UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
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APR 5 2013

Tay Dam
Federal Highway Administration
Los Angeles Metro Office
888 S. Figueroa Street, Suite 1850
Los Angeles, CA 90017

Subject: EPA comments on the Supplemental Draft Environmental Impact Statement for Mid County Parkway, Riverside County, California (CEQ # 20130015)

Dear Mr. Dam:

The U.S. Environmental Protection Agency (EPA) has reviewed the Supplemental Draft Environmental Impact Statement (EIS) for the Mid County Parkway (MCP), Riverside County, California. Our comments are provided under the National Environmental Policy Act (NEPA), the Council on Environmental Quality's (CEQ) NEPA Implementing Regulations (40 CFR 1500-1508), and Section 309 of the Clean Air Act. Based upon our review, we have rated the proposed action as *Environmental Concerns- Insufficient Information (EC-2)*. See attached "Summary of the EPA Rating System" for a description of the rating. The basis for the rating is summarized below and further detailed in our enclosed comments.

Federal Highway Administration, Caltrans, and Riverside County Transportation Commission have prepared a Supplemental Draft EIS to improve east-west transportation in western Riverside County between Interstate 215 in the west and State Route (SR) 79 in the east. The Draft EIS examined a larger 32-mile corridor from SR 79 further west to Interstate 15. EPA provided comments on the Draft EIS on January 8, 2009, rating the proposed action as *Environmental Concerns-Insufficient Information (EC-2)*, and subsequently reviewed an Administrative Supplemental Draft EIS on February 6, 2012. The project has followed the National Environmental Policy Act and Clean Water Action Section 404 Integration Process for Federal Aid Surface Transportation Projects in California Memorandum of Understanding (NEPA/404 MOU). EPA participates in the MCP Small Working Group which provides an interagency forum for early feedback during the development of the EIS and facilitates the NEPA/404 MOU process. EPA has provided agreement on the project's revised purpose and need statement (July 21, 2010), agreement on the modified range of alternatives to carry forward in the Supplemental Draft EIS (January 31, 2011), and comments on several revised draft technical documents which support the Supplemental Draft EIS.

In the attached detailed comments, EPA expresses environmental concerns with the project's impacts to: 1) the San Jacinto River floodway from the San Jacinto River Bridge Design Variation and, 2) the Perris Valley Storm Drain channel that could potentially limit future setback levee flood protection designs from the Alternative 4 Modified proposed bridge that parallels the channel. EPA also recommends utilizing a watershed approach, consistent with the 2008 U.S. Army Corps of Engineers and EPA

Compensatory Mitigation Rule, to identify the most beneficial opportunities to mitigate for impacts to Waters of the U.S. EPA also provides comments to further minimize impacts to a neighborhood in the City of Perris that will be divided by Alternative 9 Modified; to continue working closely with tribal governments and groups to address affected tribal sites that are eligible for listing in the National Register of Historic Places; and, when available, to use U.S. EPA Tier 3 and Tier 4 construction equipment to further reduce construction emissions.

As next steps for this project, EPA will continue to engage in the Small Working Group and provide comments as described in the NEPA/404 MOU and pursuant to NEPA, CEQ regulations (40 CFR Parts 1500-1508), and Section 309 of the Clean Air Act. We are also available to continue working with the Small Working Group to further refine the design of project alternatives to avoid and minimize impacts to resources and to discuss mitigation options.

Thank you for the opportunity to comment on the Supplemental Draft EIS. We look forward to continued coordination on this project. When the Final EIS is released for public review, please send one hard copy and three electronic copies to the address above (mail code: CED-2) at the same time it is officially filed with our Washington, D.C. Office. If you have any questions, please contact Susan Sturges, the lead reviewer for this project, at 415-947-4188 or sturges.susan@epa.gov.

