirements for impacts to other resources including Baker's meadowfoam, North Coast semaphore grass, riparian and oak woodland habitat and farmland preservation.*

Whereas the USACE MMP focuses on mitigation for impacts on jurisdictional wetlands the State MMP will consider all of the mitigation opportunities as a whole, including parcels that will be managed for successional development (as per the USACE MMP) and the remaining Caltrans mitigation lands. The State MMP promotes that the mitigation parcels be evaluated at a watershed level and how all of the mitigation actions will benefit Little Lake Valley (note: an assessment of the anticipated watershed improvements will be included in the State MMP).

21. Four letters received with concerns that Wetland rehabilitation and/or preservation credits should be allowed for parcels with grazing plans; agricultural use/grazing should be considered compatible with wetland goals.

Applicant response to public comment that compensatory mitigation credits should be allowed for properties where grazing plans will be developed: *Areas with grazing prescriptions have not been evaluated for credit by the USACE and are not a subject of the current MMP under review as part of the 404 permit review. Both the RWQCB and CDFG prepared their permits and agreements based on the 2010 MMP, which did include the requirement for prescribed grazing. Conditions within these permits and agreements require that a grazing management plan be prepared. Implementation of this grazing management plan will be required to be concurrent with project construction. The grazing management plan has yet to be finalized by Caltrans in coordination with RWQCB and CDFG.* (CT 29)

Caltrans agrees that properly managed grazing practices can maintain healthy wetland vegetation conditions for certain wetland habitat types and reduce competition from nonnative vegetation. The purpose of the proposed removal of grazing to allow successional development and planting of herbaceous and woody wetland species so that those areas can reach their climax community, which is a different habitat type than what exists in the presence of grazing. (CT 19)

To be considered mitigation, USACE requires that there be no-net-loss of wetlands. Because the mitigation parcels are predominantly composed of existing wetlands there is not a sufficient amount of land area on which to establish (create) the amount of wetland area needed to meet the no-net-loss policy. USACE has agreed to allow Caltrans to mitigate for the deficit of wetland establishment acres by implementing a wetland rehabilitation strategy that would result in a "functional lift (improvement/change)" in habitat quality and value over baseline conditions. (CT 123)

USACE performed an assessment of the quality of existing wetlands, which are predominantly wet meadow, during winter 2010 – 2011 and developed a credit rating system for wetland rehabilitation actions (see response to comment 13). The assessment concluded that continued grazing would not result in a functional lift over baseline conditions because it would not result in a manipulation to the current herbaceous wetland habitat (e.g., an increase in native species cover (area) or species composition, an increase in habitat structure provided by herbaceous and woody vegetation). (CT 123)

None of the properties covered in this plan and included as part of the proposed Section 404 mitigation will be grazed by livestock. The areas that were shown as grazed mitigation parcels satisfy the needs of the RWQCB and DFG mitigation requirements, but are not considered as mitigation in this MMP. For continuity, Caltrans included information on the areas that continue to be part of the overall mitigation effort. The grazing plan associated with the grazed parcels will be included in the State MMP, or will be provided to the RWQCB and DFG as a standalone document for their review. (CT 164)

The draft MMP circulated in October of 2011 included wetland mitigation actions on approximately 400 acres that required the removal of grazing to achieve credit toward meeting no-net loss. Since, grazing will be removed, a grazing management plan was not provided as part of the MMP considered by USACE. In addition, no credits were applied to the areas that would continue to have cattle grazing. (CT 164)

Applicant response to public comment that agricultural use/grazing should be considered compatible with wetland goals: *Caltrans agrees that properly managed grazing practices can maintain healthy wetland vegetation conditions for certain wetland habitat types and reduce competition from nonnative vegetation. The purpose of the proposed removal of grazing to allow successional development and planting of herbaceous and woody wetland species so that those areas can reach their climax community, which is a different habitat type than what exists in the presence of grazing.* (CT 188)

The draft MMP circulated in October of 2011 included wetland mitigation actions on approximately 400 acres that required the removal of grazing to achieve credit toward meeting no-net loss. Since grazing will be removed, a grazing management plan was not provided as part of the MMP considered by USACE. In addition, no credits were applied to the areas that would continue to have cattle grazing. (CT 169)

USACE and Caltrans staff worked collaboratively to identify establishment, enhancement and rehabilitation efforts to comply with Clean Water Act requirements. The identified mitigation efforts include over 50 acres of wetland establishment and approximately 350 acres of wetland rehabilitation. In addition, re-establishment of temporarily impacted wetlands will be required. Successful implementation of the mitigation efforts will result in a net increase in wetland area (50 acres of establishment versus approximately 40 acres of permanent impact). Crediting levels for Group 2 wetlands resulted in less than 1 credit per acre of mitigation. As a result, in addition to the 50 acres of establishment, a substantial amount of rehabilitation efforts will be undertaken to compensate for uncertainties of wetland establishment. In addition, rehabilitation efforts will cover temporal losses of the mitigation effort. (CT 169)

Successful wetland mitigation efforts are dependent on numerous factors. Caltrans will be held to the performance standards identified in Chapter 9 of the MMP. Adaptive management measures are included in Chapter 12, if the intended results are not achieved. (CT 169)

The Corps supplements with the following: An informed watershed analysis for the Willits Bypass would have required a large expense of time and resources to obtain information necessary to reach an informed opinion on watershed needs. A similar study undertaken on the Santa Rosa Plain required 5 to 7 years of study to reach an informed result (see response to comment 20 above; (Phase I Final Report, Santa Rosa Plain Vernal Pool Preservation Plan, Prepared for the Santa Rosa Plain Vernal Pool Task Force, June 30, 1995). The Santa Rosa Plain study was organized to address permitting problems caused by Endangered Species listings and affecting the regulated public. The Santa Rosa Plain study had Congressional funding and broad stakeholder involvement. Funding and time were constraints on organizing and conducting a watershed analysis for the Willits Bypass.

The existing plan is no more complicated than what is required by the Mitigation Rule and has performance and remediation standards to manage any implementation problems that may arise. The Corps has been open to consider functional lift associated with grazing but no final detailed grazing plan has been proposed as late as Feb12, 2012.

22. One letter received with concerns that the MMP falsely presumes agriculture altered Little Lake Valley's natural state. Why isn't urban development considered as the primary factor that altered the natural state?

Applicant response: *The discussion of the impacts of grazing, other agricultural practices, dam construction, and other upstream activities on surface water hydrology in the USACE MMP and in the Baseline Report were not intended to cast a negative view on these practices. This information was provided to identify background information on how historic and current land management has resulted in changes to the terrestrial and aquatic landscape in the valley.* (CT 213)

23. Two letters received concerning Performance Standards: MMP needs finalized performance standards; performance standards need to be bolstered.

Applicant response to public concerns regarding MMP performance standards:
Performance standards for rehabilitation sites will now require that Caltrans achieve a lift on a specified sub-set of species within the targeted area. The percent of native species cover now applies to the entire targeted area. Under the initial proposal only the areas of non-native species were targeted for increases in native species composition. To receive 0.1 credit/acre a 10 percentage point increase in selected native species composition will be required. To receive 0.2 credit/acre a 40 percentage point increase in selected native species composition will be required. To receive 0.3 credit/acre a 70 percentage point increase in selected native species composition will be required. (CT 9)

24. Two letters received with concern that the Williamson Act was violated.

Applicant response: *Williamson Act*
Subsequent to the March 2010 Farmland Addendum, Caltrans provided notification to the Department of Conservation (DOC) of Williamson Act properties that would be required for Ultimate Project construction and for Project mitigation.(CT 242)

Under Government Code §51295, the Williamson Contract is cancelled by operation of law for the portion of the land that is being acquired. The remaining land continues to be subject to the contract unless it is adversely affected by the condemnation. In such cases, the contract for the remaining portion may be canceled. (CT 242)

According to Government Code Section 51292 no public agency or person shall locate a public improvement within an agricultural preserve unless the following findings are made:

(a) The location is not based primarily on a consideration of the lower cost of acquiring land in an agricultural preserve.(CT 242)

(b) If the land is agricultural land covered under a contract pursuant to this chapter for any public improvement, that there is no other land within or outside the preserve on which it is reasonably feasible to locate the public improvement. (CT 242)

However, lands to be acquired for Project mitigation are exempt from the requirements of California Government Code 51292 per California Government Code 51293(e) which states, in part, that Section 51292 shall not apply to "Public works required for fish and wildlife enhancement and preservation" or "Improvements for the primary benefit of the lands within the preserve." (CT 242)

Nonetheless, the Department has reviewed and considered potential impacts to agricultural preserves. Cost was not the primary rationale for parcel selection. Likewise, alternative sites were unavailable to meet the needs of the project. The Williamson Act parcels identified for purchase were selected based on their ability to fulfill mitigation requirements of the Willits Bypass Project. The project requires extensive biological mitigation with the current proposal including approximately 1,800 acres of land. Rather than cost, the rationale for selection included:
a) Existing biological resources on the properties
b) Ability to establish additional biological resources
c) Need to provide adequate mitigation area to offset project impacts
d) Desire to keep the mitigation close to project impacts
e) Desire to provide a contiguous biological mitigation area, and
f) Owners interested in conveying in lieu of formal eminent domain proceedings. (CT 242)

