

Responses to Comments from State Agencies

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This section provides responses to comments received on the draft environmental document from state agencies.

**Summary of Comment Letters Received from State Agencies**

<b>Comment Code</b>	<b>Agency</b>	<b>Commenter Name</b>	<b>Date Letter Received</b>	<b>Comment Topic(s)</b>	<b>Appendix J Page No.</b>
S-1	California Department of Fish and Wildlife, South Coast Region	Betty J. Courtney	09/21/16	Biological Resources	24 - 27
S-2	Lahontan Regional Water Quality Control Board	Robin A. Coale / Jan Zimmerman	09/19/16	Water/Hydrology	28 - 31
S-3	State Water Resources Control Board, Division of Water Quality, 401 Certification & Wetlands	Cliff Harvey	09/19/16	Water/Hydrology, Permitting Requirements, Mitigation, Biological Resources	32 - 42



State of California – Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
South Coast Region  
3883 Ruffin Road  
San Diego, CA 92123  
(858) 467-4201  
www.wildlife.ca.gov

EDMUND G. BROWN JR., Governor  
CHARLTON H. BONHAM, Director



September 21, 2016

Mr. Ron Kosinski, Deputy District Director *MK*  
California Department of Transportation  
Division of Environmental Planning (NW SR-138)  
100 S. Main Street MS-16A  
Los Angeles, CA 90012  
ron.kosinski@dot.ca.gov

**Subject: State Route 138 Northwest Corridor Improvement Project (PROJECT)  
DRAFT ENVIRONMENTAL IMPACT REPORT (DEIR)  
SCH# 2013111016**

Dear Mr. Kosinski:

The California Department of Fish and Wildlife (CDFW) received a Notice of Availability of a DEIR from CalTrans District 7 for the Project pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.<sup>1</sup> CDFW previously submitted comments in response to the Notice of Preparation (NOP) of the DEIR on January 15, 2014 (see attachment).

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

#### CDFW ROLE

CDFW is California's **Trustee Agency** for fish and wildlife resources, and holds those resources in trust by statute for all the people of the State. (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a).) CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species. (*Id.*, § 1802.) Similarly for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

CDFW is also submitting comments as a **Responsible Agency** under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381.) CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority. (Fish &

<sup>1</sup> CEQA is codified in the California Public Resources Code in section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

*Conserving California's Wildlife Since 1870*

## Responses to Comment Letter S-1 California Department of Fish and Wildlife, South Coast Region

See next page.

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G. Code, § 1600 et seq.) Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), related authorization as provided by the Fish and Game Code will be required.

#### PROJECT DESCRIPTION SUMMARY

**Proponent:** CalTrans District 7

**Objective:** The objective of the Project is to widen State Route (SR) 138 from Interstate (I) 5 east to SR 14. The proposed project is a joint project by the California Department of Transportation (Caltrans) and the Federal Highway Administration (FHWA), and is subject to state and federal environmental review requirements. Project documentation; therefore, has been prepared in compliance with both the California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA). Caltrans is the lead agency under NEPA as well as CEQA.

The purpose of this project is to:

- Improve mobility and operations on SR-138 and in northwest (NW) Los Angeles County;
- Enhance safety within the SR-138 Corridor based on current and future projected traffic conditions;
- Accommodate foreseeable increases in travel and goods movement within northern Los Angeles County.

The need for the project is based on an assessment of the future transportation demands, existing capacity of the facility, historic accident data, existing non-standard roadway features, present and future social demands, and forecasted economic development.

#### The DEIR includes 2 Alternatives:

Alternative S.3.1: No Build Alternative

Alternative S.3.2: Build Alternative 1 – Freeway/Expressway

Alternative S.3.2: Build Alternative 1 – with Design Option to include a bypass route around the Antelope Acres community.

Alternative S.3.3: Build Alternative 2 – Expressway/Limited Access Conventional Highway

**Location:** The existing SR-138 between I-5 and SR-14 is a 2-lane conventional highway that contributes to the local circulation network and provides an alternate route for west to east traffic in NW Los Angeles County. The NW SR-138 Corridor Improvement Project (project) would widen SR-138 and provide operational and safety improvements. The project corridor spans west to east approximately 36.8 miles (Post Mile [PM] 0.0 to PM 36.8) in the NW portion of Los Angeles County, just south of the Kern County border. It also includes improvements to the connections ramps on I-5 on the west and connection ramps and structure over the SR-14 on the east.

## Responses to Comment Letter S-1 California Department of Fish and Wildlife, South Coast Region

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**COMMENTS AND RECOMMENDATIONS**

CDFW offers the comments and recommendations below to assist CalTrans District 7 (Lead Agency) in adequately identifying and/or mitigating the Project's significant or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions may also be included to improve the document.

CDFW appreciates the thoroughness and details provided in the Biological Environment Chapter 3.3 in the DEIR. CDFW concurs with the 138 well thought-out biological resource mitigation measures with the following comments to further support actions that will minimize potential biological impacts.

- |   |              |
|---|--------------|
| <p>1. CDFW concurs with the need to maximize wildlife crossing/permeability along the entire project footprint. The enhancement of all existing known wildlife crossing areas is recommended when feasible. High use wildlife corridors identified during your assessment work should be signed for drivers to further alert them of wildlife in the area.</p>  | <p>S-1.1</p> |
| <p>2. CDFW concurs with widening the reach adjacent to Quail Lake environs away from the lake shoreline riparian features to minimize impacts to biological resources and installing a sound-wall to reduce noise impacts during bird nesting season. Riparian habitat has been impacted by development and road projects throughout California and minimizing impacts to these habitats is critically important. Also, staging and storage areas during project construction should be located far enough away from any riparian and aquatic resources to facilitate easy containment of an accidental spill outside of the riparian zone.</p> | <p>S-1.2</p> |
| <p>3. California condor are known to forage in the area as covered in the DEIR. CDFW recommends controlling all micro-trash that may be left unintentionally by project crews. The U.S. Fish and Wildlife Service Ventura Office can provide best management practices (BMPs) for controlling micro-trash at construction sites and these BMPs should be included in your biological mitigation measures for the project.</p>   | <p>S-1.3</p> |
| <p>4. CDFW supports the project alternative that will be least impacting to extant native habitats. Native habitat restoration is a very challenging undertaking and if project designers can work to reduce the most permanent and temporary impacts to healthy existing native habitat it often will lead to the most conservation aligned option. The Antelope Acres Bypass would impact burrowing owl foraging habitat. Design options that would minimize the loss of foraging habitat will help conserve burrowing owls and associated species within the Antelope Valley.</p>  | <p>S-1.4</p> |
| <p>5. The Department refers Caltrans to the January 15, 2014 NOP letter, attached, and recommend all applicable comments be addressed in the Final EIR.</p>   | <p>S-1.5</p> |
| <p>6. CDFW concurs with the proposed measure that all stream crossings be of sufficient size for peak flow/capitol event and for a secondary benefit they should be sized for maximum wildlife movement.</p>  | <p>S-1.6</p> |

**Responses to Comment Letter S-1  
 California Department of Fish and Wildlife, South Coast Region**

**Response to Comment S-1.1**

There are currently approximately 72 existing cross culverts within the project limits. Approximately 47 existing cross culverts will be maintained or expanded. Approximately 25 cross culverts will be abandoned and an additional 93 cross culverts will be constructed to maintain hydrologic integrity and support wildlife movement. Culverts will range in size from 24 inches to 10 ft. by 10 ft. in width and height, and ranging from 80 ft. to 200 ft. in length and vary between reinforced concrete pipes, reinforced concrete boxes, and corrugated metal pipes. A detailed wildlife passage impact assessment shall be conducted during the final design phase to confirm the proposed culverts for wildlife passage will be effective according to standards outlined in Section 3.3.1, as additionally set forth in FHWA Wildlife Crossing Structure handbook (2011) and in a manner as natural and easy for wildlife to cross such that they will promote use by local wildlife with consideration to current land use, approved projects within the area, and further coordination with CDFW and USFWS.

