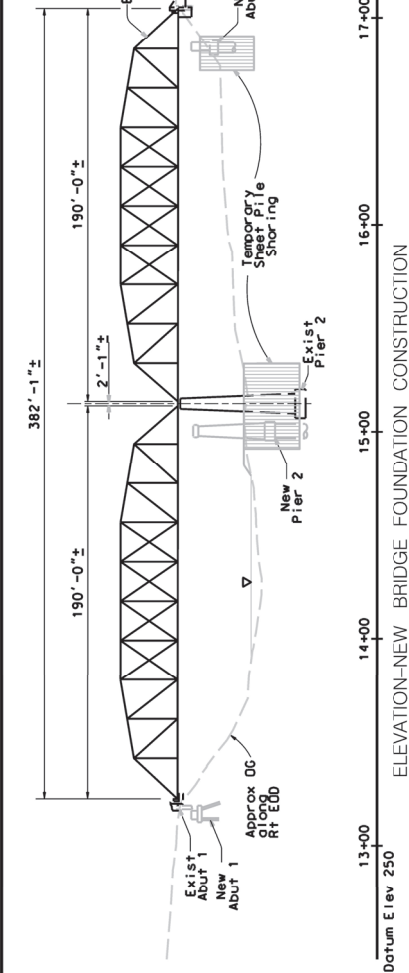


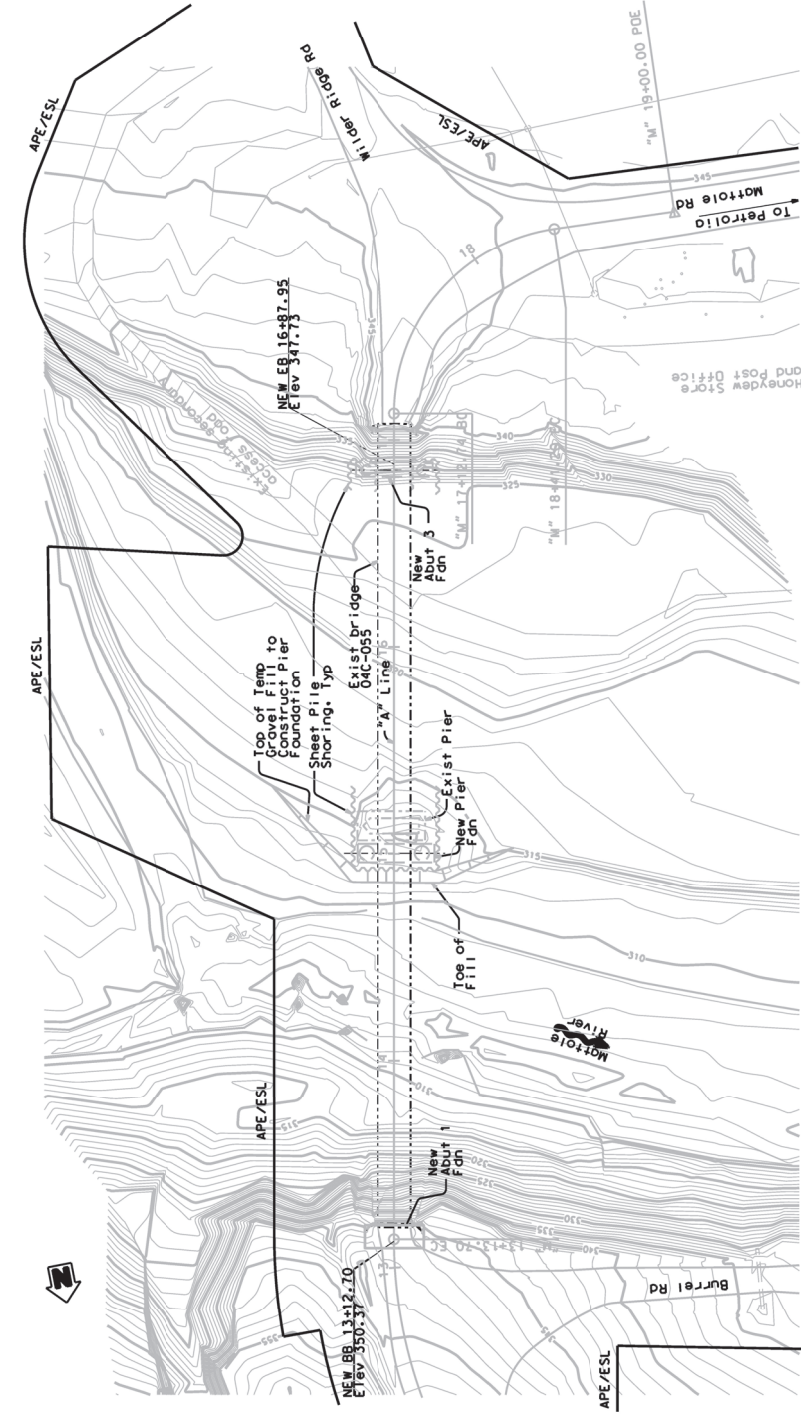
Appendix B Honeydew Road Bridge 30 Percent
Design Plans

SHEET		COUNTY OF HUMBOLDT DEPARTMENT OF PUBLIC WORKS	
OF		MATTIOLA ROAD AT MATTOLE RIVER BRIDGE REPLACEMENT PROJECT AT HUMBOLDT	
XXX		BRIDGE FOUNDATION CONSTRUCTION SEASON 1	
QUINCY ENGINEERING	SCALE: AS SHOWN	DATE: 1-2-2020	PROJECT NO.: 2222-2222
DESIGNED BY: EP	SCALE: AS SHOWN	DATE: 1-2-2020	PROJECT NO.: 2222-2222
CHECKED BY: EP	SCALE: AS SHOWN	DATE: 1-2-2020	PROJECT NO.: 2222-2222
APPROVED BY: [Signature]	SCALE: AS SHOWN	DATE: 1-2-2020	PROJECT NO.: 2222-2222

30% SUBMITTAL



ELEVATION-NEW BRIDGE FOUNDATION CONSTRUCTION
Scale: 1" = 60'



PLAN-NEW BRIDGE FOUNDATION CONSTRUCTION
Scale: 1" = 60'

EXHIBIT - 1

SHEET 1		COUNTY OF HUMBOLDT DEPARTMENT OF PUBLIC WORKS	
OF 3		MANTOLE ROAD AT MATTOLE RIVER BRIDGE REPLACEMENT PROJECT AT HUMBOLDT	
XXX		EXISTING BRIDGE REMOVAL SEASON 2	



ROAD NAME: MATTOLE ROAD	MILE POST: 33
PROJECT NO.: 2222-2222	DATE: 1-2-2020
CONTRACT NO.: 2222-2222	ISSUE DATE: 12-22-2022
DRAWING TITLE: BRIDGE REMOVAL	SCALE: AS SHOWN
DESIGNED BY: SP	CHECKED BY: SP
DRAWN BY: SP	APPROVED BY: SP

30% SUBMITTAL

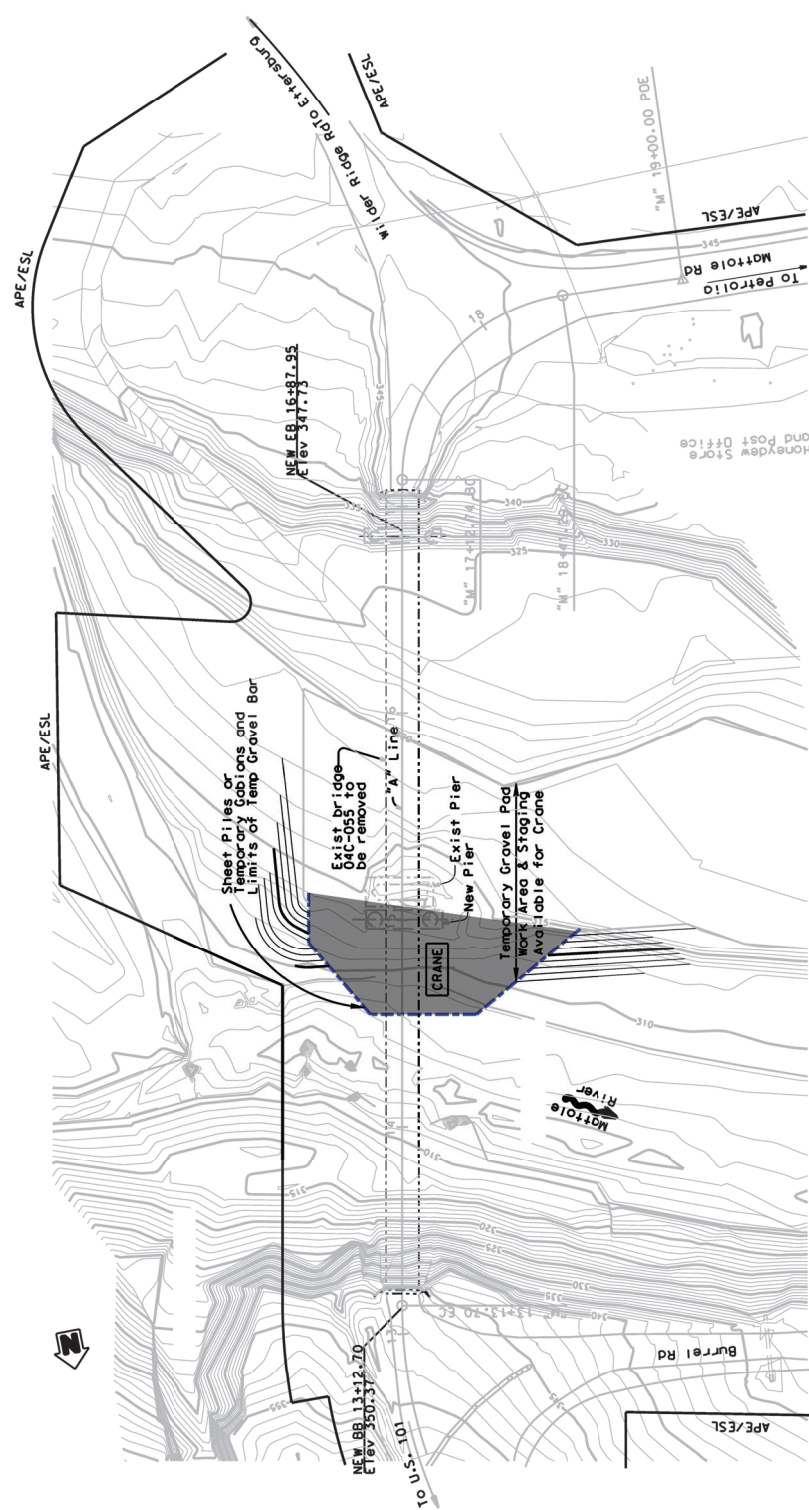
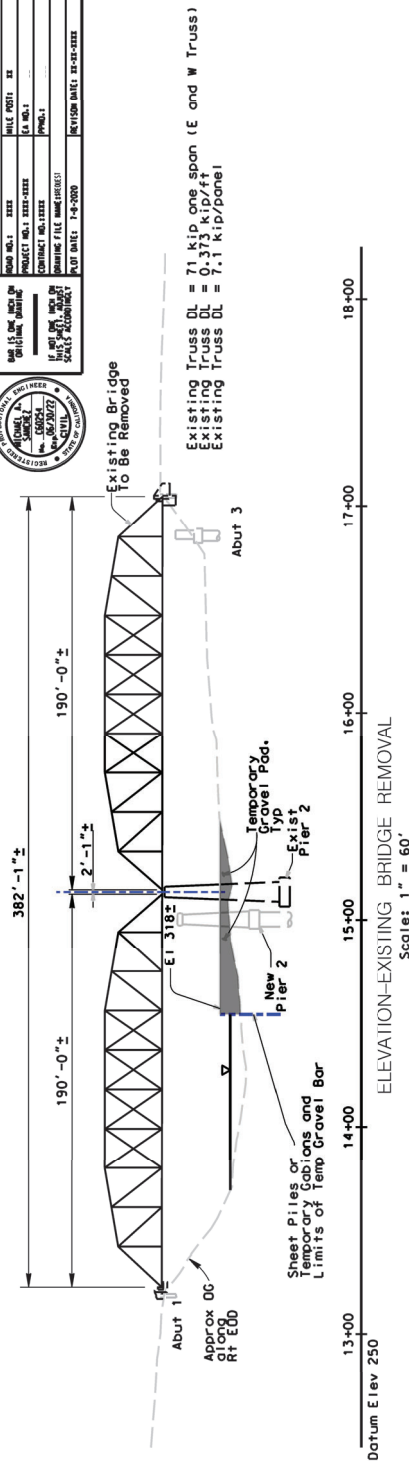


