CALENDAR ITEM
C72

A 25, 29 03/29/12
WP 6946.9
S 14 D. Simpkin

TERMINATION OF A PUBLIC AGENCY PERMIT AND APPROVAL OF A PUBLIC AGENCY PERMIT AND RIGHT-OF-WAY MAPS PURSUANT TO SECTION 101.5 OF THE STREETS AND HIGHWAYS CODE AND THE CALIFORNIA PUBLIC RESOURCES CODE SECTION 6210.3

APPLICANT:
California Department of Transportation

LAND TYPE AND LOCATION:
Sovereign land along State Route 99, located between the cities of Fresno and Madera, Fresno and Madera Counties.

AUTHORIZED USE:
Replacement of an existing bridge and the construction, use, and maintenance of a new bridge crossing the San Joaquin River along State Route 99.

PERMIT TERM:
Continuous use, plus one year, beginning March 29, 2012.

OTHER PERTINENT INFORMATION:

1. On February 27, 1986, the State Lands Commission (Commission) authorized the issuance of a continuous Public Agency Permit and Right-of-Way Map to the California Department of Transportation (Caltrans) for the existing San Joaquin River Bridge located along State Route 99 at the San Joaquin River.

2. Caltrans is now applying for the termination of the Public Agency Permit and the issuance of a new Public Agency Permit and Right-of-Way map pursuant to Section 101.5 of the Streets and Highways Code for the proposed replacement of the existing San Joaquin River Bridge. The proposed new bridge will accommodate six lanes.

3. Caltrans has filed maps showing the right-of-way area with the Commission.

4. While processing the application, Commission staff was informed that an American Telephone and Telegraph Company (AT&T) telephone line and Pacific Gas and Electric Company (PG&E) gas line are currently attached to the existing bridge. The telephone and gas line have not been previously authorized by the Commission. The existing telephone and gas line will be relocated to the proposed new San Joaquin River Bridge. Commission staff will pursue separate leases with AT&T and PG&E for any facilities located within the Caltrans right-of-way or adjacent sovereign land within the San Joaquin River.

5. Section 101.5 of the Streets and Highways Code requires Caltrans to determine the reasonable value of the proposed right-of-way and to deposit such amount in the State Parks and Recreation Fund. In addition, Section 84.5 of the Streets and Highway Code requires Caltrans, when constructing a new bridge across a navigable river, to include full consideration and report on the feasibility of providing a means of public access to the river for public recreational purposes. Staff has received correspondence from Caltrans that they have determined after analysis of the bridge site that providing public access to the San Joaquin River is not feasible at this location.

6. **Termination of Public Agency Permit**: The staff recommends that the Commission find that the subject Termination of Permit does not have a potential for resulting in either a direct or a reasonable foreseeable indirect change in the environment, and is, therefore, not a project in accordance with the California Environmental Quality Act (CEQA).

   Authority: Public Resources Code section 21065 and California Code of Regulations, Title 14, sections 15060, subdivision (c)(3), and 15378.

7. **Permit:** A Mitigated Negative Declaration, State Clearinghouse No. 2009061047, was prepared by Caltrans and adopted on August 11, 2010 for this project. The California State Lands Commission staff has reviewed such document. The Mitigated Negative Declaration is posted on the Caltrans District 6 website at http://www.dot.ca.gov/dist6/environmental/envdocs/d6/ (accessed February 3, 2012).

   A Mitigation Monitoring Program was adopted by Caltrans on August 11, 2010.

This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq., but such activity will not affect those significant lands. Based upon the staff's consultation with the persons nominating such lands and through the CEQA review process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.

APPROVALS OBTAINED:

California Regional Water Quality Control Board
U.S. Army Corps of Engineers

FURTHER APPROVALS REQUIRED:

California Department of Fish and Game
Central Valley Flood Protection Board

EXHIBITS:

A. Site and Location Map
B. Section 101.5 Right-of-Way Map
C. Mitigation Monitoring Program

PERMIT STREAMLINING ACT DEADLINE:

August 6, 2012

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Termination of Public Agency Permit: Find that the subject Termination of Permit is not subject to the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15060, subdivision (c)(3) because the activity is not a project as defined by Public Resources Code section 21065 and California Code of Regulations, Title 14, section 15378.

