

O.6.2 State Agency Comments

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NATIVE AMERICAN HERITAGE COMMISSION

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 ds_nahc@pacbell.net



June 2, 2011

Mr. Aaron Burton, Environmental Planner

California Department of Transportation – District 8

464 West Fourth Street, Sixth Floor
 San Bernardino, CA 92401

Re: SCH#2008071075: NEPA/CEQA Notice of Completion; draft Environmental Impact Report/and Environmental Impact Statement (EIR/EIS) for the: "ORA-91-R14.4/18.91; RIV 91-R0.00/R13.04; RIV-15-35.64/45.14; EA 08-0F5400; PN 080000001.36: State Route 91 Corridor Improvement Project; Widening S.R. 91 from S.R. 241 Interchange in the cities of Anaheim and Yorba Linda in Orange County to Pierce Street in the City of Riverside and Interstate 15 in Hidden Valley Parkway Interchange in the cities of Corona and Norco." Orange and Riverside Counties, California

Dear Mr. Burton:

The Native American Heritage Commission (NAHC), the State of California 'Trustee Agency' for the protection and preservation of Native American cultural resources. The NAHC wishes to comment on the above-referenced proposed Project.

This letter includes state and federal statutes relating to Native American historic properties of religious and cultural significance to American Indian tribes and interested Native American individuals as 'consulting parties' under both state and federal law. State law also addresses the freedom of Native American Religious Expression in Public Resources Code §5097.9.

The California Environmental Quality Act (CEQA – CA Public Resources Code 21000-21177, amendments effective 3/18/2010) requires that any project that causes a substantial adverse change in the significance of an historical resource, that includes archaeological resources, is a 'significant effect' requiring the preparation of an Environmental Impact Report (EIR) per the CEQA Guidelines defines a significant impact on the environment as 'a substantial, or potentially substantial, adverse change in any of physical conditions within an area affected by the proposed project, including ...objects of historic or aesthetic significance.' In order to comply with this provision, the lead agency is required to assess whether the project will have an adverse impact on these resources within the 'area of potential effect (APE), and if so, to mitigate that effect. The NAHC Sacred Lands File (SLF) search resulted in; **Native American cultural resources were not identified** within the 'area of potential effect (APE), based on the USGS coordinates of the project location provided. The NAHC "Sacred Sites," as defined by the Native American Heritage Commission and the California Legislature in California Public Resources Code §§5097.94(a) and 5097.96. Items in the NAHC Sacred Lands Inventory are confidential and exempt from the Public Records Act pursuant to California Government Code §6254.10.

Early consultation with Native American tribes in your area is the best way to avoid unanticipated discoveries of cultural resources or burial sites once a project is underway. Culturally affiliated tribes and individuals may have knowledge of the religious and cultural

S-1-1

S-1-2

significance of the historic properties in the project area (e.g. APE). We strongly urge that you make contact with the list of Native American Contacts on the attached list of Native American contacts, to see if your proposed project might impact Native American cultural resources and to obtain their recommendations concerning the proposed project. Pursuant to C" A Public Resources Code § 5097.95, the NAHC requests that the Native American consulting parties be provided pertinent project information. Consultation with Native American communities is also a matter of environmental justice as defined by California Government Code §65040.12(e). Pursuant to CA Public Resources Code §5097.95, the NAHC requests that pertinent project information be provided consulting tribal parties. The NAHC recommends *avoidance* as defined by CEQA Guidelines §15370(a) to pursuing a project that would damage or destroy Native American cultural resources and Section 2183.2 that requires documentation, data recovery of cultural resources.



S-1-2

Furthermore we recommend, also, that you contact the California Historic Resources Information System (CHRIS) California Office of Historic Preservation for pertinent archaeological data within or near the APE, at (916) 445-7000 for the nearest Information Center in order to learn what archaeological fixtures may have been recorded in the APE.

S-1-3

Consultation with tribes and interested Native American consulting parties, on the NAHC list, should be conducted in compliance with the requirements of federal NEPA (42 U.S.C 4321-43351) and Section 106 and 4(f) of federal NHPA (16 U.S.C. 470 *et seq*), 36 CFR Part 800.3 (f) (2) & .5, the President's Council on Environmental Quality (CSQ, 42 U.S.C 4371 *et seq.* and NAGPRA (25 U.S.C. 3001-3013) as appropriate. The 1992 *Secretary of the Interiors Standards for the Treatment of Historic Properties* were revised so that they could be applied to all historic resource types included in the National Register of Historic Places and including cultural landscapes. Also, federal Executive Orders Nos. 11593 (preservation of cultural environment), 13175 (coordination & consultation) and 13007 (Sacred Sites) are helpful, supportive guides for Section 106 consultation.

S-1-4

Furthermore, Public Resources Code Section 5097.98, California Government Code §27491 and Health & Safety Code Section 7050.5 provide for provisions for accidentally discovered archeological resources during construction and mandate the processes to be followed in the event of an accidental discovery of any human remains in a project location other than a 'dedicated cemetery'.

S-1-5

To be effective, consultation on specific projects must be the result of an ongoing relationship between Native American tribes and lead agencies, project proponents and their contractors, in the opinion of the NAHC. Regarding tribal consultation, a relationship built around regular meetings and informal involvement with local tribes will lead to more qualitative consultation tribal input on specific projects.

S-1-6

The response to this search for Native American cultural resources is conducted in the NAHC Sacred Lands Inventory, established by the California Legislature (CA Public Resources Code 5097.94(a) and is exempt from the CA Public Records Act (c.f. California Government Code 6254.10) although Native Americans on the attached contact list may wish to reveal the nature of identified cultural resources/historic properties. Confidentiality of "historic properties of religious and cultural significance" may also be protected under Section 304 of he NHPA or at the Secretary of the Interior discretion if not eligible for listing on the National Register of Historic Places and there may be sites within the APE eligible for listing on the California Register of Historic Places. The Secretary may also be advised by the federal Indian Religious Freedom Act (cf. 42 U.S.C., 1996) in issuing a decision on whether or not to disclose items of religious

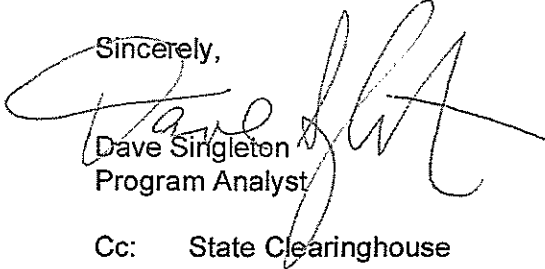
S-1-7



and/or cultural significance identified in or near the APEs and possibility threatened by proposed project activity.

If you have any questions about this response to your request, please do not hesitate to contact me at (916) 653-6251.

Sincerely,



Dave Singleton
Program Analyst

Cc: State Clearinghouse

Attachment: Native American Contact List

S-1-7

California Native American Contact List
Orange and Riverside Counties
June 2, 2011

S-1

Pechanga Band of Mission Indians
Paul Macarro, Cultural Resource Center
P.O. Box 1477 Luiseno
Temecula , CA 92593
(951) 770-8100
pmacarro@pechanga-nsn.
gov
(951) 506-9491 Fax

Soboba Band of Mission Indians
Scott Cozaet, Chairperson
P.O. Box 487 Luiseno
San Jacinto , CA 92581
dhill@soboba-nsn.gov
(951) 654-2765
(951) 654-4198 - Fax

Ti'At Society/Inter-Tribal Council of Pimu
Cindi M. Alvitre, Chairwoman-Manisar
3098 Mace Avenue, Aapt. D Gabrielino
Costa Mesa, , CA 92626
calvitre@yahoo.com
(714) 504-2468 Cell

Juaneno Band of Mission Indians Acjachemen Nation
David Belardes, Chairperson
32161 Avenida Los Amigos Juaneno
San Juan Capistrano CA 92675
(949) 493-4933 - home
chiefdavidbelardes@yahoo.
com
(949) 293-8522

Gabrieleno/Tongva San Gabriel Band of Mission
Anthony Morales, Chairperson
PO Box 693 Gabrielino Tongva
San Gabriel , CA 91778
GTtribalcouncil@aol.com
(626) 286-1632
(626) 286-1758 - Home
(626) 286-1262 -FAX

Santa Rosa Band of Mission Indians
Mayme Estrada, Chairwoman
P.O. Box 609 Cahuilla
Hemet , CA 92546
srbciooffice@yahoo.com
(951) 658-5311
(951) 658-6733 Fax

Gabrielino Tongva Nation
Sam Dunlap, Chairperson
P.O. Box 86908 Gabrielino Tongva
Los Angeles , CA 90086
samdunlap@earthlink.net

(909) 262-9351 - cell

Juaneno Band of Mission Indians Acjachemen Nation
Anthony Rivera, Chairman
31411-A La Matanza Street Juaneno
San Juan Capistrano CA 92675-2674
arivera@juaneno.com
(949) 488-3484
(949) 488-3294 - FAX
(530) 354-5876 - cell

This list is current only as of the date of this document.