EXHIBIT - 2

PLAN-EXISTING BRIDGE REMOVAL

Scale: 1" = 60'

		COUNTY OF HUMBOLDT DEPARTMENT OF PUBLIC WORKS MATTOLE ROAD AT MATTOLE RIVER BRIDGE REPLACEMENT PROJECT AT HUMBOLDT	SHEET OF XXX
ROAD NAME: MATTOLE ROAD ROAD NO.: 2222 PROJECT NO.: 2222-2222 CONTRACT NO.: 2222 DRAWING FILE NAME: 2222.DWG PLOT DATE: 1-2-2020 REVISION DATE: 22-22-2222	MILE POST: 22 STA. NO.: DRAWN BY: EP CHECKED BY: MS APPROVED BY:	QUINCEY ENGINEERING	

30% SUBMITTAL

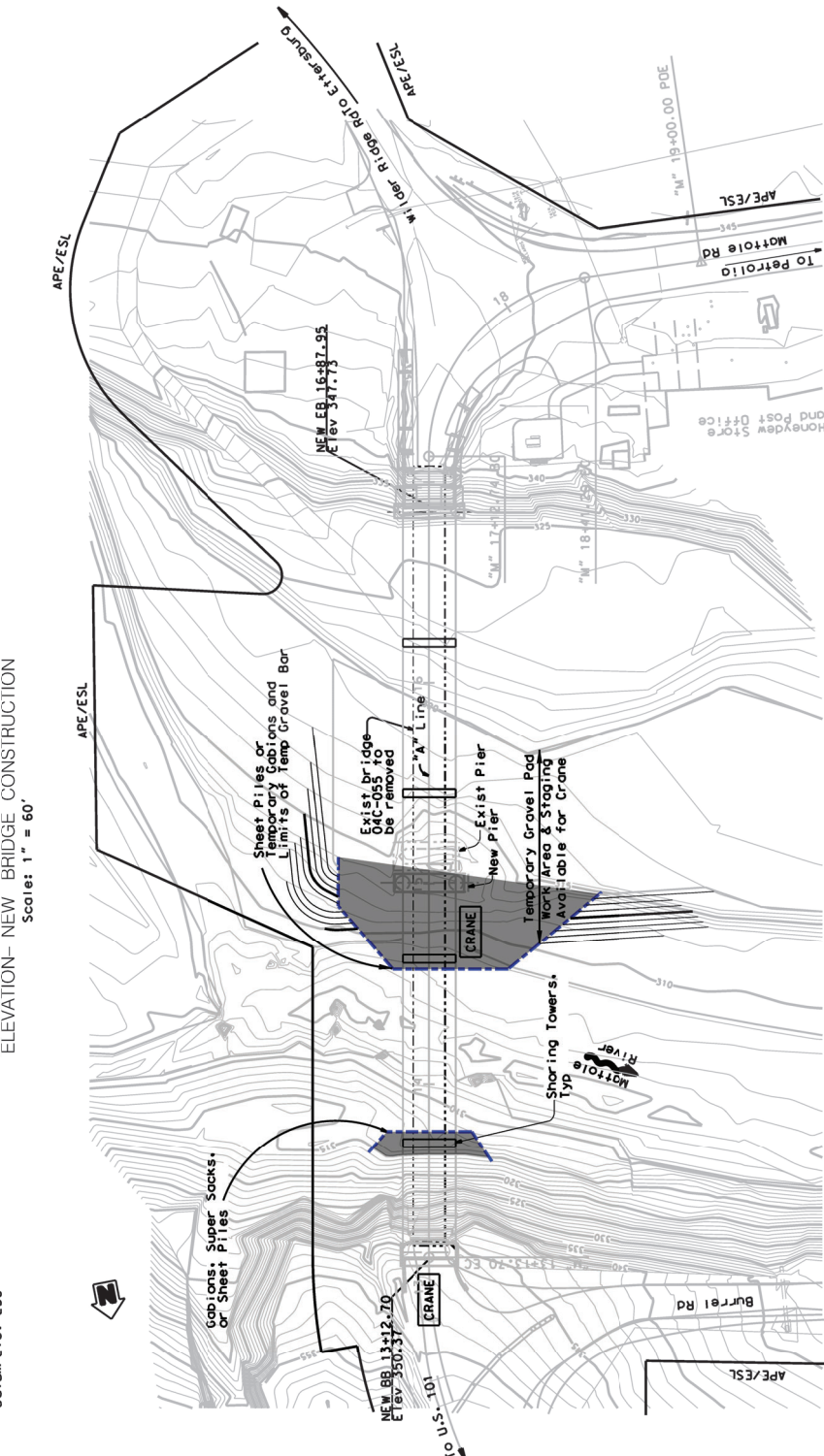
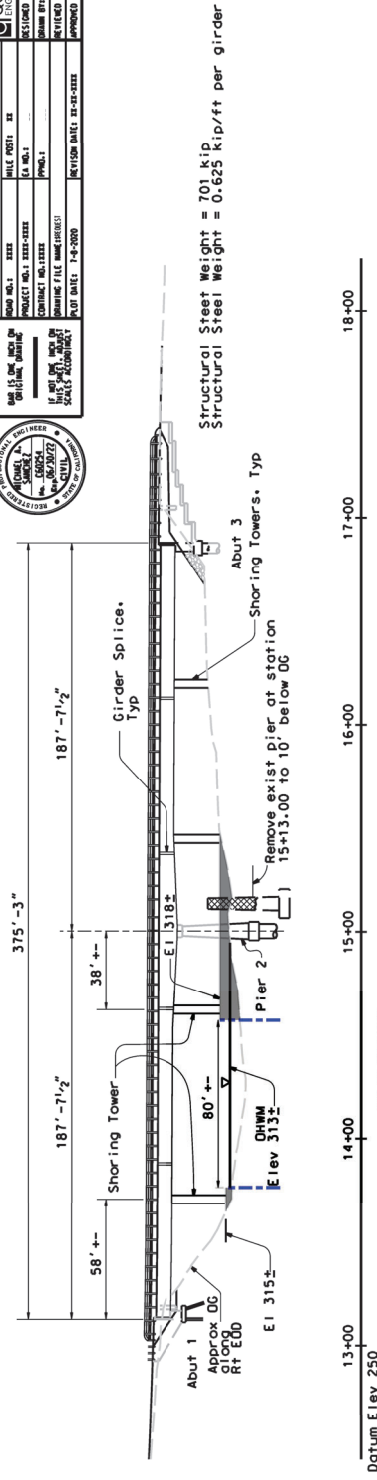


EXHIBIT - 3

SHEET **X** OF **XX**
COUNTY OF HUMBOLDT
DEPARTMENT OF PUBLIC WORKS
MATTOLE ROAD AT MATTOLE RIVER BRIDGE
REPLACEMENT PROJECT (AT HONEYDEW)
 LAYOUT **XX**



ROAD NAME: MATTOLE ROAD
 MILE POST: XX
 PROJECT NO.: XXXX-XXXX
 CONTRACT NO.: XXXX
 DRAWING FILE NAME:
 PLOT DATE: 7-8-2020
 REVISION DATE: XX-XX-XXXX
 APPROVED BY:

BAR IS ONE INCH ON ORIGINAL DRAWING
 IF ANY LINE WORK ON SCALES COORDINATE

30% SUBMITTAL

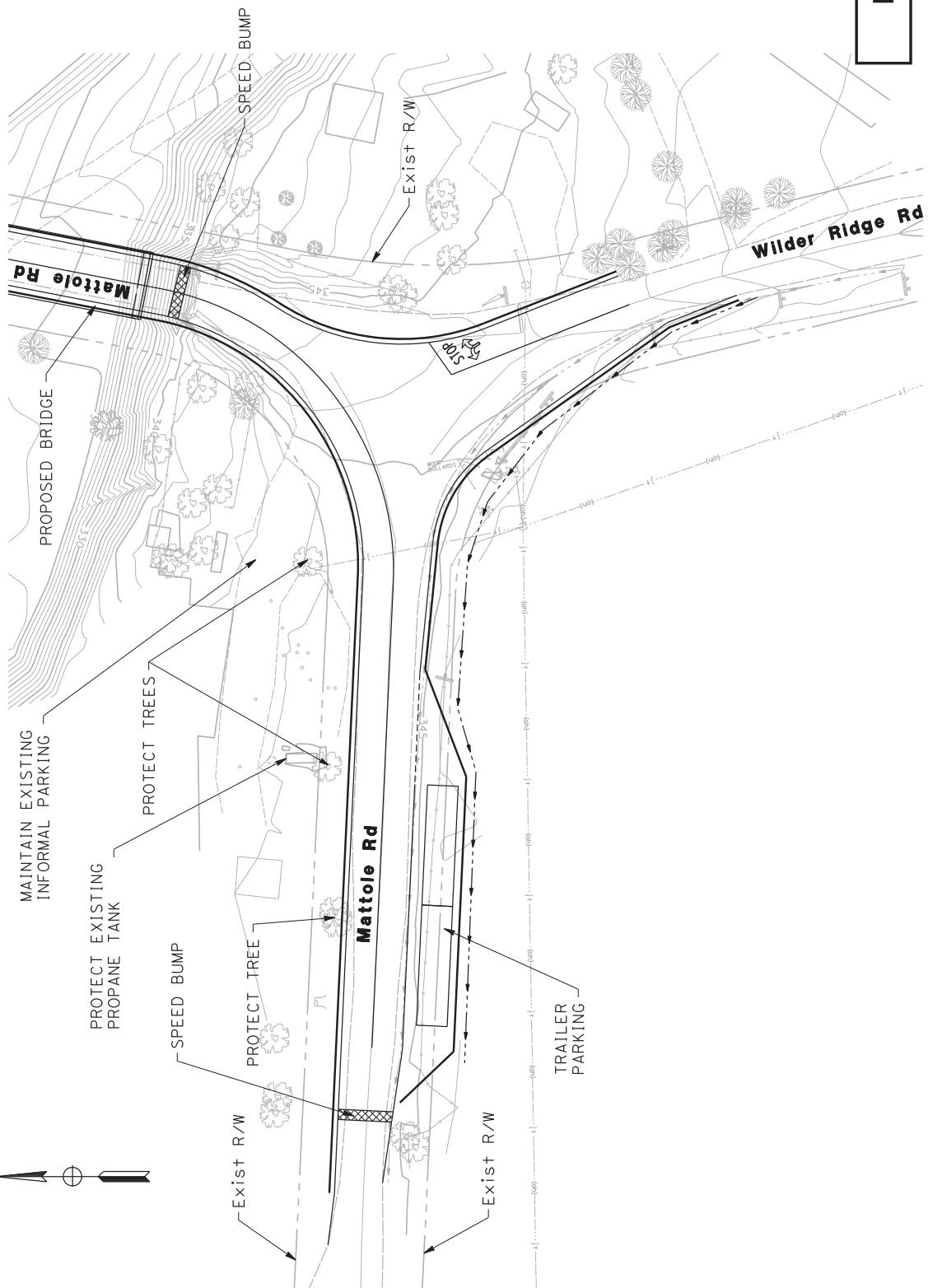


EXHIBIT - 4

SCALE: 1"=20'

L-1

COUNTY OF HUMBOLDT DEPARTMENT OF PUBLIC WORKS MATTOLE ROAD AT MATTOLE RIVER BRIDGE REPLACEMENT PROJECT (AT HONEYDEW)		SHEET X OF XX	
QUINCY ENGINEERING		DATE: 07/20/22	
DESIGNED BY: HP	DRAWN BY: HP	PROJECT NO.: XXXX-XXXX	
REVIEWED BY: BS	APPROVED BY:	CONTRACT NO.: XXXX-XXXX	
ROAD NAME: MATTOLE ROAD		MILE POST: XX	
ROAD NO.: XXXX		EA NO.: XXXX	
PROJECT NO.: XXXX-XXXX		DRAWING FILE NAME:	
CONTRACT NO.: XXXX		PLOT DATE: 7-8-2020	
DRAWING FILE NAME:		REVISION DATE: XX-XX-XXXX	
PLOT DATE: 7-8-2020		APPROVED BY:	