Permit: Find that a Mitigated Negative Declaration, State Clearinghouse No. 2009061047, and a Mitigation Monitoring Program were prepared by Caltrans and adopted on August 11, 2010, for this Project and that the Commission has reviewed and considered the information contained therein.

Adopt the Mitigation Monitoring Program, as contained in Exhibit C, attached hereto.

SIGNIFICANT LANDS INVENTORY FINDING:

Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370 et seq.

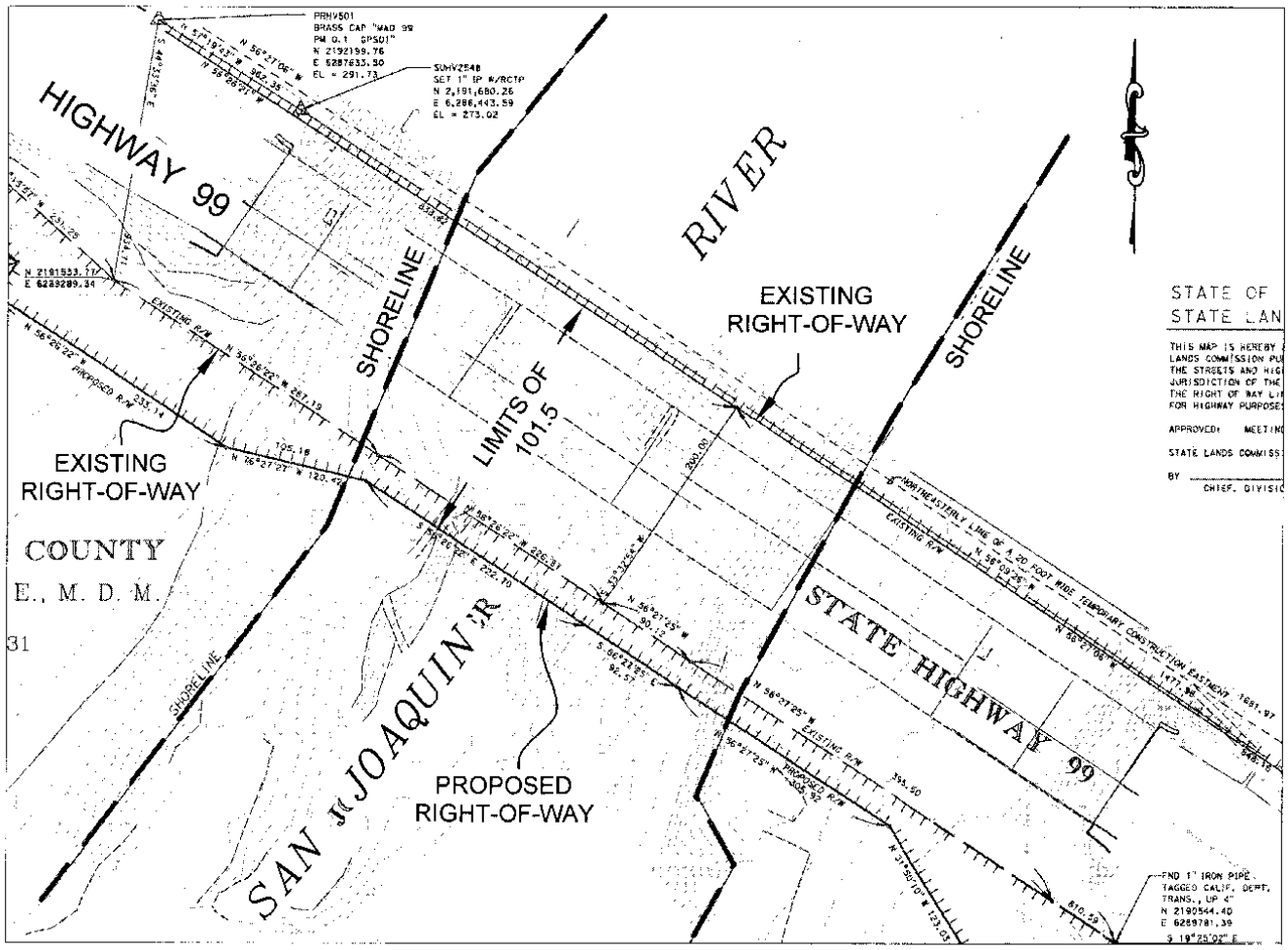
AUTHORIZATION:

Authorize termination of Public Agency Permit PRC No. 6946.9, effective March 28, 2012.