While, other feasible alternatives were considered during the NEPA and CEQA processes, the Ultimate Project alignment (Modified J1T) was selected because it had the least impacts to environmental resources. Agricultural land was among the resources considered within the alternative selection process. The alternative selection process was document in the DEIS/R of 2002, Alternatives Analysis of 2005 and within the FEIS/R of 2006. The project was subject to the NEPA/404 Integration process, which required collaboration with the CDFG, RWQCB, EPA, USACE, United States Fish and Wildlife Service, and National Marine Fisheries Service. As part of the process, formal concurrence on the selected alternative was obtained from EPA and USACE. Through

the process only the Least Environmentally Damaging Practicable Alternative (LEDPA), in this case the Modified J1T alignment, will be viable for a Clean Water Act permit. Therefore, no other land would be viable would be reasonably feasible to locate the public improvement. (CT 242)

Both the June 10, 2010 letter to DOC and the March 2010 Farmland Addendum were based on the assumption that 30 properties (1925 acres) would be acquired for mitigation. Of those, 1502 acres were Williamson Act lands. Due to changes in Project mitigation, the total acreage for mitigation was reduced and now totals approximately 1800 acres with about 1451 acres being Williamson Act land. Other potential acquisitions could result in a total of approximately 1605 acres of Williamson Act Land for mitigation related activities. None of the acreage is mapped as Prime Farmland, Farmland of Statewide Importance, Unique Farmland, or Farmland of Local Importance on mapping produced for the Department of Conservation's Farmland Mapping and Monitoring Program (FMMP). (CT 242)

In view of the foregoing, the preservation of agricultural lands has been adequately addressed. (CT 242)

25. Two letters received with concern the Farmland Protection Act was violated.

Applicant response: *The original FEIS/R in 2006 (section 3.4) and the March 2010 Farmland Addendum included a discussion of project impacts to farmlands and concluded that no significant impacts would occur. Current conclusions remain the same, even in view of increases in agricultural lands acquired for mitigation purposes and changes to the potential uses on a limited number of such parcels.*(CT 243)

Accordingly, Caltrans concludes that current circumstances and information lead to no substantial or significant changes in earlier results. An addendum/revalidation to the EIS/R setting forth the foregoing efforts to identify and address significant impacts is being prepared. (CT 243)

For additional information see response to Comment #4.

26. Two letters received with concerns the Prior Converted Croplands Rule was violated.

Applicant response: *Section 404 of the Clean Water Act provides an exemption for normal farming practices that take place in wetland areas that fall under the Section 404 definition. These Section 404 wetlands may also be considered by the NRCS as a farmed wetland or prior converted area. This overlap of jurisdiction does not mean that other projects or practices (e.g., highways, subdivisions, infrastructure) are exempt from regulation under Section 404 of the Clean Water Act. NRCS does not have any authority over a Caltrans mitigation project, nor can it provide Caltrans an exemption from Section 404. NRCS is the lead on wetland delineations only when it's a farming project. When Caltrans bought these properties for the purpose of building a highway project and the associated mitigation it disqualified them for the Section 404 exemption for normal*

farming practices. As a result, USACE became the lead agency on wetlands delineations and determining mitigation requirements.

The sole purpose of the MMP is to outline in detail the proposed mitigation for impacts to wetlands and other water regulated by the USACE. A discussion of "Prior Converted Croplands" is not germane to the content of the document and should be handled separately. (CT 186 and 203)

27. Six letters received alleging the MMP is biased against agriculture/ranching/grazing based on: wetland enhancement derived climax community transition is unfounded and biased against agriculture, not based in science and not properly explained; MMP suggests agriculture adversely impacts soil and hydrology; MMP pre-determined no credit for grazing; how can grazing for wetland enhancement be unacceptable if final grazing plans have not been analyzed?

Applicant response to public comment that bias against agriculture exists based on climax community goal for wetland enhancement: *The discussion of the impacts of grazing and other agricultural practices in the USACE MMP and in the Baseline Report were not intended to cast a negative view on these practices. This information was provided to identify background information on how historic and current land management has resulted in changes to the terrestrial and aquatic landscape in the valley.*

For additional information see response to comment #21.

Applicant response to public comment alleging MMP suggests agriculture adversely impacts soil and hydrology: *The statement in section 5.1.1 that "that a number of reservoirs in the watershed above Little Lake Valley further reduce wet-season flows" should not be taken out of the context that Chapter 5 is a discussion of "baseline" information, and the chapter heading for Section 5.1.1 is titled "Historical and Existing Surface Water Hydrology". The discussion of the impacts of grazing, other agricultural practices, dam construction, and other upstream activities on surface water hydrology in the USACE MMP and in the Baseline Report were not intended to cast a negative view on these practices. This information was provided to identify background information on how historic and current land management has resulted in changes to the terrestrial and aquatic landscape in the valley.* (CT 213)

The commenter's statement "wet meadows are indicative of soil and hydrology that has not been disturbed or minimally disturbed for many years" is not entirely accurate, and Caltrans cannot find where this conclusion has been made in the MMP. It is more accurate to say that the current state/condition of wet meadows in the Little Lake Valley (including the current state/condition of hydric vegetation, hydric soils and wetland hydrology) is indicative of current land management practices.

The USACE has determined that the mitigation must increase wetland functions directed towards the wetland's "best attainable state" to receive mitigation credit. The USACE has stated that the best attainable state is the long term, un-managed successional climax

condition for soil, vegetation, and hydrology. During their wetland mitigation assessment, described in section 6.3.1.3 of the MMP, the USACE determined that the current circumstances of the wetlands on the offsite mitigation parcels are "fully functional" for wetland hydrology and hydric soils within their landscape positions, and that there is no discernable "lift" (credit) that could be obtained through manipulation of these wetland characteristics. The current state/condition of the hydrophtic plant community was determined to be affected by current agricultural practices, and successional development offers the best opportunity to change the existing vegetative state/condition to provide with increases in wetland functions. Improvements in vegetative cover and structure and the corresponding decreases in runoff and increases in residual dry matter and infiltration, are expected to improve the USACE and EPA-defined wetland functions of groundwater recharge, flood-flow attenuation, sediment and toxicant retention, and nutrient removal and transformation.

Scientific Literature Justifying Grazing Removal
The statement that the removal of grazing (and the rehabilitation of herbaceous and woody vegetation) is expected to result in decreases in soil compaction, erosion and nutrient/sediment loads appears in section 2.6.2.2 (Objectives - Summary of Mitigation Actions – Rehabilitation). While the stated objectives of wetland and other waters rehabilitation activities include decreases in soil compaction, erosion and nutrient/sediment loads, actual USACE-approved mitigation credit for proposed mitigation actions, outlined in Chapter 6 of the MMP, are restricted to vegetation structural development and successional composition change. Based on observations from field studies, USACE determined that successional plant development offered the best opportunity to provide fully functional wetlands with sustainable increases in functions that would improve the quality and quantity of aquatic functions and help fulfill the ecological needs in the watershed. Measures of soils compaction and sediment/nutrient load were therefore not required for the USACE MMP for meeting success criteria. It should be noted however, that measures of sediment/nutrient/bacterial load will be performed in support of the future State MMP and success criteria for this metric will be presented. (CT 267)

The removal of grazing is expected to result in decreases in erosion and decreases in sediment/nutrient/bacteria load by increasing the amount of residual dry matter on the ground, both in uplands and in wetlands, thereby reducing the amount of sediment entering drainages. Several investigators have documented this effect. Of particular note is a study by Barry, S. J. (1998. Managing the Sacramento Valley vernal pool landscape to sustain native flora. Although Barry's study was conducted in the Sacramento Valley, Barry notes that many studies conducted on grasslands in temperate areas of the United States have shown that the amount of runoff is significantly influenced by the amount of vegetation. Runoff decreases with increasing vegetation. The vegetation retards runoff and generally allows a greater opportunity for infiltration into the soil and reduces soil erosion. Standing dry or dead vegetation may also reduce runoff by increasing net rain loss due to interception and direct evaporation. Areas under complete rest from grazing had rates of infiltration that were statistically higher than grazed areas at any intensity. Under complete rest from grazing infiltration, percolation, and water storage capacity were increased. These factors may eventually affect vegetational change. Increased

vegetative cover and the corresponding decreases in runoff and increases in infiltration are expected to improve the USACE and EPA-defined wetland functions of groundwater recharge, flood-flow attenuation, sediment and toxicant retention, and nutrient removal and transformation. (CT 267)

Applicant response to public comment that MMP pre-determined no credit for wetland preservation or enhancement would be allowed for grazing prescriptions in wetlands: *None of the properties covered in this plan and included as part of the proposed Section 404 mitigation will be grazed by livestock. The areas that were shown as grazed mitigation parcels satisfy the needs of the RWQCB and DFG mitigation requirements, but are not considered as mitigation in this MMP. For continuity, Caltrans included information on the areas that continue to be part of the overall mitigation effort. The grazing plan associated with the grazed parcels will be included in the State MMP, or will be provided to the RWQCB and DFG as a standalone document for their review.* (CT 164)

