

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

343



FROM: Transportation and Land
Management Agency

SUBMITTAL DATE: April 2, 2003

SUBJECT: Approval of Memorandum of Understanding for Completion of the Tier 1
CETAP Corridor Process

RECOMMENDED MOTION: That the Board of Supervisors approve the attached
Memorandum of Understanding (MOU) for completion of the Tier 1 CETAP Corridor
process and authorize the Chairman to execute said MOU on behalf of the County.

BACKGROUND: The County, the Riverside County Transportation Commission, Caltrans,
and several federal agencies have been working to complete the Tier 1 CETAP process.
To ensure completion of the process by February 2004, several milestone dates and
funding commitments have recently been agreed to by these Federal Agencies. In order
to memorialize this understanding, a Memorandum of Understanding has been negotiated
between the parties. The MOU, among other things, sets forth the additional
environmental review required for the Hemet to Corona/Lake Elsinore Corridor, commits
to a completion date for both of the corridors, memorializes funding commitments made
by certain federal agencies and establishes a conflict resolution process.

Richard Lashbrook

Richard Lashbrook
TLMA Director

Attachment

- Consent
- Policy
- Consent
- Policy

FINANCIAL DATA:

CURRENT YEAR COST

\$ -0-

ANNUAL COST: N/A

NET COUNTY COST

\$ -0-

IN CURRENT YEAR BUDGET:
BUDGET ADJUSTMENT FY:

Yes/ No/
Yes/ No/

SOURCE OF FUNDS:

C.E.O. RECOMMENDATION:

APPROVE

County Executive Officer Signature

Jennifer S. [Signature]

Department Recommendation:

Per Executive Office:

Prev. Agn. ref.

Dist. 1-5

AGENDA NO.

15.2

MEMORANDUM OF UNDERSTANDING
BETWEEN
THE RIVERSIDE COUNTY TRANSPORTATION COMMISSION;
COUNTY OF RIVERSIDE;
CALIFORNIA DEPARTMENT OF TRANSPORTATION;
UNITED STATES DEPARTMENT OF TRANSPORTATION,
FEDERAL HIGHWAY ADMINISTRATION;
UNITED STATES DEPARTMENT OF TRANSPORTATION, OFFICE OF THE
SECRETARY; UNITED STATES ENVIRONMENTAL PROTECTION AGENCY;
THE DEPARTMENT OF THE ARMY, CORPS OF ENGINEERS; AND
UNITED STATES DEPARTMENT OF INTERIOR, FISH AND WILDLIFE SERVICE
FOR THE COMPLETION OF THE TIER 1 NATIONAL ENVIRONMENTAL POLICY ACT
REVIEW
OF TWO PROPOSED INTRA-COUNTY MULTI-MODAL
TRANSPORTATION CORRIDORS

This MEMORANDUM OF UNDERSTANDING ("MOU") is entered into for the purposes of memorializing the understanding between the Riverside County Transportation Commission ("RCTC"), County of Riverside ("County"), California Department of Transportation ("Caltrans"), and the United States Department of Transportation, Federal Highway Administration, ("FHWA"), United States Department of Transportation, Office of the Secretary, United States Environmental Protection Agency ("EPA"), Department of the Army, Corps of Engineers ("Army Corps"), and United States Department of Interior, Fish and Wildlife Service ("Service") (collectively the "Federal Agencies") regarding the completion of the Tier 1 National Environmental Policy Act review of two proposed intra-county multi modal transportation Corridors. All signatories to this MOU are collectively known as the "Parties".

RECITALS

WHEREAS, because the County of Riverside is one of the largest and fastest growing counties in the United States, the County, local cities and others have embarked upon a comprehensive planning effort entitled the Riverside County Integrated Project ("RCIP") to address local environmental, transportation and land use needs with the goal of anticipating and shaping the pattern of growth within the County; and

WHEREAS, the RCIP is composed of four coordinated plans consisting of a new County General Plan ("General Plan"), the Western Riverside County Multiple Species Habitat Conservation Plan ("MSHCP"), the Community and Environmental Transportation Acceptability Process ("CETAP"), and the Special Area Management Plan ("SAMP"); and