Sincerely,

Connell Dunning

Connell Dunning, Transportation Team
Supervisor
Environmental Review Office
Communities and Ecosystems Division

CC via email: Marie Petry, Caltrans District 8
Cathy Bechtel, Riverside County Transportation Commission
Shawn Oliver, Federal Highway Administration
Karin Cleary-Rose, U.S. Fish and Wildlife Service
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Rob McCann, LSA Associates, Inc.
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SUMMARY OF EPA RATING DEFINITIONS

This rating system was developed as a means to summarize EPA's level of concern with a proposed action. The ratings are a combination of alphabetical categories for evaluation of the environmental impacts of the proposal and numerical categories for evaluation of the adequacy of the EIS.

ENVIRONMENTAL IMPACT OF THE ACTION

"LO" (Lack of Objections)

The EPA review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

"EC" (Environmental Concerns)

The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce the environmental impact. EPA would like to work with the lead agency to reduce these impacts.

"EO" (Environmental Objections)

The EPA review has identified significant environmental impacts that must be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

"EU" (Environmentally Unsatisfactory)

The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potentially unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommended for referral to the CEQ.

ADEQUACY OF THE IMPACT STATEMENT

Category 1" (Adequate)

EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis or data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

"Category 2" (Insufficient Information)

The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analysed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses, or discussion should be included in the final EIS.

"Category 3" (Inadequate)

EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analysed in the draft EIS, which should be analysed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the NEPA and/or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

*From EPA Manual 1640, "Policy and Procedures for the Review of Federal Actions Impacting the Environment.

Perris Valley Storm Drain

Based on the information provided, EPA has concerns with the Alternative 4 Modified bridge alignment that would parallel the Perris Valley Storm Drain. In addition to having greater impacts to the channel, the Supplemental Draft Environmental Impact Statement (EIS) indicates that this alternative would also require bridge piers temporarily located in the 100-year floodplain until future levees are constructed. EPA is concerned that locating the bridge next to the channel would potentially limit future flood control project designs; specifically that it would preclude the use of setback levees resulting in levees adjacent to the channel. Confined channels typically degrade faster and more significantly during flood events than do channels with an active floodplain. In contrast, bridge designs for Alternatives 5 Modified and 9 Modified cross the channel perpendicular to flow and would have less impact on the channel and would not have the same limiting effect on future flood project designs.

> *Recommendation*: EPA recommends that Caltrans not identify Alternative 4 Modified Perris Valley Storm Drain bridge alignment as the preferred alternative due to greater impacts on the channel and potential to limit flood control opportunities in the future.

San Jacinto River Bridge at Lakeview

Due to the reduced floodway encroachment, the San Jacinto River Bridge proposal is environmentally preferable to its Design Variation. The bridge would be built for all three Alternatives (4 Modified, 5 Modified, and 9 Modified) and would include a 4,321 ft. deck on columns crossing perpendicular to flow, as shown in Figure 3.9.4 in the Supplemental Draft EIS. Alternatively, the Design Variation shown in Figure 3.9.5 would include two sections on columns (531 ft. and 1,941 ft.) and 1,849 linear ft. of fill on either end of the bridges resulting in encroachment in the San Jacinto River 100-year floodplain. The Design Variation would result in structures (fill) in the San Jacinto River floodplain. Placing fill that would obstruct 100-year flood flows could result in impacts to the river upstream and downstream of the bridge.

> *Recommendation*: EPA recommends that Caltrans commit to the San Jacinto River Bridge proposal because it would result in fewer impacts to the 100-year floodplain.