Authorize a Public Agency Permit and approve a Right-of-Way Map as submitted by the California Department of Transportation pursuant to section 101.5 of the Streets and Highways Code and as authorized by section 6210.3 of the Public Resources Code, beginning March 29, 2012, for continuous use plus one year, of a right-of-way including the replacement of the San Joaquin River Bridge along State Route 99 between the cities of Fresno and Madera as shown on Exhibit A attached and by this reference made a part hereof.

NO SCALE

SITE



HWY 99, SAN JOAQUIN RIVER, NEAR HERNDON

NO SCALE

LOCATION

MAP SOURCE: USGS QUAD

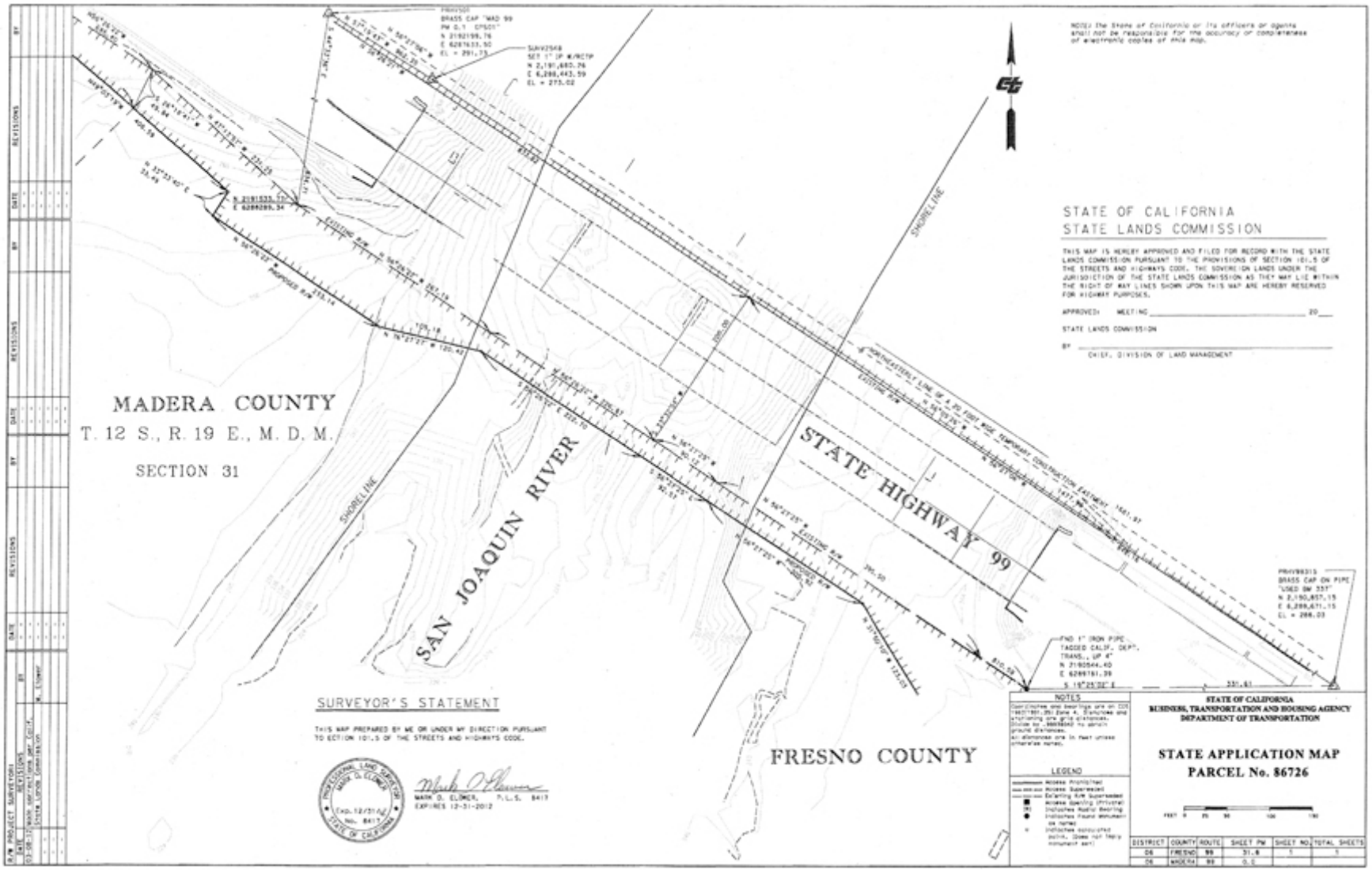
This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