WHEREAS, the majority of the Parties entered into a Partnership Action Plan dated

September 25, 2000, agreeing to work together on the RCIP in a "co-ordinated, cooperative and time sensitive manner to the greatest extent possible"; and

WHEREAS, CETAP is a multi-modal planning effort overseen by RCTC to identify future major transportation and communication corridors designed to relieve current traffic congestion and provide for the future transportation needs of the County and cities in Western Riverside County; and

WHEREAS, CETAP is one of only seven priority projects initially selected for environmental streamlining pursuant to Executive Order 13274 on "Environmental Stewardship and Transportation Infrastructure Project Reviews" dated September 18, 2002; and

WHEREAS, the Federal Agencies and Caltrans to the extent applicable have exercised their responsibilities pursuant to the 1993 MOU entitled National Environmental Policy Act (NEPA) and Clean Water Act Section 404 (CWA §404) Integration Process for Surface Transportation Projects in Arizona, California, and Nevada; and

WHEREAS, RCTC, in conjunction with FHWA and Caltrans, has prepared and released for public review two Tier 1 Draft Environmental Impact Statements/Environmental Impact Reports ("Draft EIS/EIRs") analyzing the potential impacts of the proposed CETAP project pursuant to the California Environmental Quality Act ("CEQA") and the NEPA; such documents are incorporated by reference herein; and

WHEREAS, the EIS/EIRs analyze the preservation of right of way for two major transportation corridors, namely the Hemet to Corona/Lake Elsinore Corridor and the Winchester to Temecula Corridor; and

WHEREAS, the Parties have not yet selected a single preferred alternative for each corridor that will be carried forward into Tier 2 environmental review documents and such selection for the Hemet to Corona/Lake Elsinore Corridor will not be made prior to completion of the supplemental Draft Environmental Impact Statement/recirculated Environmental Impact Report ("SDEIS/REIR"); and

WHEREAS, RCTC, the County and Caltrans are committed to resolving the severe transportation problems within the County; and

WHEREAS, in light of the amount of taxpayers' dollars that have been spent to date for, and the great long term benefits of, the RCIP process, the Parties consistent with Executive Order 13274 have committed to expeditiously work together towards agreement on a single alternative for both of the CETAP corridors; and

WHEREAS, while no CWA §404 permits will be considered for the two Tier 1 EIS/EIRs, CWA §404 permits are expected to be required for Tier 2; and

WHEREAS, the Parties acknowledge they have actively worked together in furtherance of the CETAP process and that nothing in this MOU is intended to diminish, modify or otherwise affect the statutory or regulatory authorities of the Parties; and

WHEREAS, nothing in this MOU shall be considered to impair or otherwise affect the statutory obligations of the Parties to discharge their respective legal, environmental, safety and health responsibilities.

NOW, THEREFORE, the Parties hereto agree as follows:

Section 1. General Commitments

- A. The Federal Agencies commit to actively work with RCTC, the County and Caltrans towards agreement on a single preferred alternative for each CETAP corridor.
- B. The Parties agree to continued senior management involvement at an appropriate decision making level to facilitate fast, efficient resolution of any outstanding issues to satisfy Section 1.A. above.
- C. FHWA will initiate Section 7 consultation pursuant to the federal Endangered Species Act at the Tier 2 project development stage to address any potential adverse effects to listed species and designated critical habitat. Preservation of right of way as a result of the Tier 1 decisions will not result in any irrevocable and irretrievable commitment of resources.

Section 2. CETAP Alternatives to be Eliminated From Further Consideration

- A. The Parties agree the following alternatives may be eliminated from further consideration as a preferred alternative because they appear to contain the most environmentally damaging qualities and thus, would not likely include the LEDPA in the Tier 2 environmental impact analysis. These alternatives are as follows:

- 1. Hemet to Corona/Lake Elsinore: 4d, 5b, 5d, 5e

The justification for removing these alternatives from further analysis is based on the alternatives having both high impacts to waters relative to other alternatives in the corridor and high potential for causing habitat fragmentation in the form of new crossings of major habitat linkages, critical habitat and/or proposed MSHCP criteria area.

