Reading file

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

September 4, 2007

Christine Cox-Kovacevich
Office Chief, Central Region, North
Caltrans
2015 E Shields Avenue, Suite 100
Fresno, CA 93726

Subject: Final Environmental Impact Statement for the Los Banos Bypass, Merced County, California (CEQ #20070318)

Dear Ms. Cox-Kovacevich:

The Environmental Protection Agency (EPA) has reviewed the above-referenced document pursuant to the National Environmental Policy Act (NEPA), Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500-1508), and Section 309 of the Clean Air Act. EPA reviewed the Draft Environmental Impact Statement (DEIS), and provided comments to the Federal Highway Administration (FHWA) on May 6, 2005. We rated the DEIS as Environmental Concerns-Insufficient Information (EC-2) due to concerns about the following: (1) Waters of the U.S.; 2) Indirect Impacts; 3) Bridge Structures; 4) Scope of Action; 5) Growth Inducement; 6) Cumulative Impacts; and 7) Air Quality.

The State of California has assumed responsibilities under NEPA for this project pursuant to the *Memorandum of Understanding Between the Federal Highway Administration and the California Department of Transportation Concerning the State of California's Participation in the Surface Transportation Project Delivery Pilot Program.*

EPA supports the selection of Alternative 3M as the preferred alternative for the project, as it avoids permanent impacts to wetlands and the Gadwall Wildlife Area. While some of our concerns have been resolved, we remain concerned about possible growth inducement by the project. We offer the following recommendations to provide assurances that a buffer between the project and valuable resource areas to the east and north will be created and maintained.

Induced Growth

While the City of Los Banos General Plan and General Plan Update can be considered effective land use planning controls, as stated by Caltrans in the response to comments, General Plans do not have the permanence of land use protection that other tools, such as conservation easements or deed restrictions, provide. The Final Environmental Impact Statement (FEIS) states that growth would be encouraged to the south and west of the city, but it also references recent and future anticipated population growth in the area, which could significantly increase development pressure. In addition, Figure 3-1, the Local Development Map, illustrates that 15 of the 31 local development projects are north of SR 152, with 12 of those east of SR 165. Given the proximity of these developments to the Grassland Ecological Area (GEA), it is critical that a buffer be established between this urbanizing area and the GEA.

EPA encourages Caltrans to work with the City of Los Banos to create and maintain an agricultural buffer through easements and/or deed restrictions on the north side of the bypass from the State Route 152/165 interchange to Los Banos Creek, as well as other areas identified by resource agencies as critical to protection of the GEA. Specific measures that will be used to create the buffer should be outlined in an implementation plan and included in the Record of Decision (ROD). While EPA recognizes that land use planning decisions are made by the local planning agencies and are not under the authority of Caltrans, including an implementation plan to limit growth in the ROD could facilitate a process for Caltrans to work with local planning and resource agencies to manage development pressure in the vicinity of the Bypass and the GEA.

Recommendations:

- Caltrans should make a commitment in the ROD to work with the City of Los Banos to create and maintain an agricultural buffer through easements and/or deed restrictions on the north side of the bypass from the State Route 152/165 interchange to Los Banos Creek, as well as other areas identified by resource agencies as critical to protection of the GEA.
- We also encourage Caltrans to include an implementation plan in the ROD to facilitate interagency coordination on resource protection efforts.

We appreciate the opportunity to review this FEIS. When the ROD is signed, please send one copy to the address above (mail code: CED-2). If you have any

questions, please contact me at 415-972-3846 or Carolyn Mulvihill of my staff at 415-947-3554 or mulvihill.carolyn@epa.gov.

Sincerely,

Connell Dunning

For Nova Blazej, Manager
Environmental Review Office

cc: Mayela Sosa, FHWA
Kathy Norton, U.S. Army Corps of Engineers
Kim Forrest, U.S. Fish and Wildlife Service
Donya Saied, City of Los Banos