BAR IS ONE INCH ON ORIGINAL DRAWING
IF ANY WORK IS DONE ON THIS DRAWING, THE SCALE SHALL BE INDICATED

30% SUBMITTAL

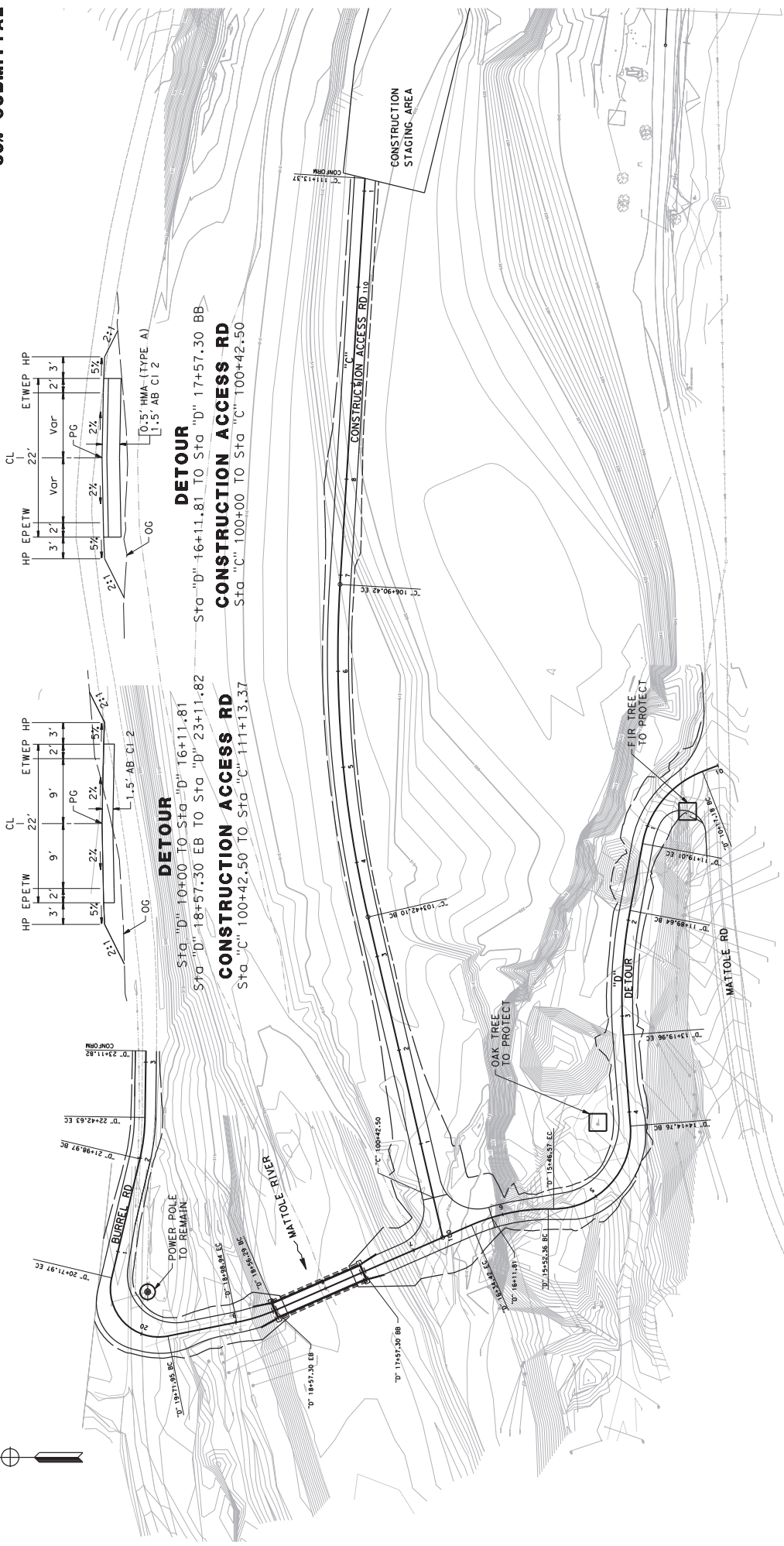


EXHIBIT - 5

COUNTY OF HUMBOLDT
 DEPARTMENT OF PUBLIC WORKS
 MATTOLE ROAD AT MATTOLE RIVER BRIDGE
 REPLACEMENT PROJECT (AT HONEYDEW)
 DETOUR PROFILE
 SEASONS 1 AND 2



ROAD NAME: MATTOLE ROAD
 MILE POST: XX
 PROJECT NO.: XXX-XXXX
 CONTRACT NO.: XXX-XXXX
 DRAWN BY: IP
 CHECKED BY: IP
 REVIEWED BY: MS
 APPROVED BY: [Signature]
 PLOT DATE: 7-8-2020
 REVISION DATE: XX-XX-XXXX

SHEET **X**
 OF **XX**

30% SUBMITTAL

BAR IS ONE INCH ON ORIGINAL DRAWING
 IF ANY ONE INCH ON SCALE COORDINATE

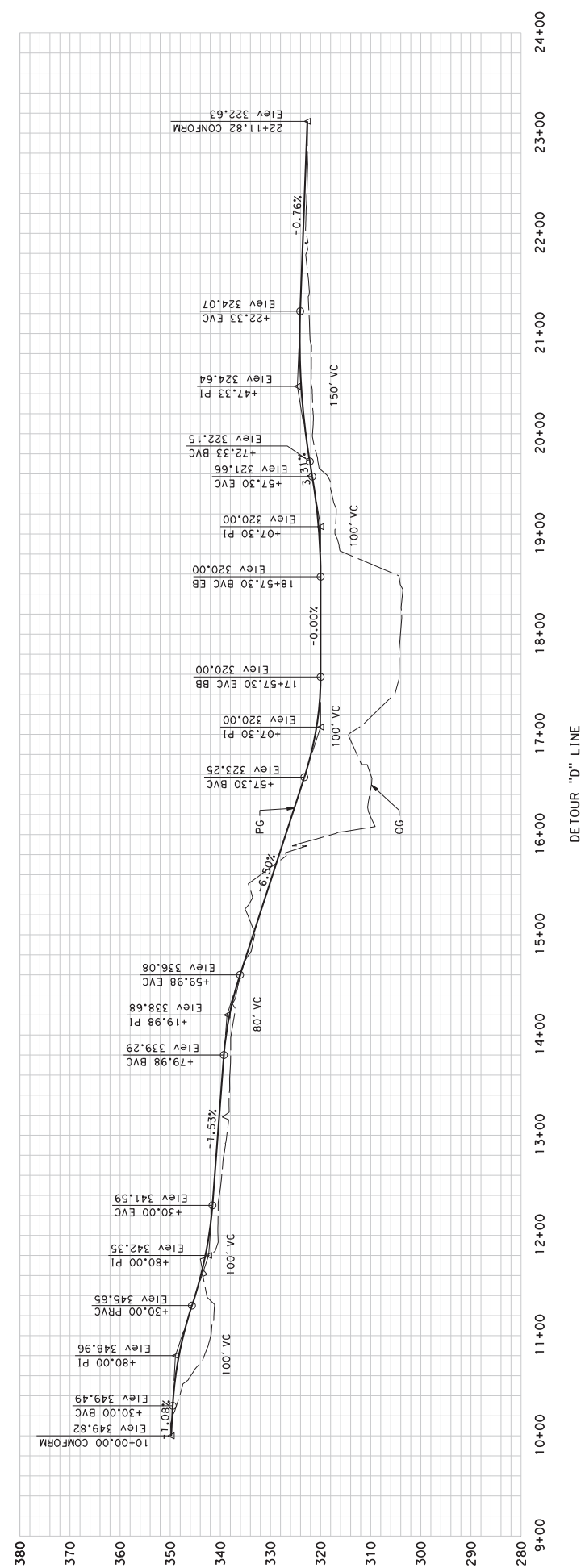


EXHIBIT - 6

SCALE: Horiz: 1"=50'
 Vert: 1"=10'

P-1

COUNTY OF HUMBOLDT
 DEPARTMENT OF PUBLIC WORKS
 MATTOLE ROAD AT MATTOLE RIVER BRIDGE
 REPLACEMENT PROJECT (AT HONEYDEW)
 CONSTRUCTION ACCESS ROAD PROFILE
 SEASONS 1 AND 2

SHEET
 X
 OF
 XX

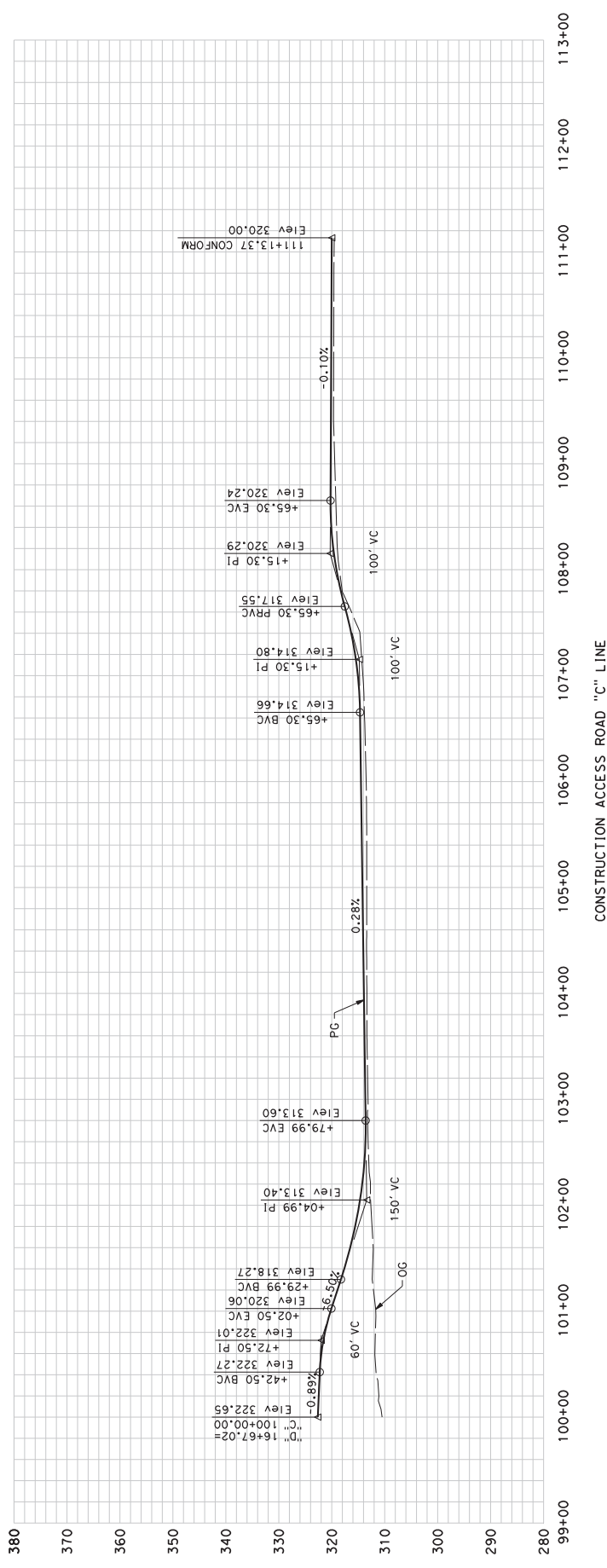
QUINCY
 ENGINEERING

ROAD NAME: MATTOLE ROAD
 MILE POST: XX
 PROJECT NO.: XXXX-XXXX
 CONTRACT NO.: XXXX
 DRAWING FILE NAME:
 PLOT DATE: 7-8-2020
 REVISION DATE: XX-XX-XXXX

BAR IS ONE INCH ON
 ORIGINAL DRAWING
 IF ANY ONE INCH OR
 SMALLER SCALE COORDINATE

PROFESSIONAL ENGINEER
 STATE OF CALIFORNIA
 LICENSE NO. 50024
 EXPIRES 07/31/27

30% SUBMITTAL



CONSTRUCTION ACCESS ROAD "C" LINE

EXHIBIT - 7

SCALE: Horiz: 1"=50'
 Vert: 1"=10'

ROAD NAME: MATTOLE ROAD		MILE POST: XX	
ROAD NO.: XXXX	PROJECT NO.: XXXX-XXXX	CONTRACT NO.: XXXX	DRAWING FILE NAME:
EA. NO.:	PROJ.:	ISSUE DATE: XX-XX-XXXX	APPROVED BY:
DATE: XX-XX-XXXX	DATE: XX-XX-XXXX	DATE: XX-XX-XXXX	DATE: XX-XX-XXXX