**Response to Comment S-1.2**

- All riparian areas within Quail Lake are outside of the proposed construction zone will be designated as an Environmentally Sensitive Area (ESA) and no work will be conducted within the areas to avoid potential impacts to potential LBVI and SWWF habitat. The areas will be fenced off clearly by the use of obvious, orange ESA exclusion fencing along the California Department of Water Resources (DWR) chain-link fence prior to the onset of ground disturbance. An approved avian biologist will oversee the placement and design of this fencing.
- All other riparian areas will have an approved avian biologist monitoring all clearing and grubbing activities and will designate approved work areas and demarcate ESA with obvious, orange ESA exclusion fencing to avoid impacts to potential LBVI and SWWF habitat. This measure applies to work activities in or around riparian vegetation within the Preferred Alternative.
- Standard BMPs will be implemented by Caltrans to protect ecologically important resources in the construction zone. General stormwater BMPs and conservation measures would be implemented during project construction to avoid any potential for downstream sedimentation effects on all riparian habitat. The BMPs of the storm water pollution prevention plan (SWPPP) will be designed to avoid potential indirect effects to all riparian habitat.
- Sound barriers shall be installed along the perimeters of riparian habitat adjacent to the proposed construction zone. Noise effects will not exceed 60 dBA Leq from the boundaries of the Preferred Alternative.
- Prior to the initiation of construction activities, all project personnel will be educated regarding the LBVI, SWWF, their habitat within and adjacent to the project area and will be provided with an information handout with photos of LBVI and SWWF, species description, avoidance, minimization measures, Caltrans biologist contact information and the environmental commitments. Construction personnel are to remain outside of riparian habitat, unless within the approved work area.
- In compliance with EO 13112, a weed abatement program will be developed to minimize the importation of nonnative plant material during and after construction to avoid impacts to riparian vegetation downstream. Eradication strategies would be employed should an invasion occur.

Mr. Ron Kosinski, Deputy District Director  
California Department of Transportation  
September 21, 2016  
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#### ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e).) Accordingly, please report any special status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). The CNDDDB field survey form can be found at the following link: [http://www.dfg.ca.gov/biogeodata/cnddb/pdfs/CNDDDB\\_FieldSurveyForm.pdf](http://www.dfg.ca.gov/biogeodata/cnddb/pdfs/CNDDDB_FieldSurveyForm.pdf). The completed form can be mailed electronically to CNDDDB at the following email address: [CNDDDB@wildlife.ca.gov](mailto:CNDDDB@wildlife.ca.gov). The types of information reported to CNDDDB can be found at the following link: [http://www.dfg.ca.gov/biogeodata/cnddb/plants\\_and\\_animals.asp](http://www.dfg.ca.gov/biogeodata/cnddb/plants_and_animals.asp).

S-1.7

#### FILING FEES

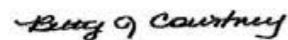
The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required in order for the underlying project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089.)

#### CONCLUSION

CDFW appreciates the opportunity to comment on the DEIR to assist CalTrans District 7 (Lead Agency) in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to CDFW staff Dan Blankenship, Senior Environmental Scientist (Specialist) at (661) 259-3750 or [Daniel.Blankenship@wildlife.ca.gov](mailto:Daniel.Blankenship@wildlife.ca.gov).

Sincerely,



Betty J. Courtney  
Environmental Program Manager I  
South Coast Region

cc: Ms. Betty Courtney, CDFW, Santa Clarita  
Ms. Erinn Wilson, CDFW, Los Alamitos  
Office of Planning and Research, State Clearinghouse, Sacramento

Attachment: NOP Comment Letter dated January 15, 2014.

## Responses to Comment Letter S-1 California Department of Fish and Wildlife, South Coast Region

### Response to Comment S-1.3

- The implementation of a trash abatement program throughout the project's construction area during all phases of construction.
- Wildlife corridor and wildlife fencing will minimize wildlife-vehicle collisions that will supply carrion for food.
- The implementation of a 24-hour roadkill removal protocol during the operational phase of the Preferred Alternative.
- Prior to the initiation of construction activities, all project personnel will be educated regarding CACO within and adjacent to the project area and will be provided with an information handout with photos of CACO, species description, avoidance, minimization measures, Caltrans biologist contact information and the environmental commitments.

### Response to Comment S-1.4

Alternative 2 has been identified as the preferred alternative and is the least environmentally damaging practicable alternative.

### Response to Comment S-1.5

Applicable comments from the January 15, 2014 NOP letter have been addressed as follows:

- A Wildlife Corridor Study was conducted for the proposed project.
- The Draft EIR/EIS and the Final EIR/EIS include information on listed species impacts.
- The Final EIR/EIS proposes avoidance, minimization, and/or mitigation for all impacts to the biological environment.

### Response to Comment S-1.6

There are currently approximately 72 existing cross culverts within the project limits. Approximately 47 existing cross culverts will be maintained or expanded. Approximately 25 cross culverts will be abandoned and an additional 93 cross culverts will be constructed to maintain hydrologic integrity and support wildlife movement. Culverts will range in size from 24 inches to 10 ft. by 10 ft. in width and height, and ranging from 80 ft. to 200 ft. in length and vary between reinforced concrete pipes, reinforced concrete boxes, and corrugated metal pipes. A detailed wildlife passage impact assessment shall be conducted during the final design phase to confirm the proposed culverts for wildlife passage will be effective according to standards outlined in Section 3.3.1, as additionally set forth in FHWA Wildlife Crossing Structure handbook (2011) and in a manner as natural and easy for wildlife to cross such that they will promote use by local wildlife with consideration to current land use, approved projects within the area, and further coordination with CDFW and USFWS.

### Response to Comment S-1.7

Caltrans will report any special status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB).





Lahontan Regional Water Quality Control Board

September 19, 2016

File: Environmental Doc Review  
Los Angeles County

Ron Kosinski, Deputy District Director  
California Department of Transportation, District 7  
Division of Environmental Planning (NW SR-138)  
100 S. Main Street, MS-16A  
Los Angeles, CA 90012  
Email: [nw138@metro.net](mailto:nw138@metro.net)

**Comments on the Draft Environmental Impact Report for the Northwest State Route 138 Corridor Improvement Project, Los Angeles County, State Clearinghouse Number 2013111016**

The California Regional Water Quality Control Board, Lahontan Region (Water Board) staff received the Draft Environmental Impact Report (DEIR) for the above-referenced project (Project) on August 9, 2016. The DEIR was prepared by the California Department of Transportation (Caltrans) and submitted in compliance with provisions of the California Environmental Quality Act (CEQA). Water Board staff, acting as a responsible agency, is providing these comments to specify the scope and content of the environmental information germane to our statutory responsibilities pursuant to CEQA Guidelines, California Code of Regulations, title 14, section 15096. Based on our review of the DEIR, we recommend the following: (1) a Jurisdictional Delineation documenting the extent of surface water resources, including claypans and other waters of the State, on the Project site be submitted to Water Board staff for concurrence; and 2) to ensure that no net loss of function and value of any given surface water feature will occur as a result of Project implementation, we request that the environmental document include specific mitigation measures that minimize unavoidable water quality and hydrology impacts, such as maintaining natural drainage patterns, clear-spanning stream channels, implementing an effective combination of post-construction storm water treatment best management practices, and avoiding all wetland resources within the Project area. Our comments are provided below.

**WATER BOARD'S AUTHORITY**

All groundwater and surface waters are considered waters of the State. All waters of the State are protected under California law. State law assigns responsibility for protection of water quality in the Lahontan Region to the Lahontan Water Board. Some waters of the State are also waters of the U.S. The Federal Clean Water Act (CWA) provides additional protection for those waters of the State that are also waters of the U.S.

Amy L. Horne, PhD, CHAIR | Patty Z. Kouyoumdjian, EXECUTIVE OFFICER

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**Responses to Comment Letter S-2  
Lahontan Regional Water Quality Control Board**

See next page.

Mr. Kosinski

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September 19, 2016

The Water Quality Control Plan for the Lahontan Region (Basin Plan) contains policies that the Water Board uses with other laws and regulations to protect the quality of waters of the State within the Lahontan Region. The Basin Plan sets forth water quality standards for surface water and groundwater of the Region, which include designated beneficial uses as well as narrative and numerical objectives which must be maintained or attained to protect those uses. The Basin Plan can be accessed via the Water Board's web site at [http://www.waterboards.ca.gov/lahontan/water\\_issues/programs/basin\\_plan/references.shtml](http://www.waterboards.ca.gov/lahontan/water_issues/programs/basin_plan/references.shtml).

**COMMENTS ON THE ENVIRONMENTAL REVIEW**

The Project falls within the jurisdiction of two Regional Water Boards, the Lahontan and Los Angeles Water Boards. Our comments, as outlined below, are germane only to those activities that have the potential to occur within the Lahontan Region.

1. All surface waters are waters of the State, including ephemeral streams, playas, and claypans which are known to be present throughout the Project alignment. Claypans are considered wetland waters of the State and are found throughout the Mojave Desert. The low-lying claypans and interspersed upland areas form a unique hummocky landscape, similar to vernal pool complexes. Ponding in the pool/pan occurs during and following rain events and their general lack of hydrophytic vegetation is primarily a function of soil chemistry and frequency of saturation, though wetland indicator plants can be found in or around the fringes of the depressions. As with vernal pool complexes, the pools and interspersed upland hummocks in these landscapes function together, and neither can function without the connection to the other.