Section 3. CETAP Alternatives to be Studied

- A. The Parties agree the following alternatives will be carried forward for additional analyses for the Hemet to Corona/Lake Elsinore Corridor: 1a, 1b, 4a, 4c, 5a, 5c, 6a, 6b, H1, H3. Such analyses will be prepared as part of the SDEIS/REIR and will contain the information and analysis referenced in Section 4 below. On November 8, 2000, June 13, 2001 and September 10, 2001, the RCTC voted to eliminate Alternatives 6a, 6b and H3 as the locally preferred alternative. RCTC is advocating a mutual decision with the Federal Agencies towards eliminating these alternatives.
- B. RCTC has identified and selected Alternative H as the locally preferred alternative for the Tier 1 EIS/EIR for the Winchester to Temecula Corridor. The Parties agree that existing information and analyses are currently available to enable the Parties to select a preferred alternative for the Winchester to Temecula Corridor. RCTC and FHWA will prepare a Final EIS/EIR, without the preparation of a SEIS/REIR, pursuant to the schedule set forth in Section 6 below. The Parties further agree that the Winchester to Temecula Corridor Tier 1 EIS/EIR will serve as the Section CWA 404(b)(1) offsite alternatives analysis to the extent authorized by 40 CFR §230.10(a)(5). Prior to public review of the FEIS/EIR for this Corridor, FHWA will seek preliminary agreement from EPA, the Army Corps and the Service concerning the NEPA preferred alternative for incorporation into the FEIS/EIR.

Section 4. Information/Analysis Requirements

- A. RCTC/FHWA provided written responses to the comments and recommendations received from EPA, the Army Corps and the Service on both of the Draft EIS/EIRs. RCTC/FHWA acknowledge that EPA, the Army Corps and the Service may have requested the preparation of additional analysis in their comments. The Federal Agencies acknowledge that RCTC/FHWA's initial responses do not require complete agreement with the Federal Agency comments or recommendations, or the preparation of additional analysis, only that they be addressed as to resolution. If RCTC/FHWA disagrees with a comment or recommendation made by a Federal Agency, or a request for additional analysis, RCTC/FHWA will provide an explanation or alternative approach in the written response. The Parties' representatives will discuss such responses. In the event of disagreement with any of RCTC/FHWA's responses, the Parties' staff and first level supervisors will immediately attempt to reach resolution on such issues. If the Parties are unable to reach agreement, the conflict resolution provisions set forth in Section 7 below will be invoked.

B. The Parties agree the information/analyses listed below will be assembled for each of the alternatives retained for the Hemet to Corona/Lake Elsinore Corridor to enable identification of a single preferred alternative. The Parties further agree the SAMP data and information from the MSHCP identified below, in addition to relevant information from the County General Plan, shall be incorporated into the Hemet to Corona/Lake Elsinore SDEIS/REIR. The Parties further agree the Hemet to Corona/Lake Elsinore Corridor Tier 1 EIS/EIR will serve as the CWA Section 404(b)(1) offsite alternatives analysis to the extent authorized by 40 CFR §230.10(a)(5). The Federal Agencies agree that, except as specified in Section 4, and including any requests for the preparation of additional analysis in comments received from EPA, the Army Corps and the Service on the Draft EIS/EIRs, no additional information or analysis will be requested prior to concurrence on a single preferred alternative for this Corridor.

1. SAMP and Santa Ana Watershed Data to be provided by the Army Corps
 - a. Inventory of waters within the band widths. Alignments will be overlain with planning level delineation.
 - b. Inventory of waters that may potentially be impacted hydrologically. Planning level delineation and integrity assessment will be used to focus on waters within the local and downstream drainage basins.
 - c. Inventory of waters both within and outside of the bandwidth that can reasonably be expected to be impacted from the projected growth that would occur in the vicinity of the alternative. Integrity assessment will be used to characterize the potential change in the degree of disturbance.
 - d. With regard to cumulative impacts to streams, identification through linear miles and acres (where available) of low, medium and high order streams that will likely be modified. Information from the Surface Water Hydrology map 4.10.3 (existing conditions) will be used to project the anticipated cumulative impacts to streams based on the planned low, moderate and high density residential, commercial and industrial development zoning presented in the Planned

Land Use map 4.16.2. Integrity assessment will be used to characterize potential change in level of disturbance.