QUINCY ENGINEERING	DESIGNED BY: IP	DATE: XX-XX-XXXX
ENGINEER	DRAWN BY: IP	DATE: XX-XX-XXXX
CHECKED BY: IP	REVIEWED BY: IP	DATE: XX-XX-XXXX
APPROVED BY: IP		DATE: XX-XX-XXXX

SHEET **X** OF **XX**

30% SUBMITTAL



EXHIBIT - 8

SCALE: 1" = 10'

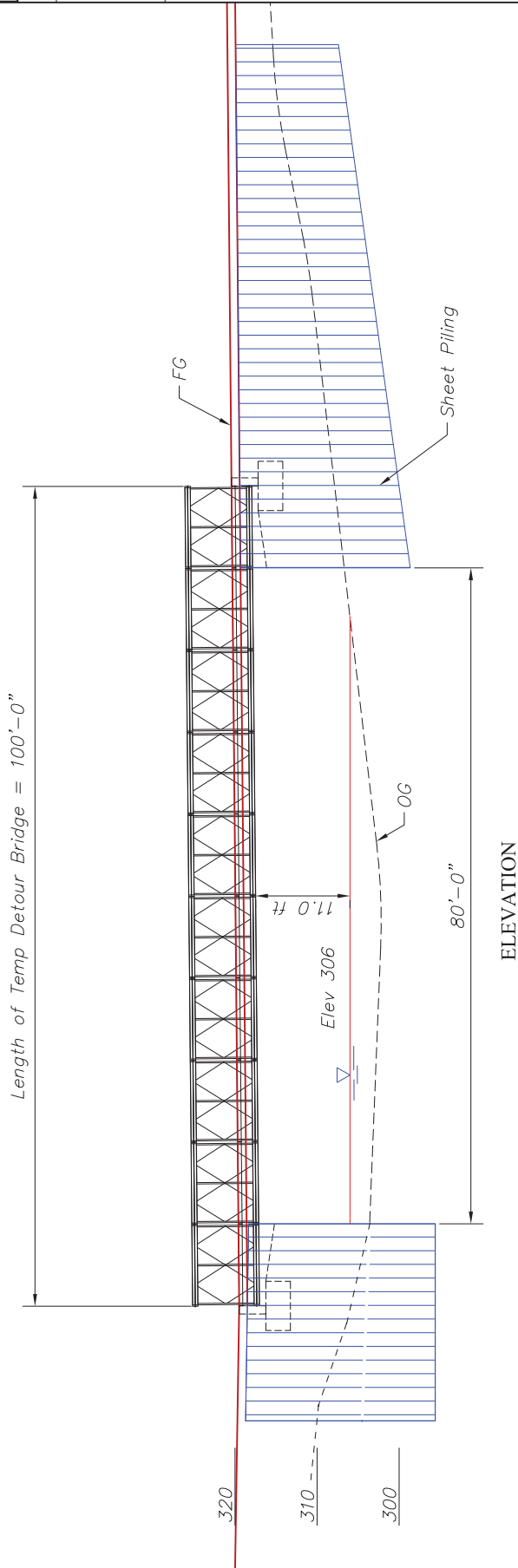


EXHIBIT - 9

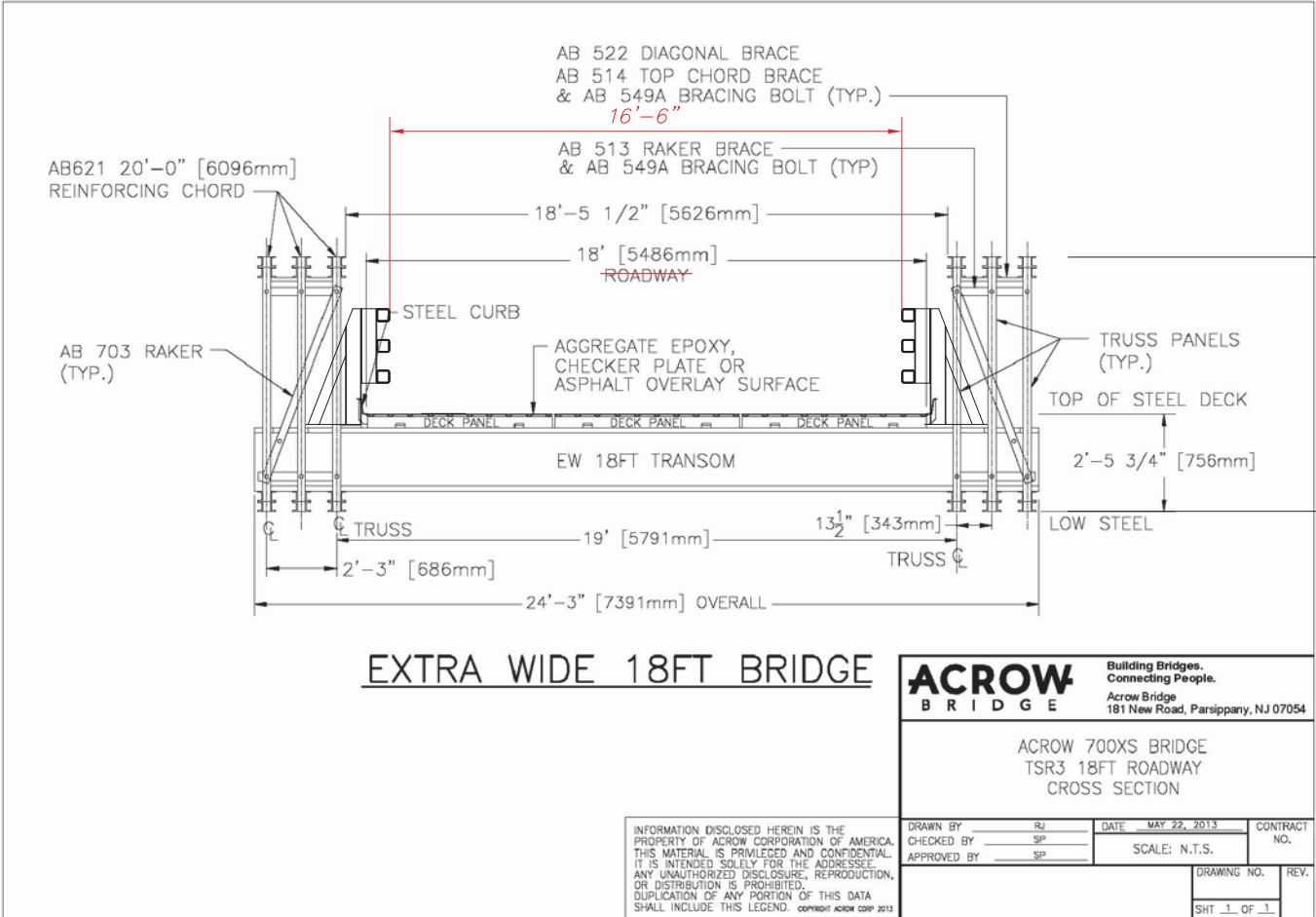
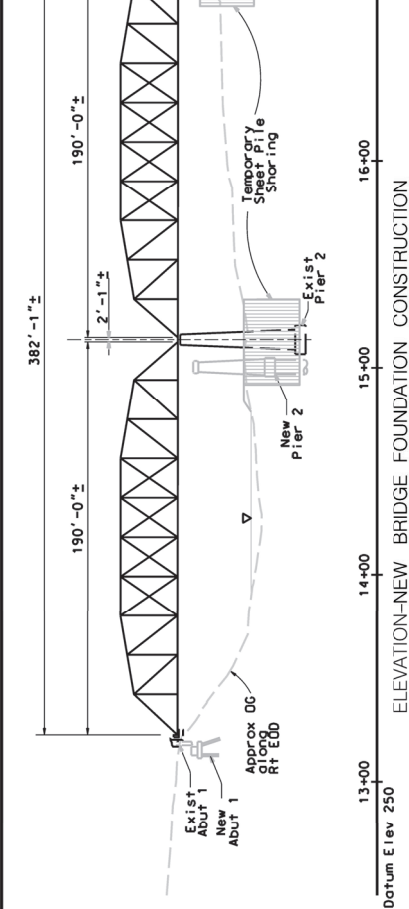


EXHIBIT - 10

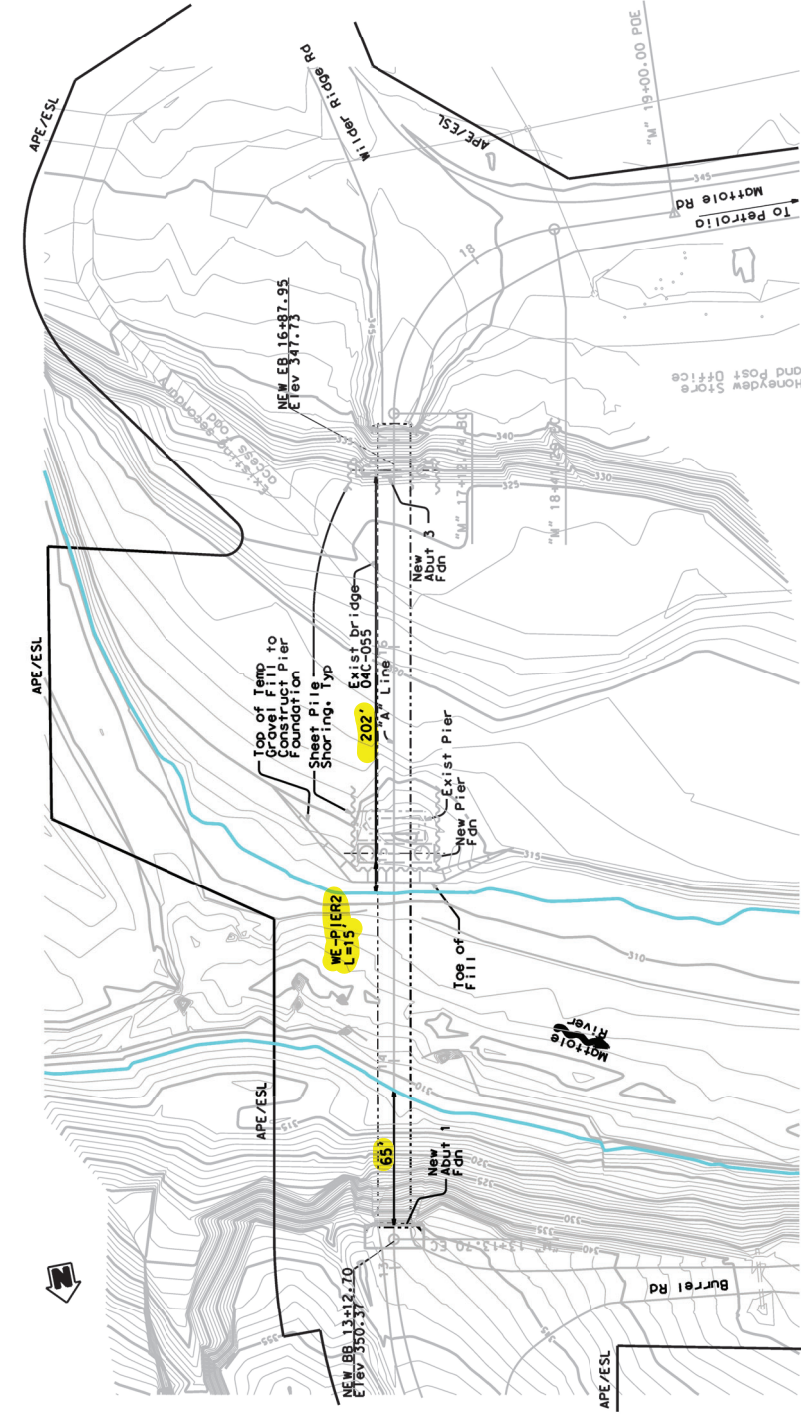
Appendix C Bridge and Detour Construction—
Sheet Pile Information Packet

SHEET		COUNTY OF HUMBOLDT DEPARTMENT OF PUBLIC WORKS	
OF		MATTIOLÉ ROAD AT MATTOLE RIVER BRIDGE REPLACEMENT PROJECT AT HONSFORD	
XXX		BRIDGE FOUNDATION CONSTRUCTION SEASON 1	
QUINCY ENGINEERING	DESIGNED BY EP	MILE POST: XX	PROJECT NO.: 2222-2222
DATE: 12/15/2022	APPROVED BY MS	CONTRACT NO.: 2222-2222	DATE: 12/15/2022
DATE: 12/15/2022	DATE: 12/15/2022	ISSUE DATE: 12/15/2022	ISSUE DATE: 12/15/2022