S-2.1

The Project proponent will need to perform a jurisdictional delineation to determine the extent of surface water resources, including claypans and other waters of the State, on the Project site. A Jurisdictional Delineation Report documenting the results of the jurisdictional delineation will need to be submitted to Water Board staff for review and concurrence prior to Project implementation. If waters of the State are present, as determined by Water Board staff, the Project proponent will be required to consider alternative site configurations to avoid and minimize impacts from grading and filling of surface water resources. All unavoidable impacts to surface waters, either permanent or temporary, will require prior Water Board authorization. Please see the section titled "Permitting Requirements" below.

S-2.3

S-2.4

S-2.5

S-2.6

2. The Project alignment has the potential to result in the following impacts to water quality and hydrology: (1) a significant reduction in or loss of groundwater recharge; (2) direct impacts to waters of the State and loss of area as a result of fill and excavation discharges; (3) indirect impacts to vegetation and associated habitat as a result of shading from overhead structures (i.e. bridges); (4) direct and indirect water quality impacts associated with discharges of untreated storm water; and (5) the reduced ability for natural drainage systems and floodplains to attenuate flood flows. None of these potential impacts were specifically addressed in the DEIR. To ensure that no net loss of function and value of any given surface water feature will occur as a result of Project implementation, we

S-2.7

**Responses to Comment Letter S-2  
Lahontan Regional Water Quality Control Board**

**Response to Comment S-2.1**

This information has been added to section 3.2.2 (Water Quality and Storm Water Runoff).

**Response to Comment S-2.2**

A jurisdictional delineation was conducted for the project to determine where jurisdictional waters and wetlands are located in the project area including within pools and pans.

**Response to Comment S-2.3**

A jurisdictional delineation was conducted for the project to determine where jurisdictional waters and wetlands are located in the project area including within pools and pans.

**Response to Comment S-2.4**

A jurisdictional delineation was conducted for the project to determine where jurisdictional waters and wetlands are located in the project area including within pools and pans.

**Response to Comment S-2.5**

Two project alternatives, in addition to the No Build Alternative, were developed to achieve the identified purpose and need of the project while avoiding or minimizing environmental impacts. The alternatives are Alternative 1 (Freeway/Expressway) with or without a design option for a bypass around Antelope Acres, and Alternative 2 (Expressway/Conventional Highway). Neither alternative would result in the loss of aquatic habitat, and no substantial or adverse changes in the physical, chemical, or biological characteristics of the aquatic environment are expected to result from project construction. Construction BMPs would be implemented to retain sediment and other pollutants in the project area so they would not reach receiving waters and runoff during construction would not contain pollutants in quantities that would create a condition of nuisance or adversely affect beneficial uses of any water bodies.

**Response to Comment S-2.6**

A Water Quality Certification application would be submitted to the appropriate RWQCB agencies prior to initiation of project construction.

**Response to Comment S-2.7**

Caltrans has carefully considered impacts associated with the project and has developed minimization strategies where possible and mitigation measures where minimization is not possible. Individual mitigation measures, applicable to each environmental analysis category can be found in Chapter 3. Appendix F contains the environmental commitment record which is a summary of the mitigation commitments accompanying the project.



Mr. Kosinski

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September 19, 2016

request that the environmental document include specific mitigation measures that minimize unavoidable water quality and hydrology impacts to a less than significant level. These mitigation measures might include maintaining natural drainage patterns throughout the Project area, clear-spanning stream channels where present, implementing an effective combination of post-construction storm water treatment best management practices, and avoiding all wetland resources within the Project area.

S-2.7

3. Construction staging areas should be sited in upland areas outside stream channels and other surface waters on or around the Project site. Buffer areas should be identified and exclusion fencing used to protect the water resource and prevent unauthorized vehicles or equipment from entering or otherwise disturbing the surface waters. Construction equipment should use existing roadways to the extent feasible.

S-2.8

S-2.9

4. Obtaining a permit and conducting monitoring does not constitute adequate mitigation. Development and implementation of acceptable mitigation is required. The DEIR must specifically describe the BMPs and other measures used to mitigate Project impacts.

S-2.10

**PERMITTING REQUIREMENTS**

A number of activities associated with the proposed Project appear to have the potential to impact waters of the State and, therefore, may require permits issued by either the State Water Resources Control Board (State Water Board) or Lahontan Water Board. The required permits may include the following.

5. Streambed alteration and/or discharge of fill material to a surface water may require a CWA, section 401 water quality certification for impacts to federal waters (waters of the U.S.), or dredge and fill waste discharge requirements for impacts to non-federal waters, both issued by either the Lahontan Water Board or the State Water Board. All unavoidable permanent impacts to waters of the State must be mitigated to ensure no net loss of beneficial use and wetland function and value. Water Board staff coordinate mitigation requirements with staff from federal and other state regulatory agencies. In determining appropriate mitigation ratios for impacts to waters of the State, we consider Basin Plan requirements (minimum 1.5 to 1 mitigation ratio for impacts to wetlands) and utilize 12501-SPD Regulatory Program Standard Operating Procedure for Determination of Mitigation Ratios, published December 2012 by the US Army Corps of Engineers, South Pacific Division.

S-2.11

6. Land disturbance of more than 1 acre may require a CWA, section 402(p) storm water permit, including a National Pollutant Discharge Elimination System (NPDES) General Construction Storm Water Permit, Water Quality Order (WQO) 2009-0009-DWQ, obtained from the State Water Board, or individual storm water permit obtained from the Lahontan Water Board.

S-2.12

**Responses to Comment Letter S-2  
Lahontan Regional Water Quality Control Board**

**Response to Comment S-2.8**

The minimization measure WQ-5 has been revised to say "Construction staging areas would be in upland areas outside waterways to reduce direct and indirect impacts on lakes, creeks, and drainages in the project area."

**Response to Comment S-2.9**

Section 3.2.2 (Water Quality and Storm Water Runoff) has been revised to include the following measure: "ESA fencing would be installed around water resources, where feasible, to prevent unauthorized vehicles or equipment from entering or otherwise disturbing surface waters."

**Response to Comment S-2.10**

The discussion on Best Management Practices has been refined in section 3.2.2 (Water Quality and Storm Water Runoff) to better describe how impacts on waterways would be minimized.

**Response to Comment S-2.11**

Section 3.2.2 (Water Quality and Storm Water Runoff) has been revised to included the following measure "Measures to mitigate for unavoidable impacts (both permanent and temporary) on jurisdictional features will be coordinated with USACE, RWQCB, and CDFW during the permitting process with consideration of on-site restoration, off-site mitigation, and in-lieu fees. In general, the ratios are based on the amount and quality of the impacted jurisdictional features of the agencies. In determining appropriate mitigation ratios for impacts to waters of the State, RWQCB staff considers Basin Plan requirements (minimum 1.5:1 mitigation ratio for impacts to wetlands) and utilizes 12501-SPD Regulatory Program Standard Operating Procedure for Determination of Mitigation Ratios, published December 2012 by the USACE, South Pacific Division."

**Response to Comment S-2.12**

The following has been added to the list of permits required for this project.

Section 402 National Pollutant Discharge Elimination System General Construction Stormwater Permit, Water Quality Order (WQO) 2009-0009-DWQ, obtained from the State Water Board, or individual storm water permit obtained from the Lahontan Water Board.



Mr. Kosinski

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September 19, 2016

7. Water diversion and/or dewatering activities may be subject to discharge and monitoring requirements under either NPDES General Permit, Limited Threat Discharges to Surface Waters, Board Order R6T-2008-0023, or General Waste Discharge Requirements for Discharges to Land with a Low Threat To Water Quality, WQO-2003-0003, both issued by the Lahontan Water Board.

S-2.13

Please be advised of the permits that may be required for the proposed Project, as outlined above. The specific Project activities that may trigger these permitting actions should be identified in the appropriate sections of the environmental document. Should Project implementation result in activities that trigger these permitting actions, the Project proponent must consult with Water Board staff. Information regarding these permits, including application forms, can be downloaded from our web site at <http://www.waterboards.ca.gov/lahontan/>.

Thank you for the opportunity to comment on the DEIR. If you have any questions regarding this letter, please contact me at (760) 241-7376 ([jan.zimmerman@waterboards.ca.gov](mailto:jan.zimmerman@waterboards.ca.gov)) or Patrice Copeland, Senior Engineering Geologist, at (760) 241-7404 ([patrice.copeland@waterboards.ca.gov](mailto:patrice.copeland@waterboards.ca.gov)). Please send all correspondence regarding this letter to the Water Boards email address at [Lahontan@waterboards.ca.gov](mailto:Lahontan@waterboards.ca.gov) and be sure to include the State Clearinghouse No. and project name in the subject line.