The draft MMP circulated in October of 2011 included wetland mitigation actions on approximately 400 acres that required the removal of grazing to achieve credit toward meeting no-net loss. Since, grazing will be removed, a grazing management plan was not provided as part of the MMP considered by USACE. In addition, no credits were applied to the areas that would continue to have cattle grazing. (CT 164)

Areas with grazing prescriptions have not been evaluated for credit by the USACE and are not a subject of the current MMP under review as part of the 404 permit review. Both the RWQCB and CDFG prepared their permits and agreements based on the 2010 MMP, which did include the requirement for prescribed grazing. Conditions within these permits and agreements require that a grazing management plan be prepared. Implementation of this grazing management plan will be required to be concurrent with project construction. The grazing management plan has yet to be finalized by Caltrans in coordination with RWQCB and CDFG. (CT 29)

Applicant response to public comment that grazing for wetland enhancement cannot be determined to be unacceptable if final grazing plans have not yet been analyzed: *None of the properties covered in this plan and included as part of the proposed Section 404 mitigation will be grazed by livestock. The areas that were shown as grazed mitigation parcels satisfy the needs of the RWQCB and DFG mitigation requirements, but are not considered as mitigation in this MMP. For continuity, Caltrans included information on the areas that continue to be part of the overall mitigation effort. The grazing plan associated with the grazed parcels will be included in the State MMP, or will be provided to the RWQCB and DFG as a standalone document for their review.* (CT 164)

The draft MMP circulated in October of 2011 included wetland mitigation actions on approximately 400 acres that required the removal of grazing to achieve credit toward meeting no-net loss. Since, grazing will be removed, a grazing management plan was not provided as part of the MMP considered by USACE. In addition, no credits were applied to the areas that would continue to have cattle grazing. (CT 164)

Areas with grazing prescriptions have not been evaluated for credit by the USACE and are not a subject of the current MMP under review as part of the 404 permit review. Both the RWQCB and CDFG prepared their permits and agreements based on the 2010 MMP, which did include the requirement for prescribed grazing. Conditions within these permits and agreements require that a grazing management plan be prepared. Implementation of this grazing management plan will be required to be concurrent with project construction. The grazing management plan has yet to be finalized by Caltrans in coordination with RWQCB and CDFG. (CT 29)

28. One letter received with public comment that temporary impacts should not require compensatory mitigation because there is no impact on wetland function.

Applicant response: public comment noted.

29. Three letters received with Wetland Enhancement concerns: wetland enhancement via soil and/or hydrology not considered; mitigation ratios are not supported by best available science.

Applicant response to public comment that wetland enhancement proposal does not consider enhancement of soil and/or hydrology: *The commenter's statement "the MMP concludes wetland hydrology cannot be used to improve wetland function" is not entirely accurate. The USACE has determined that the mitigation must to increase wetland functions directed towards the wetland's "best attainable state" to receive enhancement credit. The USACE has stated that the best attainable state is the long term, un-managed successional climax condition for soil, vegetation, and hydrology. During their wetland mitigation assessment, described in section 6.3.1.3 of the MMP, the USACE determined that the current circumstances of the wetlands on the offsite mitigation parcels are "fully functional" for wetland hydrology within their landscape positions, and that there is no discernable "lift" (credit) that could be obtained through hydrologic manipulation.* (CT 213)

Applicant response to public comment that mitigation ratios are not supported by best available science: *As stated in the MMP, the absence of a practical or institutionally recommended functional assessment process under the 2008 Mitigation Rule requires USACE to rely on best professional judgment. Typically, determinations are based on rendered field observations at the impact and mitigation sites. In this case, best professional judgment is supported by numerous field investigations by USACE and Caltrans, and their consultant staff experienced in fields such as restoration ecology, soil science and botany. During field investigations hydrology, soils, vegetation, soil deposition, erosion, and current land condition, were examined and considered as part of the best professional judgment determinations. The extensive amount of time Caltrans has spent collecting data and observing the current conditions of the valley increases, to the most practical extent possible, the likelihood of mitigation success.* (CT 19)

The explanation pertaining to calculation of credits for wetland enhancement is provided in Chapter 6 of the MMP. The USACE has determined that the mitigation must increase wetland functions directed towards the wetland's "best attainable state" to receive

enhancement credit. The USACE has stated that the best attainable state is the long term, un-managed successional climax condition for soil, vegetation, and hydrology. During their wetland mitigation assessment, described in section 6.3.1.3 of the MMP, the USACE determined that the current circumstances of the wetlands on the offsite mitigation parcels are "fully functional" for wetland hydrology within their landscape positions, and that there is no discernable "lift" (credit) that could be obtained through hydrologic manipulation. The most direct expression of current land management practices is pervasive nonnative perennial pasture grasses. Based on observations from field studies, USACE determined that successional plant development offered the best opportunity to provide fully functional wetlands with sustainable increases in functions that would improve the quality and quantity of aquatic functions and help fulfill the ecological needs in the watershed. Improvements in vegetative cover and structure and the corresponding decreases in runoff and increases in residual dry matter and infiltration, are expected to improve the USACE and EPA-defined wetland functions of groundwater recharge, flood-flow attenuation, sediment and toxicant retention, and nutrient removal and transformation. (CT 83)

The functional lift is considered very minor (between 0.05 and 0.3 credit per acre) because the departure from the best attainable wetland state is restricted to vegetation structural development and successional composition change. Wetland rehabilitation will include clearing existing patches of nonnative wetland vegetation and replanting and seeding with native hydrophytic species. In addition to planting and seeding, each rehabilitation type includes some level of successional development in untreated areas on which native vegetation currently exists. Each rehabilitation type also has specific performance standards and success criteria. Five types of wetland rehabilitation actions were developed. The various types are based on the existing state of the wetland, the amount of habitat manipulation needed to increase wetland functions, and the ability to attain the rehabilitation type-specific performance standards and success criteria. (CT 83)

For additional information see response to Comment #17.

30. One letter received with comment that no mitigation credit is given for grazing with goals for Baker's meadow-foam. Why?

Applicant response to comment: *The intent of the MMP being reviewed by the USACE is to mitigate for resources under its jurisdiction. Therefore, the primary purpose of this MMP is to mitigate for wetlands and other waters of the United States.* (CT 20)

Caltrans agrees that properly managed grazing practices can maintain healthy wetland vegetation conditions for certain wetland habitat types and reduce competition from nonnative vegetation. The purpose of the proposed removal of grazing to allow successional development and planting of herbaceous and woody wetland species so that those areas can reach their climax community, which is a different habitat type than what exists in the presence of grazing. (CT 19)

Areas with grazing prescriptions have not been evaluated for credit by the USACE and are not a subject of the current MMP under review as part of the 404 permit review.

Both the RWQCB and CDFG prepared their permits and agreements based on the 2010 MMP, which did include the requirement for prescribed grazing. Conditions within these permits and agreements require that a grazing management plan be prepared. Implementation of this grazing management plan will be required to be concurrent with project construction. The grazing management plan has yet to be finalized by Caltrans in coordination with RWQCB and CDFG. (CT 29)

The mitigation acreage identified for Baker's meadowfoam is based on a 5:1 mitigation ratio required by DFG. Based on the level of project impacts on Baker's meadowfoam combined with the high mitigation ratio a large amount of mitigation acreage is required. Information pertaining to the mitigation requirements and strategies for this species will be provided in the State MMP which will be completed in 2012. (CT 73)

Whereas the USACE MMP focuses on mitigation for impacts on federally jurisdictional wetlands and other waters, the State MMP will include biological resources that fall under the jurisdiction of the state agencies (DFG and RWQCB) or are being mitigated for to satisfy CEQA. Those resources include "waters of the state" (which occupy the same space as "waters of the U.S."), North Coast semaphore grass, Baker's meadowfoam (which occupy the same space as "waters of the State and U.S."), anadramous fish, and oak woodland and associated grassland. The State MMP, because of the number of resources covered, amount of land needed to mitigate for those resources, the overlap of jurisdiction with certain federal wetland and other waters, and approach to look at the mitigation with a broader watershed approach will consider all of the mitigation opportunities as a whole. The State MMP will include all parcels that that are covered in the USACE MMP as well as many others that are not included as USACE mitigation. Caltrans is aware of the potential for conflict due to the overlap of jurisdictional authority and differing requirements over a single resource, the overlap of biological resources occupying the same area, and the development of two separate mitigation plans for the same project. Caltrans is working closely, including multiple face to face monthly meetings with the various regulatory agencies to make sure that the two plans do not conflict with one another. (CT 73)

Areas with grazing prescriptions have not been evaluated for credit by the USACE and are not a subject of the current MMP under review as part of the 404 permit review. Both the RWQCB and CDFG prepared their permits and agreements based on the 2010 MMP, which did include the requirement for prescribed grazing. Conditions within these permits and agreements require that a grazing management plan be prepared. Implementation of this grazing management plan will be required to be concurrent with project construction. The grazing management plan has yet to be finalized by Caltrans in coordination with RWQCB and CDFG. (CT 29)