30% SUBMITTAL



ELEVATION-NEW BRIDGE FOUNDATION CONSTRUCTION
Scale: 1" = 60'



PLAN-NEW BRIDGE FOUNDATION CONSTRUCTION
Scale: 1" = 60'

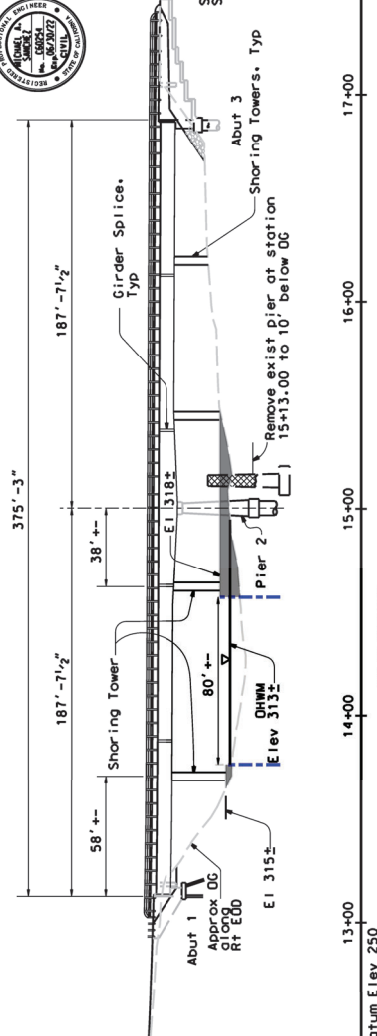
DISTANCES TO FOUNDATIONS
TYPICAL WATER SURFACE ELEV = 311
ABUT1 - WE = 65'
WE - PIER2 = 15'
WE - ABUT3 = 202'

EXHIBIT - 1

COUNTY OF HUMBOLDT DEPARTMENT OF PUBLIC WORKS MANTOLE ROAD AT MATTOLE RIVER BRIDGE REPLACEMENT PROJECT AT HUMBOLDT		SHEET 11 OF 11	
PROJECT NO. 1333-2332	DATE: 1-2-2020	SCALE: AS SHOWN	DATE: 1-2-2020
DESIGNED BY: SP	CHECKED BY: SP	APPROVED BY: SP	DATE: 1-2-2020
PROJECT FILE NAME: 1333-2332	PROJECT NO. 1333-2332	MILE POST: 33	DATE: 1-2-2020
CONTRACT NO. 1333-2332	PROJECT NO. 1333-2332	PROJECT NO. 1333-2332	PROJECT NO. 1333-2332
DATE: 1-2-2020	DATE: 1-2-2020	DATE: 1-2-2020	DATE: 1-2-2020

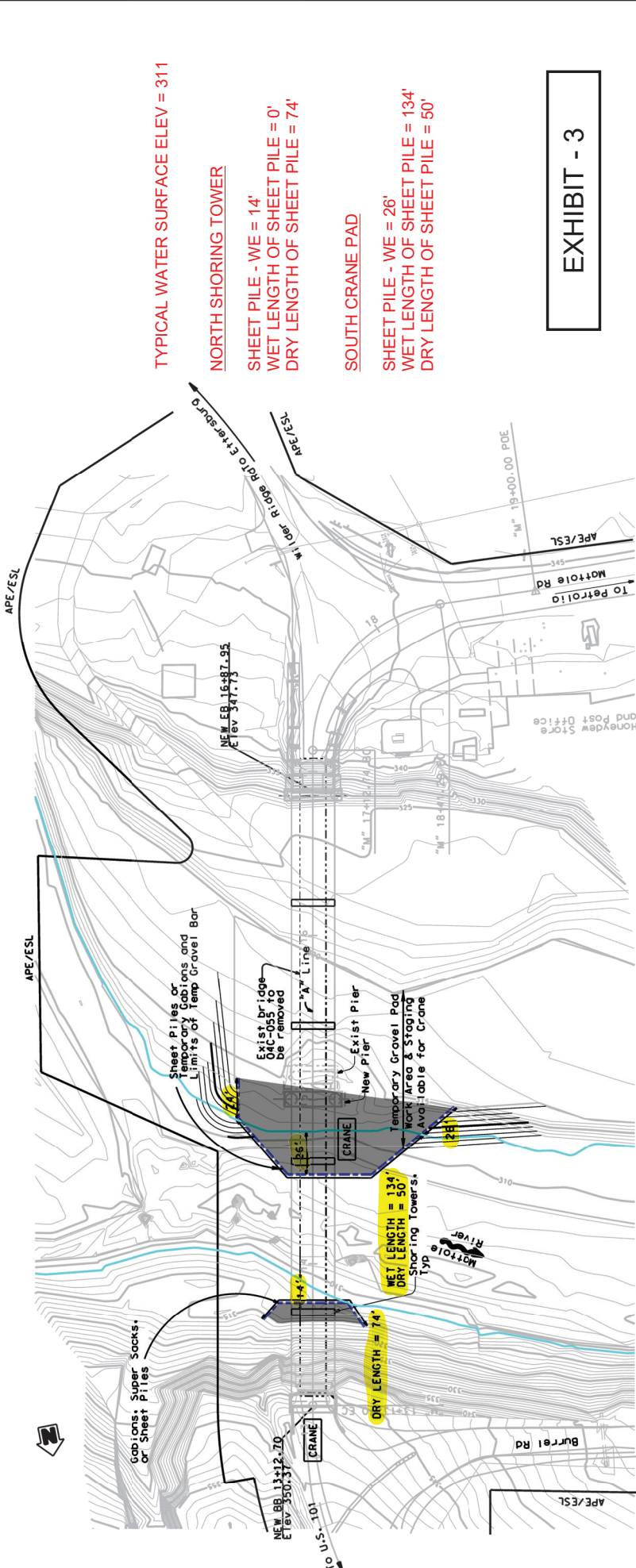


30% SUBMITTAL



Structural Steel Weight = 701 kip
Structural Steel Weight = 0.625 kip/ft per girder

ELEVATION- NEW BRIDGE CONSTRUCTION
Scale: 1" = 60'



TYPICAL WATER SURFACE ELEV = 311
NORTH SHORING TOWER
SHEET PILE - WE = 14'
WET LENGTH OF SHEET PILE = 0'
DRY LENGTH OF SHEET PILE = 74'
SOUTH CRANE PAD
SHEET PILE - WE = 26'
WET LENGTH OF SHEET PILE = 134'
DRY LENGTH OF SHEET PILE = 50'

EXHIBIT - 3

PLAN-NEW BRIDGE CONSTRUCTION
Scale: 1" = 60'

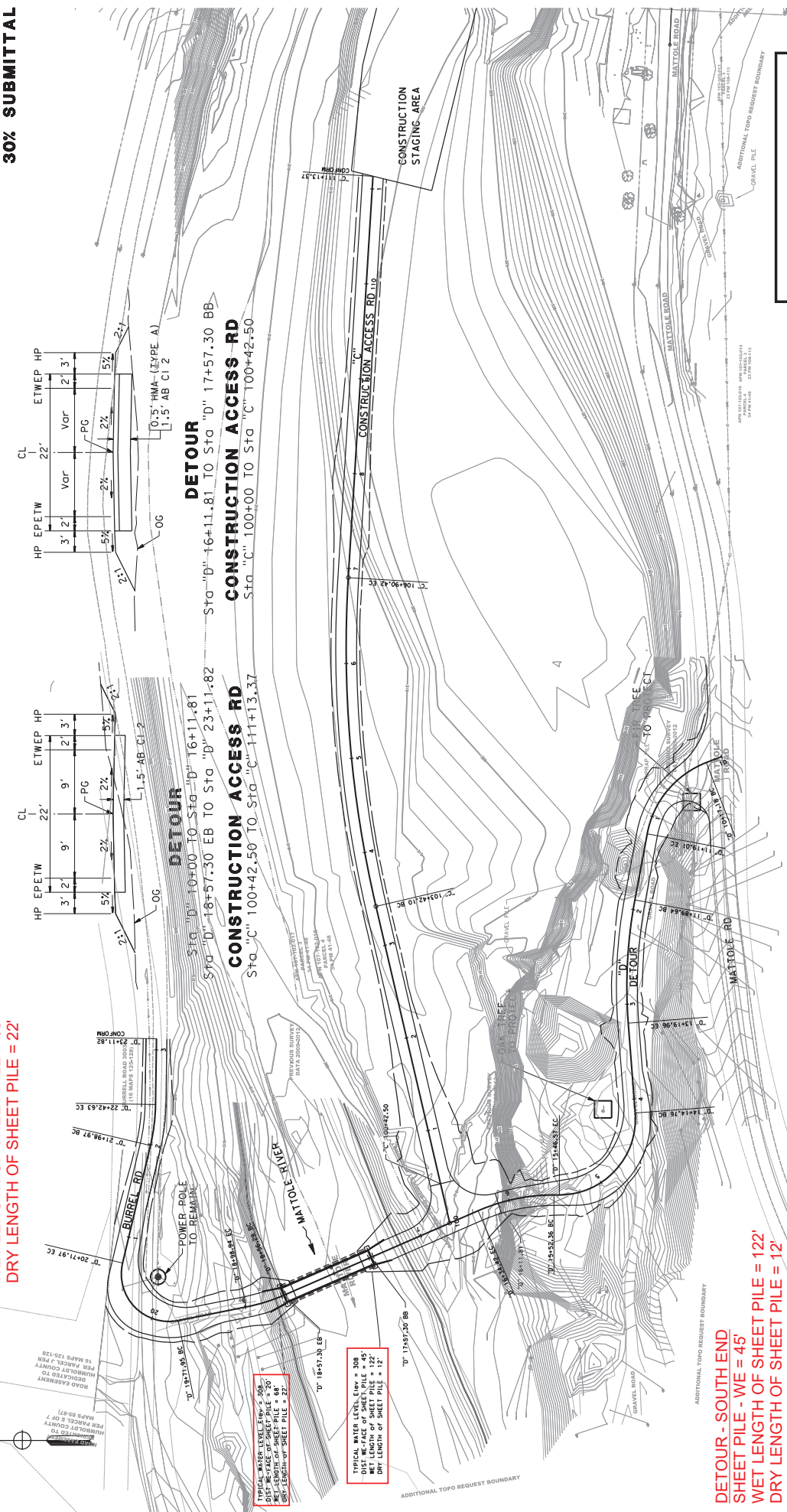
COUNTY OF HUMBOLDT DEPARTMENT OF PUBLIC WORKS MATTOLE ROAD AT MATTOLE RIVER BRIDGE REPLACEMENT PROJECT (AT HONEYDEW)		SHEET X OF XX	
QUINCY ENGINEERING		DETOUR LAYOUT SEASONS 1 AND 2	
ROAD NAME: MATTOLE ROAD	MILE POST: XX	DESIGNED BY: HP	APPROVED BY: BS
PROJECT NO.: XXX-XXXX	EA NO.: XXXX	DOWN BY: HP	REVISION DATE: XX-XX-XXXX
CONTRACT NO.: XXX-XXXX	PROJ. NO.: XXXX	REVIEWED BY: BS	
DRAWING FILE NAME:	PLAT DATE: 7-8-2020		



BAR IS ONE INCH ON ORIGINAL DRAWING
IF ANY LINE WORK ON SCALE COORDINATE

TYPICAL WATER SURFACE ELEV = 308

DETOUR - NORTH END
WE - SHEET PILE = 20'
WET LENGTH OF SHEET PILE = 68'
DRY LENGTH OF SHEET PILE = 22'



TYPICAL WATER LEVEL ELEV = 308
WE - SHEET PILE = 20'
WET LENGTH OF SHEET PILE = 68'
DRY LENGTH OF SHEET PILE = 22'

TYPICAL WATER LEVEL ELEV = 308
WE - SHEET PILE = 45'
WET LENGTH OF SHEET PILE = 122'
DRY LENGTH OF SHEET PILE = 12'

DETOUR - SOUTH END
SHEET PILE - WE = 45'
WET LENGTH OF SHEET PILE = 122'
DRY LENGTH OF SHEET PILE = 12'

EXHIBIT - 5

SCALE: 1"=50'

DE-1

Appendix D Uniform Relocation Assistance and
Real Property Acquisition Policies
for Federal and Federally Assisted
Programs

**42 USC Ch. 61: UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION
POLICIES FOR FEDERAL AND FEDERALLY ASSISTED PROGRAMS**

From Title 42—THE PUBLIC HEALTH AND WELFARE

**CHAPTER 61—UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION
POLICIES FOR FEDERAL AND FEDERALLY ASSISTED PROGRAMS**

SUBCHAPTER I—GENERAL PROVISIONS

Sec.

