



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

May 6, 2005

Maiser Khaled, Director
Project Development and Environmental
Federal Highway Administration
650 Capitol Mall, Suite 4-100
Sacramento, CA 95814

Subject: Draft Environmental Impact Statement/Environmental Impact Report for the State
Route 152 Los Banos Bypass, Merced County, California (CEQ #050089)

Dear Mr. Khaled:

The U.S. Environmental Protection Agency (EPA) has reviewed the above-referenced document pursuant to the National Environmental Policy Act (NEPA), Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500-1508) and Section 309 of the Clean Air Act. Our detailed comments are enclosed.

Through our review, EPA has identified specific concerns that include: (1) impacts to waters of the U.S.; (2) scope of action; (3) growth inducement; (4) cumulative impacts; and (5) air quality. In particular, we are concerned about potential direct and indirect impacts to the Gadwall Wildlife Area and associated wetlands. While the Los Banos Bypass will divert interregional traffic around Los Banos, the Bypass alone is not expected to solve congestion problems in central Los Banos on the existing State Route (SR) 152. We also are concerned about the potential for growth inducement impacts due to new freeway access at SR 165. For these reasons, we have rated the Draft Environmental Impact Statement (DEIS) as Environmental Concerns-Insufficient Information (EC-2). Please see the enclosed Summary of EPA Rating Definitions.

The DEIS includes two build alternatives that run south of SR 152 (Alternatives 1M and 2M) and one build alternative that runs north of SR 152 (Alternative 3M). Of these alternatives, it appears that Alternative 3M would have the fewest direct and indirect impacts to environmental resources, and would be the "Least Environmentally Damaging Practicable Alternative" (40 CFR Part 230.10 (a)). Therefore, EPA recommends that the Federal Highway Administration select Alternative 3M as the preferred alternative for this project.

We appreciate the opportunity to review this DEIS. When the Final EIS is released for public review, please send two copies to the address above (mail code: CED-2). If you have any questions, please contact me or Nancy Levin, the lead reviewer for this project. Nancy can be reached at 415-972-3848 or levin.nancy@epa.gov.

Sincerely,

/s/

Laura Fujii, Acting Manager
Environmental Review Office

Enclosures:

Summary of EPA Rating Definitions

EPA's Detailed Comments

cc:

Vickie Traxler, Caltrans District 10

Sacramento District Regulatory Office, U.S. Army Corps of Engineers

Sacramento Office , U.S. Fish and Wildlife Service

EPA DETAILED COMMENTS ON THE DRAFT ENVIRONMENTAL IMPACT STATEMENT FOR THE
STATE ROUTE 152 LOS BANOS BYPASS PROJECT, MAY 6, 2005

Waters of the U.S

Least Environmentally Damaging Practicable Alternative (LEDPA)

Pursuant to the Clean Water Act (CWA) Section 404(b)(1) Guidelines, a Section 404 permit can only be granted for the “Least Environmentally Damaging Practicable Alternative” (LEDPA). Based on the information in the Draft Environmental Impact Statement (DEIS), it appears that Alternative 3M is the LEDPA.

Alternatives 1M and 2M include a retaining wall (2,900 feet long) and frontage roads that will adversely affect up to 2.9 acres of wetlands (Figure 3-11). In addition, the retaining wall and frontage roads could modify the hydrologic regime, lead to erosion of banks, and increase sedimentation in the wetland. Construction and long-term maintenance activities could have additional impacts to the wetland, such as polluted runoff and introduction of non-native species. Alternative 3M does not include a retaining wall and has no permanent impacts to waters of the U.S. It appears to have the fewest direct and indirect impacts to aquatic resources.

The Gadwall Wildlife Area (GWA), a 1,500 acre state-owned refuge, contains valuable biological resources, including: wetlands, riparian corridors, shrublands, and grasslands that provide habitat for various species of birds, mammals, reptiles, amphibians, and fish. It is part of a regional network of federal and state wildlife refuges, including the 7,000 acre Northern Grasslands Wildlife Area. The GWA is located in the Pacific Flyway for migrating birds. Alternatives 1M and 2M would convert up to 59 acres of the GWA to freeway use, and could have adverse noise impacts to wildlife. Alternative 3M would not require acquisition of the GWA property.