The explanation pertaining to calculation of credits for wetland enhancement is provided in Chapter 6 of the MMP. The USACE has determined that the mitigation must increase wetland functions directed towards the wetland's "best attainable state" to receive enhancement credit. The USACE has stated that the best attainable state is the long term, un-managed successional climax condition for soil, vegetation, and hydrology. During

their wetland mitigation assessment, described in section 6.3.1.3 of the MMP, the USACE determined that the current circumstances of the wetlands on the offsite mitigation parcels are "fully functional" for wetland hydrology within their landscape positions, and that there is no discernable "lift" (credit) that could be obtained through hydrologic manipulation. The most direct expression of current land management practices is pervasive nonnative perennial pasture grasses. Based on observations from field studies, USACE determined that successional plant development offered the best opportunity to provide fully functional wetlands with sustainable increases in functions that would improve the quality and quantity of aquatic functions and help fulfill the ecological needs in the watershed. Improvements in vegetative cover and structure and the corresponding decreases in runoff and increases in residual dry matter and infiltration, are expected to improve the USACE and EPA-defined wetland functions of groundwater recharge, flood-flow attenuation, sediment and toxicant retention, and nutrient removal and transformation. (CT 83)

The functional lift is considered very minor (between 0.05 and 0.3 credit per acre) because the departure from the best attainable wetland state is restricted to vegetation structural development and successional composition change. Wetland rehabilitation will include clearing existing patches of nonnative wetland vegetation and replanting and seeding with native hydrophytic species. In addition to planting and seeding, each rehabilitation type includes some level of successional development in untreated areas on which native vegetation currently exists. Each rehabilitation type also has specific performance standards and success criteria. Five types of wetland rehabilitation actions were developed. The various types are based on the existing state of the wetland, the amount of habitat manipulation needed to increase wetland functions, and the ability to attain the rehabilitation type-specific performance standards and success criteria. (CT 83)

For additional information please see response to #21.

31. Three letters received with comment: Errors in calculating wet season flows and drainage.

Applicant response to comment: *The statement in section 5.1.1 that "that a number of reservoirs in the watershed above Little Lake Valley further reduce wet-season flows" should not be taken out of the context that Chapter 5 is a discussion of "baseline" information, and the chapter heading for Section 5.1.1 is titled "Historical and Existing Surface Water Hydrology". The discussion of the impacts of grazing, other agricultural practices, dam construction, and other upstream activities on surface water hydrology in the USACE MMP and in the Baseline Report were not intended to cast a negative view on these practices. This information was provided to identify background information on how historic and current land management has resulted in changes to the terrestrial and aquatic landscape in the valley.* (CT 213)

Because streams are a major component of the surface water hydrology of the Little Lake valley, it is appropriate to review historic stream flow data for an analysis of historic and current surface water hydrology. "Cubic feet per second" (cfs) is the standard accepted

stream water discharge metric. Cfs is therefore an appropriate metric to determine the rate of surface water discharge from stream and stream gauges situated below water storage facilities are appropriate to determine whether those storage facilities have reduced the rate of wet-season flows in the streams below them. Stream flow data must also be correlated with precipitation data for a full understanding of any stream discharge data. Please note that precipitation data are also presented in section 5.1.1.1 for this purpose. (CT 213)

Data were gathered from the following website: http://waterdata.usgs.gov/nwis/. The commenter is correct that the average monthly discharge for November during the 1950's was not 1,367 cfs. Based on the data, the average monthly discharge at the Outlet Creek Gauge near Longvale was approximately 141 cfs during the month of November, for years 1956-1959. This mistake, occurring in Table 5-1, will be corrected. Regardless of this mistake, Table 5-1 supports the conclusion that the construction of upstream dams has resulted in a significant decrease in discharge, especially in the early 1990's after the construction of the Centennial Dam in 1989. (CT 213)

32. Four letters received with Financial assurances concerns: PAR analysis needs to be more detailed; PAR analysis needed for Phase II mitigation properties; financial assurances information incomplete.

Applicant response to comment: *Documents supporting the endowment calculation have been added to the Final MMP. These documents include the calculations and assumptions. Caltrans uses a systematic and thorough process to account for the foreseeable long-term maintenance activities and also includes a contingency factor in the endowment to cover unforeseen circumstances.* (CT 239)

A PAR will be calculated, inclusive of all CDFG mitigation, consistent with the requirements of the 1600 Agreement and 2081 Incidental Take Permit issued by CDFG in 2010. (CT 239)

It is agreed that the MCRCD and CDFG should have the benefit of the best available information prior to taking on the responsibilities of managing the endowment and the mitigation properties. In order to determine the final size of the endowment and extent of management responsibilities an approved mitigation plan is required and final permit conditions from the USACE must be determined. Caltrans intends to continue to manage the mitigation properties through the initial implementation of the mitigation effort. This includes issuing a contract for mitigation activities (planting, grading, etc.). The implementation of the mitigation effort will not be authorized until a USACE permit is issued. (CT 79)

Caltrans agrees that the endowment calculations should be transparent. Documents supporting the endowment calculation have been added to the Final MMP. These documents include the calculations and assumptions. Caltrans uses a systematic and thorough process to account for the foreseeable long-term maintenance activities and also includes a contingency factor in the endowment to cover unforeseen circumstances. (CT 122)

The non-wasting endowment will be a one-time cash payment from Caltrans into an account held by the CDFG. The account will be interest bearing. The endowment is considered non-wasting because it identifies a sum of money that will not decrease in value, and earnings would be enough to cover the annual stewardship costs under an investment strategy also intended to offset inflation. Withdrawals from the account will be made by CDFG and paid out to the Land Manager (MCRCD) to pay for the management activities identified in the mitigation plan. Caltrans has coordinated with both the RCD and CDFG in putting together the endowment estimate - to help ensure all the tasks associated with the long term management of the properties are captured. (CT 122)

PAR is proprietary software developed by the Center for Natural Lands Management. Caltrans and its consultants used this software to assist in the determination of the costs of the endowment. (CT 122)

The discrepancy between the two endowment numbers in Chapter 11 and Chapter 13 was an oversight and has been corrected. The endowment number in the Final MMP also reflects adjustments to the mitigation that occurred after the Draft MMP was released. (CT 122)

33. Two letters received with concern: Adverse impacts from wild animals (stream nutrient loads) not considered if vast tracts of land are put to fallow state.

Applicant response to comment: Caltrans recognizes that other wildlife species contribute some level of impact on riparian habitat. However, these species, currently and following implementation of mitigation, are not likely to be present at population levels comparable to livestock stocking levels. Wildlife species also tend to move about wetland and riparian habitat areas and do not remain in one area for an extended period of time. Wildlife species are also not restricted to a particular pasture for an extended period.

34. Three letters received with concern that Hydrology data lacking; is there a water quality analysis?

Applicant response to comment: *Because streams are a major component of the surface water hydrology of the Little Lake valley, it is appropriate to review historic stream flow data for an analysis of historic and current surface water hydrology. "Cubic feet per second" (cfs) is the standard accepted stream water discharge metric. Cfs is therefore an appropriate metric to determine the rate of surface water discharge from stream and stream gauges situated below water storage facilities are appropriate to determine whether those storage facilities have reduced the rate of wet-season flows in the streams below them. Stream flow data must also be correlated with precipitation data for a full understanding of any stream discharge data. Please note that precipitation data are also presented in section 5.1.1.1 for this purpose.*

Data were gathered from the following website: http://waterdata.usgs.gov/nwis/. The commenter is correct that the average monthly discharge for November during the 1950's

was not 1,367 cfs. Based on the data, the average monthly discharge at the Outlet Creek Gauge near Longvale was approximately 141 cfs during the month of November, for years 1956-1959. This mistake, occurring in Table 5-1, will be corrected. Regardless of this mistake, Table 5-1 supports the conclusion that the construction of upstream dams has resulted in a significant decrease in discharge, especially in the early 1990's after the construction of the Centennial Dam in 1989. (CT 213)

Caltrans is proposing mitigation (wetland establishment or rehabilitation) only in areas that were shown to support it, according to our baseline studies. It is not necessary to do a geomorphic study of the entire valley in order to propose standard mitigations actions in areas where all evidence shows that it has a high likelihood for success. (CT 92).