Distribution of this list does not relieve any person of the statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5097.94 of the Public Resources Code and Section 5097.98 of the Public Resources Code.

This list is only applicable for contacting local Native Americans with regard to cultural resources for the proposed SCH#2008071075; NEPA/CEQA Notice of Completion; draft Environmental Impact Report/Environmental Impact Statement (EIR/EIS) for the State Route 91 Corridor Improvement Project; located in Orange and Riverside Counties, California.

California Native American Contact List
Orange and Riverside Counties
June 2, 2011

S-1

Juaneno Band of Mission Indians
Alfred Cruz, Cultural Resources Coordinator
P.O. Box 25628 Juaneno
Santa Ana , CA 92799
alfredgcruz@sbcglobal.net
714-998-0721
714-998-0721 - FAX
714-321-1944 - cell

Pechanga Cultural Resources Department
Anna Hoover, Cultural Analyst
P.O. Box 2183 Luiseno
Temecula , CA 92593
ahoover@pechanga-nsn.gov
951-770-8100
(951) 694-0446 - FAX

Pechanga Band of Mission Indians
Mark Macarro, Chairperson
P.O. Box 1477 Luiseno
Temecula , CA 92593
tbrown@pechanga-nsn.gov
(951) 770-6100
(951) 695-1778 Fax

SOBOBA BAND OF LUISENO INDIANS
Joseph Ontiveros, Cultural Resource Department
P.O. BOX 487 Luiseno
San Jacinto , CA 92581
jontiveros@soboba-nsn.gov
(951) 663-5279
(951) 654-5544, ext 4137

Juaneño Band of Mission Indians
Sonia Johnston, Tribal Chairperson
P.O. Box 25628 Juaneno
Santa Ana , CA 92799
sonia.johnston@sbcglobal.net
(714) 323-8312

Juaneno Band of Mission Indians
Anita Espinoza
1740 Concerto Drive Juaneno
Anaheim , CA 92807
(714) 779-8832

S-1-2

This list is current only as of the date of this document.

Distribution of this list does not relieve any person of the statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5097.94 of the Public Resources Code and Section 5097.98 of the Public Resources Code.

This list is only applicable for contacting local Native Americans with regard to cultural resources for the proposed SCH#2008071075; NEPA/CEQA Notice of Completion; draft Environmental Impact Report/Environmental Impact Statement (EIR/EIS) for the State Route 91 Corridor Improvement Project; located in Orange and Riverside Counties, California.

S-1-1

A Sacred Lands File (SLF) search was conducted for the project Area of Potential Effects by the Native American Heritage Commission (NAHC) on May 21, 2008. The results of that search were positive for the immediate project area as described in Section 3.8.2.4, Native American Consultation, in the EIR/EIS. The NAHC provides information from the SLF on Native American cultural resources using United States Geological Survey (USGS) topographic map coordinates provided by the requester. The intent is to keep the specific locations of sensitive areas confidential. No specific locations were revealed during subsequent consultation with the Native Americans on the NAHC list of recommended contacts. Therefore, no mitigation measures addressing identified sensitive sites are necessary.

Note that the NAHC's June 2, 2011 letter (provided over 2 years after the original SLF Search) now indicates that an SLF search resulted in: “. . . Native American cultural resources were not identified . . .” within the APE.

S-1-2

The Native American contact list used for this project, which was current at the time it was provided by the NAHC, recommended that 9 Native American individuals representing various Juaneño, Luiseño, Cahuilla, Gabrielino, and Gabrieleno/Tongva groups and Tribes be contacted. As part of the consultation process, LSA Associates, Inc. initially contacted all of those individuals on behalf of the Department by letter, dated June 3, 2008. The letter discussed the project and requested information on Native American cultural resources. Two rounds of follow-up communication (phone calls and/or emails) were attempted. The results of the Native American consultation are provided in detail in Attachment E in the *Historic Property Survey Report* (HPSR) and are described in Section 3.8.2.4, Native American Consultation, on page 3.8-5 and 5.5, Native American Consultation and Coordination, on page 5-27 in the EIR/EIS.

The following Native American Tribes, groups, and individuals were contacted during that consultation based on the contact list provided by the NAHC in 2008:

- Augustine Band of Cahuilla Mission Indians: Mary Ann Green
- Juaneño Band of Cahuilla Mission Indians: Anita Espinoza
- Juaneño Band of Cahuilla Mission Indians: Joe Ocampo
- Juaneño Band of Cahuilla Mission Indians, Acjachemen Nation: David Belardes
- Juaneño Band of Cahuilla Mission Indians: Sonia Johnston

- Gabrieleno/Tongva San Gabriel Band of Mission Indians: Anthony Morales
- Pechanga Band of Mission Indians: Paul Macarro
- Soboba Band of Luiseño Indians: Erica Helms (received a response requesting additional information on Native American resources; none were documented in the APE, so no material was provided)
- Ti'At Society: Cindi Alvitre

The NAHC comment letter dated June 2, 2011, suggests contacting the following:

- Pechanga Band of Mission Indians (Paul Macarro)*
- Soboba Band of Mission Indians (Scott Cozaet)*
- Ti'At Society/Inter-Tribal Council of Pimu (Cindi Alvitre)*
- Juaneño Band of Mission Indians, Acjachemen Nation (David Belardes, Anthony Rivera)*
- Gabrieleno/Tongva San Gabriel Band of Mission Indians (Anthony Morales)*
- Santa Rosa Band of Mission Indians (Mayme Estrada)
- Gabrieleno/Tongva Nation (Sam Dunlap)*

As shown by asterisks, all but one of the new tribal contacts (Santa Rosa Band of Mission Indians) were included in the consultation conducted based on the original contact list provided by the NAHC. The original list did include four contacts representing the Cahuilla group. Because the Santa Rosa Band is also a Cahuilla group, adequate contact is considered to have been made with that group during the original consultation.

As discussed in Section 3.8, Cultural Resources, starting on page 3.8-1 in the EIR/EIS, the project will not result in permanent or temporary impacts to known cultural resources. As a result, avoidance of cultural sites was not identified as a mitigation measure for the project. Measures CR-3 and CR-4, provided in Section 3.8.4.3, Mitigation for Native American Monitoring, on page 3.8-23, require a Native American monitor during construction in areas identified as sensitive by the Pechanga Band of Mission Indians.

S-1-3

It was not necessary to contact the California Historical Resources Information System (CHRIS) in the California Office of Historic Preservation to identify the information centers nearest the project site. Based on extensive experience in this part of southern California, the cultural resources consultants were familiar with the three

nearest information centers. As a result, records searches for the project were conducted at the San Bernardino Archaeological Information Center (February 11, 2008); the South Central Coastal Information Center (February 12 and 13, 2008); and the Eastern Information Center (February 21 and 22, 2008). The findings of those searches and other research on cultural sources conducted for the project are described in Section 3.8.2, Affected Environment, on page 3.8-2 in the EIR/EIS.

S-1-4

Consultation was conducted in compliance with all applicable State and federal laws. Refer also to response to comment S-1-2, above.

S-1-5

As discussed in Section 3.8.2.7, Discovery of Cultural Materials or Human Remains, on page 3.8-16 in the EIR/EIS, if human remains are discovered during construction, the applicable provisions of State Health and Safety Code Section 7050.5 and Public Resources Code (PRC) Section 5097.98 will be followed. As noted in this comment and as described in Section 3.8.2.7, the project must comply with mandatory laws such as the regulations regarding the discovery of human remains. Measures CR-2 and CR-3, on page 3.8-23, provide those provisions related to the discovery of cultural material and human remains.

S-1-6

Refer to response to comment S-1-2, above regarding Native American consultation.

S-1-7

Consistent with professional standards and practices, only limited information regarding individual archaeological sites is included in documents such as the EIR/EIS that would be available to the general public. As demonstrated in Table 3.8.2 on page 3.8-9 in the EIR/EIS, the information provided on the cited archeological sites is limited.

PUBLIC UTILITIES COMMISSION

320 WEST 4TH STREET, SUITE 500
LOS ANGELES, CA 90013



June 29, 2011

Aaron Burton
Caltrans – District 8
464 W 4th Street, MS 821
San Bernardino, CA 92401

Dear Aaron Burton:

Re: SCH 2011061008; State Route 91 Corridor Improvement Project

The Commission's Rail Crossings Engineering Section (RCES) is in receipt of the *Notice of Completion & Environmental Document Transmittal-Draft Environmental Impact Report* from the State Clearinghouse for the State Route 91 Corridor Improvement Project.

RCES staff noted in the project's document on Table S.5 Permits and Approvals Needed, of the executive summary, the Commission is a listed agency. The RCES thanks you for including the Commission.

RCES looks forward to working with Caltrans in the future as the State Route 91 project progresses and Caltrans seeks authorization for any crossing work.