- e. The Parties agree that a limited planning level wetlands delineation and functional assessment that expands on the information already provided in the Hemet to Corona/Lake Elsinore Corridor Draft EIS/EIR is needed for the portion of the study area within the Santa Ana Watershed that is not covered by the SAMP.
2. MSHCP data and other existing information to be provided by RCTC
- a. A description will be provided of all proposed and listed state and federally threatened and endangered species that may likely occur within and in reasonable proximity to the bandwidth of the alternative. A characterization of how a CETAP transportation facility may impact each species relative to its life history requirements and current distribution will be provided.
 - b. Inventory of all proposed and designated critical habitat as defined in 50 CFR 424.02 that occur both within and in reasonable proximity to the bandwidth of the alternative. A characterization of how the alternative may affect the critical habitat in terms of type of encroachment, acres of impact and what it may mean to long term conservation of state and federally listed species will be provided.
 - c. An expanded discussion of the potential effects of the Hemet to Corona/Lake Elsinore alternatives on water quality and 303(d) listed waters shall be included in the SDEIS/REIR. The SDEIS/REIR shall also include a more in-depth discussion of cumulative and indirect impacts to resources of concern as well as appropriate information from the General Plan, based upon existing information and deemed appropriate by RCTC and FHWA.

Section 5. Quality Assurance Process

- A. The Parties agree within thirty days of execution of this MOU a quality assurance process will be established to develop adequate information for and to track resolution of the Federal Agency comments and other work to

be completed pursuant to this MOU. The first draft of this process will be prepared by the Federal Agencies for review and comment by the Parties. Such process will include a procedure for document tracking, specific data requirements, schedule compliance and conflict resolution scheduling and progression. Guidelines will also be established by the Parties within this time frame setting forth protocols for convening meetings and conference calls, including distribution of materials.

Section 6. Schedule and Funding Commitments

- A. The Federal Agencies recognize preparation of the additional information and analysis referenced above will extend the CETAP effort by approximately six to eight months past the RCTC and County deadline of July 1, 2003. Any additional funding from RCTC or the County for the CETAP effort after July 1, 2003, shall be subject to approval by RCTC and/or the County.
- B. Congress has appropriated \$300,000 to the County for continued work on the SAMP portion of the RCIP. Of this amount, EPA has processed a grant for \$113,000 to fund the additional SAMP analysis set forth in Section 4. RCTC and the County will request the balance of \$187,000. FHWA will seek \$500,000 or more to fund the RCTC/County costs of CETAP after July 1, 2003. The Federal Agencies may provide funding for this effort prior to July 1, 2003. RCTC will seek from available sources, with the support of the Federal Agencies, additional funding required for work required after July 1, 2003.
- C. The Army Corps agrees to collect and analyze the SAMP data identified in Section 4 above upon receipt of sufficient funding and GIS data to complete the work, and agrees to complete the work in accordance with the attached schedule.
- D. RCTC agrees to take action on the Final EIR for the Winchester to Temecula Corridor on or before July 15, 2003. FHWA agrees to take all actions within its authority to allow issuance of a Record of Decision ("ROD") for the Final EIS on this corridor on or before August 15, 2003. EPA, Army Corps and the Service agree to use their best efforts to assist in the completion of the Tier 1 MOU process for this Corridor by this date. The Parties recognize that the ROD could select a specific alternative or the No Action (No Build) alternative. The Parties shall work together to develop and agree upon intermediate milestones to allow RCTC and FHWA to successfully meet these dates.

- E. RCTC agrees to take action on the Final EIR for the Hemet to Corona/Lake Elsinore Corridor on or before February 1, 2004. FHWA agrees to take all actions within its authority to allow issuance of a ROD for this corridor on or before February 28, 2004. EPA, Army Corps and the Service agree to use their best efforts to assist in the completion of the Tier 1 MOU process for this Corridor by this date consistent with the Executive Order. All parties recognize the ROD could select a specific alternative or the No Action (No Build) alternative. The Parties agree a forty-five (45) day public review period is sufficient for the Hemet to Corona/Lake Elsinore Corridor SDEIS/REIR. The Parties shall work together to develop and agree upon intermediate milestones to allow RCTC and FHWA to successfully meet these dates.