4601.

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4602.

Effect upon property acquisition.

4603.

Additional appropriations for moving costs, relocation benefits and other expenses incurred in acquisition of lands for National Park System; waiver of benefits.

4604.

Certification.

4605.

Displaced persons not eligible for assistance.

SUBCHAPTER II—UNIFORM RELOCATION ASSISTANCE

- 4621.
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- 4622.
Moving and related expenses.
- 4623.
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- 4624.
Replacement housing for tenants and certain others.
- 4625.
Relocation planning, assistance coordination, and advisory services.
- 4626.
Housing replacement by Federal agency as last resort.
- 4627.
State required to furnish real property incident to Federal assistance (local cooperation).
- 4628.
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- 4629.
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- 4630.
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- 4631.
Federal share of costs.
- 4632.
Administration; relocation assistance in programs receiving Federal financial assistance.
- 4633.
Duties of lead agency.
- 4634.
Agency coordination.
- 4635.
Planning and other preliminary expenses for additional housing.
- 4636.
Payments not to be considered as income for revenue purposes or for eligibility for assistance under Social Security Act or other Federal law.
- 4637.
Repealed.
- 4638.
Transfers of surplus property.

SUBCHAPTER III—UNIFORM REAL PROPERTY ACQUISITION POLICY

- 4651.
Uniform policy on real property acquisition practices.
- 4652.
Buildings, structures, and improvements.
- 4653.
Expenses incidental to transfer of title to United States.
- 4654.
Litigation expenses.
- 4655.
Requirements for uniform land acquisition policies; payments of expenses incidental to transfer of real property to State; payment of litigation expenses in certain cases.

SUBCHAPTER I—GENERAL PROVISIONS

§4601. Definitions

As used in this chapter—

(1) The term "Federal agency" means any department, agency, or instrumentality in the executive branch of the Government, any wholly owned Government corporation, the Architect of the Capitol, the Federal Reserve banks and branches thereof, and any person who has the authority to acquire property by eminent domain under Federal law.

(2) The term "State" means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, the Trust Territory of the Pacific Islands, and any political subdivision thereof.

(3) The term "State agency" means any department, agency, or instrumentality of a State or of a political subdivision of a State, any department, agency, or instrumentality of 2 or more States or of 2 or more political subdivisions of a State or States, and any person who has the authority to acquire property by eminent domain under State law.

(4) The term "Federal financial assistance" means a grant, loan, or contribution provided by the United States, except any Federal guarantee or insurance, any interest reduction payment to an individual in connection with the purchase and occupancy of a residence by that individual, and any annual payment or capital loan to the District of Columbia.

(5) The term "person" means any individual, partnership, corporation, or association.

(6)(A) The term "displaced person" means, except as provided in subparagraph (B)—

(i) any person who moves from real property, or moves his personal property from real property—

(I) as a direct result of a written notice of intent to acquire or the acquisition of such real property in whole or in part for a program or project undertaken by a Federal agency or with Federal financial assistance; or

(II) on which such person is a residential tenant or conducts a small business, a farm operation, or a business defined in paragraph (7)(D), as a direct result of rehabilitation, demolition, or such other displacing activity as the lead agency may prescribe, under a program or project undertaken by a Federal agency or with Federal financial assistance in any case in which the head of the displacing agency determines that such displacement is permanent; and

(ii) solely for the purposes of sections 4622(a) and (b) and 4625 of this title, any person who moves from real property, or moves his personal property from real property—

(I) as a direct result of a written notice of intent to acquire or the acquisition of other real property, in whole or in part, on which such person conducts a business or farm operation, for a program or project undertaken by a Federal agency or with Federal financial assistance; or

(II) as a direct result of rehabilitation, demolition, or such other displacing activity as the lead agency may prescribe, of other real property on which such person conducts a business or a farm operation, under a program or project undertaken by a Federal agency or with Federal financial assistance where the head of the displacing agency determines that such displacement is permanent.

(B) The term "displaced person" does not include—

(i) a person who has been determined, according to criteria established by the head of the lead agency, to be either in unlawful occupancy of the displacement dwelling or to have occupied such dwelling for the purpose of obtaining assistance under this chapter;

(ii) in any case in which the displacing agency acquires property for a program or project, any person (other than a person who was an occupant of such property at the time it was acquired) who occupies such property on a rental basis for a short term or a period subject to termination when the property is needed for the program or project.

(7) The term "business" means any lawful activity, excepting a farm operation, conducted primarily—

(A) for the purchase, sale, lease and rental of personal and real property, and for the manufacture, processing, or marketing of products, commodities, or any other personal property;

(B) for the sale of services to the public;

(C) by a nonprofit organization; or

(D) solely for the purposes of section 4622 of this title, for assisting in the purchase, sale, resale, manufacture, processing, or marketing of products, commodities, personal property, or services by the erection and maintenance of an outdoor advertising display or displays, whether or not such display or displays are located on the premises on which any of the above activities are conducted.

(8) The term "farm operation" means any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber, for sale or home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator's support.

(9) The term "mortgage" means such classes of liens as are commonly given to secure advances on, or the unpaid purchase price of, real property, under the laws of the State in which the real property is located, together with the credit instruments, if any, secured thereby.

(10) The term "comparable replacement dwelling" means any dwelling that is (A) decent, safe, and sanitary; (B) adequate in size to accommodate the occupants; (C) within the financial means of the displaced person; (D) functionally equivalent; (E) in an area not subject to unreasonable adverse environmental conditions; and (F) in a location generally not less desirable than the location of the displaced person's dwelling with respect to public utilities, facilities, services, and the displaced person's place of employment.

(11) The term "displacing agency" means any Federal agency carrying out a program or project, and any State, State agency, or person carrying out a program or project with Federal financial assistance, which causes a person to be a displaced person.

(12) The term "lead agency" means the Department of Transportation.

(13) The term "appraisal" means a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by the presentation and analysis of relevant market information.

(Pub. L. 91-646, title I, §101, Jan. 2, 1971, 84 Stat. 1894; Pub. L. 100-17, title IV, §402, Apr. 2, 1987, 101 Stat. 246.)

REFERENCES IN TEXT

This chapter, referred to in introductory provision and par. (6)(B)(i), was in the original "this Act", meaning [Pub. L. 91-646, Jan. 2, 1971, 84 Stat. 1894](#), known as the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out below and Tables.

AMENDMENTS

1987—Par. (1). Pub. L. 100-17, §402(a), amended par. (1) generally. Prior to amendment, par. (1) read as follows: "The term 'Federal agency' means any department, agency, or instrumentality in the executive branch of the Government (except the National Capital Housing Authority), any wholly owned Government corporation (except the District of Columbia Redevelopment Land Agency), and the Architect of the Capitol, the Federal Reserve banks and branches thereof."

Par. (3). Pub. L. 100-17, §402(b), amended par. (3) generally. Prior to amendment, par. (3) read as follows: "The term 'State agency' means the National Capital Housing Authority, the District of Columbia Redevelopment Land Agency, and any department, agency, or instrumentality of a State or of a political subdivision of a State, or any department, agency, or instrumentality of two or more States or of two or more political subdivisions of a State or States."

Par. (4). Pub. L. 100-17, §402(c), inserted ", any interest reduction payment to an individual in connection with the purchase and occupancy of a residence by that individual," after "insurance".

Par. (6). Pub. L. 100-17, §402(d), amended par. (6) generally. Prior to amendment, par. (6) read as follows: "The term 'displaced person' means any person who, on or after January 2, 1971, moves from real property, or moves his personal property from real property, as a result of the acquisition of such real property, in whole or in part, or as the result of the written order of the acquiring agency to vacate real property, for a program or project undertaken by a Federal agency, or with Federal financial assistance; and solely for the purposes of sections 4622(a) and (b) and 4625 of this title, as a result of the acquisition of or as the result of the written order of the acquiring agency to vacate other real property, on which such person conducts a business or farm operation, for such program or project."

Par. (7)(D). Pub. L. 100-17, §402(f), substituted "section 4622" for "section 4622(a)".

Pars. (10) to (13). Pub. L. 100-17, §402(e), added pars. (10) to (13).

EFFECTIVE DATE OF 1987 AMENDMENT

Pub. L. 100–17, title IV, §418, Apr. 2, 1987, 101 Stat. 256, provided that: "The amendment made by section 412 of this title [amending section 4633 of this title] (to the extent such amendment prescribes authority to develop, publish, and issue regulations) shall take effect on the date of the enactment of this title [Apr. 2, 1987]. This title and the amendments made by this title [enacting section 4604 of this title, amending this section and sections 4621 to 4626, 4630, 4631, 4633, 4636, 4638, 4651, and 4655 of this title, repealing sections 4634 and 4637 of this title, and enacting provisions set out as a note under this section] (other than the amendment made by section 412 to such extent) shall take effect on the effective date provided in such regulations but not later than 2 years after such date of enactment."

EFFECTIVE DATE

Pub. L. 91–646, title II, §221, Jan. 2, 1971, 84 Stat. 1904, provided that:

"(a) Except as provided in subsections (b) and (c) of this section, this Act and the amendments made by this Act [see Short Title note below] shall take effect on the date of its enactment [Jan. 2, 1971].

"(b) Until July 1, 1972, sections 210 and 305 [sections 4630 and 4655 of this title] shall be applicable to a State only to the extent that such State is able under its laws to comply with such sections. After July 1, 1972, such sections [sections 4630 and 4655 of this title] shall be completely applicable to all States.

"(c) The repeals made by paragraphs (4) [repealing section 1606(b) of former Title 49, Transportation], (5) [repealing section 1465 of this title], (6) [repealing section 1415(7)(b)(iii) and (8) second sentence of this title], (8) [repealing section 3074 of this title], (9) [repealing section 3307(b), (c) of this title], (10) [repealing chapter 5 (sections 501–511) of Title 23, Highways], (11) [repealing provisions set out as notes under sections 501 and 510 of Title 23], and (12) of section 220(a) of this title and section 306 of title III [repealing sections 3071 to 3073 of this title, section 141 of Title 23, and section 596 of Title 33, Navigation and Navigable Waters] shall not apply to any State so long as sections 210 and 305 [sections 4630 and 4655 of this title] are not applicable in such State."

SHORT TITLE OF 1987 AMENDMENT

Pub. L. 100–17, title IV, §401, Apr. 2, 1987, 101 Stat. 246, provided that: "This title [enacting section 4604 of this title, amending this section and sections 4621 to 4626, 4630, 4631, 4633, 4636, 4638, 4651, and 4655 of this title, repealing sections 4634 and 4637 of this title, and enacting provisions set out as a note under this section] may be cited as the 'Uniform Relocation Act Amendments of 1987'."

SHORT TITLE

Pub. L. 91–646, §1, Jan. 2, 1971, 84 Stat. 1894, provided: "That this Act [enacting this chapter, amending sections 1415, 2473, and 3307 of this title and section 1606 of former Title 49, Transportation, repealing sections 1465 and 3071 to 3074 of this title, section 2680 of Title 10, Armed Forces, sections 141 and 501 to 512 of Title 23, Highways, section 596 of Title 33, Navigation and Navigable Waters, sections 1231 to 1234 of Title 43, Public Lands, and enacting provisions set out as notes under this section and sections 4621 and 4651 of this title, and repealing provisions set out as notes under sections 501 and 510 of Title 23] may be cited as the 'Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970'."

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

WILLING SELLERS CONSIDERED DISPLACED PERSONS

Pub. L. 111–8, div. E, title I, Mar. 11, 2009, 123 Stat. 710, provided that: "For fiscal year 2009 and hereafter, a willing seller from whom the Service acquires title to real property may be considered a 'displaced person' for purposes of the Uniform Relocation Assistance and Real

Property Acquisition Policy Act [probably means the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. 4601 et seq.] and its implementing regulations, whether or not the Service has the authority to acquire such property by eminent domain."

TREATMENT OF REAL PROPERTY BUYOUT PROGRAMS

Pub. L. 103–181, §4, Dec. 3, 1993, 107 Stat. 2055, provided that:

"(a) Inapplicability of URA.—The purchase of any real property under a qualified buyout program shall not constitute the making of Federal financial assistance available to pay all or part of the cost of a program or project resulting in the acquisition of real property or in any owner of real property being a displaced person (within the meaning of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 [42 U.S.C. 4601 et seq.]).