If you have any questions, please contact Bill Lay at 213-576-1399, email at bill.lay@cpuc.ca.gov, or myself at rxm@cpuc.ca.gov, 213-576-7078.

Sincerely,

A handwritten signature in black ink, appearing to be "Rosa Muñoz".

Rosa Muñoz, PE
Senior Utilities Engineer
Rail Crossings Engineering Section
Consumer Protection & Safety Division

S-2-1

S-2-1

The Public Utilities Commission's role as a permit approval authority is acknowledged. No response is necessary because this comment does not ask a question or provide a comment relative to the technical information in the EIR/EIS.



S-3

July 11, 2011

Aaron Burton
Caltrans, District 8
464 West 4th Street
San Bernardino, CA 92401

Re: Draft Environmental Impact Report/Draft Environmental Impact Statement (DEIR/DEIS) for the State Route 91 Corridor Improvement Project. SCH# 2008071075

Dear Mr. Burton:

The Inland Empire District of the California Department of Parks and Recreation (State Parks) appreciates the opportunity to comment on the State Route-91 Corridor Improvement Project (SR-91 CIP).

State Parks is a Trustee Agency as defined by the California Environmental Quality Act (CEQA). State Parks is also a Responsible Agency as defined by CEQA because the proposed project will require permanent and temporary use of Chino Hills SP (CHSP). State Parks' mission in part is to provide for the health, inspiration, and education of the people of California by preserving the state's extraordinary biodiversity and creating opportunities for high quality outdoor recreation.

S-3-1

In general, the DEIR/EIS is deficient because of the lack of serious consideration given to park resources and to recreation. It is not possible to evaluate the effectiveness of the project's consequential impacts without weighing the proponent's mitigation measures. In this case, Caltrans does not offer sufficient concrete mitigation strategies for the direct and indirect significant impacts to CHSP and its resources. As indicated in our October 23, 2009 Section 4 (F) Consultation response, very comprehensive review studies are needed to properly evaluate all potential impacts and mitigation measures which the DEIR/EIS as written is deficient in addressing. That being said we have the following comments to offer on the document as it has been released at this time; they are as follows.

S-3-2

Chapter 3.17 Natural Communities

- NC-3 - The dates identified for vegetation removal and tree trimming restrictions are different in Orange County than they are in Riverside County. Please explain and justify this difference.
- NC-4 – Due to fire danger no mechanized equipment operation or operation of other equipment that may throw sparks or potentially start a fire is to take place within the limits of CHSP during days when the national weather service has issued a Red Flag Warning for the area. We recommend this provision for all work adjacent to natural open space.
- NC-7 – Areas of habitat to be disturbed at Coal Canyon are described however it is unclear exactly where and the extent of these areas. Please identify and describe the nature of the disturbance that will take place within the CHSP at Coal Canyon.

S-3-3

S-3-4

S-3-5

- NC-9 & 12 – State Parks is strongly opposed to any work taking place at night within CHSP except in the case of emergency. S-3-6
- NC-14 – All staging areas at Coal Canyon or at other areas of CHSP should be delineated with silt fence to prevent lizards and rodents from entering the staging area. S-3-7
- The San Diego horned lizard a California species of special concern has been observed in the area around Coal Canyon by State Parks staff recently. S-3-8

Chapter 3.19 Plant Species

- Coulter's Matilija poppy is known to occur within the BSA in CHSP at Coal Canyon. Please indicate whether this population will be disturbed by the project. S-3-9

Chapter 3.20 Animal Species

- AS-7 – This Avoidance and Minimization and/or Mitigation Measure repeatedly refers to roosting habitat but does not specify whether it is referring to bat habitat as is described in several of the previous measure or bird habitat. Please clarify. S-3-10

Chapter 3.21 Threatened and Endangered Species

- Coastal Sage Scrub habitat adjacent to the project is known to be occupied by California gnatcatchers within CHSP at Coal Canyon. It is unclear what the anticipated impacts to gnatcatchers are at this location. Please clarify and describe plans to avoid and/or mitigate these impacts. S-3-11

Additionally, we have not received the application for formal consultation with the National Park Service as required by the Land and Water Conservation Fund provisions. Once we receive your application, we will have additional comments that will affect our position on the appropriateness of the DEIR. We will also have further comments and conditions when applying for the Right of Entry permit for the areas marked out for temporary construction easement. S-3-12

We are concerned with impacts to any sensitive species. The DEIR/EIS references several times that impacts will be mitigated consistent with the Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP). However the DEIR/EIS fails to identify the specific mitigation measures that would be implemented. Additionally, the DEIR/EIS is vague or does not clarify how mitigation consistent with the MSHCP will apply to the Orange County portion of the project. S-3-13

Coal Canyon Wildlife Under-Crossing is a critical and very significant link to sustain the biodiversity of wildlife resources regionally. As stated, the DEIR/EIS is deficient in analyzing potential impacts to sensitive species and wildlife movement at this location and other identified wildlife crossings to the east, thus preventing a proper evaluation and weighing of the proposed mitigation measures. For instance, types of sound walls should be studied and evaluated on the eastbound and westbound sides of SR-91 at Coal Canyon and throughout the Santa Ana Canyon for the following reasons. Widening the freeway will move traffic closer to open space where increased noise pollution and the strobe light effect of headlights on the freeway will impact wildlife movement which takes place primarily at night. The sound walls would also help prevent vehicle fires, exhaust pipe emissions or discarded burning materials from igniting wildfires in open space. Widening of the freeway toward the south will reduce the height of the open area between the freeway and ground thereby reducing the "openness" of the S-3-14



undercrossing making it less attractive to wildlife. Also, as a mitigation measure, we strongly advocate the addition of native plant habitat on the north/south approaches and under the SR-91 Bridge to facilitate wildlife movement.

We recommend further consideration of the reversible lane alternative and the elevated structure within the SR-91 right-of-way alternative, both of which were discussed as possible solutions during the Major Investment Study process, and included in a Locally Preferred Strategy, Project Development Team Meeting on December 7, 2005. The DEIR/EIS falls short of serious consideration of minimal-build alternatives.

State Parks will continue to work with RCTC and Caltrans to minimize the project impacts and identify appropriate mitigation to address impacts to CHSP.

Thank you again for the opportunity to comment. For further discussion, please contact me or Enrique Arroyo at (951) 453-6848.

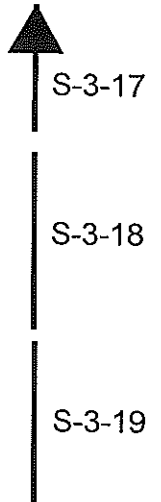
Sincerely,



Ron Krueper
District Superintendent

Exhibit A: State Parks October 23, 2009 Section 4 (F) Consultation Response Letter

cc: Jay Chamberlin, State Parks Natural Resources Chief
Judi Tamasi, Wildlife Corridor Conservation Authority





DEPARTMENT OF PARKS AND RECREATION

Inland Empire District
17801 Lake Perris Drive
Perris, CA 92571
(951) 443-2423
<http://www.parks.ca.gov>

Ruth Coleman, Director

October 23, 2009

Refer to Comment S-3-2

Khalid Bazmi
Toll Project Manager
3850 Vine Street, #210
Riverside, CA 92507

Re: Section 4(f) Consultation regarding the State Route 91 Riverside to Orange County Corridor Improvement Project

Dear Mr. Bazmi:

The Inland Empire District of the Department of Parks and Recreation (State Parks) appreciates the opportunity to participate in the Section 4(F) Consultation process regarding the State Route-91 Riverside to Orange County Corridor Improvement Project (SR-91 CIP).

State Parks is a trustee agency as defined by the California Environmental Quality Act (CEQA). State Parks' mission in part is to provide for the health, inspiration, and education of the people of California by preserving the state's extraordinary biodiversity and creating opportunities for high quality outdoor recreation. As the office responsible for the stewardship of Chino Hills State Park (Chino Hills SP), we have an interest and concern about contemplated alterations of land use adjacent to the park. The long-term health of CHSP is dependent on the health of the regional ecosystems because the biotic boundaries of the park extend beyond its jurisdictional boundaries.

Consistent with the requirements of Section 4(f), the Riverside County Transportation Commission (RCTC) and the California Department of Transportation (Caltrans) have consulted with State Parks regarding the proposed SR-91 CIP and its potential effects on Chino Hills SP. State Parks has reviewed the information regarding Chino Hills SP provided in the Draft Section 4(f) and 6(f) Evaluation for the project and the list of questions State Parks was requested to consider in its review of the information regarding Chino Hills SP. Based on the questions provided by RCTC/Caltrans and the additional information provided at and after the consultation meeting in the June 2009 project consultation, State Parks is providing the following additional information for possible inclusion in the Draft Section 4(f) and 6(f) Evaluation for the SR-91 CIP:

- **Summary of Section 4(f) Analysis for Chino Hills State Park** - see attachment for suggested edits.
- **Coal Canyon Wildlife Under-Crossing** – Even though construction in the wildlife crossing will be limited to daylight hours and the construction impacts are considered temporary with the widening of the bridge structures, wildlife movement will still be undeniable impacted over an extensive period of time. Previous bridge widening projects at Coal Canyon coupled to this bridge widening project will have incrementally increased the shade area under the

bridges effecting wildlife without the benefit of any native plant cover improvement to facilitate movement directly under or near the under-crossing approaches. This should be considered as a permanent impact and should be mitigated as such for the long term. We strongly encourage a very comprehensive review and study of all permanent and temporary impacts with appropriate mitigation such as native plant improvements other than only returning the present wildlife crossing to its original condition which is currently bare ground where the previous road material was removed.