The three build alternatives appear to have relatively comparable impacts to other sensitive environmental resources. Alternative 3M has greater impacts to farmland and associated special species habitat than Alternatives 1M and 2M due to its greater length. However it appears that Alternative 3M is the LEDPA because it is the only build alternative that avoids permanent impacts to wetlands and the Gadwall Wildlife Area. EPA recommends that the Federal Highway Administration (FHWA) select Alternative 3M as the preferred alternative.

Recommendation:

Select Alternative 3M as the preferred alternative for this project, thereby avoiding permanent impacts to wetlands and 59 acres of impacts to the Gadwall Wildlife Area.

Indirect Impacts

The DEIS states that project construction may cause indirect impacts to waters of the U.S. along each of the alternatives, however it does not account for these impacts in Table S.1 Summary of Potential Impacts from Alternatives.

The DEIS states that no additional indirect impacts will result from the project “if environmentally friendly structures are incorporated into the project description.” However, the DEIS does not describe the types of structures that will be used, nor does it commit to their use. Further, even environmentally friendly structures can have short and long term indirect effects, such as modification of hydrology, changes in sediment transport, impact to wildlife movement through an area, and changes in habitat type (e.g. plant assemblage) as a result of changes in hydrology.

The DEIS states that the project could adversely affect the hydrology of the water delivery system for the wetlands in the Gadwall Wildlife Area, but does not quantify or estimate these impacts. It states that planning and coordination will be required to maintain water delivery to the Gadwall Wildlife Area but does not discuss how or with what agencies this will be implemented.

Recommendations:

The Final EIS (FEIS) should include a quantitative assessment of the indirect impacts of the project before mitigation in Table S.1 Summary of Potential Impacts from Alternatives. Specifically include indirect impacts to the Gadwall Wildlife Area and the associated wetlands. Other indirect impacts include changes in hydrology, habitat type and wildlife movement.

The FEIS should discuss the specific features of “environmentally-friendly” structures listed in DEIS (e.g. large culvert, spans, retaining walls) that will avoid and minimize impacts to hydrology and allow for wildlife movement. If a retaining wall is required, it should be designed to ensure the smallest possible footprint. The FEIS should demonstrate how these measures will mitigate potential indirect impacts, including a discussion of implementation success rates. FHWA should commit to the use of these structures in the FEIS and Record of Decision (ROD), and include commitments for monitoring and maintenance.

The FEIS should describe the type of planning and coordination that will be used to maintain water supplies and drainage to the Gadwall Wildlife Area.

The FEIS and ROD should include a commitment to specific avoidance and mitigation measures for indirect impacts to wetlands, including changes in the hydrologic regime, erosion, sedimentation, pollution and introduction of non-native species.

Bridge structures

The construction of the bridges over Los Banos Creek, San Luis Canal, and Main Canal could result in at least 0.5 acres of temporary impacts to waters of the U.S. and riparian vegetation. It could also result in indirect impacts, such as altering the creek bed, bank, channel and hydrology.

Recommendations:

Design the structures so that the hydrology of the creek and canals would not be altered.

Avoid or minimize impacts during construction by spanning the waters, locating construction activities and staging areas out of waters, and minimizing footprint in the creek. Include measures in the FEIS to avoid and minimize impacts from construction activities to the creek bed, bank, channel and hydrology.

Scope of Action

One of the major project needs identified in the DEIS is to relieve congestion in central Los Banos (Section 1.2.1). Currently, SR 152 operates at Level of Service (LOS) F in the center of Los Banos (p.8). Travel demand is expected to increase two to threefold by 2033. Although the proposed Bypass will divert much interregional traffic around central Los Banos, some interregional traffic must continue to use the existing 152/SR 165 intersection in central Los Banos to travel between SR 152 and SR 165.

Even after the proposed Bypass goes into operation, central Los Banos is expected to experience congestion and poor levels of service (p.7). Table 3.20 shows that the central Los Banos intersections will experience Level of Service (LOS) F conditions in 2013 and will remain LOS F through 2033 (design year) both with and without the Bypass. The DEIS does not specify the extent to which the proposed Bypass will meet the project need of relieving congestion in central Los Banos. It does not discuss additional actions that will be needed to address the congestion problem in central Los Banos that will exist even when the Bypass is in operation.