The USACE MMP was developed based on information obtained in previous reports and studies including baseline field studies performed in 2010 – 2011, subsequent to the August 2010 MMP. Previous studies and the recent baseline studies performed on the mitigation parcels included wetland delineations, wetland inundation mapping, vegetation analysis, special-status plant surveys, an evaluation of valley drainage patterns, erosion assessments, and water quality analysis. All of this information was used to develop the mitigation establishment and rehabilitation measures identified in the MMP (CT 109)

35. Two letters received with comment of: Viaduct impacts on birds, in terms of loss of wetland habitat, not analyzed.

Applicant response to comment: *Caltrans must comply with the Migratory Bird Treaty Act (MBTA) of 1918, which protects migratory and nongame birds, their occupied nests, and their eggs. Bird "population" surveys are not required for compliance with the MBTA, because the threshold for non-compliance with the MBTA is harming a single migratory bird, occupied nest, or egg.* (CT 93)

Nesting or attempted nesting by migratory and nongame birds is anticipated to occur but is not limited to February 15 through August 31. Project activities that have the greatest potential to harm migratory birds, their occupied nests, and their eggs include clearing, grubbing, and other vegetation removal activities, and activities associated with man-made structures appropriate for bird roosts or nests, including bridges. Caltrans will avoid or minimize the chance for adversely affecting migratory birds by conducting as much of the vegetation removal and removal of existing structures comprising migratory bird habitat as feasible during the "non-nesting" season (September 1 through February 14th). Additionally, exclusionary devices or other nesting prevention measures may be installed during this time frame to prevent birds from nesting on specific structures. (CT 93)

If any activities that may potentially harm migratory birds, their occupied nests, and their eggs are determined to be infeasible to accomplish during the non-nesting season stated above, then a qualified biologist will perform a survey within 10 days of the proposed activity to determine if the areas support nesting migratory birds. During the nesting season timeframe (February 15 through August 31), the contractor may remove and

dispose of partially constructed and unoccupied nests of migratory or nongame birds on a regular basis to prevent their occupation (nest removal activities must not result in depositing into or allowing materials to enter waters of this state). (CT 93)

When migratory or nongame bird nests are discovered which may be adversely affected by construction activity, or when a bird is found injured or killed as a result of construction activity, the contractor will be required to immediately stop work within 10 meters of the nest or bird and notify the Engineer. The Engineer will consult with the FWS and DFG to determine the proper course of action for compliance with the MBTA. Work will not resume until the Engineer provides written notification that work may resume at that location. (CT 93)

36. One letter received concerning Preservation credits concerns: why none allowed by MMP?

Applicant response to comment: *Preservation Credits*
The determination of preservation credits was made in consideration of 33 CFR Section 332.3(h), which states that:
(1) Preservation may be used to provide compensatory mitigation for activities authorized by DA permits when all the following criteria are met:
(i) The resources to be preserved provide important physical, chemical, or biological functions for the watershed;
(ii) The resources to be preserved contribute significantly to the ecological sustainability of the watershed. In determining the contribution of those resources to the ecological sustainability of the watershed, the district engineer must use appropriate quantitative assessment tools, where available;
(iii) Preservation is determined by the district engineer to be appropriate and practicable;
(iv) The resources are under threat of destruction or adverse modifications; and
(v) The preserved site will be permanently protected through an appropriate real estate or other legal instrument (e.g., easement, title transfer to state resource agency or land trust). (CT 52)

USACE has not found sufficient evidence to believe that the wetlands in question meet criterion (iv) above. Therefore, preservation credits have not been granted. Caltrans must meet its mitigation obligations through establishment and rehabilitation. (CT 52)

Land Use
A change in land uses will be a required component of the mitigation plan. The mitigation proposal will result in a reduction in agricultural land use. These lands will become open space areas protected by conservation easements. The change in land use provides benefits to the natural environment. This trade-off is necessitated by Caltrans need to satisfy its mitigation obligations from the Willits Bypass Project. (CT 52)

May 3, Memorandum
The jointly issued May 3, 1990 memorandum by EPA and USACE was intended to clarify the applicability of the Clean Water Act to agriculture. The document discusses the

normal formal activity exemption, which exempts from the Section 404 program discharges associated with normal farming, ranching, and forestry activities such as plowing, cultivating, minor drainage, and harvesting for the production of food, fiber, and forest products, or upland soil and water conservation practices. (CT 52)

The exemption allows for certain "normal farming" activities that may be conducted without the need for a Section 404 permit. (CT 52)

The exemption is not applicable to the mitigation proposal identified by Caltrans. Impacts from the project are due to fills associated with the construction of a highway project. These activities would not qualify for the normal farming activity exemption. (CT 52)

Agricultural activities within areas proposed for wetland establishment and rehabilitation are not proposed. Therefore, there would be no need to apply the exemption to these properties. (CT 52)

Areas with grazing prescriptions have not been evaluated for credit by the USACE and are not a subject of the current MMP under review as part of the 404 permit review. Both the RWQCB and CDFG prepared their permits and agreements based on the 2010 MMP, which did include the requirement for prescribed grazing. Conditions within these permits and agreements require that a grazing management plan be prepared. Implementation of this grazing management plan will be required to be concurrent with project construction. The grazing management plan has yet to be finalized by Caltrans in coordination with RWQCB and CDFG. (CT 29)

The explanation pertaining to calculation of credits for wetland enhancement is provided in Chapter 6 of the MMP. The USACE has determined that the mitigation must increase wetland functions directed towards the wetland's "best attainable state" to receive enhancement credit. The USACE has stated that the best attainable state is the long term, un-managed successional climax condition for soil, vegetation, and hydrology. During their wetland mitigation assessment, described in section 6.3.1.3 of the MMP, the USACE determined that the current circumstances of the wetlands on the offsite mitigation parcels are "fully functional" for wetland hydrology within their landscape positions, and that there is no discernable "lift" (credit) that could be obtained through hydrologic manipulation. The most direct expression of current land management practices is pervasive nonnative perennial pasture grasses. Based on observations from field studies, USACE determined that successional plant development offered the best opportunity to provide fully functional wetlands with sustainable increases in functions that would improve the quality and quantity of aquatic functions and help fulfill the ecological needs in the watershed. Improvements in vegetative cover and structure and the corresponding decreases in runoff and increases in residual dry matter and infiltration, are expected to improve the USACE and EPA-defined wetland functions of groundwater recharge, flood-flow attenuation, sediment and toxicant retention, and nutrient removal and transformation. (CT 83)

The functional lift is considered very minor (between 0.05 and 0.3 credit per acre) because the departure from the best attainable wetland state is restricted to vegetation structural development and successional composition change. Wetland rehabilitation will include clearing existing patches of nonnative wetland vegetation and replanting and seeding with native hydrophytic species. In addition to planting and seeding, each rehabilitation type includes some level of successional development in untreated areas on which native vegetation currently exists. Each rehabilitation type also has specific performance standards and success criteria. Five types of wetland rehabilitation actions were developed. The various types are based on the existing state of the wetland, the amount of habitat manipulation needed to increase wetland functions, and the ability to attain the rehabilitation type-specific performance standards and success criteria. (CT 83)

For more information please see responses at #21.

37. **Five letters received regarding Temporary impacts concerns: if existing vegetation is removed during wetland enhancement that area should be counted in temporary impact amounts ledger; temporary impacts will result in permanent damage to wetlands; temporary impacts will disrupt storm drainage; condition of wetlands temporarily impacted has not been analyzed; amounts/locations of temporary impacts should not be left to the contractor who is not obligated to disclosure.**

Applicant response to public concern that temporary impacts associated with vegetation removal during construction of wetland enhancement mitigation sites should receive compensatory mitigation: *USACE requires that in addition to re-establishment of temporarily affected wetland areas, Caltrans will also be required to mitigate for temporal losses of temporarily affected wetland areas by establishing and rehabilitating additional wetlands on the off-site mitigation parcels (in other words, a portion of the offsite mitigation compensates for the "onsite" temporary impacts).*

For temporary impacts, the USACE required that Caltrans mitigate at the ratios specified in Section 2.3.1, rather than Caltrans' proposal in Section 2.3.2. USACE agreed that no mitigation would be required for areas that would not be filled. (CT 75)

USACE requires that in addition to re-establishment of temporarily affected wetland areas, Caltrans will also be required to mitigate for temporal losses of temporarily affected wetland areas by establishing and rehabilitating additional wetlands on the off-site mitigation parcels (in other words, a portion of the offsite mitigation compensates for the "onsite" temporary impacts). (CT 170)

Applicant response to public comment that temporary impacts will result in permanent impacts to wetlands:

Temporary Impacts

Designations of "temporary" and "permanent" impacts used in this MMP were kept consistent with the methodology used in the December 2006 FEIR/FEIS, the June 2010 NEPA/CEQA Revalidation and the August 2010 Draft MMP. In general permanent impacts are those associated with areas of permanent fill, and resources under these fills

will never again be available for re-establishment or enhancement of the affected resource:
Permanent impacts included the following permanent fills:

- *All resources under roadways and associated embankments were considered permanently affected.*
- *Resources under newly placed utility poles were considered permanent impacts*
- *A portion of the Rutledge pond will be filled. The pond will be reconfigured to allow for the same water retention as is currently afforded. The area that the reconfigured pond will occupy (fill and excavation required for the "new" pond) was considered a permanent impact.*
- *Areas where pier footings will be placed for the viauct structure were considered permanent impacts.*
- *Permanent fills resulting from wetland establishment activities, erosion control activities, and modifications to ditches and swales were considered permanent impacts.* (CT 61)

Temporarily affected areas were considered as those areas where project activities will take place, but will not be permanently covered in fill at the end of construction. All temporarily affected areas will have any temporary fills removed, and will be returned to original elevation, grade, and general drainage pattern as the original ground, thus these areas will still be available for restoration after project construction is complete. These include areas required for crew and vehicle access, temporary falsework for structures and any areas where temporary fills will be removed at the end of construction (haul roads, etc), and include the following:

- *Temporary impacts were calculated as the area from the roadway embankment catchpoint (that is, the toe of the embankment) to 3 meters beyond. Any resources occuring in these areas were calculated as temporarily impacted.*
- *Areas of stream repair were calculated as temporarily affected*
- *Resources in areas required for access and falsework under the proposed viaduct structure were calculated as temporarily affected.*
- *Temporary fills and other temporary ground-disturbing activities resulting from wetland establishment activities, erosion control activities, and modifications to ditches and swales were considered temporary impacts to resources.*
- *Access routes to the new utility pole locations were not considered as adverse impacts to resources. Proposed utility access easements will be limited to short duration truck traffic during project construction (one time in and out access during project-related utility relocation activities), and no fills will be required within any of the temporary or permanent access easments. Vehicle and equipment access and asssociated utility relocation activities will be limited to working during the dry season, typically from July 1st to October 15th, depending on conditions. Vehicles shall have rubber tires, and no equipment with tracks will be used. Additionaly, proposed utility easement access routes have been configured to utilize existing roadways, driveways, and dirt roads or will occur adjacent to the temporary impact zone of the Bypass.* (CT 61)

