

FOR CONTRACT NO: 04-1G0704

PROJECT NO: 04000020134

INFORMATION HANDOUT

AGREEMENTS

**United States Department of interior
FISH AND WILDLIFE SERVICE
NOTIFICATION NO: 08ESMF00-2013-I-0039-1**



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Sacramento Fish and Wildlife Office
2800 Cottage Way, Room W-2605
Sacramento, California 95825-1846



In Reply Refer To:
08ESMF00-2013-I-0039-1

DEC 26 2012

Ms. Melanie Brent, Office Chief
Caltrans District 4 Environmental Analysis
California Department of Transportation
P.O. Box 23660
Oakland, California 94623-0660

Subject: Informal Consultation on the Proposed State Route 9 (SR-9) Shoulder Widening Project, Santa Clara County, California (Caltrans EA 04-1G0704)

Dear Ms. Brent:

This letter responds to your October 15, 2012, letter requesting informal consultation and written concurrence for the proposed SR-9 Shoulder Widening Project located in Santa Clara County, California. The U.S. Fish and Wildlife Service (Service) received your letter on October 24, 2012. The proposed action involves paving non-vegetated shoulders at 33 locations between post mile (PM) 0.0 and 7.0 to reduce accident rates and their severity, and increase vehicle and bicycle safety. The consultation concerns the effects of the proposed action on the threatened California red-legged frog (*Rana draytonii*). This letter is issued under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.) (Act).

The Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) legislation (23 U.S.C. 327) allows the Secretary of the U.S. Department of Transportation (Caltrans) acting through the Federal Highway Administration (FHWA) to establish a Surface Transportation Project Delivery Pilot Program, whereby a State may assume the FHWA responsibilities under the National Environmental Policy Act (NEPA) for environmental review, agency consultation and other action pertaining to the review or approval of a specific project. Caltrans assumed these responsibilities for the FHWA on July 1, 2007 through a Memorandum of Understanding (MOU) within the State of California (http://www.dot.ca.gov/ser/downloads/MOUs/nepa_delegation/sec6005mou.pdf).

The Service attended a site visit with Caltrans on November 1, 2012. Additional information requested by the Service during the site visit was provided to the Service on November 7, 2012. The action area is defined in 50 Code of Federal Regulations §402.02, as "all areas to be affected directly or indirectly by the Federal action and not merely the immediate area involved in the action." For the purposes of the proposed action the Service considers the action area to comprise 170 acres encompassing the project footprint, including all construction access, staging areas, vehicle parking, and construction work zones as specified by Caltrans and submitted to the Service in the October 15, 2012 letter, subsequent information provided to the Service, and associated site visit, email and phone correspondence. The action area extends 7 miles from PM

0.0 to PM 7.0 through southern sycamore-alder riparian woodland, Douglas fir forest and coast live oak forest vegetation communities.

The proposed action has been designed to minimize disturbance to sensitive habitats by selecting areas for widening corresponding to gravel or hard packed shoulders with little or no vegetative cover, those that were in most need of widening, and areas in which no cut or fill of the slopes or embankments were necessary. Shoulders will be widened to 5 to 8 feet and the length of the widening ranges from approximately 90 to 630 feet in length. Pavement to be used comprises 0.35-foot hot mix asphalt (Type A) with 1-foot of aggregate base. All work will be conducted within the Caltrans right-of-way. Construction is expected to take 90 days to complete with approximately 3 days per location. An established storage and staging area is located at PM 6.9.

As a result of the November 1, 2012, site visit, Caltrans incorporated the use of more extensive environmentally sensitive area fencing around the staging areas and twenty locations that are adjacent to California red-legged frog habitat. The October 15, 2012, letter to the Service and email correspondence between the Service and Caltrans outlined additional conservation measures for the California red-legged frog. The Service has reviewed the submitted project as described in the October 15, 2012, letter to the Service, the November 1, 2012, site visit, email correspondence between the Service and Caltrans from November 7, 2012 to December 13, 2012, and supporting documentation, and has evaluated the project effects on listed species. Based on our evaluation of the proposed action and the effects on listed species, the Service concurs with the determination that the project as described is not likely to adversely affect the California red-legged frog as the effects will be insignificant and/or discountable.

The Service concurs that the proposed action is not likely to adversely affect the California red-legged frog based on the following: (1) construction activities within or adjacent to identified California red-legged frog habitat will be restricted to the dry season from April 15 and October 15 to avoid interfering with California red-legged frog breeding activities and when frogs are more likely to remain close to aquatic sources; (2) cut and fill of slopes and embankments have been avoided and only road shoulders free of vegetative cover will be disturbed; (3) Caltrans will implement construction and erosion control Best Management Practices; (4) areas of sensitive habitat will be clearly demarked with temporary high-visibility fencing; (5) all on-site personnel will attend environmental awareness training prior to beginning project activities; (6) Service-approved biological monitors will conduct preconstruction surveys prior to ground disturbing activities and remaining on-site to monitor construction activities in all areas within or adjacent to California red-legged frog habitat; and (7) stop work protocols will be implemented if listed species are identified within the active construction areas.

Ms. Melanie Brent

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This concludes informal consultation on the proposed SR-9 Shoulder Widening Project, Santa Clara County, California. Therefore, unless new information reveals effects of the proposed action that may affect listed species in a manner or to an extent not considered, or a new species is listed, no further action pursuant to the Act is necessary. If you have questions concerning this letter in reference to the proposed SR-9 Shoulder Widening Project, please contact Jerry Roe, Endangered Species Biologist or Ryan Olah Coast Bay/Forest Foothills Division Chief, at the letterhead address (916) 414-6600, or via email Jerry_Roe@fws.gov, or Ryan_Olah@fws.gov.

Sincerely,



Eric Tattersall
Deputy Assistant Field Supervisor

cc:

Melissa Escaron, California Department of Fish and Game, Yountville, California