- **Prado Road and Green River** - The proposed permanent aerial easement for the new bridge over Prado Road at Green River Road impacts and crosses over the parks only existing public access point for hikers and vehicles in this southern portion of Chino Hills SP. Extensive consultation and planning coordination and possible mitigation will need to be conducted with State Parks to ensure future public access.

In summary:

- State Parks appreciates the continuing coordination and consultation with RCTC and Caltrans regarding the proposed project.
- State Parks will continue to work with RCTC and Caltrans to minimize the project impacts to Chino Hills SP and identify appropriate mitigation to address impacts to Chino Hills SP.

Thank you again for the opportunity to comment. For further discussion, please contact me or Enrique Arroyo at (951) 453-6848.

Sincerely,



Ron Krueper
District Superintendent

cc: Rick Rayburn, California State Parks
John Rowe, California State Parks
Judi Tamasi, WCCA
Jim Donovan, National Park Service
Daniel Ciacchella, Caltrans
Michael Amling, LSA Associates, Inc.

S-3-1

No response is necessary because this comment simply identifies State Parks as a trustee and responsible agency under CEQA for the project.

S-3-2

The EIR/EIS fully analyzes the project impacts and imposes all feasible mitigation. Refer to Chapter 3, Affected Environment, Environmental Consequences, and Avoidance, Minimization, and/or Mitigation Measures, in the EIR/EIS.

The State Parks letter dated October 23, 2009, referenced in this comment, was in response to a specific request that State Parks respond to questions regarding the potential for Section 4(f) impacts at CHSP. The comments in that letter were addressed in Appendix B, Resources Evaluated Relative to the Requirements of Section 4(f), in the EIR/EIS and in ongoing consultation with State Parks regarding the project effects at CHSP. Refer to Appendix B in the Final EIR/EIS for detailed discussion of, and mitigation for, project effects at CHSP.

Refer also to responses to comments S-3-3 through S-3-18, below.

S-3-3

The nesting bird season is based on a time frame typically accepted by the resource agencies in the region. A shorter nesting season is provided in the Western Riverside County MSHCP. However, Measure NC-3 on page 3.17-30 in the EIR/EIS was changed in response to a request from the Regional Conservation Authority as follows (changes shown in *italics*) to include the longer time frame than that provided in the Western Riverside County MSHCP. This revised measure assures a consistent period during which vegetation cannot be removed in both Orange and Riverside Counties and is a longer length of time than that provided in the Western Riverside County MSHCP. Because the project segment in Orange County is not within a Natural Communities Conservation Plan (NCCP) or Habitat Conservation Plan (HCP), it is appropriate to use the same time period during which vegetation cannot be removed for both counties.

NC-3

To avoid effects to nesting birds, RCTC's Resident Engineer will require the design/build contractor to conduct any native or exotic vegetation removal or tree trimming activities outside of the nesting bird season (*i.e., February 15–September 15*). In the event that vegetation clearing is necessary during the nesting season, RCTC's Resident Engineer will require the design/build contractor to have the

Designated Qualified Biologist conduct a preconstruction survey within 300 ft of construction areas no more than 7 days prior to construction to identify the locations of nests. Should nesting birds be found, an exclusionary buffer of 300 ft will be established by the Designated Biologist around each nest site. This buffer will be clearly marked in the field by construction personnel under guidance of the design/build contractor's Designated Qualified Biologist, and construction or clearing will not be conducted within this zone until the Designated Qualified Biologist determines that the young have fledged or the nest is no longer active. In the event that construction must occur within the 300 ft buffer, the Designated Biologist will take steps to ensure that construction activities do not disturb or disrupt nesting activities. If the Designated Biologist determines that construction activities are disturbing or disrupting nesting activities, the Designated Biologist will notify the RCTC Resident Engineer, who has the authority to halt construction to reduce the noise and/or disturbance to the nests. Responses may include, but are not limited to, turning off vehicle engines and other equipment whenever possible to reduce noise, installing a protective noise barrier between the nest and the construction activities, and/or working in other areas until the young have fledged.

S-3-4

All State Parks requirements and restrictions regarding fire prevention during periods of Red Flag Warnings within and in the vicinity of CHSP will be followed. That requirement was added to Measure NC-4 on page 3.17-31 in the EIR/EIS (the changes are shown in *italics*).

NC-4

When work is conducted during the fire season (as identified by *the OCFA, RCFD, City of Norco Fire Department, and/or the City of Corona Fire Department*) adjacent to any vegetated open space, RCTC's Resident Engineer will require the design/build contractor to ensure that appropriate firefighting equipment (e.g., extinguishers, shovels, water tankers) is available on site during all phases of project construction to help minimize the potential for human-caused wildfires. Shields, protective mats, and/or other fire-preventive methods will be used during grinding, welding, and other spark-inducing activities. Personnel trained in fire hazards, preventive

actions, and responses to fires will advise contractors regarding fire risk from all construction-related activities.

If a responsible fire agency (OCFA, RCFD, City of Norco Fire Department or City of Corona Fire Department) requires the RCTC to clear defensible spaces during construction, the RCTC's Resident Engineer, the design/build contractor, and the design/build contractor's Designated Qualified Biologist will coordinate with the USFWS prior to this clearing effort. In the event there are resources in the areas identified for defensible clearing, RCTC's Resident Engineer and the Designated Qualified Biologist will coordinate with any applicable permitting agencies regarding possible effects to those resources prior to approving the defensible clearing of any areas by the design/build contractor.

During all Red Flag Warning periods as issued by the National Weather Service, the design/build contractor will not be allowed to operate mechanized equipment or equipment which could throw off sparks or potentially start fires in any areas of natural open space in CHSP or other areas.

S-3-5

As shown on Sheet 1 on Figure B.3 in Appendix B in the EIR/EIS, there will be no permanent removal of habitat in CHSP at Coal Canyon. Permanent project impacts at Coal Canyon will occur as a result of the widening of the existing bridge structure. These impacts will occur above the grade of the wildlife crossing in developed and/or disturbed areas not considered habitat to special-status species, as shown on Figure B.3. In addition, there is a TCE just west of Coal Canyon that will be disturbed for utility relocation; that TCE is shown on Figure B.3. Measure NC-7 on page 3.17-32 in the EIR/EIS specifically addresses the areas disturbed during construction. Because there is no permanent removal of vegetation in this area, no mitigation for that type of impact at Coal Canyon is needed.

S-3-6

Note that Measures NC-9 and NC-10 on page 3.17-33 in the EIR/EIS are relevant to all wildlife corridors and not specifically work being conducted in CHSP. The following new measure was added on page 3.1-92 in the EIR/EIS to address State Parks' stated desire to avoid construction at night in CHSP:

PR-3 RCTC's Resident Engineer will require the design/build contractor to limit the hours of construction in Chino Hills State Park to daylight hours (7:00 a.m.–7:00 p.m.), with the exception of limited periods when evening or night construction is necessary for operations reasons. Operational reasons may include the desire to conduct certain construction activities, such as closing multiple ramps or travel lanes, during evening and night time hours to minimize delays to the traveling public. Any night construction must be approved in writing by the RCTC Resident Engineer and coordinated with the District 8 and 12 biologists, the USFWS, and CDFG.

The entry gates at Coal Canyon must remain closed at all times except to provide access to and from the construction site for construction workers, materials delivery, and construction equipment, to prevent wildlife from inadvertently entering the freeway area.

S-3-7

The following new measure was added on page 3.20-17 in the EIR/EIS as requested.

AS-8 RCTC's Resident Engineer will require the design/build contractor to install and maintain silt fence barriers at all staging or construction areas at Coal Canyon and areas within CHSP to prevent small animals from entering those areas.

S-3-8

As noted in Table 3.20.1 on page 3.20-3 in the EIR/EIS, the San Diego horned lizard was not observed in the BSA during surveys conducted for the project. This lizard is a covered species in the Western Riverside County MSHCP as discussed in Section 3.20.2.2, Western Riverside County MSHCP-Covered Species, on page 3.20-8 in the EIR/EIS. However, Coal Canyon is in Orange County and is not covered by the Western Riverside County MSHCP.

Refer also to response to comment S-3-7, above, for mitigation to address special-status species in the Coal Canyon area.