Clean Water Act (CWA) Section 404 Mitigation

The Conceptual Mitigation Plan (Appendix M) is intended to comply with the 2008 Corps and EPA Compensatory Mitigation Rule and lays out a framework for the future approach to offsetting unavoidable impacts. The EPA appreciates the commitment to work with state and federal agencies to develop a compensatory mitigation plan and requests having the Small Work Group further discuss mitigation in preparation for the project's forthcoming preliminary Least Environmental Damaging Practicable Alternative (LEDPA) checkpoint under the National Environmental Policy Act and Section 404 Integration Process Memorandum of Understanding (MOU). Potential on- and off-site mitigation opportunities have been identified and mapped in the Supplemental Draft EIS. Many of these locations may not be ideal given their proximity to the proposed Mid County Parkway (MCP) alignment, the heavily degraded condition of the resource (i.e., ditches, concrete lining), and the effects of surrounding land use (i.e., agriculture, quarries, development, roadways). Consistent with the requirements of the Mitigation Rule, Federal Highway Administration (FHWA) and Riverside County Transportation Commission (RCTC) should implement a watershed approach to determine what potential mitigation sites are appropriate. Existing plans, like the Western Riverside County Multi Species Habitat

Conservation Plan and the San Jacinto/Santa Margarita River Watersheds Special Area Management Plan, should be used to identify stream and wetland mitigation projects that would be of greatest benefit. Third-party mitigation banks and/or in-lieu fee programs should also be explored. These discussions should begin well before submitting an application to the Corps for a Section 404 permit and the applicant should work toward completing mitigation before project impacts occur to avoid or minimize temporal impacts.

> *Recommendation:* In preparation for the preliminary LEDPA checkpoint and the Final EIS, include EPA and other federal and state agencies, in compensatory mitigation discussions early on and utilize a watershed approach, consistent with the Mitigation Rule, to identify the most beneficial opportunities. Update the conceptual mitigation plan, reflecting agency coordination and more targeted mitigation options in the watershed, and include the updated plan in the Final EIS.

Coordination and Consultation with Tribal Governments

Chapter 5 of the Supplemental Draft EIS documents extensive outreach and coordination beginning in February 2005 with a number of tribes, including but not limited to the Morongo Band of Indians (Morongo), Agua Caliente Band of Cahuilla Indians, Temecula Band of Luiseño Mission Indians, Cahuilla Band of Indians (Cahuilla), Gabrieleno/Tongva-San Gabriel Band of Mission Indians (Gabrieleno/Tongva-San Gabriel), Ramona Band of Cahuilla Indians (Ramona), Soboba Band of Luiseño Indians (Soboba), Pala Band of Mission Indians, and the Pechanga Band of Luiseño Indians (Pechanga). In November 2006, consultation on the Extended Phase I Testing survey began with six of these tribes that requested continued involvement with the project (Cahuilla, Gabrieleno/Tongva-San Gabriel, Morongo, Pechanga, Soboba, and Ramona tribes). Continuing tribal consultation has ultimately identified that there are five sites assumed eligible for listing in the National Register of Historic Places and one site eligible for listing. The Supplemental Draft EIS indicates that a Memorandum of Agreement (MOA) will be developed for affected sites and included in the Final EIS.

> *Recommendations:*
> - Please confirm if any formal government-to-government consultation has occurred (or will occur) with potentially impacted tribes.
> - In the Final EIS, describe any additional coordination that occurs prior to the Final EIS publication and the outcome of consultation; additional issues that were raised (if any); and how those issues and previous concerns shared during the development of the Draft and Supplemental EISs were addressed in the selection of the proposed alternative. Describe how impacts to tribal or cultural resources will be avoided or mitigated consistent with Section 106 of the National Historic Preservation Act.
> - Include the finalized MOA in the Final EIS and Record of Decision (ROD) to commit to identified mitigation measures.

Community Character and Cohesion and Residential Relocations

Chapter 2 (Project Alternatives) indicates that the proposed corridors follow a Caltrans Typical standard, with sufficient rights of way to accommodate a multimodal transportation facility, including a wide 62-foot median that could accommodate a future travel lane or a transit facility if warranted by future travel demand beyond 2040. Further, the Supplemental Draft EIS indicates that right of way needs vary from

220 feet to 660 feet in width as a result of topography, features of the natural and built environment, and design requirements (p. 2-19).