Re-establishment of all temporarily impacted wetlands is a component of the mitigation plan. In order to achieve mitigation success Caltrans must meet the performance

standards in Chapter 9 of the MMP, or trigger remedial actions. In this respect Caltrans cannot just "walk away" from any proposed mitigation commitment. In addition to re-establishment of temporarily affected wetland areas, Caltrans will be required to mitigate for temporal losses of temporarily affected wetland areas by establishing and rehabilitating additional wetlands on the off-site mitigation parcels. (CT 61)

The statement that the temporary impacts are likely to cause permanent impacts is speculative. Caltrans' staff has extensive experience in analyzing temporary and permanent impacts caused by our projects. In the rare event that an impact originally thought to be temporary turns out to have permanent consequences and cannot be rectified Caltrans is required to do additional mitigation to account for the permanent nature of the impact. (CT 13)

The discussion of impacts in Section 2.2 is inclusive of temporary impacts. The phasing of the project allows for temporary impacts to attenuate over time with appropriate mitigation; therefore, any lag time between phases would not create an independent, exacerbating effect. If Phase 2 is funded and built within a similar timeframe as Phase 1, then re-establishment efforts for both project phases would occur immediately after construction.

The cited regulation does not require that all mitigation be performed in the first phase of a phased project.

Applicant response to public comment that temporary impacts to wetlands will disrupt storm drainage: *Temporarily affected areas were considered as those areas where project activities will take place, but will not be permanently covered in fill at the end of construction. All temporarily affected areas will have any temporary fills removed, and will be returned to original elevation, grade, and general drainage pattern as the original ground.*

USACE requires that in addition to re-establishment of temporarily affected wetland areas, Caltrans will also be required to mitigate for temporal losses of temporarily affected wetland areas by establishing and rehabilitating additional wetlands on the off-site mitigation parcels (in other words, a portion of the offsite mitigation compensates for the "onsite" temporary impacts).

Applicant response to public comment that condition of wetlands earmarked for temporary impacts have not been analyzed: *The MMP was developed based on information obtained in previous reports and studies including baseline field studies performed in 2010 – 2011. Previous studies and the recent baseline studies performed in the mitigation parcels included wetland delineations, wetland inundation mapping, vegetation analysis, special-status plant surveys, an evaluation of valley drainage patterns, erosion assessments, and water quality analysis. All of this information was used to develop the mitigation establishment and rehabilitation measures identified in the MMP. The extensive amount of time Caltrans has spent collecting data and observing the current conditions of the valley increases, to the most practical extent possible, the likelihood of mitigation success.*

Applicant response to public comment that amounts and locations of temporary impacts should not be left to contractor discretion who are not obligated to disclosure: *The haul road, a temporary impact, will be designed by the Contractor within the footprint that is being mitigated. Construction of the haul road must meet a set of guidelines that will require addressing seasonal conditions and meeting all permit requirements. The Contractor will be required to submit a floodplain analysis that models the haul road in the existing floodplain demonstrating the haul road will not impact the 100 year flood event.* (CT 108)

The location of the proposed haul roads were within the impact footprint of the project, and thus considered in the impact and mitigation discussions (including wetlands and streams) in the MMP. (CT 108)

38. Three letters received with Baseline Report concerns: MMP does not comply with Spring 2011 baseline study conclusions (concluded grazing activities adversely affect wetlands). Baseline report must validate no-net-loss conclusion.

Applicant response: **See response to Comment #2.**

39. Two letters received with public concern regarding impacted wetlands: impacted wetlands and their functions lost should be related back to restored wetlands and the functions gained/replaced; unclear how certain types of impacted wetlands will be mitigated for; what is the condition of the impacted wetlands.

Applicant response to public concern that impacted wetlands and their functions lost should be related back to restored wetlands and the functions gained/replaced: *USACE and Caltrans staff worked collaboratively to identify establishment, enhancement and rehabilitation efforts to comply with Clean Water Act requirements. The identified mitigation efforts include over 50 acres of wetland establishment and approximately 350 acres of wetland rehabilitation. In addition, re-establishment of temporarily impacted wetlands will be required. Successful implementation of the mitigation efforts will result in a net increase in wetland area (50 acres of establishment versus approximately 40 acres of permanent impact). Crediting levels for Group 2 wetlands resulted in less than 1 credit per acre of mitigation. As a result, in addition to the 50 acres of establishment, a substantial amount of rehabilitation efforts will be undertaken to compensate for uncertainties of wetland establishment. In addition, rehabilitation efforts will cover temporal losses of the mitigation effort.* (CT 169)

Successful wetland mitigation efforts are dependent on numerous factors. Caltrans will be held to the performance standards identified in Chapter 9 of the MMP. Adaptive management measures are included in Chapter 12, if the intended results are not achieved. (CT 169)

The Corps supplements the above response with the following: After the failed August 2010 proposed MMP, temporal and resource constraints did not allow extensive time consuming wetland functional evaluations.

As addressed in the responses to several other comments, compensatory mitigation will be accomplished through a combination of establishment, re-establishment, and rehabilitation. These terms are identified and defined in USACE's April 2008 Compensatory Mitigation for Losses of Aquatic Resources Final Rule (33 Code of Federal Regulations (CFR) section 332.1, et seq.)). Because the mitigation parcels are predominantly composed of existing wetlands there is not a sufficient amount of land area on which to establish the amount of wetland area needed to meet the no-net-loss policy. As a result and under the guidance of the 2008 Mitigation Rule, USACE agreed to allow Caltrans to mitigate for the deficit of wetland establishment acres by implementing a wetland rehabilitation strategy that would result in a "functional lift (improvement/change)" in wetland function quality and total amount over baseline wetland functional conditions.

As stated in the USACE MMP, the absence of a practical or institutionally recommended functional assessment process under the 2008 Mitigation Rule requires USACE to rely on best professional judgment to develop mitigation strategies and success criteria based on an assessment of the mitigation actions and the effects of these actions on proposed and existing wetlands. Typically, determinations are based on rendered field observations at the impact and mitigation sites. After the failed Aug10 proposed MMP, temporal and resource constraints did not allow extensive time consuming wetland functional evaluations.

To determine what was needed for no net loss of functions and services of waters of the United States, USACE undertook a direct assessment (USACE Phase 1 Impact Assessment) of the permanent and temporary impacts on waters of the United States to evaluate the quality of existing wetlands (which are predominantly wet meadow), during winter 2010 – 2011 and developed a credit rating system for wetland rehabilitation actions. The assessment concluded that in the absence of a detailed grazing plan that could be used to equate grazing management with measurable functional lift, wetland functions could be inferred to increase in type and amount with a measurable change in the structure and composition of vegetation in the existing grazed wetlands.

This assessment was used to assign preliminary mitigation ratios to impacts based on the current functions and services of the affected wetlands. Subsequent to the assessment, USACE and Caltrans held several meetings to discuss the wetland mitigation approach and associated mitigation ratios. The result of these meetings was the basis for the mitigation action approach and wetland mitigation crediting system.

The mitigation crediting system developed by the USACE accounts for the temporal loss of habitat and uses a conservative approach to assigning wetland credits (i.e., the higher the confidence level the higher the mitigation credit ratio). For example, Type 1 – 5 wetland rehabilitation actions have been assigned mitigation ratios of 0.05:1 – 0.3:1

based on the USACE assessment of existing habitat quality, the level of work proposed for each rehabilitation type, and the associated higher success criteria.

The temporal loss associated with implementing the Type 3 – 5 rehabilitation actions will be compensated by the overall acreage of wetland that will be rehabilitated. For example, under the 0.3:1 credit scenario Caltrans will receive 0.3 credits for every acre of wetland rehabilitation. In other words, Caltrans will only receive credit for 30% the Type 4 mitigation acreage that is rehabilitated (e.g., if Caltrans implements Type 4 measures on 100 acres they will only receive 30 acres of mitigation credit for that work).

Under the Mitigation Rule wetland rehabilitation is considered suitable compensation for impacts to wetland functions. At this time there are no general standards for assigning credit for rehabilitation but the rule allows for best professional judgment to establish compensation ratios.