Exhibit A

PRC 6946.9
CALTRANS
STREETS AND HIGHWAYS
CODE SECTION 101.5
SAN JOAQUIN RIVER
FRESNO AND MADERA
COUNTIES

JWP 03/12/12

EXHIBIT B


MADERA COUNTY
T. 12 S., R. 19 E., M. D. M.
SECTION 31
FRESNO COUNTY
SAN JOAQUIN RIVER
STATE HIGHWAY 99
SHORELINE
SHORELINE
STATE OF CALIFORNIA
STATE LANDS COMMISSION
THIS MAP IS HEREBY APPROVED AND FILED FOR RECORD WITH THE STATE LANDS COMMISSION PURSUANT TO THE PROVISIONS OF SECTION 101.5 OF THE STREETS AND HIGHWAYS CODE. THE SOVEREIGN LANDS UNDER THE JURISDICTION OF THE STATE LANDS COMMISSION AS THEY MAY LIE WITHIN THE RIGHT OF WAY LINES SHOWN UPON THIS MAP ARE HEREBY RESERVED FOR HIGHWAY PURPOSES.
APPROVED: MEETING _____ 20__
STATE LANDS COMMISSION
BY _____
CHIEF, DIVISION OF LAND MANAGEMENT
SURVEYOR'S STATEMENT
THIS MAP PREPARED BY ME OR UNDER MY DIRECTION PURSUANT TO SECTION 101.5 OF THE STREETS AND HIGHWAYS CODE.
MARK D. ELDMER, P.L.S. 8413
EXPIRES 12-31-2012
NOTES
LEGEND
STATE OF CALIFORNIA
BUSINESS, TRANSPORTATION AND HOUSING AGENCY
DEPARTMENT OF TRANSPORTATION
STATE APPLICATION MAP
PARCEL No. 86726
DISTRICT | COUNTY | ROUTE | SHEET PM | SHEET NO. | TOTAL SHEETS
06 | FRESNO | 99 | 31.8 | 1 | 1
06 | MADERA | 99 | 0.0

Appendix C Minimization and/or Mitigation Summary

Environmental commitments for the proposed project are described in the Avoidance, Minimization and/or Mitigation sections in their respective environmental categories in this Initial Study. This section summarizes these environmental commitments and Environmental Assessment by impact area.

Utilities and Emergency Services

A Transportation Management Plan would be implemented to ensure timely access for first responders. The added capacity would improve response time once the project is complete. A preliminary Traffic Management Plan has been developed for this project and would be updated in the final design phase. The majority of the construction of the project is located within the median and would require a reduction of existing lane widths during construction. Traffic control would be necessary during the construction of all shoulders, lanes and the San Joaquin River Bridge

Traffic and Transportation/Pedestrian and Bicycle Facilities

A Traffic Management Plan would be developed to minimize delays and maximize safety for the motorist during construction. The Traffic Management Plan would include, but is not limited to:

- Use of portable changeable message signs.
- Off peak and night work and project phasing.
- Incident management through a Construction Zone Enhancement Enforcement Program and traffic surveillance stations.
- Release of information such as brochures, mailers and media releases through Caltrans Public Information Office.

Visual Impacts

Replacement planting must be funded from the highway construction project and must be under construction within two years of the acceptance of the highway contract that removed the highway planting.