Recommendations:

Describe in quantitative terms the amount of congestion reduction expected in central Los Banos as a result of the Bypass.

Describe the other actions that will be necessary to relieve congestion in central Los Banos. Specifically, discuss the extent to which the planned Roadway Rehabilitation project for State Route 165 and the Access Management Study along existing SR 152 and SR 165 will relieve congestion in central Los Banos.

Growth Inducement

The DEIS states that the project is not expected to induce growth to areas that have not already been planned for growth. It states that the bypass can act as a barrier to growth, and references the 1999 Los Banos General Plan policies that discourage – though do not prohibit – development beyond Urban Limit lines (Appendix H). However, the proposed Bypass will create new freeway access to farmland and undeveloped areas at and beyond the Urban Limit lines (Community Impact Assessment p. 2-57). New freeway access in growing areas such as Los Banos can increase the location, rate, and pattern of growth on the outskirts of the city.¹ In the absence of specific protections, General Plan policies are not necessarily sufficient to constrain growth to areas within the bypass. Induced growth, particularly at new interchanges, can have adverse impacts to farmland and environmental resources, and should be analyzed in the FEIS.

Recommendations:

Describe how the project, particularly with new freeway access at SR 165, could affect the rate, location and pattern of growth in the area.

Analyze and disclose the potential impacts of this growth on resources of concern, including farmland, threatened and endangered species and their habitat, and waters of the U.S.

Explain how and when specific protections will be implemented to prevent growth-inducement impacts to resources outside the Bypass. Discuss the role and status of conservation plans in providing protection to resources that may be otherwise affected by growth-inducing impacts of the project.

Provide avoidance, minimization, and mitigation measures for any growth-inducing impacts.

Cumulative Impacts

We commend FHWA for including a discussion of the “Urban Growth Method” model of cumulative impacts as well as the “Traditional Method.” We suggest that the FEIS include or reference the Merced County Association of Governments (MCAG) maps or data showing the Environmentally Sensitive Areas of Merced County.

We commend FHWA for designating cumulative impacts study areas (CISA) for each resource addressed (Section 4.2.1.1). We suggest that the wildlife habitat CISA, which is based on a uniform distance from the alignment, should also reflect wildlife corridors or wildlife movement areas. The Cumulative Impacts section (pp. 203-211) of the DEIS addresses

¹National Cooperative Highway Research Program Report 466: Desk Reference for Estimating the Indirect Effects of Proposed Transportation Projects, 2002.

cumulative impacts to farmland, Garter Snake habitat, and foraging habitat for a variety of species. It is not clear why the cumulative impacts to jurisdictional waters of the U.S., including wetlands, are not addressed. The DEIS lists farmland and habitat loss associated with local development projects (Table 4.1), but does not disclose potential environmental impacts from other Caltrans transportation projects (Section 4.2.1.2-3).

Recommendations:

Analyze and disclose cumulative impacts for each resource as appropriate, including jurisdictional waters of the U. S. Identify cumulative impacts to wildlife corridors, as appropriate.

Include the environmental impacts of other Caltrans transportation projects (Section 4.2.1.2) in the cumulative impacts analysis.

Include or reference the MCAG Environmentally Sensitive Areas maps or data for Merced County.

Air Quality

The project is located in the San Joaquin Valley Air Basin, which is designated non-attainment under the Clean Air Act for particulate matter less than 10 microns in diameter (PM 10), PM 2.5, and Ozone. This project may have air quality impacts during construction from diesel equipment and earth movement. Diesel emissions are a source of PM 2.5. Given the well known and adverse health effects for PM 2.5 and diesel exhaust exposure, EPA urges project proponents to reduce diesel construction emissions to the greatest extent possible. The FEIS should include a fugitive dust control plan.

Recommendations:

Disclose any projected exceedences of federal air quality standards, even if temporary;

Specify the duration and concentration of air emissions by pollutant and location for each phase of project construction;

Identify sensitive receptors in the project area, such as children, elderly, infirm, and athletes, and minimize impacts to these populations;

Include mitigation measures that detail how diesel emissions will be minimized for each phase of project construction. For example, require contractors to keep the equipment fine-tuned or use alternative fueled vehicles; and

Include a fugitive dust control plan.