  
Jan Zimmerman, PG  
Engineering Geologist

cc: State Clearinghouse (SCH 2013111016) ([state.clearinghouse@opr.ca.gov](mailto:state.clearinghouse@opr.ca.gov))  
Veronica Chan, U.S. Army Corps of Engineers ([Veronica.C.Chan@usace.army.mil](mailto:Veronica.C.Chan@usace.army.mil))  
Melissa Scianni, USEPA, Region 9 ([scianni.melissa@epa.gov](mailto:scianni.melissa@epa.gov))  
California Department of Fish and Wildlife ([AskR5@wildlife.ca.gov](mailto:AskR5@wildlife.ca.gov))  
LB Nye, Los Angeles Regional Water Board ([lb.nye@waterboards.ca.gov](mailto:lb.nye@waterboards.ca.gov))  
Cliff Harvey, State Water Board ([clifford.harvey@waterboards.ca.gov](mailto:clifford.harvey@waterboards.ca.gov))

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## Responses to Comment Letter S-2 Lahontan Regional Water Quality Control Board

Response to Comment S-2.13

Water diversion and dewatering is currently not required for the proposed project.



State Water Resources Control Board

**TO:** Mr. Ron Kosinski  
Deputy District Director  
California Department of Transportation  
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**FROM:** Cliff Harvey,  
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401 CERTIFICATION AND WETLANDS**

**DATE:** September 16, 2016

**SUBJECT: COMMENTS REGARDING THE DRAFT ENVIRONMENTAL IMPACT  
REPORT/ENVIRONMENTAL IMPACT STATEMENT AND SECTION 4(f)  
EVALUATION FOR THE NORTHWEST STATE ROUTE 138  
CORRIDOR IMPROVEMENT PROJECT (PROJECT)**

**MEMORANDUM**

On August 9, 2016, State Water Resources Control Board (State Water Board) staff received a notice of availability for a Draft Environmental Impact Report/Environmental Impact Statement (Draft EIR/EIS), prepared jointly by the Department of Transportation (Caltrans) in cooperation with the Los Angeles County Metropolitan Transportation Authority (Metro) for the proposed Northwest State Route 138 Corridor Improvement Project (Project).

The Project would widen and improve approximately 36.8 miles of State Route 138 (SR-138) between Interstate 5 (I-5) and State Route 14 (SR-14). The project corridor spans west to east from Post Mile (PM) 0.0 to PM 36.8 in the Northwest portion of Los Angeles County, just south of the Kern County border. Caltrans is the lead agency for the National Environmental Policy Act (NEPA) and the California Environmental Quality Act (CEQA).

Caltrans has requested that interested parties and responsible agencies provide comment on the Draft EIR/EIS, for inclusion in the forthcoming Final Environmental Impact Report/Environmental Impact Statement (Final EIR/EIS). The State Water Board, acting as a responsible agency, is providing these comments to specify the scope and content of the environmental information germane to our statutory responsibilities pursuant to CEQA Guidelines, California Code of Regulations, title 14, section 15096.

FELICIA MARCUS, CHAIR | THOMAS HOWARD, EXECUTIVE DIRECTOR

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**Responses to Comment Letter S-3  
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See next page.



Although we recognize the importance of the proposed project, we nevertheless note that it has the potential to adversely impact water quality and beneficial uses during construction as well as over the life of the project. Because of these potential effects, the State Water Board staff requests that the following concerns be addressed in the Final EIR/EIS.

The proposed Project alignments would cross portions of two California Water Quality Control Regions: Lahontan and Los Angeles.

We note that the size and scope of the proposed Project does not allow a comprehensive review of all on-the-ground details for all of the possible routes. Staff of the State and Regional Water Boards look forward to collaboration with Caltrans in the development of the Final EIR/EIS, to ensure that full disclosure, adequate analysis, adequate mitigation measures and accurate findings of significance are provided for all potential Project impacts to waters of the state.

**GENERAL COMMENTS**

We recommend that, in the preparation of this or any Final EIR/EIS:

- 1) Alternatives that avoid surface water and wetland impacts should be considered with higher priority over others;
- 2) The water quality and hydrology analyses should include a discussion of beneficial uses and potential impacts with respect to those beneficial uses;
- 3) Established numerical and narrative water quality objectives and standards should be used when evaluating thresholds of significance for Project impacts, and;
- 4) Alternatives that maximize use of existing transportation developments (which typically would also provide greater avoidance of impacts to surface waters) and cause fewer watershed impacts should be given higher priority.

S-3.1

Water Quality Certification for Multi-regional Projects: The Project would traverse two water quality control regions: Los Angeles and Lahontan. Consequently, responsibility for administration of Clean Water Act section 401 water quality certification is assigned to the State Water Resources Control Board's Division of Water Quality (DWQ) and not the Regional Water Quality Control Boards as stated in the Draft EIR/EIS. State Water Board staff will collaborate with staff of the affected Regional Water Boards to ensure that water quality control plan requirements are met for both regions.

S-3.2

In addition to any consultation that arises as a result of the following comments in preparation of the Final EIR/EIS, Caltrans is encouraged to engage in pre-application consultation with Water Boards staff. This consultation will help ensure that project planning will lead to an application that addresses all necessary information needed to support a regulatory decision, and thus that can be processed more efficiently.

Basin Plans: The Draft EIR/EIS makes reference in many places to the "Basin Plans" for the water quality control regions that would be traversed by the Project. Although the term "basin plan" is an accepted synonym, the correct term, "water quality control plan," should at least be introduced.

S-3.3

**Responses to Comment Letter S-3  
State Water Resources Control Board**

**Response to Comment S-3.1**

Information regarding the water quality objectives and beneficial uses has been added to section 3.2.2 (Water Quality and Storm Water Runoff). Two project alternatives, in addition to the No Build Alternative, were developed to achieve the identified purpose and need of the project while avoiding or minimizing environmental impacts. The alternatives are Alternative 1 (Freeway/Expressway) with or without a design option for a bypass around Antelope Acres, and Alternative 2 (Expressway/Conventional Highway). Neither alternative would result in the loss of aquatic habitat, and no substantial or adverse changes in the physical, chemical, or biological characteristics of the aquatic environment are expected to result from project construction. Construction BMPs would be implemented to retain sediment and other pollutants in the project area so they would not reach receiving waters and runoff during construction would not contain pollutants in quantities that would create a condition of nuisance or adversely affect beneficial uses of any water bodies.

**Response to Comment S-3.2**

The agency responsible for administration of the Clean Water Act Section 401 Water Quality Certification has been revised to the State Water Resources Control Board instead of the Regional Water Quality Control Board.

**Response to Comment S-3.3**

Section 3.2.2 (Water Quality and Storm Water Runoff) has been revised with the correct names of the Basin Plans. Also, the Water Quality Standards and Beneficial uses have been added and the Water Quality Assessment Report has been referenced. In addition, information has been added to the Environmental Consequences discussion.

The document acknowledges the existence of the Basin Plans and the requirements found in these plans, but provides almost no analysis of how project impacts might violate the water quality standards of those basin plans, and does not clearly explain how project environmental commitments (mitigation measures) mediate those potential impacts.

The *Water Quality Control Plan for the Lahontan Region* and the *Water Quality Control Plan for the Los Angeles Region* (Basin Plans) contain policies that the Water Boards use with other laws and regulations to protect the quality of waters of the State within those regions. The Basin Plans set forth water quality standards for surface water and groundwater of the Regions, which include designated beneficial uses as well as narrative and numerical objectives which must be maintained or attained to protect those uses. The Basin Plans can be accessed via the Water Boards' web sites at:

[http://www.waterboards.ca.gov/lahontan/water\\_issues/programs/basin\\_plan/references.shtml](http://www.waterboards.ca.gov/lahontan/water_issues/programs/basin_plan/references.shtml)

and

[http://www.waterboards.ca.gov/losangeles/water\\_issues/programs/basin\\_plan/](http://www.waterboards.ca.gov/losangeles/water_issues/programs/basin_plan/)

Complete description of all beneficial uses and all other basin plan requirements for all waters of the State that could be affected by all Project alternatives should be provided in the Final EIR, along with measures to be implemented to avoid, reduce or compensate for those impacts. This analysis should be based on basin plan map units, which are similar to but not identical to USGS Hydrologic Units. Staff can provide GIS shape files with basin plan map layers, and can assist Caltrans staff in applying that information in the analysis of project impacts to basin plan requirements.

Staff notes that careful attention to this step in the CEQA analysis greatly reduces the effort required during subsequent permitting steps.

**Environmental Review:** The role of the Draft EIR/EIS is to evaluate a number of project alternatives and their potential impacts on environment resources, including hydrology and water quality, and to list specific mitigation measures that, when implemented, reduces those impacts to a to the greatest practicable extent.