S-3-9

The SR-91 CIP would not disturb any Coulter's matilija poppy in CHSP. Refer to Figure 3.19-2 on page 3.19-13 in the EIR/EIS, which indicates that the Coulter's matilija poppies that will be impacted are within the existing right-of-way for SR-91

and not in CHSP. The poppies south of the SR-91 right-of-way will not be impacted by the project.

S-3-10

Measure AS-7 on page 3.20-16 in the EIR/EIS was changed at the request of the Regional Conservation Authority as follows (changes shown in *italics*):

AS-7 During final design, RCTC's Project Manager, the Department District 8 Biologist, the District 12 Biologist, and the Designated Qualified Biologist will determine whether structural features providing existing *bat* roosting habitat cannot be permanently retained following construction. If that is the case, RCTC's Project Manager, RCTC's Project Engineer, the Department District 8 Biologist, the District 12 Biologist, and the Designated Qualified Biologist will identify alternative roosting habitat to be installed during project construction. The project specifications will include suitable designs and specifications for bat exclusion and habitat replacement structures.

Prior to and during construction, RCTC's Resident Engineer will require the design/build contractor to properly implement the designs and specifications for bat exclusion and habitat replacement structures included in the project specifications. The installation and maintenance of those structures will be monitored by the Designated Qualified Biologist.

S-3-11

As discussed in the bullet titled "Coastal California Gnatcatcher" on page 3.21-7 in Section 3.21.2.2, Threatened and/or Endangered Animal Species, in the EIR/EIS, CAGN were observed in the BSA during focused surveys in 2008, but none were observed in the locations in CHSP that will be impacted by the project. As shown in Table 3.17.2 on page 3.17-13 in the EIR/EIS, the Build Alternatives will result in the permanent removal of CSS and temporary removal of CSS during construction. CAGN-occupied CSS vegetation at Coal Canyon in CHSP will not be impacted by the SR-91 CIP because CAGN were not observed at the locations in CHSP that will be impacted by the SR-91 CIP. Because there will be no acquisition of CAGN-occupied habitat, temporarily impacted CSS will be replaced, and permanently impacted CSS will be mitigated in the amount required by the Biological Opinion received from the USFWS on November 30, 2011. The Biological Opinion is

provided in Appendix N, Biological Opinion. The project impacts to CAGN are not significant under CEQA.

S-3-12

Refer to Section O.5.5, Common Response Related to Chino Hills State Park, on page O-18, for discussion regarding the project effects at CHSP, the measures included in Alternatives 1 and 2 and provided in the EIR/EIS to address those effects, and the de minimis determination under Section 4(f) for the project effects at CHSP.

In its consultation letter dated January 26, 2012, the NPS indicated that two previous L&WCF Act grants were used for the acquisition of land for CHSP. The Build Alternatives would require acquisition of a small amount of land in parcel #31 in CHSP, which was not acquired with those grant monies. The NPS letter goes on to say "...we have determined that LWCFA §6(f)(3) does not now apply to parcel #31, and that the proposed project, were it to be built today, would not cause a LWCFA conversion of parkland on parcel #31." As a result, at this time, the requirements for the protection and mitigation of the acquisition of land from parcel #31 for the proposed project under Section 6(f) do not apply.

However, the NPS also indicated in its consultation letter that the timing of the closing of an approved third major L&WCF Act grant to State Parks for CHSP is not known. When that grant is closed, it will modify the Section 6(f) boundary for CHSP to include all the existing land in the park, including all of parcel #31. Because of the uncertainty of the timing of the closing of that approved L&WCF Act grant to CHSP, the NPS consultation letter also recommends "...that CEQA and NEPA environmental compliance treat the property as if §6f applied now, in terms of potential impacts assessment and mitigation measures."

Because parcel #31 is not currently subject to the requirements of protection and mitigation under Section 6(f), RCTC and the Department are proceeding without treating parcel #31 as if Section 6(f) applies now and will continue to monitor the status of the L&WCF Act grant closing. However, in the event that the grant is closed prior to construction of the SR-91 CIP, the requirements for the protection under Section 6(f) will need to be analyzed and addressed with CHSP and CDPR, Office of Grants and Local Services.

The NPS consultation letter is provided in Appendix B of the EIR/EIS.

S-3-13

The part of the SR-91 CIP in Riverside County is a covered project under the Western Riverside County MSHCP. As a regional plan, the Western Riverside County MSHCP serves to provide mitigation for impacts to covered species and their habitats. Project consistency with the Western Riverside County MSHCP ensures that impacts to those species covered by the Western Riverside County MSHCP are effectively mitigated. As a permittee under the Western Riverside County MSHCP, RCTC received a consistency conclusion from Western Riverside County RCA on April 4, 2011, that the SR-91 CIP demonstrates consistency with the requirements for covered road projects and with other requirements of the Western Riverside County MSHCP. Mitigation for impacts to sensitive species under the MSHCP is achieved through the payment of funds by MSHCP permittees as stipulated under the MSHCP Implementation Agreement. These funds are used by the RCA to purchase lands that become part of the MSHCP Reserve. Section 13.7.B of the MSHCP Implementation Agreement specifies RCTC's MSHCP funding obligation as follows: "Contribute mitigation in the amount of \$153 million from Measure "A" funds for mitigation of its Covered Activities as described in Section 8.5.1 of the MSHCP. Such contribution shall occur proportionately prior to impacts to Covered Species or their habitats." RCTC has accelerated its payment of MSHCP funds well in advance of project impacts to covered species and their habitats. As of June 30, 2012, RCTC has paid \$122 million in Measure "A" funds to the RCA, which represents 80 percent of its total MSHCP funding obligation.

In addition to providing mitigation through complying with MSHCP funding obligations, the measures provided in Sections 3.17 (starting on page 3.17-27), 3.18 (starting on page 3.18-14), 3.20 (starting on page 3.20-13), 3.21 (starting on page 3.21-20), and 3.22 (starting on page 3.22-4) in the EIR/EIS are designed to protect special-status species and other biological resources and will be implemented throughout the entire project alignment, unless otherwise specified. Specifically, Measures NC-17, NC-18, and NC-19 (starting on page 3.17-35) are required by the Western Riverside County MSHCP. Refer to Section 3.17.4.1, Compensatory Mitigation, in the EIR/EIS for discussion regarding the detailed compensatory mitigation that will be required for the project under the Western Riverside County MSHCP and the Biological Opinion, including development and implementation of a Habitat Mitigation and Monitoring Plan. The compensatory mitigation described in Section 3.17.4.1 is in addition to the measures provided in Section 3.17.4.2, Other Measures.

S-3-14

Mitigation for impacts in Orange County is not required to be consistent with the Western Riverside County MSHCP, and mitigation for Riverside County will not necessarily apply to the Orange County part of the project. The measures provided in Sections 3.17 (Natural Communities), 3.18 (Wetlands), 3.19 (Plant Species), 3.20 (Animal Species), 3.21 (Threatened and Endangered Species), and 3.22 (Invasive Species) in the EIR/EIS will be implemented throughout the entire project alignment in both Orange and Riverside Counties, unless otherwise specified. In addition, as described in Section 3.17.4.1, Compensatory Mitigation, on page 3.17-27 in the EIR/EIS, impacts in Orange County to CSS in CAGN-designated critical habitat will be mitigated in accordance with the Biological Opinion received from the USFWS on November 30, 2011. The Biological Opinion is provided in Appendix N, Biological Opinion, of the EIR/EIS. The compensatory mitigation, the requirements of the Biological Opinion, and the other measures listed in Section 3.17.4.2, Other Measures, are general measures included in the project to address the project effects on biological resources in Orange County.

Specific measures for impacts to sensitive species in Orange County are provided as follows in the EIR/EIS:

- Measure PS-1 in Section 3.19, Plant Species, provides for replacement planting of Southern California black walnut and Coulter's matilija poppy.
- Measure TE-8 in Section 3.21, Threatened and Endangered Species, provides a conservation measure for Braunton's Milk-vetch.
- Measures TE-9-13 in Section 3.21, Threatened and Endangered Species, provides conservation measures for CAGN, including restoration of over 19 acres of CAGN habitat.