Applicant response to public concern for understanding how certain types of impacted wetlands will be mitigated for: *Tule marsh will not be created on the any of the USACE or other mitigation parcels because there are no suitable location on which to establish tule marsh from existing uplands. The wetland delineation for the Watson parcel identified that the majority of wetland on the parcel where mixed marsh, which includes tules. This parcel is currently hayed each year, reducing the function and values of the wetland. Secession of this management practice will rehabilitate this wetland to provide the functions and values of tule marsh habitat. As a result, tules and other wetland vegetation will be present throughout the year (instead of during parts of the year) and will provide year-round foraging and cover habitat as well as a longer period in which nesting could occur.*

Applicant response to public concern regarding the condition of the impacted wetlands: *The MMP was developed based on information obtained in previous reports and studies including baseline field studies performed in 2010 – 2011. Previous studies and the recent baseline studies performed in the mitigation parcels included wetland delineations, wetland inundation mapping, vegetation analysis, special-status plant surveys, an evaluation of valley drainage patterns, erosion assessments, and water quality analysis. All of this information was used to develop the mitigation establishment and rehabilitation measures identified in the MMP. USACE has agreed to allow Caltrans to mitigate for the deficit of wetland establishment acres by implementing a wetland rehabilitation strategy that would result in a "functional lift (improvement/change)" in habitat quality and value over baseline conditions. The extensive amount of time Caltrans has spent collecting data and observing the current conditions of the valley increases, to the most practical extent possible, the likelihood of mitigation success.*

40. Two letters received concerning fire danger from removal of grazing.

Applicant response: *If the nongrazed mitigation areas become a fire hazard due to thatch or understory accumulation, as determined by local fire officials, those areas in question can be thinned, mowed, or control burned to the minimum extent necessary to no longer pose a threat. Another option is to provide a firebreak around the perimeter of*

the area, if the fire officials consider this efficient; however firebreak placement would need to consider and avoid potential effects on sensitive resources (e.g., disking in wet meadow). Care would be taken to implement the least amount of human management as possible to remediate the problem in the ungrazed mitigation areas.

41. Two letters received with concern: MMP does not include same impact amounts disclosed from permit application submittal package.

Applicant response: *The current (October 2011) MMP does not report the same acreage impacts as reported in the February 2010 permit application because of mitigation action revisions (including the re-design of "Group 1" wetland establishment areas and the addition of "Group 2" wetland establishment actions), and the re-calculation of areas temporarily affected by vehicle access to utility relocation sites which have necessitated modifications to the type (permanent/temporary) and extent of impacts since publication of the 2010 MMP. Therefore the acreages provided in the October 2011 MMP are updates of the acreage impacts presented in February 2010.*

42. One letter received with comment: Stream impacts unclear.

Applicant response:

Sedimentation/Flooding

As stated in earlier responses in the document, Caltrans, as well as the resource agencies, recognizes the concerns of valley landowners regarding the subject of stream maintenance on the stream segments that transect the mitigation parcels. While stream management serves a purpose for landowners it does result in some degradation of stream corridors which provides habitat for salmonids and other aquatic resources. Caltrans understands that there may be a need to address sedimentation accumulation in streams such as Outlet and Davis Creek if it jeopardizes threatened or endangered species or threatens to induce flooding of a neighboring property. Caltrans has added a section in the adaptive management chapter that will allow the land manager the flexibility to work with the stakeholder regulatory agencies to perform maintenance on streams if needed. Caltrans will consider the following items when developing future stream management practices: the need for, and type of, ongoing maintenance practices, existing agreements between landowners and DFG, baseline survey results, and the mitigation requirements for stream corridors (e.g., riparian vegetation establishment, increase in shade provided by riparian vegetation).

Overbank flow and sediment deposition is a natural process associated with all stream channels and floodplains and some level of sediment deposition is expected to occur on all the mitigation lands, including existing wet meadows and riparian habitat. The geomorphic assessment concluded that the most significant sediment deposition occurred primarily as a result of upstream land uses (e.g., logging). Since that time, and with changes to upstream land uses, there do not appear to have been recent episodes of large sediment deposit. Current sediments carried in the stream channels are expected to primarily be the result of localized bank erosion and natural stream processes and are contained within the stream corridors except during high flows at which time the sediments predominantly consist of fines.

The mitigation plan does not include significantly altering stream corridors, or propose other mitigating actions or long-term management that will contribute to an overall increase in floodplain elevation. (CT 78)

43. One letter received with comment: Interchange design has changed, thus, fill amount is wasteful.

Applicant response: *Design standards and costs dictate interchange type. In this case profile grade, sight distance and intersection spacing were the driving factors in determining the interchange type. The interchanges as currently designed are as compact as feasible without compromising design standards.*

Seven letters were received that question the safety of building only two lanes of a project that was designed for four lanes based, in some part, for safety reasons. These comments are not directly related to the purpose of the public notice, which was to solicit comments for the MMP. However, it does indirectly question project purpose and the associated impacts to waters of the United States.

All required properties have been identified and have either been acquired or are in the process of being acquiring for the bypass project. Owners of property required for the bypass project have all been contacted. To the extent the handout maps at the public meeting in Willits on October 18, 2011 were interpreted to mean that additional land is currently planned for acquisition, that interpretation is not accurate. (CT 163)

All access to privately owned property will be maintained. Access to the properties along the west side of the roundabout are in the project design plans. It is likely that the access for several properties west of the roundabout where not shown on displays at the October 18, 2011 meeting due to the scale of the mapping. (CT 163)

44. One letter received with coment: Failure by the Corps to disclose documents under the Freedom of Information Act (FOIA).

The Corps provides the following supplement as response to a comment received from the public regarding the release of information under the Freedom of Information Act (FOIA): Case law and Army policy dictate that FOIA requests be handled on a first in, first out basis. Open America v. Watergate Special Prosecution Force, 547 F.2d 605 D.C. Cir. 1976, AR 25-55, The Department of the Army Freedom of Information Act Program, p 4. With the extensive FOIA backlog, the FOIA Coordinator was not able to begin to process this complex request until November 10, 2011. Documents in response to this request have been released as follows:

November 10, 2011: First release, approximately 47 documents
November 22, 2011: Second release, approximately 56 documents
December 9, 2011: Third release, approximately 18 documents
January 31, 2012: Fourth release, approximately 38 documents
February 15, 2012: Fifth release, approximately, 88 documents

Total: approximately 247 documents, at no charge to the requester

Safety Concerns, not related to the MMP. Seven letters were received that question the safety of building only two lanes of a project that was designed to be four lanes separated via a median (and two viaducts). These comments pertain to roadway safety and not directly related to the purpose of the public meeting and public notice, which was to solicit comments regarding the proposed mitigation plan. However, I believe this concern may indirectly question the purpose of the associated impacts to waters of the United States. Thus, roadway safety concerns were noted and the applicant responded.

Applicant response to public comment regarding safety concerns: *The phase-one project is a grade separated access controlled facility that will meet current design standards for a two-lane two-way highway. That is, the 2-lane roadway will be designed so that it is safe, not dangerous, for drivers who are prudent while on the road. The Willits Bypass project is a four-lane grade separated freeway project to improve interregional traffic operation, improve safety, and provide a level of service rating of C or better. The project is being phased due to financial constraints. The FEIS/R and Project Report discuss the possibility of phasing the project due to funding.* (CT228)

PREPARED BY:

David Wickens
Senior Regulatory Project Manager

2-16-2012
Date

Commenter	Organization	address	Comments	
COMMENTOR	ORGANIZATION	ADDRESS	MMP COMMENT CATEGORIES	DATE
Stephen Lawler		stephenavatar@gmail.com	8	9-Nov-11
William Boosinger		28110 Poppy Drive, Willits, CA 95490	2	9-Nov-11
William Bruneau		bbruneauca@gmail.com	3, 4, 5, 6,7,8, 2, safety concerns, 21, 11, 1	9-Nov-11
Hal Wagonet	Mendocino County Supervisor	PO Box 1057, Willits, CA 95490	8, 9	9-Nov-11
Ron Moorehead	Willits Chamber of Commerce	299 E. Commercial Street, Willits, CA 95490	2, 4, 6, 10, 11	9-Nov-11
Ronald Lippert	R.O.N. of Willtis	PO Box 952, Willits, CA 95490	8	9-Nov-11
Rosamond Crowder's comments via Dr. Charles Dewberry			12, 13, 14, 15, 16	7-Nov-11
Elizibeth Riedel		889 S Main Street, Willits, CA 95490	2	9-Nov-11
Patty M. Lawlis	Eel River Bend Ranch	PO Box 609 Willits, CA 95490	8, 2, 6, 8	9-Nov-11
Andrew Orahoske	Environmental Protection Information Center	145 G Street, Suite A, Arcata, CA 95521	8, 2, 17, 15	9-Nov-11
Charles "Tony" Orth		1454 Casteel Drive, Willits, CA 95490	9, 8,	9-Nov-11
Scott Greacen	Friends of the Eel River, North Coast Director	1385 8th Street, Box 3, Arcata, CA 95521	4, 3, 15, 17, 18, 10, 19	9-Nov-11
Jason Brush	United States Environmental Protection Agency, Region IX	75 Hawthorne Street, San Francisco, CA 94105-3901	20, 17, 21, 12, 23	9-Nov-11
Bob Whitney	Golden State Land Conservancy	23801 Iris Terrace, Willits, CA 95490	2, 7, 24, 4, 24, 25	9-Nov-11
Kari E. Fisher, Jack L. Rice, Pam Hotz	California Farm Bureau Federation	2300 River Plazza Dr., Sacramento, CA 95833	4, 24, 25, 5, 5,26, 27, 2, 17, 28, 29, 30, 31	9-Nov-11
Neil Manji, Regional Manager	California Department of Fish and Game	601 Locust Street, Redding, CA 96003	17, 32, 12	9-Nov-11
Mike Anderson, President	Mendocino County Farm Bureau	303-C Taimage Road, Ukiah, CA 95482	27, 22, 21, 29, 33, 4, 6, 13	9-Nov-11
Marisela DeSanta Anna		mdsa@saber.net	2, 16, 34, 35	9-Nov-11
Rani Saijo		PO Box 1829 Willits, CA 95490	8, 3, 2, 7	9-Nov-11
John and Charlene Ford	attachments via John M. Harper	2250 Hearst Road, Willits, CA 95490	26, 21, 27, 2, 11, 36, 5, 6	9-Nov-11
Brian Weller		horizonson@comcast.net	2, 37, 3, 8, 6, 4	10/25/2011, 11/8/2011
Karen Gridley		dridleyk@pacific.net	7, 2	8-Nov-11
Sue and Bill White		2351 E. Hill Road, Willits, CA 95490	8,	8-Nov-11
Divora Stern		5975Tartar Canyon Road, Willits, CA 95490	8, 4,	8-Nov-11
Hal Wagonet	Mendocino County Supervisor	PO Box 1057 Willits, CA 95490	8, supports the project	7-Nov-11
Marilynn Boosinger		28110 Poppy Drive, Willits, CA 95490	2, 3, 8,	8-Nov-11