In addition, the following measures would avoid and/or minimize visual impacts:

- Minimize the effect of removal of median oleander and highway planting of eucalyptus trees by providing funds for replacement planting within the project area in accordance with established Caltrans policy for replacement planting.
- Minimize the urban look of the concrete barriers by staining the barriers to visually match the color and incorporate any architectural details of the existing concrete median barrier through the City of Fresno and Madera County.

- Minimize obstruction of views from the San Joaquin River Bridge by providing a bridge barrier at the lowest possible height, within the limits of sound engineering judgment and traffic safety requirements. Design a bridge barrier that allows visual access through the barrier can also accomplish this objective.
- Minimize visual inconsistencies and encroachment on the San Joaquin River Parkway recreational area by providing a bridge design rural in character. This can be accomplished by using the same or similar deck design as the existing steel deck truss bridge or architectural features in keeping with a rural environment. Without either construction of a rural-type design or incorporation of architectural features in keeping with the rural environment, there will likely be a visual impact (per CEQA guidelines) to users of the San Joaquin River Parkway.

Archaeological Resources

- All four areas of planned excavation for the construction of the two biofiltration swales, the infiltration basins, and the removal of the San Joaquin River Bridge would be monitored by the Caltrans Archaeologist.
- If human remains are discovered, State Health and Safety Code Section 7050.5 states that disturbances and activities shall cease in any area or nearby area suspected to overlie remains, and the County Coroner contacted. Pursuant to Public Resources Code Section 5097.98At this time, the person who discovered the remains would contact Mandy Marine, Caltrans Native American Coordinator so that they may work with the Most Likely Descendent on the respectful treatment and disposition of the remains. Further provisions of PRC 5097.98 are to be followed as applicable.

Hydrology/Floodplain

- Biofiltration swales and an infiltration basin would function as stormwater management measures for the project.
- Roadway drainage facilities would be expanded to accommodate the proposed roadwork.

Water Quality

The project would have direct construction within the San Joaquin River. Management measures and Best Management Practices (BMPs) would be needed to address Water Quality impacts during planning, design, construction, and operational and maintenance stages. Management measures include the following:

- Protect areas that provide important water quality benefits or are particularly susceptible to erosion or sediment loss.
- Limit land disturbances such as clearing and grading and cut/fill to reduce erosion and sediment loss.
- Limit disturbance of natural drainage features and vegetation.
- Place bridge structures so that sensitive and valuable aquatic ecosystems are protected.
- Place bridge structures so that sensitive and valuable aquatic ecosystems are protected.
- Prepare and implement an approved Storm Water Pollution Prevention Plan (SWPP).
- Ensure proper storage and disposal of toxic material.
- Incorporate pollution prevention into operation and maintenance procedures to reduce pollutant loadings to surface runoff.
- Develop and implement runoff pollution controls for existing road systems to reduce pollutant concentrations and volumes.

The project would need to comply with the requirements specified in the Caltrans Standard Specifications Section 7, Legal Relations and Responsibility, subsection 7-1.01G. When disturbed acreage is 1 acre or more, Caltrans' National Pollutant Discharge Elimination System Permit requires coordination with the Regional Water Quality Control Board. This project is expected to disturb more than 1 acre of soil, and requires the following:

1. A Notification of Construction is to be submitted to the appropriate Regional Water Quality Control Board at least 30 days prior to the start of construction.
2. A Storm Water Pollution Prevention Plan is to be prepared prior to and implemented during construction to the satisfaction of the Resident Engineer.
3. A Notice of Completion of Construction is to be submitted to the Regional Water Quality Control Board upon completion of the construction and stabilization of the site.

Paleontological Resources

Before construction, mitigation measures outlined in the Paleontological Evaluation Report would be implemented to reduce potential adverse impacts to substantial paleontological resources resulting from construction. In areas determined to have a

high potential for significant paleontological resources, an adequate program for mitigating the impact for development should include:

- A preliminary survey and surface salvage prior to construction.
- Monitoring and salvage during excavation.
- Preparation, including screen washing to recover small specimens (if applicable), and specimen preparation to a point of stabilization and identification.
- Identification, cataloging, curation, and storage of specimens.
- A final report shall be prepared of the finds and their significance, after all operations are complete.