The final EIR/S must clearly identify all surface water resources within the Project area and evaluate the Project's potential impacts on these resources --- both on site and off site, upstream and downstream.

The Project alternative that is least environmentally damaging is often the preferred alternative (other than the no action alternative). Should the Project proponent determine that the preferred alternative is not the least environmentally damaging alternative, the rationale and justification for the additional environmental impacts must be included in the discussion sections of the Final EIR/EIS.

**Characterization and Assessment Of Project Impacts:** The State Water Board recommends that analysis of Project impact and mitigation effects to surface waters of the state be conducted

S-3.3

S-3.4

S-3.5

## Responses to Comment Letter S-3 State Water Resources Control Board

### Response to Comment S-3.4

Sections 3.2.1 (Hydrology and Floodplain) and 3.2.2 (Water Quality and Storm Water Runoff) have been revised to include additional information regarding the existing hydrology and surface water resources within the project area.

### Response to Comment S-3.5

The California Water Quality Monitoring Council guidelines have been reviewed to determine consistency with the analysis of project impacts to surface waters of the state. The California Water Quality Monitoring Council has established theme-specific workgroups to evaluate existing monitoring, assessment, and reporting efforts. The theme-specific workgroups work to enhance those efforts to improve the delivery of water quality information to the user in the form of theme-based internet portals. The Surface Water Ambient Monitoring Program (SWAMP) has played a key role in developing the issue specific working groups and portal development to support the California Water Quality Monitoring Council's vision. The SWAMP provides a monitoring and assessment strategy to protect and restore California's water quality, including evaluating the physical, chemical, and biological integrity of the State's waters, monitoring waters and waterbodies known or suspected to be degraded, and ensuring that the beneficial uses of waterways are not impaired. The document is consistent with these strategies of assessment.



using methods that are consistent with guidance provided by the California Water Quality Monitoring Council.<sup>1</sup>

S-3.5

**Permitting Requirements:** A number of activities associated with the Project may require permits issued by the State Water Board or the Regional Water Boards.

**Stormwater:** A Clean Water Act, section 402, subdivision (p) stormwater permit, including a National Pollutant Discharge Elimination System (NPDES) General Construction Stormwater Permit, may be required for land disturbance associated with the Project. The NPDES permit requires the development of a Stormwater Pollution Prevention Plan and implementation of best management practices (BMPs).

**401WDRs:** Alteration, excavation or discharge of fill material to any surface water will require a CWA, section 401 water quality certification for impacts to Waters of the U.S., or Waste Discharge Requirements (WDRs) for impacts to non-federal waters of the state. State law states that these permitting responsibilities fall to the State Water Board when projects, such as this proposed project, affect more than one water quality control region.

Some waters of the State are "isolated" from waters of the U.S. Determinations of the jurisdictional extent of the WUS are made by the United States Army Corps of Engineers (Corps). Projects that have the potential to impact surface waters will require appropriate jurisdictional determinations from the Corps to discern whether the proposed surface water impacts will be regulated under section 401 of the CWA or through dredge and fill WDRs issued by the State Water Board. We request that the Project proponent consult with the USACE and the State Water Board to review the jurisdictional determinations for surface waters within the Project area as reported in Appendix H, the Natural Environment Study, to ensure that the full extent both state and federal jurisdictional areas are accurately documented.

S-3.6

Note that the Water Boards may find waters of the state to be greater in extent than the Corps jurisdictional limits, especially in cases where the Corps' use of Ordinary High Water Mark (OHWM) does not extend to the full reach of waters at a site. Streams that are found to be WUS as delineated using OHWM are not excluded from simultaneous consideration as waters of the state.

S-3.7

In areas where the Corps does not take jurisdiction, the Water Board generally delineates waters of the State based on distinct geomorphic flow indicators. Clearly definable bed and bank features are not the only consideration. In particular, presence or absence of "blue line" streams on maps is not a reliable indicator of jurisdiction.

S-3.8

Additionally, waste discharge requirements (WDRs) for the discharge of waste in excess of water quality objectives may be required pursuant to California Code of Regulations (CCR), title 27 requirements.

**Discharges to Land:** Discharge of low threat wastes to land may require General WDRs for Discharges to Land with a Low Threat to Water Quality issued by the Regional Water Boards.

<sup>1</sup> See [http://www.mywaterquality.ca.gov/monitoring\\_council/index.shtml](http://www.mywaterquality.ca.gov/monitoring_council/index.shtml)

## Responses to Comment Letter S-3 State Water Resources Control Board

### Response to Comment S-3.6

A jurisdictional delineation was conducted for the project to determine where jurisdictional waters are located in the project area. This information has been added to the document. In addition, because there potential wetlands and waters of the United States and state within the project area, a pre-construction notification under Clean Water Act (CWA) Section 404 Nationwide Permit 14 from the U.S. Army Corps of Engineers (USACE), a CWA Section 401 Water Quality Certification from the State Water Resources Control Board (SWRCB), and a California Fish and Game Code Section 1602 Streambed Alteration Agreement from the California Department of Fish and Wildlife (CDFW) would be required for the project. Measures to mitigate for unavoidable impacts (both permanent and temporary) on jurisdictional features will be coordinated with USACE, SWRCB, and CDFW during the permitting process with consideration of on-site restoration, off-site mitigation, and in-lieu fees. In general, the ratios are based on the amount and quality of the impacted jurisdictional features of the agencies. In determining appropriate mitigation ratios for impacts to waters of the State, SWRCCB staff considers Basin Plan requirements (minimum 1.5:1 mitigation ratio for impacts to wetlands) and utilizes 12501-SPD Regulatory Program Standard Operating Procedure for Determination of Mitigation Ratios, published December 2012 by the USACE, South Pacific Division.

### Response to Comment S-3.7

Consultation with the Water Board will occur for the Waste Discharge Requirements application for streams that are found not to be Waters of the US, but may be Waters of the State. See Tables 115 and 116 in section 3.3.2 Wetlands and Other Waters.

### Response to Comment S-3.8

Consultation with the Water Board will occur for the Waste Discharge Requirements application for streams that are found not to be Waters of the US, but may be Waters of the State. See Table 115 and 116 in section 3.3.2 Wetlands and Other Waters.



Information regarding these all of these permits, including application forms, can be found on the State and Regional Water Boards' web sites.

We request that the environmental document list the permits that may be required, as outlined above, and identify the specific activities that may trigger these permitting actions in the appropriate sections of the environmental document. Caltrans should consult with the Corps, the California Department of Fish and Wildlife (CDFW), and the Water Boards to ensure better interagency coordination for permitting and mitigation requirements.

Provision for Analysis of a Full Range of Alternatives: The State Water Board and Regional Water Boards (collectively, Water Boards) require projects subject to their permitting authority to avoid and minimize impacts to all waters of the State to the maximum extent practicable, and to ensure no net loss of wetlands. For this reason, the Water Boards expect that full consideration and analysis of water quality impacts be included in all project alternatives of the Draft EIR/EIS.

S-3.9

The Final EIR/EIS must clearly identify selected routes, and must clearly describe and locate all project infrastructure. The Final EIR/EIS must also clearly identify all waters of the State, including wetlands, which may be affected by the various project alternatives.

Avoidance, Minimization, and Mitigation Measures: Avoidance and minimization of project effects to waters of the State should be a fundamental environmental strategy for the proposed project. For all project alternatives, construction and maintenance activities should be proposed that will avoid disturbance to riparian and wetland areas, streams, drainage channels, or to any landforms which, if disturbed, might affect water quality or the beneficial uses of waters. Avoidance measures should include site configurations that minimize the number of stream crossings and require natural channel design for all relocated segments of streams.

S-3.10

Project design should also include scientifically based buffers between wetlands and streams and any impervious surface. When avoidance is infeasible, construction and maintenance measures should be specified that would minimize disturbance to the fullest extent possible.

For any remaining and unavoidable impacts to waters of the State, compensatory mitigation for the loss of ecological functions and beneficial uses shall be provided. State Water Board staff will work with project proponents and other regulatory agencies to ensure that this goal is met. The Final EIR/EIS should discuss likely mitigation approaches for each alternative, including potential types, sites, timing and financial assurances.

Communications: Successful environmental compliance on any large, complex project is possible only with clearly defined communication channels that identify roles and responsibilities of all project personnel, including regulatory staff. Every person assigned to the Projects should have a clear pathway for communication relating to any given environmental question or issue that may arise during construction and operation of the project.

S-3.11

To this end, project mitigation measures should require the establishment of clear communication channels for all project compliance reporting, including reporting of problems, violations, and project modifications. These measures should also require that the list of assigned persons within the communication plan be maintained and updated in a timely manner.