Commenter	Organization	address	Comments	
Susan and John Bradley		PO Box 52 Laytonville, CA 95454	2, 8, 7	8-Nov-11
Brian Weller via Freddy Long		Willits, CA	2, 37, 3, 8, 5, 6,	8-Nov-11
Larry Desmond		larrydesmond@earthlink.net	2, 8, 16	8-Nov-11
Roland Krausen		PO Box 545 Willits, CA 95490	8	8-Nov-11
Christopher Martin		1678 D. Lilac Ct., Willits, CA 95490	8, safety questioned, 1, 5, 6, 3, 7	8-Nov-11
Jim Killean		23591 Vineyard Rd, Geyserville, CA 95441	8, 9	8-Nov-11
Sarah Schuyler		2115 Clover Court, Willits, CA 95490	8, 2, 31	8-Nov-11
David Drell	Willits Environmental Center	630 South Main Street, Willits, CA 95490	3, 2, 1, 5, 4, 10, 12, 20, 15, 37, 38, 17, 7, 23, 16, 39, 6, purp/need	8-Nov-11
Robin Goldner		245 S. Homboldt St., Ste B, Willits, CA 95490	4, 6, 40, safety issues, 1	5-Nov-11
Douglas A. Ruley	Law Offices of Douglas A. Ruley, on behalf of env. Groups	PO Box 2227 Leicester, NC 28748	2, 3, 1, 10, 12, 20, 15, 37, 38, 41, 32, 42, 39, 4, 6, 7	7-Nov-11
Miriam Raphael		mirigel@pacific.net	8	7-Nov-11
on behalf of Rosamond Crowder	Willits/Outlet Creek Watershed Group	PO Box 2218, Willits, CA 95490	4, 1, 3, 41, 37, 17, 29, 12, 32, 6, 5, 10, 38, 14, 19, 18,	7-Nov-11
Rosamond Crowder		PO Box 1413, Willits, CA 95490	43, 7	7-Nov-11
Dickey Weinkle		1894 Tulip Place, Willits, CA 95490	2, safety issue raised, 1	7-Nov-11
Robyn Leler		150 E. Mendocino Ave., Willits, CA 95490	2, 15, 37	7-Nov-11
Lee Persico	Lee F & Evelyn D Persico P/6 Ranch	23785 Reynolds Hwy, Willits, CA 95490	2, 6, 13, 27	7-Nov-11
Virginia DeVries		4260 Blackhawk Dr., Willits, CA 95490	safety questioned, 1,	7-Nov-11
Debra Lesslie		27800 Schow Rd., Willits, CA 95490	traffic issue is local, project doesn't solve it	6-Nov-11
Marc Komer		17400 Shafer Ranch Road, Willits, CA 95490	4, 6, 40, 1, safety questioned	5-Nov-11
John Wagonet		1462 Casteel Dr., Willits, CA 95490	1, 18,	6-Nov-11
Josephine Silva		3 Troll Ridge Road, Willits, CA 95490	6, 3, 4, 18, 31, 34, design changes, traffic questioned	5-Nov-11
Sheyl Smith		PO Box 2175, Willits, CA 95490	27, 2	5-Nov-11
Marcia Rautenstraunch		180 E. Mendocino Ave., Willits, CA 95490	3, 17, 12, 34, 20, 35, 19, 14, 32	4-Nov-11
Mike Chapman	General Manager, Brooktrails Township	24860 Birch Street, Willits, CA 95490	9	3-Nov-11
Carlin Diamond		34133 Shimmins Ridge Road, Willits, CA 95490	6, 2	2-Nov-11
Thomas DiMarchi		1851 Crawford Dr., Willits, CA 95490	2, traffic questioned, 4, 6, 7	2-Nov-11
Patricia Kovner		3820 Branscomb Rd., Laytonville, CA 95454	3, 4, 6, 7	31-Oct-11
Maj. Gretchen Moore, (Ret.)		21250 Locust St., Willits, CA 95490	wants a 2 lane hwy, no comments about MMP	31-Oct-11
Jane McCabe		1894 Tulip Place, Willits, CA 95490	2, 4, safety concern, 6	2-Nov-11

Commenter	Organization	address	Comments	
Madge Strong		39 Mill Creek Drive, Willits, CA 95490	2, 1, 4, 6, 7	26-Oct-11
Jed Diamond		34133 Shimmins Ridge Rd, Willits, CA 95490	2, 5, 6	26-Oct-11
Phil Frisbie, Jr.			3, 4, 5, 6, 2, 7	28-Oct-11
Jeff Bradley		jeff@calicom.net	6	27-Oct-11
Jane McCabe	President, WELL Coordinating Committee	PO Box 42, Willits, CA 95490	2, traffic questioned, 4, 1, safety concerns, 6, 7	26-Oct-11
Tom Daughterty	NMFS		may need to re-open consultation, entrainment issues, rip rap on banks	26-Oct-11
Mr. & Mrs. Jake Shull		5726 Ridgewood Road, Willits, CA 95490	3, 4, 6, 7	25-Oct-11
Mrs. Freddie Long		24378 Birch Dr., Willits, CA 95490	3, 4, 6, 7	25-Oct-11
Steve Moller, President	Shasta County Cattlemen's Association	PO Box 492401, Redding, CA 96049-2401	6, 27,	25-Oct-11
David Partch		429 Redwood Ave., Willits, CA 95490	1,	25-Oct-11
Pat O'Halloran		2504 Joseph Ct., Santa Rosa, CA 95407	supports project	25-Oct-11
Jonothan Siller		582 Decanter Circle, Windsor, CA 95492	supports project	25-Oct-11
Bob Cahill		4367 Gloria Ct. Rohnert Pk, CA	supports project	25-Oct-11
Alan R. Falleri	City of Willits, Community Development Director	111 East Commercial Street, Willits, CA 95490	10, 6, 4	24-Oct-11
Stephanie K. Dodge		PO Box 2364 Willits, CA 95490	3, 4, 6	24-Oct-11
Rex Brazell			in favor of project, no comments on MMP	18-Oct-11
June Beere			in favor of project, no comments on MMP	18-Oct-11
Eleanor m. Naill			in favor of project, no comments on MMP	18-Oct-11
Russ Swanson			in favor of project, no comments on MMP	18-Oct-11
Frank Sugw			in favor of project, no comments on MMP	18-Oct-11
Jerry Fagerness			in favor of project, no comments on MMP	18-Oct-11
Nanci Fagerness			in favor of project, no comments on MMP	18-Oct-11
Patricia Snow			in favor of project, no comments on MMP	18-Oct-11
Gordon Lunde			in favor of project, no comments on MMP	18-Oct
Gary Rossi			in favor of project, no comments on MMP	18-Oct-11
Kelly Snow			in favor of project, no comments on MMP	18-Oct-11
Larry Summerfield			in favor of project, no comments on MMP	18-Oct-11
Frank Batis			in favor of project, no comments on MMP	18-Oct-11
Ron W Malzen			in favor of project, no comments on MMP	18-Oct-11
John Rector			in favor of project, no comments on MMP	18-Oct-11
Peter & Deborah Grieg		PO Box 505, Willits, CA 95409	4. 6	21-Oct-11
John Galeotti			in favor of project, no comment on MMP	18-Oct-11
Randolph Bryson			in favor of project, no comment on MMP	18-Oct-11
Joel Lansher			in favor of project, no comment on MMP	18-Oct-11
George Steffensen			9	18-Oct-11
Pam Brown			questions traffic study	18-Oct-11
				18-Oct-11
Freddie Long		24378 Birch Drive, Willits, CA 95490	3, 4, 6,	18-Oct-11
Phillip J. Dow	Mendocino Council of Governments	367 North State Street, Ste. 206, Ukiah, CA 95482	9	18-Oct-11
William J. Ray		22641 East Side Road, Willits, CA 95490	2, 1, 4	16-Oct-11
David Sulouff	11th Coast Guard District		no comment on MMP	12-Oct-11
Charles Fielder, District Director	Caltrans		9	5-Oct-11