The site specific Paleontological Mitigation Plan (PMP) would assist Caltrans in complying with environmental laws and regulations requiring mitigation of adverse impacts on paleontological macrofossil resources if found within the project. The components of the PMP are:

- A qualified principal paleontologist (M.S. or PhD in paleontology or geology familiar with paleontological procedures and techniques) would be retained to be present at pre-grading meetings to consult with grading and excavation contractors.
- A paleontological monitor, under the direction of the qualified principal paleontologist, would be onsite to inspect cuts for fossils at all times during original grading involving sensitive geologic formations.
- When fossils are discovered, the paleontologist (or paleontological monitor) would recover them. Construction work in these areas would be halted or diverted to allow recovery of fossil remains in a timely manner.
- Fossil remains collected during the monitoring and salvage portion of the mitigation program would be cleaned, repaired, sorted, and cataloged.
- Prepared fossils, along with copies of all pertinent field notes, photos, and maps, would then be deposited in a scientific institution with paleontological collections.
- A final report would be completed that outlines the results of the mitigation program.

Hazardous Waste

Biofiltration Swales

- Shallow soil excavated from this area should be suitable for reuse as structural fill within the highway corridor. Unsuitable metal and concrete debris materials

should be segregated and appropriately disposed of. Fill materials containing asphalt emulsion should be placed outside of flood plain areas or beneath pavement and at least 5 feet above groundwater.

- A Health and Safety Plan is recommended for this area in order to minimize worker exposure to petroleum hydrocarbons. Mitigation costs and fees may apply to this project. The appropriate Caltrans Standard Special Provisions would apply and be provided prior to construction activities. A permitting fee may be required by the Fresno County Environmental Health Department and the Central Valley Regional Water Quality Control Board.

San Joaquin River Bridge

- The paint on the bridge is intact and considered Category II. The contractor shall be responsible for informing the landfill of the contractor's intent to dispose of architectural components containing intact lead-based paint. Specific specifications will be indicated in the contract.
- It is recommended that all paints at the project location should be treated as lead containing for purposes of determining the applicability of the Cal/OSHA lead standard during any future maintenance, renovation, and demolition activities.
- Written notification to the San Joaquin Valley Air Pollution Control District is required 10 working days prior to commencement of any demolition activity, in accordance with Regulation IV, Rule 4002.

Air Quality

- The project would be subject to a Dust Control Permit from the San Joaquin Unified Air Pollution Control District. Following the District's Regulation VIII requirements and the Caltrans Non-Standard Special Provisions for Dust should minimize the effect of dust during construction.
- If required the contractor would submit to Air District Rule 9510 Air Impact Analysis and pay any mitigation fees. The provisions of Caltrans Standard Specifications, Section 7-1/OF "Air Pollution Control" and Section 10 "Dust Control" requires the contractor to comply with the San Joaquin Valley Air Pollution Control District's rules, ordinances, and regulations.

Noise

- Use newer, or well-maintained, equipment with improved muffling and ensure that all equipment items have the manufacturers' recommended noise abatement

measures, such as mufflers, engine enclosures, and engine vibration isolators intact and operational.

- Use construction methods or equipment that would provide the lowest level of noise and ground vibration impact such as alternative low noise pile installation methods.
- Turn off idling equipment.
- Temporary noise barriers shall be used and relocated, as needed, to protect sensitive receptors against excessive noise from construction activities. Noise barriers can be made of heavy plywood or moveable insulated sound blankets
- Implement a construction noise and vibration monitoring program to limit the impacts.
- Plan noisier operations during times of least sensitivity to receptors.
- Keep noise levels relatively uniform and avoid impulsive noises.
- Maintain good public relations with the community to minimize objections to the unavoidable construction impacts. Provide frequent activity update of all construction activities.

Natural Communities/Riparian Habitat

- Establish environmentally sensitive areas, marked by the erection of orange mesh fencing, before construction, for each avoided riparian tree. The environmentally sensitive areas would extend to a dripline protection area for each.
- Replant native riparian trees in-kind at a 3:1 ratio for trees between 4 to 25 inches diameter at breast height as part of the required compensatory mitigation. Trees over 25 inches diameter at breast height are defined as 'heritage' trees and require replanting at the higher ratio of 10:1.