## Responses to Comment Letter S-3 State Water Resources Control Board

### Response to Comment S-3.9

Two project alternatives, in addition to the No Build Alternative, were developed to achieve the identified purpose and need of the project while avoiding or minimizing environmental impacts. Neither alternative would result in the loss of aquatic habitat, and no substantial or adverse changes in the physical, chemical, or biological characteristics of the aquatic environment are expected to result from project construction. Construction BMPs would be implemented to retain sediment and other pollutants in the project area so they would not reach receiving waters and runoff during construction would not contain pollutants in quantities that would create a condition of nuisance or adversely affect beneficial uses of any water bodies. Alternative 2 has been identified as the preferred alternative.

### Response to Comment S-3.10

The proposed project will incorporate Low Impact Design (LID) efforts to maintain or restore pre-project hydrology, as well as provide overall water quality improvement of discharges. Please refer to section 3.2.2 (Water Quality and Storm Water Runoff) for further detail regarding Potential LID measures. Measures to mitigate for unavoidable impacts (both permanent and temporary) on jurisdictional features will be coordinated with USACE, SWRCB, RWQCB, and CDFW during the permitting process with consideration of on-site restoration, off-site mitigation, and in-lieu fees. Please refer to section 3.3.2 (Wetlands and Other Waters) for details regarding mitigation ratios.

### Response to Comment S-3.11

To minimize potential impacts, the project would incorporate Low Impact Design (LID) efforts to maintain or restore pre-project hydrology, as well as provide overall water quality improvement of discharges. Potential LID measures being considered for the project to improve water quality include:

- Grading slopes to blend with the natural terrain and decreasing the need for dikes;
- Designing permanent drainage facilities that mimic the existing pattern of the area through the use of permanent check dams for attenuation of flow and disconnected drainage facilities;
- Constructing ditches with permanent check dams to decrease the velocity of discharge, plus decreasing the volume of discharge by promoting infiltration and allowing for pollutant removal; and
- Maintaining existing vegetated areas.

In addition, infiltration devices are considered the preferred treatment BMP for its ability to treat Pollutants of Concern from typical highway runoff and recharge groundwater. The BMPs have been refined to better describe how impacts on waterways would be minimized to reduce impacts on water quality. With implementation of recommended measures, BMPs, and development of a storm water management plan (SWMP), direct impacts associated with both Alternatives would be less than significant. Measures to mitigate for unavoidable impacts (both permanent and temporary) on jurisdictional features will be coordinated with USACE, RWQCB, and CDFW during the permitting process with consideration of on-site restoration, off-site mitigation, and in-lieu fees. In general, the ratios are based on the amount and quality of the impacted jurisdictional features of the agencies. In determining appropriate mitigation ratios for impacts to waters of the State, RWQCB staff considers Basin Plan requirements (minimum 1.5:1 mitigation ratio for impacts to wetlands) and utilizes 12501-SPD Regulatory Program Standard Operating Procedure for Determination of Mitigation Ratios, published December 2012 by the USACE, South Pacific Division.



Inspection and Monitoring for Environmental Compliance: Provision for inspecting and monitoring the project for environmental compliance should be included in the Final EIR/EIS. This monitoring effort would be active for the time required to achieve post-construction mitigation success. Qualified, independent inspectors who would have experience and expertise in all pertinent environmental guidelines and mitigation measures should conduct this inspection and monitoring effort.

In particular, compliance monitors for water quality measures should have specific qualifications in those resource areas. *Biological monitors alone are not sufficient to meet this need.*

The Final EIR/EIS should include mitigation measures which require that inspection teams:

- Be assigned, funded, and equipped to cover the entire project area for all hours and days of operation.
- Be led and/or staffed by qualified persons with experience and training in natural resources, geology, soils, hydrology, ecology, and related disciplines.
- Include persons qualified in storm water management, erosion prevention, and erosion control (as evidenced by work experience or certifications such as Qualified Stormwater Practitioner, or Qualified Stormwater Designer).
- Include persons with experience and skill that is pertinent to the terrain traversed by the proposed project. Inspectors with urban construction experience, for example, may not be skilled or qualified for inspection of activity in agricultural, backcountry forest or rangeland settings.

S-3.12

Mitigation Measures should clearly require that compliance monitors be readily accessible to regulatory agency staff, and should make regular and timely reports to all agencies.

Avoidance of Special Areas: Special effort should be made to avoid impacts to wetlands and waters of the state in any areas where ecosystem integrity is relatively high: i.e., areas such as California State Parks, designated Wilderness, Wilderness Study Areas, Areas of Critical Environmental Concern, and similar sites. These areas typically contain waters of the State for which important habitat, recreation and other beneficial uses are designated.

S-3.13

Hydrology: Potential significant effects to aquatic resources should be evaluated using a watershed approach. The loss of functions and services of impacted water bodies, including wetlands, should be evaluated in light of the condition and abundance of aquatic resources in affected watersheds.

To protect existing hydrologic systems in the affected watersheds, every effort should be made to incorporate Low Impact Development" (LID) design techniques such as limiting impervious surfaces and controlling runoff through ground infiltration methods. For any proposed change to existing flow volume, channel location, channel size and shape, or rate of discharge, an evaluation should be made of the effects on current patterns, water circulation, normal water fluctuation, and salinity. Consideration should also be given to the potential diversion or obstruction of flow, alterations of bottom contours, or other significant changes in the hydrologic regime. Any potential surface and ground water effects should be evaluated in the DEIR/EIS.

S-3.14

### Responses to Comment Letter S-3 State Water Resources Control Board

#### Response to Comment S-3.12

Section 3.2.2 (Water Quality and Storm Water Runoff) has been revised to include the following measure: "A qualified water quality monitor with experience and training in natural resources, geology, soils, hydrology, ecology, or related discipline would be on site every day during project construction. The water quality monitor would have experience in storm water management, erosion prevention, and erosion control as evidenced by work experience or certifications such as Qualified Stormwater Practitioner, or Qualified Stormwater Designer."

#### Response to Comment S-3.13

During the project development process, areas with relatively high ecosystem integrity were identified (e.g., Significant Ecological Areas, wildlife linkages, and water bodies), so that these resources could be considered during project development and design, and could be avoided to the extent feasible. Special effort was made to design the project to avoid these areas. While these areas were avoided, the project would still result in unavoidable impacts on waters of the state. Therefore, section 3.2.2 (Water Quality and Storm Water Runoff) has been revised to include the following measure: "Measures to mitigate for unavoidable impacts (both permanent and temporary) on jurisdictional features will be coordinated with USACE, SWRCB, RWQCB, and CDFW during the permitting process with consideration of on-site restoration, off-site mitigation, and in-lieu fees. In general, the ratios are based on the amount and quality of the impacted jurisdictional features of the agencies. In determining appropriate mitigation ratios for impacts to waters of the State, RWQCB staff considers Basin Plan requirements (minimum 1.5:1 mitigation ratio for impacts to wetlands) and utilizes 12501-SPD Regulatory Program Standard Operating Procedure for Determination of Mitigation Ratios, published December 2012 by the USACE, South Pacific Division."

#### Response to Comment S-3.14

The proposed project will incorporate Low Impact Design (LID) efforts to maintain or restore pre-project hydrology, as well as provide overall water quality improvement of discharges. Please refer to section 3.2.2 (Water Quality and Storm Water Runoff) for further detail regarding Potential LID measures. Measures to mitigate for unavoidable impacts (both permanent and temporary) on jurisdictional features will be coordinated with USACE, RWQCB, and CDFW during the permitting process with consideration of on-site restoration, off-site mitigation, and in-lieu fees. Please refer to section 3.3.2 (Wetlands and Other Waters) for details regarding mitigation ratios.



**Biological Resources:** Development associated with the proposed Project would contribute to the on-going loss or degradation riparian and wetland habitats. The proposed projects could cause impacts to these habitats through land development, erosion and sedimentation, noise and other indirect effects, and discharges of pollutants that reduce water quality.

The water quality requirements of wildlife pertain to the water directly ingested, the many attributes of the aquatic and riparian habitat itself, and the effect of water quality on the production of food materials. The Project could substantially reduce or degrade these habitats and restrict the movement of wildlife species. The Final EIR/EIS should fully describe the potential project-related impacts to animal and plant species habitat, including wetlands and riparian areas, and commit to habitat preservation measures that protect water quality, species movement and habitat needs in the context of the impacted watersheds.

S-3.15

**Beneficial Use Analyses:** We request that the Final EIR/EIS identify and list the beneficial uses of the identified surface waters, as outlined in the basin plans, and evaluate the Project's potential impacts to those beneficial uses. The environmental document must include alternatives and mitigation measures that provide for avoidance of impacts wherever possible, and that bring impacts to a less than significant level when impacts are unavoidable. When impacts are unavoidable, appropriate compensatory mitigation must be arranged.