Section 7. Agency Management Involvement/Conflict Resolution

- A. If the Parties' staff and first level supervisors cannot reach agreement on any issue, including but not limited to a single preferred alternative for each corridor, the Parties agree to elevate the decision to successively higher levels within each organization until consensus is reached.
- B. The Parties will make every effort to expeditiously resolve outstanding issues at the lowest possible level of their respective agencies. If resolution cannot be accomplished promptly during scheduled meetings and conference calls, the Parties will immediately attempt to reach resolution in a subsequent meeting or conference call. Within one business day of the Parties' failure to reach agreement on any outstanding issue, any Party may schedule a meeting or conference call between the following representatives or to a designee with appropriate decision making authority:
- RCTC: Executive Director
 - County: Director, Transportation and Land Management Agency
 - Caltrans: Deputy District Director, Planning and Local Assistance
 - FHWA: Division Administrator
 - EPA: Director of Water Division and/or Director of Cross Media Division
 - Army Corps: District Engineer, Los Angeles District

- Service: Field Supervisor

Such meeting or conference call will be held within five working days of scheduling.

- C. If resolution does not occur within one working day of the above referenced meeting or conference call, this matter shall be further elevated. Within one business day of the Parties' failure to reach agreement, any Party may schedule a meeting or conference call between the following individuals or their designee with appropriate decision making authority:

- RCTC: Chair
- County: Designated Supervisors
- Caltrans: District 8 Director
- FHWA: Associate Administrator for Planning, Environment and Realty
- EPA: Regional Administrator, Region IX
- Army Corps: Division Engineer, South Pacific Division
- Service: Manager, California-Nevada Operations Office

Such meeting or conference call will be held within five working days of scheduling.

- D. If the issue cannot be resolved by the parties within one day after a meeting or conference call of the individuals listed in C, FHWA shall notify Joel Szabat, U.S. Department of Transportation, who will elevate the dispute to the Executive Order Interagency Task Force for resolution.

IN WITNESS WHEREOF, the parties hereto have executed this Memorandum of Understanding.

THE RIVERSIDE COUNTY TRANSPORTATION COMMISSION

By: _____
Ron Roberts, Chair

Date _____

COUNTY OF RIVERSIDE

By: _____
John Tavaglione, Chair of the Board of Supervisors

Date _____

CALIFORNIA DEPARTMENT OF TRANSPORTATION

By: _____
Anne E. Mayer, District 8 Director

Date _____

UNITED STATES DEPARTMENT OF TRANSPORTATION, FEDERAL HIGHWAY ADMINISTRATION

By: _____
Gary Hamby, Division Administrator

Date _____

FORM APPROVED
COUNTY COUNSEL

APR 4 2003

BY K. Watts-Baya

UNITED STATES DEPARTMENT OF TRANSPORTATION, OFFICE OF THE SECRETARY

By: _____ Date _____
Joel Szabat, Deputy Assistant Secretary
for Transportation

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

By: _____ Date _____
Wayne Nasti, Regional Administrator,
Region IX

THE DEPARTMENT OF THE ARMY, CORPS OF ENGINEERS

By: _____ Date _____
Brigadier General Robert L. Davis,
Commander, South Pacific Division

UNITED STATES DEPARTMENT OF INTERIOR, FISH AND WILDLIFE SERVICE

By: _____ Date _____
Steve Thompson, Manager, California-
Nevada Operations Office

DRAFT CETAP Corridor Schedule Federal/County Memorandum of Understanding

April 1, 2003

Activity ID Winchester to Temecula (WT)