Wetlands and other Waters

- Establish an environmentally sensitive area marked by orange mesh fencing before construction to avoid unplanned accidental construction-related impacts to waters.
- Jurisdictional waters of the United States would be affected by the proposed project activities, requiring a Section 404 Nationwide Permits (NWP) #14 and 33 from ACOE as well as a Section 401 certification from Regional Water Quality Control Board. In addition, a 1602 Streambed Alteration Agreement from the California Department of Fish and Game would be required for work within or adjacent to the San Joaquin River.

- Terms, conditions, and provisions provided within Streambed Alteration Agreements, CWA Section 404 permits, and CWA Section 401 permits are designed to minimize and avoid impacts to the waterway. Caltrans would receive these permits and would include these permits in the solicitation for contractor bid information. In addition, the project would incorporate standard Caltrans best management practices to prevent impacts related to degradation of water quality.

To ensure no net loss of waters of the United States, one or more of the following options would compensate for the permanent loss of waters:

- Payment of the appropriate mitigation fee (Bailey comment: Check section 2.3.2 Wetlands Mitigation for update to bullet point)
- Dedication of mitigation lands
- Purchase of approved mitigation bank credits
- Development of an alternative mitigation plan
- Waters of the United States compensation would be at a 3:1 ratio. When compensating at a 3:1 ratio, at least one acre of aquatic habitat creation must be provided for every acre of impact; the remaining two acres may be provided in the form of either creation or preservation.

Biological Resources

Animal Species

- Remove trees, shrubs and other vegetation before the nesting season of migratory birds. If nests must be removed, the removal would occur during the time of year when the nests are not used (approximately September 2 to February 14).
- Perform a preconstruction survey for migratory birds within the biological study area and adjacent habitat no fewer than 14 days and no more than 30 days before the project starts. Temporarily suspend work if nesting activity cannot be prevented. Standard specifications would be included in the construction bid package to avoid impacts to migratory birds.

Threatened or Endangered Species:

Swainson's Hawk

- Conduct reconstruction surveys for Swainson's hawk no fewer than 14 days and no more than 30 days prior to project commencement
- Coordinate with California Department of Fish to monitor any active nests

- Ensure that the project does not interfere with the hawk's breeding activities

Valley Elderberry Longhorn Beetle

- Designate the eight elderberry shrubs that would be avoided as environmentally sensitive areas and avoid the area a minimum of 20 feet from the edge of shrub canopy drip-line
- Install orange mesh fencing prior to construction within the Caltrans right-of-way to avoid accidental and indirect construction-related impacts to the elderberry shrubs
- Transplant EB-1 and EB-9 as part of mitigation measures, as well as establishing elderberry seedlings and associated native plants at an appropriate mitigation site to be preserved in perpetuity according to the *Conservation Guidelines for Valley Elderberry Longhorn Beetle* (See Appendix E).
- Establish 19 elderberry seedlings and 19 associated native plants at an appropriate mitigation site to be preserved in perpetuity according to the *Conservation Guidelines for Valley Elderberry Longhorn Beetle* (USFWS 1999).
- Perform an elderberry shrub survey to verify actual stems to be removed by the proposed project within one year of construction (Caltrans would perform)

Special Concern/Sensitive Animal Species

- Conduct exclusion measures prior to demolition of each side of the bridge to prevent bat species from roosting within the expansion gaps of the San Joaquin River Bridge.
- Install exclusionary features, if necessary, while the bats are away from the roost prior to April 15 of the construction year, so that no exclusions would take place during the maternity season.
- The new bridge design would replace removed bat habitat to provide for the same size population or more. Bat habitat may be in the form of bat boxes embedded within the structure or attached externally.

Invasive Species

- Properly maintain and clean all equipment and vehicles before bringing them on-site to avoid transporting dirt and seed material to the project site
- Use erosion control measures free of noxious weed materials
- Ensure any fill material brought on-site is free of noxious weed materials.
- Should there be a need for off-site disposal of excess fill at the end of construction, take special care to prevent the spread of noxious weeds

- Properly maintain and clean all equipment and vehicles before leaving the project site to avoid transporting dirt and seed material to other sites