S-3-15

A thorough analysis of specific potential project impacts to sensitive species and wildlife movement was conducted and is discussed in the NES, the *Determination of Biologically Equivalent or Superior Preservation Report*, and the *Biological Assessment* (BA) for the project. These reports were used as the basis for the information presented in the EIR/EIS. Existing wildlife corridors along SR-91 are described in Section 3.17.2.4, Wildlife Corridors, on page 3.17-13 in the EIR/EIS. As discussed in the subsection titled "Coal Canyon" on page 3.17-13 in Section 3.17.2.4, Coal Canyon is the most important remaining wildlife connection between the Santa Ana Mountains and the Puente-Chino Hills. The permanent project effects at those

wildlife corridors (which range from no effect to changes in the structures and/or openness ratios, although those effects would not be substantial) are described in the subsection titled “Wildlife Corridors” on page 3.17-21 in Section 3.17.3.2, Permanent Impacts, in the EIR/EIS. As described in that subsection, the Coal Canyon undercrossing is expected to be widened, but will still have a openness ratio that will allow large mammals to move between the regions. Since the close of the public comment period on the Draft EIR/EIS, the Department and RCTC have engaged in extensive consultation with State Parks regarding impacts to CHSP and Coal Canyon in particular. As a result of this consultation, the agencies reached agreement on avoidance measures, minimization measures, and other environmental commitments regarding potential impacts at Coal Canyon, including:

- Measure P-3, which restricts the hours of construction in the vicinity of Coal Canyon (see Section 3.1.4.3).
- Measure AS-8, which provides for fencing during construction to protect small animals (see Section 3.20.4)

Refer also to Section O.5.5.7, Other Commitments by RCTC Relevant to Chino Hills State Park, on page O-28 for discussion regarding the separate project that will provide a noise and glare barrier on both sides of SR-91, in the vicinity of the Coal Canyon crossing (this commitment is also discussed in Section 3.1.4.3).

Temporary project effects are described in the subsection titled “Wildlife Corridors” on page 3.17-26 in Section 3.17.3.3, Temporary Impacts. As described in that subsection, the proposed project is expected to result in temporary effects to wildlife movement at Coal Canyon. However, because wildlife primarily moves at night and construction will be limited to daylight hours except for limited periods for operational reasons, those temporary project effects would be limited to those periods during which evening or night construction cannot be avoided. Operational reasons may include the desire to conduct certain construction activities, such as closing multiple ramps or travel lanes, during evening and night hours to minimize delays to the traveling public. Any night construction must be approved in writing by the RCTC Resident Engineer, and coordinated with the District 8 and 12 biologists, the USFWS, and CDFG.

S-3-16

Based on the *Final Noise Study Report* (NSR; April 2010) and the NADR (July 2010), the noise levels nearest to open space areas are expected to be relatively the

same with or without the SR-91 CIP. Although noise levels will not increase noticeably as a result of the SR-91 CIP, noise impacts are expected to extend into the surrounding natural habitat by approximately the same distance that SR-91 is being widened. Refer also to Section O.5.5.2, Constructive Use Effects, on page O-21, which discusses why Alternatives 1 and 2 would not result in a constructive use impact at CHSP as a result of indirect impacts such as noise effects. Refer also to Section O.5.5.7, Other Commitments by RCTC Relevant to Chino Hills State Park, on page O-28 for discussion regarding the separate project that will provide a noise and glare barrier on both sides of SR-91, in the vicinity of the Coal Canyon crossing.

As discussed in detail in Section 3.15, Noise, starting on page 3.15-1 in the EIR/EIS, sound walls are provided only in specific circumstances based on future with-project noise levels. In addition, sound walls must be determined to be both feasible and reasonable. NB E-1 is proposed on the westbound on-ramp from Green River Road, continuing on the westbound SR-91 mainline. The estimated length of that barrier is 9,284 ft. The barrier is proposed to benefit the homes at Green River Village and the Green River Golf Club. The Department's noise protocol requires that if noise impacts are identified for an area of frequent human use, including recreational facilities, noise mitigation must be studied for those areas. No noise barrier is proposed on the eastbound side of the freeway between SR-241 and Green River Road. The area within 500 ft of SR-91 is undeveloped open space, and Department noise protocol states that noise mitigation only addresses noise impacts to areas with frequent human activity. No sound walls are identified in the EIR/EIS as needed, feasible, and reasonable along SR-91 adjacent to CHSP.

The purpose of sound walls is not to prevent materials from blowing out of the freeway right-of-way and onto adjacent properties or to prevent ignition sources in the freeway right-of-way from starting fires on adjacent properties. It is acknowledged that a secondary benefit of sound walls may be to reduce material blowing out of the freeway right-of-way and onto adjacent properties and may reduce the potential for wildfires started by ignition sources within the freeway right-of-way. However, in accordance with one of the conditions in the November 30, 2011, Biological Opinion issued by the USFWS (provided in Appendix N of the EIR/EIS), RCTC and the Department will work with the USFWS to investigate features that could be added in the vicinity of the SR-91 Coal Canyon wildlife undercrossing to minimize adverse effects from the potential threat of increased fire risk. Refer to Section O.5.5.6, Measures for Other Effects at Chino Hills State Park, on page O-25, for Measure UES-4 which specifically requires a barrier, or equivalent, along the

north and south sides of SR-91 between approximately SR-71 and SR-241, including areas adjacent to CHSP.

In addition, Measure TE-15 was added on page 3.21-24 in Section 3.21.4, Avoidance, Minimization, and/or Mitigation Measures, to address potential indirect impacts due to fire risk.

S-3-17

The openness of all wildlife crossings was evaluated in detail in the *Comprehensive Wildlife Corridor Analysis Report* in the NES. An openness ratio of at least 1.96 (calculated in feet) is generally accepted as the standard for large mammals. Because the openness ratio after the freeway widening (5.98) will still be sufficient to allow large mammals to move between areas north and south of the freeway at Coal Canyon, it was determined that the reduction in openness at Coal Canyon is not expected to substantially affect the use of that crossing by wildlife. Measure NC-7, on page 3.17-30 in Section 3.17 in the EIR/EIS, requires that habitat adjacent to Coal Canyon (and other wildlife crossings) removed by the project be restored with native vegetation.

As a project independent of, and separate from, the SR-91 CIP, the Department is proposing to install some planting in State right-of-way at Coal Canyon. This project is not part of the SR-91 CIP and information on that project is provided for information purposes only. The planting project is funded with federal Transportation Enhancement Activity (TEA) funds and is programmed for construction in FY 2012–2013 in the 2011 Federal Transportation Improvement Program (FTIP). Should this planting occur prior to construction of the SR-91 CIP, any disturbance to those planted areas would be restored.

S-3-18

The use of reversible lanes was studied and determined not to be a feasible solution for the present problem. This is because although there is currently strong directionality in peak-hour traffic (i.e., a.m. peak-hour traffic is predominantly headed west on SR-91, and p.m. peak-hour traffic is predominantly headed east), that strong peak-hour directionality will decrease over time. As a result, the *Traffic Study Report* (July 2010) forecast that, by 2035, peak-hour traffic in the a.m. and p.m. will not exhibit strong directionality in one direction or another. Therefore, reversible lanes would not be an effective alternative to serve traffic needs in the SR-91 corridor by 2035. In addition, a reversible facility would require substantial construction for: (a) reconfiguration of existing barriers, (b) construction of fail-safe entry barrier systems,

and (c) possible installation and operation of a moveable barrier system. Refer to Table 2.39 on page 2-143 in the EIR/EIS for additional discussion regarding reversible lanes.

As shown in Table 2.39, reversible lanes were considered and rejected during the alternative scoping process. The reasons reversible lanes were rejected included:

1. The lack of a substantial direction split in 2035;
2. The proposal for reversible lanes (two in one direction, one in the other) would require more right-of-way than the proposed Build Alternatives; and
3. The long-term maintenance costs associates with reversible lanes.

Improvement of SR-91 to the maximum feasible cross section, as proposed for Alternative 2, is consistent with the priorities established in the Major Investment Study Report. Refer to Section O.5.7, Common Response Related to Alternatives, on page O-30 in Section O.5, Common Responses, for additional discussion regarding the range of alternatives considered during and after the MIS. Refer also to Section O.5.9, Common Response Related to the Identification of the Preferred Alternative, on page O-39 for discussion regarding the evaluation of the Build Alternatives and the identification of Alternative 2f as the Preferred Alternative.

S-3-19

Since the distribution of the Draft EIR/EIS, the Department and RCTC have continued to coordinate and consult with State Parks to further minimize the project effects at CHSP based on design refinements and to refine specific mitigation measures to avoid, or substantially reduce, the permanent and temporary effects of the project on CHSP and resources within the park. Refer to Section O.5.5, Common Response Related to Chino Hills State Park, on page O-18, for additional discussion regarding the consultation with State Parks, the project effects at CHSP, and mitigation included in Alternatives 1 and 2 and provided in the EIR/EIS to address those impacts.



Department of Toxic Substances Control



Linda S. Adams
Acting Secretary for
Environmental Protection

Deborah O. Raphael, Director
5796 Corporate Avenue
Cypress, California 90630

Edmund G. Brown Jr.
Governor

July 8, 2011

Mr. Aaron Burton
California Department of Transportation, District 8
464 West 4th Street, 6th Floor
San Bernardino, CA 92401

NOTICE OF COMPLETION & ENVIRONMENTAL IMPACT REPORT (EIR) FOR STATE ROUTE 91 CORRIDOR IMPROVEMENT PROJECT (SCH # 2008071075)

Dear Mr. Burton:

The Department of Toxic Substances Control (DTSC) has received your submitted Notice of Availability of the Environmental Impact Report for the above-mentioned project. The following project description is stated in your document: "The proposed project is in Orange and Riverside Counties, within the jurisdiction of California Department of Transportation (Department) Districts 8 and 12. Facility improvements are proposed along State Route 91 (SR-91) and Interstate 15 (I-15), spanning the Cities of Anaheim and Yorba Linda in Orange County, and the Cities of Corona, Norco, and Riverside in Riverside County. The project includes two Build Alternatives extending SR-91 from State Route 241 (SR-241) (in the Cities of Anaheim and Yorba Linda) to Pierce Street (in the City of Riverside), a distance of approximately 14 miles (mi), and on I-15 from the Hidden Valley Parkway interchange in the Cities of Corona and Norco to the Cajalco Road interchange in the City of Corona, a distance of approximately 6 mi. SR-91 is continuing to experience increased congestion as a result of population growth in Riverside County and the increase in jobs in Orange County".