----	07 Feb 2003	RCTC Team Concurs on Federal Agency Response to Comments
----	12 Feb 2003	Selection of Locally Preferred Alternative
1036	26 Feb 2003	Caltrans finalizes letter regarding WT alternatives.
1000	05 Mar 2003	FHWA comments on Draft Response to Comments on DEIS/EIR
1150	07 Mar 2003	FHWA to provide Draft Response to Comments to Resource Agencies
1033	11 Mar 2003	RCTC provides letter to FHWA stating no potential for local funding for Alts 7a, 7b
1039	01 Apr 2003	FHWA requests Agency preliminary agreement on Preferred Alternative
1042	11 Apr 2003	Agency Agreement on Preferred Alternative/Agreement on Adequacy of Responses
1048	23 Apr 2003	Complete and distribute Draft Final EIR/EIS to all parties
1051	14 May 2003	Complete Local Review of Draft Final EIR/EIS
1054	14 May 2003	Complete State/Federal Review of Draft Final EIR/EIS
1057	30 May 2003	Complete Final EIR/EIS
1060	11 Jun 2003	RCTC Certifies Final EIR, Approves Preferred Alternative
1063	20 Jun 2003	Publish NOA of Final EIS
1066	22 Jul 2003	Comment Period Closes For Final EIR/EIS
1069	15 Aug 2003	FHWA Issues ROD

Activity ID Hemet to Corona/Lake Elsinore (HCLE)

----	07 Feb 2003	RCTC Team Concurs on Federal Agency Response to Comments
----	21 Feb 2003	Complete Distribution of Response to Comments from Federal Agencies on DEIS
1003	05 Mar 2003	FHWA comments on Draft Response to Comments on DEIS/EIR
1009	05 Mar 2003	EPA and FWS provide comments on Draft SAMP scope of work
1015	07 Mar 2003	USACE sends new CRADA to Flood Control
1126	07 Mar 2003	USACE emails requests for GIS data to LSA
1129	07 Mar 2003	FHWA to provide Draft Response to Comments to Resource Agencies
1018	10 Mar 2003	Flood Control sends application for transfer of funds and SAMP scope of work to EPA.
1012	01 Apr 2003	USACE finalizes SAMP scope and sends to Flood Control
1024	01 Apr 2003	Grant Approval
1027	04 Apr 2003	EPA transfers funds to Flood Control
1030	08 Apr 2003	Signed MOU
1135	08 Apr 2003	Flood Control, RCTC and USACE execute CRADA
1029	08 Apr 2003	Flood Control sends funding to USACE / ERDC

<u>Activity ID</u>	<u>Hemet to Corona/Lake Elsinore (HCLE) continued</u>	
1138	09 Apr 2003	LSA sends GIS data to ERDC and USACE
1072	09 Apr 2003	USACE / ERDC Begins Planning Level Analysis for Santa Ana Watershed Area Impacted by Corridor
1141	14 Apr 2003	Resource Agencies provide comments on Response to Comments
1072	09 July 2003	USACE Completes Planning Level Analysis for Santa Ana Watershed Area Impacted by Corridor - Draft
1078	16 July 2003	Distribute Admin Draft REIR/SEIS to parties
1081	28 July 2003	Local/State/Federal Comments back on REIR/SEIS
1084	04 Aug 2003	REIR/SEIS completed and to printer
1087	07 Aug 2003	Publish REIR/SEIS and request NOA publication in Federal Register
1102	08 Aug 2003	USACE Completes Planning Level Analysis for Santa Ana Watershed Area Impacted by Corridor - Final
1090	15 Aug 2003	Publish Notice of Availability in Federal Register
1093	29 Sep 2003	Complete Public Review of REIR/SEIS
1096	20 Oct 2003	Complete Draft Response to Comments and distribute to parties for review
1099	11 Nov 2003	Selection of Locally Preferred Alternative
1144	11 Nov 2003	Agency Concurrence on Preferred Alternative
1105	18 Nov 2003	Complete Draft Final EIR/EIS and distribute to parties
1108	11 Dec 2003	Complete State/Federal Review of Draft Final EIR/EIS
1147	11 Dec 2003	Complete Local Review of Draft Final REIR/SEIS
1111	23 Dec 2003	Complete Final EIR/EIS
1117	14 Jan 2004	RCTC Certifies Final EIR
1114	16 Jan 2004	Publish NOA of Final EIS
1120	16 Feb 2004	Comment Period Closes on FEIS
1123	27 Feb 2004	FHWA Issues ROD