"(b) Definition of 'Qualified Buyout Program'.—For purposes of this section, the term 'qualified buyout program' means any program that—

"(1) provides for the purchase of only property damaged by the major, widespread flooding in the Midwest during 1993;

"(2) provides for such purchase solely as a result of such flooding;

"(3) provides for such acquisition without the use of the power of eminent domain and notification to the seller that acquisition is without the use of such power;

"(4) is carried out by or through a State or unit of general local government; and

"(5) is being assisted with amounts made available for—

"(A) disaster relief by the Federal Emergency Management Agency; or

"(B) other Federal financial assistance programs."

[For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.]

[For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.]

§4602. Effect upon property acquisition

(a) The provisions of section 4651 of this title create no rights or liabilities and shall not affect the validity of any property acquisitions by purchase or condemnation.

(b) Nothing in this chapter shall be construed as creating in any condemnation proceedings brought under the power of eminent domain, any element of value or of damage not in existence immediately prior to January 2, 1971.

(Pub. L. 91–646, title I, §102, Jan. 2, 1971, 84 Stat. 1895.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was in the original "this Act", meaning Pub. L. 91–646, Jan. 2, 1971, 84 Stat. 1894, known as the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4601 of this title and Tables.

§4603. Additional appropriations for moving costs, relocation benefits and other expenses incurred in acquisition of lands for National Park

System; waiver of benefits

(a) In all instances where authorizations of appropriations for the acquisition of lands for the National Park System enacted prior to January 9, 1971, do not include provisions therefor, there are authorized to be appropriated such additional sums as may be necessary to provide for moving costs, relocation benefits, and other expenses incurred pursuant to the applicable provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Public Law 91–646; 84 Stat. 1894). There are also authorized to be appropriated not to exceed \$8,400,000 in addition to those authorized in Public Law 92–272 (86 Stat. 120) to provide for such moving costs, relocation benefits, and other related expenses in connection with the acquisition of lands authorized by Public Law 92–272.

(b) Whenever an owner of property elects to retain a right of use and occupancy pursuant to any statute authorizing the acquisition of property for purposes of a unit of the National Park System, such owner shall be deemed to have waived any benefits under sections 4623, 4624, 4625, and 4626 of this title, and for the purposes of those sections such owner shall not be considered a displaced person as defined in section 4601(6) of this title.

(Pub. L. 93–477, title IV, §405, Oct. 26, 1974, 88 Stat. 1448.)

REFERENCES IN TEXT

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, referred to in subsec. (a), is Pub. L. 91–646, Jan. 2, 1971, 84 Stat. 1894, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4601 of this title and Tables.

Public Law 92–272, referred to in subsec. (a), is Pub. L. 92–272, Apr. 11, 1972, 86 Stat. 120, which to the extent classified to the Code, amended sections 284b, 428m, 459f–10, 460m–1, 460m–7 and 460t–4 of Title 16, Conservation, and amended a provision set out as a note under section 450ll of Title 16. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was not enacted as part of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 which comprises this chapter.

§4604. Certification

(a) Acceptance of State agency certification

Notwithstanding sections 4630 and 4655 of this title, the head of a Federal agency may discharge any of his responsibilities under this chapter by accepting a certification by a State agency that it will carry out such responsibility, if the head of the lead agency determines that such responsibility will be carried out in accordance with State laws which will accomplish the purpose and effect of this chapter.

(b) Promulgation of regulations; notice and comment; consultation with local governments

(1) The head of the lead agency shall issue regulations to carry out this section.

(2) Repealed. Pub. L. 104–66, title I, §1121(f), Dec. 21, 1995, 109 Stat. 724.

(3) Before making a determination regarding any State law under subsection (a) of this section, the head of the lead agency shall provide interested parties with an opportunity for public review and comment. In particular, the head of the lead agency shall consult with interested local general purpose governments within the State on the effects of such State law on the ability of local governments to carry out their responsibilities under this chapter.

(c) Effect of noncompliance with certification or with applicable law

(1) The head of a Federal agency may withhold his approval of any Federal financial assistance to or contract or cooperative agreement with any displacing agency found by the Federal agency to have failed to comply with the laws described in subsection (a) of this section.

(2) After consultation with the head of the lead agency, the head of a Federal agency may rescind his acceptance of any certification under this section, in whole or in part, if the State agency fails to comply with such certification or with State law.

(Pub. L. 91–646, title I, §103, as added Pub. L. 100–17, title IV, §403, Apr. 2, 1987, 101 Stat. 248; amended Pub. L. 104–66, title I, §1121(f), Dec. 21, 1995, 109 Stat. 724.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (b)(3), was in the original "this Act", meaning [Pub. L. 91-646, Jan. 2, 1971, 84 Stat. 1894](#), known as the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4601 of this title and Tables.

AMENDMENTS

1995—Subsec. (b)(2). Pub. L. 104-66 struck out par. (2) which read as follows: "The head of the lead agency shall, in coordination with other Federal agencies, monitor from time to time, and report biennially to the Congress on, State agency implementation of this section. A State agency shall make available any information required for such purpose."

EFFECTIVE DATE

Section effective on effective date provided in regulations promulgated under section 4633 of this title (as amended by section 412 of Pub. L. 100-17), but not later than 2 years after Apr. 2, 1987, see section 418 of Pub. L. 100-17, set out as an Effective Date of 1987 Amendment note under section 4601 of this title.

§4605. Displaced persons not eligible for assistance

(a) In general

Except as provided in subsection (c), a displaced person shall not be eligible to receive relocation payments or any other assistance under this chapter if the displaced person is an alien not lawfully present in the United States.

(b) Determinations of eligibility

(1) Promulgation of regulations

Not later than 1 year after November 21, 1997, after providing notice and an opportunity for public comment, the head of the lead agency shall promulgate regulations to carry out subsection (a).

(2) Contents of regulations

Regulations promulgated under paragraph (1) shall—

- (A) prescribe the processes, procedures, and information that a displacing agency must use in determining whether a displaced person is an alien not lawfully present in the United States;
- (B) prohibit a displacing agency from discriminating against any displaced person;
- (C) ensure that each eligibility determination is fair and based on reliable information; and
- (D) prescribe standards for a displacing agency to apply in making determinations relating to exceptional and extremely unusual hardship under subsection (c).

(c) Exceptional and extremely unusual hardship

If a displacing agency determines by clear and convincing evidence that a determination of the ineligibility of a displaced person under subsection (a) would result in exceptional and extremely unusual hardship to an individual who is the displaced person's spouse, parent, or child and who is a citizen of the United States or an alien lawfully admitted for permanent residence in the United States, the displacing agency shall provide relocation payments and other assistance to the displaced person under this chapter if the displaced person would be eligible for the assistance but for subsection (a).

(d) Limitation on statutory construction

Nothing in this section affects any right available to a displaced person under any other provision of Federal or State law.

(Pub. L. 91-646, title I, §104, as added [Pub. L. 105-117, §1, Nov. 21, 1997, 111 Stat. 2384.](#))

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (c), was in the original "this Act", meaning [Pub. L. 91-646, Jan. 2, 1971, 84 Stat. 1894](#), known as the Uniform Relocation Assistance and Real

Property Acquisition Policies Act of 1970, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4601 of this title and Tables.

SUBCHAPTER II—UNIFORM RELOCATION ASSISTANCE

§4621. Declaration of findings and policy

(a) Findings

The Congress finds and declares that—

(1) displacement as a direct result of programs or projects undertaken by a Federal agency or with Federal financial assistance is caused by a number of activities, including rehabilitation, demolition, code enforcement, and acquisition;

(2) relocation assistance policies must provide for fair, uniform, and equitable treatment of all affected persons;

(3) the displacement of businesses often results in their closure;

(4) minimizing the adverse impact of displacement is essential to maintaining the economic and social well-being of communities; and

(5) implementation of this chapter has resulted in burdensome, inefficient, and inconsistent compliance requirements and procedures which will be improved by establishing a lead agency and allowing for State certification and implementation.

(b) Policy

This subchapter establishes a uniform policy for the fair and equitable treatment of persons displaced as a direct result of programs or projects undertaken by a Federal agency or with Federal financial assistance. The primary purpose of this subchapter is to ensure that such persons shall not suffer disproportionate injuries as a result of programs and projects designed for the benefit of the public as a whole and to minimize the hardship of displacement on such persons.

(c) Congressional intent

It is the intent of Congress that—

(1) Federal agencies shall carry out this subchapter in a manner which minimizes waste, fraud, and mismanagement and reduces unnecessary administrative costs borne by States and State agencies in providing relocation assistance;

(2) uniform procedures for the administration of relocation assistance shall, to the maximum extent feasible, assure that the unique circumstances of any displaced person are taken into account and that persons in essentially similar circumstances are accorded equal treatment under this chapter;

(3) the improvement of housing conditions of economically disadvantaged persons under this subchapter shall be undertaken, to the maximum extent feasible, in coordination with existing Federal, State, and local governmental programs for accomplishing such goals; and

(4) the policies and procedures of this chapter will be administered in a manner which is consistent with fair housing requirements and which assures all persons their rights under title VIII of the Act of April 11, 1968 (Public Law 90–284), commonly known as the Civil Rights Act of 1968 [42 U.S.C. 3601 et seq.], and title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.].

(Pub. L. 91–646, title II, §201, Jan. 2, 1971, 84 Stat. 1895; Pub. L. 100–17, title IV, §404, Apr. 2, 1987, 101 Stat. 248.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(5) and (c)(2), (4), was in the original "this Act", meaning Pub. L. 91–646, Jan. 2, 1971, 84 Stat. 1894, known as the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4601 of this title and Tables.

This subchapter, referred to in subsecs. (b) and (c)(1), (3), was in the original "this title", meaning title II of Pub. L. 91–646, Jan. 2, 1971, 84 Stat. 1895, which is classified principally to

this subchapter. For complete classification of title II to the Code, see Tables.

Title VIII of the Act of April 11, 1968 (Public Law 90–284), commonly known as the Civil Rights Act of 1968, referred to in subsec. (c)(4), is title VIII of Pub. L. 90–284, Apr. 11, 1968, 82 Stat. 81, known as the Fair Housing Act, which is classified principally to subchapter I (§3601 et seq.) of chapter 45 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3601 of this title and Tables.

The Civil Rights Act of 1964, referred to in subsec. (c)(4), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241. Title VI of the Civil Rights Act of 1964 is classified generally to subchapter V (§2000d et seq.) of chapter 21 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables.

AMENDMENTS

1987—Pub. L. 100–17 substituted "Declaration of findings and policy" for "Declaration of policy" in section catchline and amended text generally. Prior to amendment, text read as follows: "The purpose of this subchapter is to establish a uniform policy for the fair and equitable treatment of persons displaced as a result of Federal and federally assisted programs in order that such persons shall not suffer disproportionate injuries as a result of programs designed for the benefit of the public as a whole."

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–17 effective on effective date provided in regulations promulgated under section 4633 of this title (as amended by section 412 of Pub. L. 100–17), but not later than 2 years after Apr. 2, 1987, see section 418 of Pub. L. 100–17, set out as a note under section 4601 of this title.

SAVINGS PROVISION

Pub. L. 91–646, title II, §220(b), Jan. 2, 1971, 84 Stat. 1903, provided that: "Any rights or liabilities now existing under prior Acts or portions thereof shall not be affected by the repeal of such prior Acts or portions thereof under subsection (a) of this section [repealing sections 1415 (7)(b)(iii), (8) second sentence, 1465, 2473(b)(14), 3074, and 3307(b), (c) of this title, section 2680 of Title 10, Armed Forces, sections 501 to 512 of Title 23, Highways, sections 1231 to 1234 of Title 43, Public Lands, and section 1606(b) of former Title 49, Transportation, and provisions set out as notes under sections 501 and 511 of Title 23]."

§4622. Moving and related expenses

(a) General provision

Whenever a program or project to be undertaken by a displacing agency will result in the displacement of any person, the head of the displacing agency shall provide for the payment to the displaced person of—

- (1) actual reasonable expenses in moving himself, his family, business, farm operation, or other personal property;
- (2) actual direct losses of tangible personal property as a result of moving or discontinuing a business or farm operation, but not to exceed an amount equal to the reasonable expenses that would have been required to relocate such property, as determined by the head of the agency;
- (3) actual reasonable expenses in searching for a replacement business or farm; and
- (4) actual reasonable expenses necessary to reestablish a displaced farm, nonprofit organization, or small business at its new site, but not to exceed \$25,000, as adjusted by regulation, in accordance with section 4633(d) of this title.