S-4-1

Based on the review of the submitted document DTSC has the following comments:

- 1) The EIR should evaluate whether conditions within the project area may pose a threat to human health or the environment. Following are the databases of some of the regulatory agencies:
 - National Priorities List (NPL): A list maintained by the United States Environmental Protection Agency (U.S.EPA).

S-4-2

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- Envirostor (formerly CalSites): A Database primarily used by the California Department of Toxic Substances Control, accessible through DTSC's website (see below).
 - Resource Conservation and Recovery Information System (RCRIS): A database of RCRA facilities that is maintained by U.S. EPA.
 - Comprehensive Environmental Response Compensation and Liability Information System (CERCLIS): A database of CERCLA sites that is maintained by U.S.EPA.
 - Solid Waste Information System (SWIS): A database provided by the California Integrated Waste Management Board which consists of both open as well as closed and inactive solid waste disposal facilities and transfer stations.
 - GeoTracker: A List that is maintained by Regional Water Quality Control Boards.
 - Local Counties and Cities maintain lists for hazardous substances cleanup sites and leaking underground storage tanks.
 - The United States Army Corps of Engineers, 911 Wilshire Boulevard, Los Angeles, California, 90017, (213) 452-3908, maintains a list of Formerly Used Defense Sites (FUDS).
- 2) The EIR should identify the mechanism to initiate any required investigation and/or remediation for any site that may be contaminated, and the government agency to provide appropriate regulatory oversight. If necessary, DTSC would require an oversight agreement in order to review such documents.
- 3) Any environmental investigations, sampling and/or remediation for a site should be conducted under a Workplan approved and overseen by a regulatory agency that has jurisdiction to oversee hazardous substance cleanup. The findings of any investigations, including any Phase I or II Environmental Site Assessment Investigations should be summarized in the document. All sampling results in which hazardous substances were found above regulatory standards should be clearly summarized in a table. All closure, certification or remediation approval reports by regulatory agencies should be included in the EIR.
- 4) If buildings, other structures, asphalt or concrete-paved surface areas are being planned to be demolished, an investigation should also be conducted for the presence of other hazardous chemicals, mercury, and asbestos containing materials (ACMs). If other hazardous chemicals, lead-based paints (LPB) or

S-4-2

S-4-3

S-4-4

S-4-5

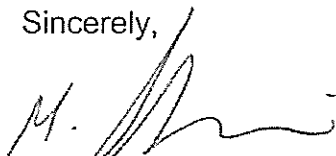
- products, mercury or ACMs are identified, proper precautions should be taken during demolition activities. Additionally, the contaminants should be remediated in compliance with California environmental regulations and policies.  S-4-5
- 5) Future project construction may require soil excavation or filling in certain areas. Sampling may be required. If soil is contaminated, it must be properly disposed and not simply placed in another location onsite. Land Disposal Restrictions (LDRs) may be applicable to such soils. Also, if the project proposes to import soil to backfill the areas excavated, sampling should be conducted to ensure that the imported soil is free of contamination.  S-4-6
- 6) Human health and the environment of sensitive receptors should be protected during any construction or demolition activities. If necessary, a health risk assessment overseen and approved by the appropriate government agency should be conducted by a qualified health risk assessor to determine if there are, have been, or will be, any releases of hazardous materials that may pose a risk to human health or the environment.  S-4-7
- 7) If it is determined that hazardous wastes are, or will be, generated by the proposed operations, the wastes must be managed in accordance with the California Hazardous Waste Control Law (California Health and Safety Code, Division 20, Chapter 6.5) and the Hazardous Waste Control Regulations (California Code of Regulations, Title 22, Division 4.5). If it is determined that hazardous wastes will be generated, the facility should also obtain a United States Environmental Protection Agency Identification Number by contacting (800) 618-6942. Certain hazardous waste treatment processes or hazardous materials, handling, storage or uses may require authorization from the local Certified Unified Program Agency (CUPA). Information about the requirement for authorization can be obtained by contacting your local CUPA.  S-4-8
- 8) DTSC can provide cleanup oversight through an Environmental Oversight Agreement (EOA) for government agencies that are not responsible parties, or a Voluntary Cleanup Agreement (VCA) for private parties. For additional information on the EOA or VCA, please see www.dtsc.ca.gov/SiteCleanup/Brownfields, or contact Ms. Maryam Tasnif-Abbasi, DTSC's Voluntary Cleanup Coordinator, at (714) 484-5489.  S-4-9

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If you have any questions regarding this letter, please contact me at ashami@dtsc.ca.gov, or by phone at (714) 484-5472.

 S-4-9

Sincerely,



Al Shami
Project Manager
Brownfields and Environmental Restoration Program

cc: Governor's Office of Planning and Research
State Clearinghouse
P.O. Box 3044
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CEQA Tracking Center
Department of Toxic Substances Control
Office of Environmental Planning and Analysis
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nritter@dtsc.ca.gov

CEQA # 3234

S-4-1

Comments noted. Refer to responses to comments S-4-2 to S-4-9, below.

S-4-2

Conditions in the project area that may pose a potential threat to human health and the environment are discussed in Section 3.13, Hazards and Hazardous Materials, in the EIR/EIS. Specifically, Section 3.13.2.2, Sites of Environmental Concern, includes a summary of the database search findings, the search for which was conducted as part of the *Initial Site Assessment* (ISA). As discussed in Section 3.13.2.2, the databases searched for the ISA included, but were not limited to, the National Priorities List, Resource Conservation and Recovery Information System, Comprehensive Environmental Response Compensation and Liability Information System, Solid Waste Information System, Corps, GeoTracker, Envirostor, and local county and city agency databases.

As discussed in Section 3.13.2.3, Potential Environmental Concerns, in the EIR/EIS, there are potential risks associated with a number of environmental conditions, including potential soil and/or groundwater contamination at two hazardous waste/materials sites that would be used as a trichloroethylene and/or a full or partial acquisition; the potential presence of hazardous wastes routinely stored or generated at multiple industrial and automotive facilities within the disturbance limits of the Build Alternatives; asbestos in rails, bearing pads, support piers, expansion joint material in bridges, asphalt, and concrete and road building materials, and other building materials; lead-based paint on building structures and lead in yellow paint and tape used for pavement marking; polychlorinated biphenyls (PCBs) in pole-mounted or pad-mounted transformers and/or light ballasts; potential soil and/or groundwater contamination in soils adjacent to the railroad right-of-way; potential soil contamination in agricultural soils that have remained undisturbed; and relocation of the Southern California Edison (SCE) substation under Alternative 2 with Design Variations 2c, 2d, 2g, and 2h. Measures HW-1 through HW-15, provided in Section 3.13.4, Avoidance, Minimization, and/or Mitigation Measures, address the potential impacts from these types of hazards that would potentially occur under Alternatives 1 and 2. Most of these measures are standard procedures and/or regulations controlling these types of hazardous materials. Measure HW-15 would address impacts from hazards that could potentially result from the relocation of the SCE substation under Alternative 2 with Design Variations 2c, 2d, 2g, and 2h. All impacts related to hazardous materials would be substantially mitigated based on implementation of Measures HW-1 through HW-15.

S-4-3

Mechanisms to initiate required investigation of, and/or remediation for, sites known to have contamination and that have had releases that may pose a potential concern during project construction are summarized in Measures HW-1 through HW-15 in Section 3.13.4, Avoidance, Minimization, and Mitigation Measures, in the EIR/EIS. The measures include general citations to federal, State, and/or local regulatory agencies as appropriate for each measure.

In the event that unknown hazards are encountered during grading activities, Measure HW-11 requires the design/build contractor to prepare a Construction Contingency Plan (CCP) prior to the start of construction, in accordance with Caltrans Unknown Hazards Procedures for Construction. The CCP will include provisions for emergency response in the event that unidentified underground storage tanks (USTs), hazardous materials, petroleum hydrocarbons, or other hazardous or solid wastes are discovered during construction activities. The CCP will address UST decommissioning, field screening, contaminant materials testing methods, mitigation and contaminant management requirements, and health and safety requirements for construction workers. The CCP will require the design/build contractor to cease work immediately if an unexpected release of hazardous substances occurs in reportable quantities. If such a release were to occur, the National Response Center would be contacted, and the appropriate clean-up action would be initiated with the appropriate federal, State, and/or local agency oversight.