All mitigation measures proposed for the protection of surface waters should present evidence that the mitigation addresses all potentially affected beneficial uses. Mitigation measures that focus only on habitat functions and that do not address other beneficial uses are not adequate.

S-3.16

**Avoidance and Impact Analyses:** We strongly encourage avoidance as the primary strategy to address water quality concerns. The analyses should discuss any impacts that cannot be avoided or further minimized. Avoiding or minimizing any step in a pollution pathway will eliminate or reduce subsequent effects and will simplify the associated needed analyses. For unavoidable impacts, understanding how pollution pathways will operate is essential to managing them. The analyses should consider the following greater aspects:

- Specify the causes, nature, and magnitude of all proposed impacts. Provide a level of analysis commensurate with the size and complexity of the Project and its potential water quality impacts;
- Quantify impacts as definitively as feasible, using appropriate modeling and adequate data. Modeling approaches should be documented, and data deficiencies or other factors affecting the reliability of the results should be identified and characterized;
- Identify whether impacts will be temporary or permanent.

S-3.17

**Hydrologic Connectivity and Habitat Connectivity:** The impact analysis should consider hydrologic connectivity and habitat connectivity.

**Hydrologic Connectivity:** Because increased runoff from developed areas is a key variable driving a number of other adverse effects, attention to maintaining the pre-development hydrograph will prevent or minimize many problems and will limit the need for other analyses and mitigation. Please consider the following:

S-3.18

## Responses to Comment Letter S-3 State Water Resources Control Board

### Response to Comment S-3.15

The project would not result in the loss of aquatic habitat, and would not result in changes to waterways that would be expected to affect fish or local wildlife passage in the project area. No substantial or adverse changes in the physical, chemical, or biological characteristics of the aquatic environment are expected to result from project construction. Because the construction BMPs would be designed to retain sediment and other pollutants in the project area so they would not reach receiving waters, storm water discharges and authorized non-storm water discharges are not anticipated to cause or contribute to any violations of applicable water quality standards or objectives, or adversely impact human health or the environment. In addition, because construction BMPs would be designed to retain sediment and other pollutants in the project area so they would not reach receiving waters, runoff during construction would not contain pollutants in quantities that would create a condition of nuisance or adversely affect beneficial uses of any water bodies. Therefore, water quality impacts during construction of the build alternatives would not be adverse.

### Response to Comment S-3.16

Because construction BMPs would be designed to retain sediment and other pollutants in the project area so they would not reach receiving waters, runoff during construction would not contain pollutants in quantities that would create a condition of nuisance or adversely affect beneficial uses of any water bodies. Section 3.2.2 has been revised to include the following measure: "Measures to mitigate for unavoidable impacts (both permanent and temporary) on jurisdictional features will be coordinated with USACE, RWQCB, and CDFW during the permitting process with consideration of on-site restoration, off-site mitigation, and in-lieu fees. In general, the ratios are based on the amount and quality of the impacted jurisdictional features of the agencies. In determining appropriate mitigation ratios for impacts to waters of the State, RWQCB staff considers Basin Plan requirements (minimum 1.5:1 mitigation ratio for impacts to wetlands) and utilizes 12501-SPD Regulatory Program Standard Operating Procedure for Determination of Mitigation Ratios, published December 2012 by the USACE, South Pacific Division."

### Response to Comment S-3.17

During the project development process, water bodies within and near the project area were identified so that these resources could be considered during project development and design, and could be avoided to the extent feasible. Special effort was made to design the project to avoid these areas. While these areas were avoided to the extent feasible, the project would still result in unavoidable impacts on waters of the state. However, minimization measures were also considered to minimize potential impacts. The discussion on Best Management Practices has been refined in section 3.2.2 (Water Quality and Storm Water Runoff) to better describe how impacts on waterways would be minimized. With implementation of recommended measures, BMPs, and development of a storm water management plan (SWMP), direct impacts associated with both Alternatives would be less than significant. In addition, measures to mitigate for unavoidable impacts (both permanent and temporary) on jurisdictional features will be coordinated with USACE, SWRCB, RWQCB, and CDFW during the permitting process with consideration of on-site restoration, off-site mitigation, and in-lieu fees. In general, the ratios are based on the amount and quality of the impacted jurisdictional features of the agencies. In determining appropriate mitigation ratios for impacts to waters of the State, RWQCB staff considers Basin Plan requirements (minimum 1.5:1 mitigation ratio for impacts to wetlands) and utilizes 12501-SPD Regulatory Program Standard Operating Procedure for Determination of Mitigation Ratios, published December 2012 by the USACE, South Pacific Division.



- Include mitigation measures for each Project alternative that will serve to maintain the pre-Project hydrograph;
- Evaluate the Project's potential hydromodification impacts on upstream and downstream reaches, and
- Provide a meaningful analysis of potential cumulative impacts to watershed hydrology from existing and other planned development in the watershed or planning area.

*Habitat Connectivity:* Riparian corridors and other waters play an important role in maintaining habitat connectivity. Both aquatic and terrestrial habitat may be fragmented by impacts to streams, riparian areas, or other waters. For all projects that have the potential to impact surface waters, we request that project proponents:

- Analyze the regional importance of movement corridors in and along water bodies, the potential effect of disrupting such corridors, and the potential for enhancing such corridors through mitigation measures;
- Include information regarding any sensitive plant and animal species that likely utilize the corridors; and
- Identify any impacts to riparian or other waters that could compromise future remediation of existing connectivity barriers.

**SPECIFIC COMMENTS**

SECTION 3.3.2, P. 308 (Paragraph 5), 309 (Paragraph 1): Although generally accurate, some statements in this discussion of state jurisdictions and authorities are not entirely accurate. Caltrans is encouraged to consult with State Water Board staff and CDFW staff to ensure that these are properly described.

SECTION 3.2.2, P. 184: To minimize potential impacts, the Draft EIR states that the project would incorporate Low Impact Design (LID) efforts to maintain or restore pre-project hydrology, as well as provide overall water quality improvement of discharges. Potential LID measures that are reported as being considered for the project to improve water quality include:

- Grade slopes to blend with the natural terrain and decreasing the need for dikes;
- Design permanent drainage facilities that mimic the existing pattern of the area through the use of permanent check dams for attenuation of flow and disconnected drainage facilities;
- Construct ditches with permanent check dams to decrease the velocity of discharge, plus decrease the volume of discharge by promoting infiltration and allowing for pollutant removal; and
- Maintain existing vegetated areas.

Staff of the State Water Board note that some of these measures are not well developed in the Draft EIR, and are not recognized as LID practices; e.g., check dams. Staff requests that Caltrans LID planners contact us to discuss and evaluate these design principles before inclusion in the Final EIR.

S-3.18

S-3.19

S-3.20

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State Water Resources Control Board**

**Response to Comment S-3.18**

A comprehensive drainage analysis was completed for the project. The off-site drainages identified in the drainage analysis were planned for based on existing and future conditions in the corridor. The on-site roadway drainages were coordinated to discharge into the existing drainages with required water quality features to meet the water quality and flow requirements of these drainages. Infiltration is one of the key elements of the water quality improvements proposed within the corridor. The project would not result in the loss of aquatic habitat, and would not result in changes to waterways that would be expected to affect fish or local wildlife passage in the project area. No substantial or adverse changes in the physical, chemical, or biological characteristics of the aquatic environment are expected to result from project construction.

**Response to Comment S-3.19**

This comment states that text in the regulatory setting section is generally accurate but not entirely accurate. Without more specific statements about what is not entirely accurate, making edits to the regulatory setting text is not possible.

**Response to Comment S-3.20**

The project team has coordinated and have been working with the County of Los Angeles to plan and implement these improvements. The County has requirements for Low Impact Design that were followed during the planning for this project. As these improvements will be implemented over time as actual growth occurs, the improvements that were planned for, will be designed when needed and implementation occurs. These design features will need to meet all the requirements at the time of implementation and will be coordinated with the respective regional agencies with jurisdiction in the corridor, including LA County requirements.

**SECTION 3.3.2, P. 310-311:** The discussion of "RWQCB Jurisdiction" and "RWQCB Feature Type Classifications" also contains some inaccuracies and incomplete statements. The relationships between federal and state jurisdiction are also not accurately described. The categorization of types of surface waters confuses ecological/geomorphic characteristics with regulatory and jurisdictional categories. In particular, the presentation of impacts in Tables 105-108 relies on these misleading classifications, making comparison of impacts across alternatives inaccurate. Caltrans is encouraged to consult with State Water Board staff and CDFW staff to ensure that the related but different bases of categorization, ecological and regulatory, are described as distinct areas of concern.