Alternative 9 Modified was shifted 1000 feet north to avoid impacts Fire Station No. 90 and Paragon Park from the original Alternative 9 footprint analyzed in the Draft EIS. Alternative 9 Modified will result in 102 residential acquisitions, displacing a total of 659 occupants (or 675 with selection of SJN DV design option) and dividing the neighborhood in the city of Perris along Perris Boulevard between Placentia Avenue and Rider Street by separating approximately 20 homes south of the freeway and 315 homes north of the freeway. While EPA recognizes that FHWA and RCTC propose to construct the MCP freeway below grade through this community to further minimize impacts and to address connectivity of this neighborhood with the construction of an overcrossing at Placentia Avenue to provide access between these two areas and to nearby community facilities, the Final EIS should clarify if other design considerations were proposed (or could be taken), such as reducing right of way, to further minimize residential displacements and effects to community character and cohesion. In addition, FHWA and RCTC should clarify if specific minimization and mitigation recommendations were provided by the affected community and considered for the project.

Recommendations:

- Consider opportunities to minimize right of way impacts to further reduce the need to relocate residences and to reduce community cohesion impacts.
- Work with affected neighborhoods in the City of Perris to further minimize the burden of a new major transportation corridor on this community and to mitigate for anticipated effects. Document any new changes or measures and incorporate into the Final EIS and ROD.

Mobile Source Air Toxics (MSATs)

EPA continues to disagree with the claim on page 3.14-28 that "...the tools and techniques for assessing project-specific health outcomes as a result of lifetime MSAT exposure remain limited. These limitations impede the ability to evaluate how the potential health risks posed by MSAT exposure should be factored into project-level decision-making within the context of NEPA". EPA recommends eliminating incorrect statements regarding technical shortcomings and uncertain science in the Final EIS. Tools and models are available that EPA (as well as other agencies) routinely use effectively. EPA notes that Section 4.4 of the document looks at health risks from diesel vehicles for California Environmental Quality Act purposes.

Both EPA and California Office of Environmental Health Hazard Assessment (OEHHA) have long-standing experience and published, peer-reviewed guidance for evaluating long-term health effects, including cancer risk. EPA has published an Air Toxics Risk Assessment Reference Library (http://www.epa.gov/ttn/fera/risk_atra_main.html) that addresses how to develop appropriate exposure scenarios in a risk assessment. Similarly, California OEHHA has hot spot risk assessment guidance published in support of California's Air Toxics "Hot Spots" Information and Assessment Act of 1987 (a.k.a. AB2588, http://www.oehha.ca.gov/air/hot_spots/pdf/HRAguidefinal.pdf). The March 2007 report entitled "Analyzing, Documenting, and Communicating the Impacts of Mobile Source Air Toxic Emissions in the NEPA Process" conducted for the American Association of State Highway and Transportation Officials (AASHTO) Standing Committee on the Environment and funded by the Transportation Research Board (http://www.trb.org/NotesDocs/25-25(18)_FR.pdf) also discusses available methodologies and tools.

Construction Emissions Reductions

EPA recommends replacing the mobile and stationary source control measure (p. 3.14-44) for use of Tier 2 equipment with the following:

> If practicable, lease new, clean equipment meeting the most stringent of applicable Federal[1] or State Standards[2]. In general, meet and ideally go beyond CARB requirements for in-use diesel engines and equipment, particularly for non-road construction fleets. Through December 31, 2014, ensure that all construction equipment meets or exceeds equivalent emissions performance to that of U.S. EPA Tier 3 standards for non-road engines. From January 1, 2015 onward, ensure that all construction equipment meets or exceeds equivalent emissions performance to that of U.S. EPA Tier 4 standards for non-road engines.

While EPA is aware that RCTC has previously indicated that Tier 4 equipment was not included due to limited availability, given the long construction window due to potential project phasing, EPA believes the above measure still allows for use of other readily available clean equipment if Tier 4 is unavailable in the near future, while advocating for Tier 4 equipment once it becomes available.

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[1] EPA's website for nonroad mobile sources is http://www.epa.gov/nonroad/.

[2] For ARB emissions standards, see: http://www.arb.ca.gov/msprog/offroad/offroad.htm.