S-4-4

Environmental investigations, sampling, and/or remediation for sites of potential concern that were recommended will be completed prior to the completion of the design of the Initial Phases and Ultimate Projects under Alternatives 1 and 2. As described in Section 4.2.3.5, Hazards and Hazardous Materials, on page 4-30 in the EIR/EIS, with the implementation of Measures HW-1 through HW-15, impacts related to hazardous waste/materials are considered not to be substantial. In addition, if work plans are required as part of the proposed project, such work will be overseen by the local regulatory agency responsible for oversight.

S-4-5

Measure HW-4 in Section 3.13.4, Avoidance, Minimization, and Mitigation Measures, in the EIR/EIS requires that preconstruction surveys be performed on all building structures that will be renovated or demolished as part of the project. The preconstruction surveys will include sampling and testing for asbestos-containing

materials, lead-based paints, mercury, and PCBs. In addition, Measure HW-4 states that all materials from these structures that exceed California Health and Safety Code criteria for hazardous waste must be properly disposed of at a State-certified landfill facility.

S-4-6

Measures HW-1, HW-2, HW-3, HW-7, HW-8, and HW-10, provided in Section 3.13.4, Avoidance, Minimization, and Mitigation Measures, starting on page 3.13-26 in the EIR/EIS, specifically address potential effects associated with potential on-site contaminated soil and/or groundwater. Any contaminated materials will be properly disposed of consistent with applicable federal, State, regional, and local laws and regulations. Imported soil for on-site fill will require testing prior to use. Refer to Measure HW-3 for additional detail on the requirements for testing off-site fill.

S-4-7

As discussed in Section 3.14.3.2, Permanent Impacts, starting on page 3.14-28 in the EIR/EIS, the MSAT emissions under the No Build and Build Alternatives would be substantially lower than Existing (2007) conditions. Therefore, because the SR-91 Build Alternatives would reduce MSAT emissions locally and regionally, a detailed HRA was not needed or conducted for the project.

Measures are included in the project to address the potential for hazardous material releases/risks during project construction. In addition to the measures described above in response to comment S-4-6, Measures HW-4, HW-5, and HW-6 address the potential for hazardous material issues associated with demolition and other construction activities. Measure HW-11 requires the preparation and implementation of a CCP, and Measure HW-9 requires the preparation and implementation of a Health and Safety Plan. Measure HW-9 addresses the request by the DTSC that a Health Risk Assessment (HRA) be prepared addressing releases of hazardous materials that may pose a risk to human health or the environment during construction and demolition activities. Specifically, Measure MW-9 requires that a site-specific Health and Safety Plan (HASP) be prepared by a certified industrial hygienist. The HASP will be based on evaluation of proposed construction activities, the potential hazards identified in the Phase I ESA and Phase II testing, and any future assessments prepared for the project. The HASP will outline specific procedures for encountering expected and unexpected contaminants. It will include safe work practices, contaminant monitoring, the need for personal protective

equipment, emergency response procedures, and safety training requirements to protect construction workers and third parties working on site.

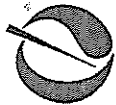
S-4-8

As discussed in Section 3.13.2, Permanent Impacts, in the EIR/EIS, operation and maintenance of the facilities proposed under the Build Alternatives would not introduce new sources of hazardous materials and wastes, but would instead continue existing exposures related to the transport of hazardous materials and wastes associated with vehicles currently using the project segments of SR-91 and I-15. Routine maintenance activities would continue after the completion of Alternatives 1 and 2 and their design variations, and those maintenance activities would be required to follow applicable regulations with respect to handling and disposal of potentially hazardous materials.

No new permanent impacts related to hazardous wastes/materials (direct or indirect) would occur during operation of Alternatives 1 and 2 and their design variations beyond the types of effects currently occurring as part of the Department's existing maintenance activities on the project segments of SR-91 and I-15. Therefore, implementation of Alternatives 1 and 2 and their design variations would not result in permanent adverse impacts related to hazardous materials and wastes.

S-4-9

The availability of Department of Toxic Substances Control (DTSC) staff to provide clean up oversight is acknowledged.



California Regional Water Quality Control Board Santa Ana Region



Linda S. Adams
Acting Secretary for
Environmental Protection

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Edmund G. Brown Jr.
Governor

July 8, 2011

S-5

Aaron Burton
California Department of Transportation District 8
464 W. 4th Street, 11th Floor, MS 1163
San Bernardino, CA 92401-1400

**DRAFT ENVIRONMENTAL IMPACT REPORT, CALIFORNIA DEPARTMENT OF
TRANSPORTATION (CALTRANS), STATE ROUTE 91 BETWEEN SR-241 AND PIERCE
STREET, INCLUDING THE SR-91 / INTERSTATE 15 INTERCHANGE, RIVERSIDE
COUNTY SCH# 2008071075**

Dear Mr. Burton:

Regional Board staff have reviewed the Draft Environmental Impact Report (DEIR) for the project that includes widening and adding lanes to State Route (SR) 91 from SR-241 (Santa Ana Canyon) to Pierce Street, and to Interstate 15 between Cajalco Road and Hidden Valley Parkway. Regional Board staff attended a scoping meeting for the Project and commented at that time.

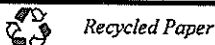
S-5-1

We believe that the final EIR should incorporate the following comments, in order for the project to best protect the water quality standards (water quality objectives and beneficial uses) contained in the Water Quality Control Plan for the Santa Ana River Basin (Region 8 Basin Plan):

Alternative 1 impacts less area of waters of the state and the United States than does Alternative 2 (Table S.3, Summary of Impacts, Executive Summary), and therefore we prefer Alternative 1. We also understand that Alternative 1 will have fewer water quality standards-related impacts to riparian vegetation and habitat than Alternative 2. Board staff is aware that it will be difficult for this project to provide nearby mitigation that is appropriate to compensate for the project's impacts to water quality standards, particularly to beneficial uses related to wetlands, streambed and riparian habitat. Appropriate mitigation will be necessary to obtain Clean Water Act Section 401 water quality standards certification for the project. Projects that enhance and preserve the beneficial uses of wetlands, streambeds and riparian areas within and between the Puente-Chino Hills and the Santa Ana Mountains could be important components of this mitigation.

S-5-2

If you have any questions, please contact Glenn Robertson of my staff at (951) 782-3259, or grobertson@waterboards.ca.gov, or me at (951) 782-3234, madelson@waterboards.ca.gov



Mr. Aaron Burton

- 2 -

July 8, 2011

Sincerely,

S-5

Mark Adelson, Chief
Regional Planning Programs Section

cc: State Clearinghouse
California Department of Fish and Game, Ontario – Jeff Brandt

X:Groberts on Magnolia/Data/CEQA/CEQA Responses/ DEIR-CALTRANS I-15 to SR-241, 91 Freeway Widening



S-5-1

The comment is an introductory statement and does not raise any specific concerns regarding the analysis conducted for the EIR/EIS. Refer to response to comment S-5-2, below.

S-5-2

The agency's preference for Alternative 1 is acknowledged. In general, as noted in this comment, Alternative 1 has fewer impacts than Alternative 2. Tables S-3 and S-4, starting on page S-27 in the EIR/EIS summarize the impacts of those alternatives. However, as noted on page 3.18-7 in Section 3.18, Wetlands and Other Waters, the impacts of Alternative 2f have been reduced to less than 0.5 ac of waters of the United States as a result of design refinements.

In addition to compensatory mitigation, the following measures are included in the SR-91 CIP Build Alternatives to avoid, minimize, and/or mitigate potential project impacts to waters of the United States and the State: Measures WQ-1, WQ-2, WQ-3, and WQ-4 in Section 3.10, Water Quality and Storm Water Runoff, starting on page 3.10-34 in the EIR/EIS; Measures NC-1, NC-2, and NC-5 starting on page 3.17-29 in Section 3.17, Natural Communities; and Measures WET-1, WET-2, and WET-3 starting on page 3.18-15 in Section 3.18, Wetlands and Other Waters.

Multiple factors were considered during the process to identify the Preferred Alternative, including impacts to waters of the United States and the State. Refer to Section O.5.9, Common Response Related to the Identification of the Preferred Alternative, on page O-39 in Section O.5, Common Responses, for additional discussion regarding the evaluation of the alternatives and the identification of the Preferred Alternative.

The approved and preliminary determinations received from the Corps on November 22, 2011, are Corps acceptance of the drainage features considered jurisdictional by the Corps and not Corps acceptance of the project impacts. Corps acceptance of the project impacts will be confirmed on the authorization of the project under the Section 404 Nationwide Permit. The application for the Section 404 Nationwide Permit for filling or dredging waters of the United States was submitted to the Corps in July 2011. The permit will not be received prior to the ROD (the Corps will not provide Section 404 permit approval until the NEPA process is complete), but will be obtained prior to the initiation of construction.