S-3.21

**Blue Line Streams:** On page 316, paragraph 1, we find the statement: "At the eastern edge of Quail Lake, there are well-defined, blue-line streams on the south side of the study corridor with directed flows into Quail Lake." The term "blue-line" has no relevance or significance in determining regulatory or jurisdictional status, and has no scientific or ecological meaning. We encourage Caltrans to avoid colloquial classifications of waters and to instead rely on accepted scientific and regulatory classifications.

S-3.22

**Mitigation Measure BIO-19 (p. 318) and Use of OHWM for location of bridge abutments:** Mitigation Measure BIO-19 would require that "Bridges over jurisdictional features will be designed to consider clear-span bridge structures, to the extent feasible, to avoid or minimize fill or equipment access below the Ordinary High Water Mark (OHWM). Limits of jurisdictional features to be avoided will be demarcated by a qualified biologist. This would avoid permanent and temporary direct impacts to jurisdictional areas."

Staff notes that avoidance of impacts to the hydrology of any stream, including desert dry washes, may not in all cases be accomplished by placing of bridges or other structures at or near the OHWM. The OHWM, as would be determined using appropriate USACE methods,<sup>2</sup> is sufficient for the purposes of delineation of direct impacts to streams. However, channels in alluvial fans and in distributary systems are prone to migration across floodplains in areas that may not be identified as within the OHWM using the Corps methods; other exceptions probably exist, and may occur in the Project area. Case-by-case analysis should be provided to demonstrate when or if OHWM is the appropriate means of determination of isolation of project activity or structures from hydrologic effects. We encourage Caltrans staff to consult with Water Boards staff to ensure that delineation methods used will accurately demarcate the full extent of waters of the state.

S-3.23

**Use of "qualified biologists" to determine OHWM and other hydrologic features:** The Final EIR/EIS should clearly specify that professionals with training and expertise in identification of OHWM be employed for the implementation of this mitigation measure. Although many biologists may have adequate skills for this task, many do not. An interdisciplinary team of qualified and experienced delineators should be used for tasks of this complexity.

S-3.24

This concern could be repeated for many of the water-related measures provided in the DEIR. A substitute term, such as "qualified resource specialists," might be more appropriate to

<sup>2</sup> Robert W. Lichvar and Shawn M. McColley (2008) *A Field Guide to the Identification of the Ordinary High Water Mark (OHWM) in the Arid West Region of the Western United States - A Delineation Manual*, Cold Regions Research and Engineering Laboratory U.S. Army Engineer Research and Development Center 72 Lyme Road Hanover, NH 03755-1290 (accessed on Sept. 1, 2016 at: <http://www.dtic.mil/dtic/tr/fulltext/u2/a486603.pdf>)

## Responses to Comment Letter S-3 State Water Resources Control Board

### Response to Comment S-3.21

The discussion of "RWQCB Jurisdiction" and "RWQCB Feature Type Classifications" in section 3.3.2 has been revised with accurate information and complete statements.

### Response to Comment S-3.22

The statement has been removed.

### Response to Comment S-3.23

The Ordinary High Water Mark (OHWM) was used to delineate 401 and 404 jurisdictional features. Caltrans will provide mitigation measures to avoid jurisdictional features associated with waters of the state. Caltrans will also consult with Water Board staff to delineate, as well as prevent and minimize, impact to jurisdictional areas as determined by USACE and Water Board.

### Response to Comment S-3.24

A qualified biologist with experience in jurisdictional delineation has determined and delineated the hydrologic features within the project. This will be highlighted during the permitting process for the 401 Certification and Waste Discharge Requirements.



encompass the range of skills necessary. Specification of qualifications -- such as soil science, geology, or fluvial hydrology -- for each task listed in the mitigation measures should be provided.

S-3.24

Mitigation Measure BIO-22: Measure Bio-22 states: "Temporary construction staging areas and access roads would be strategically placed to avoid and/or minimize impacts to USACE jurisdictional features to the extent feasible and are expected to be enhanced to pre-project conditions." This measure should be reworded to require avoidance or minimization of impacts to all waters of the state, not just waters of the U.S. covered under permits from the Corps of Engineers.

S-3.25

Mitigation Measure BIO-26: Measure BIO-26 states: "In general, the ratios are based on the amount and quality of the permanently and directly impacted jurisdictional features of the agencies." This measure would be inaccurate and misleading when applied to the Water Boards' analysis of impacts and mitigation requirements. Typically, the Water Boards will apply the same methods as the Corps of Engineers to evaluate mitigation proposals and determine mitigation ratios, but in our analysis the "quality" of the impacted resource does not have a significant bearing on the mitigation ratio. It is presumed that any aquatic resource that is not in good condition is capable of being restored if it is not permanently destroyed. The quality of the proposed mitigation site would however be a substantial consideration in calculation of mitigation ratios.

S-3.26

Mitigation Measure BIO-24: Measure BIO-24 states: "Numerous *isolated* unnamed washes are expected to have reinforced concrete pipe culverts to maintain hydrologic integrity and support small wildlife movement." The term *isolated*, as used here, presumably means "not federal waters under Corps permits." This introduction of jurisdictional criteria to classify ecological or hydrologic features is inappropriate. This criteria has no relevance to the Water Boards jurisdiction or to the actions that would be taken under this measure (See previous comments on jurisdiction and classification).

S-3.27

8.1.4.4 Clay Pan Areas: In the State Delineation Report, clay pan areas without connection to a channel with OHWM indicators were not delineated and were considered non-jurisdictional.

S-3.28

Staff notes that other projects in the area are proposed that include clay pan areas as waters of the state, and that adaptations of the Corps arid west delineation practices have been developed for those clay pan areas. Caltrans staff are encouraged to consult with water boards staff to resolve this inconsistency.

**CONCLUSION**

The proposed Project may result in discharges of waste that may affect water quality. The environmental document must disclose these potential impacts and analyze alternatives to reduce any potentially significant water quality impacts. Further, the environmental document should identify any mitigation measures to prevent the water quality impacts. The Water Boards may impose additional requirements under its regulatory authority to protect water quality.

Please note that obtaining a permit and conducting monitoring does not constitute adequate mitigation. Development and implementation of acceptable mitigation is required. The environmental document must specifically describe the BMPs and other mitigation measures used to mitigate project impacts.

**Responses to Comment Letter S-3  
State Water Resources Control Board**

**Response to Comment S-3.25**

BIO-14 in section 3.3.2 (Wetlands and Other Waters) has been revised as follows: Temporary construction staging areas and access roads would be strategically placed to avoid and/or minimize impacts to CDFW, USACE and SWRCB jurisdictional features and shall be enhanced to pre-project conditions.

**Response to Comment S-3.26**

Mitigation ratios for jurisdictional areas shall be determined using the California Rapid Assessment Method (CRAM) to assess the quantity and quality of the riparian habitat. Caltrans will coordinate further with the Water Board to confirm mitigation ratios.

**Response to Comment S-3.27**

BIO-15 through BIO-17 in section 3.3.2 (Wetlands and Other Waters) has been revised to include the following: Numerous ephemeral, unnamed washes are expected to have cross culverts to maintain hydrologic integrity and support wildlife movement. There are currently approximately 72 existing cross culverts within the project limits. Approximately 47 existing cross culverts will be maintained or expanded. Approximately 25 cross culverts will be abandoned and an additional 93 cross culverts will be constructed to maintain hydrologic integrity and support wildlife movement. The expanded highway will have culverts ranging in size from 24 inches to 10 ft. by 10 ft. in width and height, and ranging from 80 ft. to 200 ft. in length and vary between reinforced concrete pipes, reinforced concrete boxes, and corrugated metal pipes. A detailed wildlife passage impact assessment shall be conducted during the final design phase to confirm the proposed culverts for wildlife passage will be effective with consideration to current land use, approved projects within the area, and further coordination with the California Department of Fish and wildlife CDFW and the US Fish and Wildlife Service (USFW).

**Response to Comment S-3.28**

Caltrans staff will consult with Water Board staff during the permitting process. There are only two clay pan areas within the project impact limits of the Preferred Alternative and these areas will be further discussed with Water Board staff during the permitting process to discuss these features and the Water Board concerns associated with other projects in the area that include clay pans areas as waters of the state.

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September 16, 2016

Thank you for the opportunity to comment on this Draft EIR/EIS. If you have any questions regarding this letter, please contact me at (916) 558-1709 ([cliff.harvey@waterboards.ca.gov](mailto:cliff.harvey@waterboards.ca.gov)) or Bill Orme, 401 Program Manager, at (916) 341-5464 ([bill.orme@waterboards.ca.gov](mailto:bill.orme@waterboards.ca.gov)).

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