(b) Displacement from dwelling; election of payments: expense and dislocation allowance

Any displaced person eligible for payments under subsection (a) of this section who is displaced from a dwelling and who elects to accept the payments authorized by this subsection in lieu of the payments authorized by subsection (a) of this section may receive an expense and dislocation allowance, which shall be determined according to a schedule established by the head of the lead agency.

(c) Displacement from business or farm operation; election of payments; minimum and maximum

amounts; eligibility

Any displaced person eligible for payments under subsection (a) of this section who is displaced from the person's place of business or farm operation and who is eligible under criteria established by the head of the lead agency may elect to accept the payment authorized by this subsection in lieu of the payment authorized by subsection (a) of this section. Such payment shall consist of a fixed payment in an amount to be determined according to criteria established by the head of the lead agency, except that such payment shall not be less than \$1,000 nor more than \$40,000, as adjusted by regulation, in accordance with section 4633 (d) of this title. A person whose sole business at the displacement dwelling is the rental of such property to others shall not qualify for a payment under this subsection.

(d) Certain utility relocation expenses

(1) Except as otherwise provided by Federal law—

(A) if a program or project (i) which is undertaken by a displacing agency, and (ii) the purpose of which is not to relocate or reconstruct any utility facility, results in the relocation of a utility facility;

(B) if the owner of the utility facility which is being relocated under such program or project has entered into, with the State or local government on whose property, easement, or right-of-way such facility is located, a franchise or similar agreement with respect to the use of such property, easement, or right-of-way; and

(C) if the relocation of such facility results in such owner incurring an extraordinary cost in connection with such relocation;

the displacing agency may, in accordance with such regulations as the head of the lead agency may issue, provide to such owner a relocation payment which may not exceed the amount of such extraordinary cost (less any increase in the value of the new utility facility above the value of the old utility facility and less any salvage value derived from the old utility facility).

(2) For purposes of this subsection, the term—

(A) "extraordinary cost in connection with a relocation" means any cost incurred by the owner of a utility facility in connection with relocation of such facility which is determined by the head of the displacing agency, under such regulations as the head of the lead agency shall issue—

(i) to be a non-routine relocation expense;

(ii) to be a cost such owner ordinarily does not include in its annual budget as an expense of operation; and

(iii) to meet such other requirements as the lead agency may prescribe in such regulations; and

(B) "utility facility" means—

(i) any electric, gas, water, steam power, or materials transmission or distribution system;

(ii) any transportation system;

(iii) any communications system (including cable television); and

(iv) any fixtures, equipment, or other property associated with the operation, maintenance, or repair of any such system;

located on property which is owned by a State or local government or over which a State or local government has an easement or right-of-way. A utility facility may be publicly, privately, or cooperatively owned.

(Pub. L. 91-646, title II, §202, Jan. 2, 1971, 84 Stat. 1895; Pub. L. 100-17, title IV, §405, Apr. 2, 1987, 101 Stat. 249; Pub. L. 112-141, div. A, title I, §1521(a), July 6, 2012, 126 Stat. 577.)

AMENDMENTS

2012—Subsec. (a)(4). Pub. L. 112-141, §1521(a)(1), substituted "\$25,000, as adjusted by regulation, in accordance with section 4633(d) of this title" for "\$10,000".

Subsec. (c). Pub. L. 112-141, §1521(a)(2), substituted "\$40,000, as adjusted by regulation, in accordance with section 4633(d) of this title" for "\$20,000" in second sentence.

1987—Subsec. (a). Pub. L. 100-17, §405(a)(1), inserted introductory provisions and struck out former introductory provisions which read as follows: "Whenever the acquisition of real property for a program or project undertaken by a Federal agency in any State will result in the displacement of any person on or after January 2, 1971, the head of such agency shall make a payment to any displaced person, upon proper application as approved by such agency head, for—".

Subsec. (a)(4). Pub. L. 100-17, §405(a)(2)-(4), added par. (4).

Subsec. (b). Pub. L. 100–17, §405(b), substituted "an expense and dislocation allowance, which shall be determined according to a schedule established by the head of the lead agency" for "a moving expense allowance, determined according to a schedule established by the head of the Federal agency, not to exceed \$300; and a dislocation allowance of \$200".

Subsec. (c). Pub. L. 100–17, §405(c), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: "Any displaced person eligible for payments under subsection (a) of this section who is displaced from his place of business or from his farm operation and who elects to accept the payment authorized by this subsection in lieu of the payment authorized by subsection (a) of this section, may receive a fixed payment in an amount equal to the average annual net earnings of the business or farm operation, except that such payment shall be not less than \$2,500 nor more than \$10,000. In the case of a business no payment shall be made under this subsection unless the head of the Federal agency is satisfied that the business (1) cannot be relocated without a substantial loss of its existing patronage, and (2) is not a part of a commercial enterprise having at least one other establishment not being acquired by the United States, which is engaged in the same or similar business. For purposes of this subsection, the term 'average annual net earnings' means one-half of any net earnings of the business or farm operation, before Federal, State, and local income taxes, during the two taxable years immediately preceding the taxable year in which such business or farm operation moves from the real property acquired for such project, or during such other period as the head of such agency determines to be more equitable for establishing such earnings, and includes any compensation paid by the business or farm operation to the owner, his spouse, or his dependents during such period."

Subsec. (d). Pub. L. 100–17, §405(d), added subsec. (d).

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective 2 years after the date of enactment of Pub. L. 112–141, see section 1521(g) of Pub. L. 112–141, set out as a note under section 308 of Title 23, Highways.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–17 effective on effective date provided in regulations promulgated under section 4633 of this title (as amended by section 412 of Pub. L. 100–17), but not later than 2 years after Apr. 2, 1987, see section 418 of Pub. L. 100–17, set out as a note under section 4601 of this title.

§4623. Replacement housing for homeowner; mortgage insurance

(a)(1) In addition to payments otherwise authorized by this subchapter, the head of the displacing agency shall make an additional payment not in excess of \$31,000, as adjusted by regulation, in accordance with 4633(d) ¹ of this title, to any displaced person who is displaced from a dwelling actually owned and occupied by such displaced person for not less than 90 days before the initiation of negotiations for the acquisition of the property. Such additional payment shall include the following elements:

(A) The amount, if any, which when added to the acquisition cost of the dwelling acquired by the displacing agency, equals the reasonable cost of a comparable replacement dwelling.

(B) The amount, if any, which will compensate such displaced person for any increased interest costs and other debt service costs which such person is required to pay for financing the acquisition of any such comparable replacement dwelling. Such amount shall be paid only if the dwelling acquired by the displacing agency was encumbered by a bona fide mortgage which was a valid lien on such dwelling for not less than 180 days immediately prior to the initiation of negotiations for the acquisition of such dwelling.

(C) Reasonable expenses incurred by such displaced person for evidence of title, recording fees, and other closing costs incident to the purchase of the replacement dwelling, but not including prepaid expenses.

(2) The additional payment authorized by this section shall be made only to a displaced person who purchases and occupies a decent, safe, and sanitary replacement dwelling within 1 year after the date on which such person receives final payment from the displacing agency for the acquired dwelling or the date on which the displacing agency's obligation under section 4625(c)(3) of this title is met, whichever is later,

except that the displacing agency may extend such period for good cause. If such period is extended, the payment under this section shall be based on the costs of relocating the person to a comparable replacement dwelling within 1 year of such date.

(b) The head of any Federal agency may, upon application by a mortgagee, insure any mortgage (including advances during construction) on a comparable replacement dwelling executed by a displaced person assisted under this section, which mortgage is eligible for insurance under any Federal law administered by such agency notwithstanding any requirements under such law relating to age, physical condition, or other personal characteristics of eligible mortgagors, and may make commitments for the insurance of such mortgage prior to the date of execution of the mortgage.

(Pub. L. 91–646, title II, §203, Jan. 2, 1971, 84 Stat. 1896; Pub. L. 100–17, title IV, §406, Apr. 2, 1987, 101 Stat. 251; Pub. L. 112–141, div. A, title I, §1521(b), July 6, 2012, 126 Stat. 578.)

AMENDMENTS

2012—Subsec. (a)(1). Pub. L. 112–141, in first sentence, substituted "\$31,000, as adjusted by regulation, in accordance with 4633(d) of this title," for "\$22,500" and "90 days before" for "one hundred and eighty days prior to".

1987—Subsec. (a)(1). Pub. L. 100–17, §406(1)–(3), substituted "displacing agency" for "Federal agency" and "\$22,500" for "\$15,000" in introductory provisions, and in subpar. (A) "acquired by the displacing agency, equals the reasonable cost of a comparable replacement dwelling" for "acquired by the Federal agency, equals the reasonable cost of a comparable replacement dwelling which is a decent, safe, and sanitary dwelling adequate to accommodate such displaced person, reasonably accessible to public services and places of employment and available on the private market. All determinations required to carry out this subparagraph shall be made in accordance with standards established by the head of the Federal agency making the additional payment".

Subsec. (a)(1)(B). Pub. L. 100–17, §406(4), added subpar. (B) and struck out former subpar. (B) which read as follows: "The amount, if any, which will compensate such displaced person for any increased interest costs which such person is required to pay for financing the acquisition of any such comparable replacement dwelling. Such amount shall be paid only if the dwelling acquired by the Federal agency was encumbered by a bona fide mortgage which was a valid lien on such dwelling for not less than one hundred and eighty days prior to the initiation of negotiations for the acquisition of such dwelling. Such amount shall be equal to the excess in the aggregate interest and other debt service costs of that amount of the principal of the mortgage on the replacement dwelling which is equal to the unpaid balance of the mortgage on the acquired dwelling, over the remainder term of the mortgage on the acquired dwelling, reduced to discounted present value. The discount rate shall be the prevailing interest rate paid on savings deposits by commercial banks in the general area in which the replacement dwelling is located."

Subsec. (a)(2). Pub. L. 100–17, §406(5), added par. (2) and struck out former par. (2) which read as follows: "The additional payment authorized by this subsection shall be made only to such a displaced person who purchases and occupies a replacement dwelling which is decent, safe, and sanitary not later than the end of the one year period beginning on the date on which he receives from the Federal agency final payment of all costs of the acquired dwelling, or on the date on which he moves from the acquired dwelling, whichever is the later date."

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective 2 years after the date of enactment of Pub. L. 112–141, see section 1521(g) of Pub. L. 112–141, set out as a note under section 308 of Title 23, Highways.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–17 effective on effective date provided in regulations promulgated under section 4633 of this title (as amended by section 412 of Pub. L. 100–17), but not later than 2 years after Apr. 2, 1987, see section 418 of Pub. L. 100–17, set out as a note under section 4601 of this title.

¹ *So in original. Probably should be preceded by "section".*

§4624. Replacement housing for tenants and certain others

(a) In addition to amounts otherwise authorized by this subchapter, the head of a displacing agency shall make a payment to or for any displaced person displaced from any dwelling not eligible to receive a payment under section 4623 of this title which dwelling was actually and lawfully occupied by such displaced person for not less than 90 days immediately prior to (1) the initiation of negotiations for acquisition of such dwelling, or (2) in any case in which displacement is not a direct result of acquisition, such other event as the head of the lead agency shall prescribe. Such payment shall consist of the amount necessary to enable such person to lease or rent for a period not to exceed 42 months, a comparable replacement dwelling, but not to exceed \$7,200, as adjusted by regulation, in accordance with section 4633(d) of this title. At the discretion of the head of the displacing agency, a payment under this subsection may be made in periodic installments. Computation of a payment under this subsection to a low-income displaced person for a comparable replacement dwelling shall take into account such person's income.

(b) Any person eligible for a payment under subsection (a) of this section may elect to apply such payment to a down payment on, and other incidental expenses pursuant to, the purchase of a decent, safe, and sanitary replacement dwelling. Any such person may, at the discretion of the head of the displacing agency, be eligible under this subsection for the maximum payment allowed under subsection (a).

(Pub. L. 91-646, title II, §204, Jan. 2, 1971, 84 Stat. 1897; Pub. L. 100-17, title IV, §407, Apr. 2, 1987, 101 Stat. 251; Pub. L. 112-141, div. A, title I, §1521(c), July 6, 2012, 126 Stat. 578.)

AMENDMENTS

2012—Subsec. (a). Pub. L. 112-141, §1521(c)(1), in second sentence, substituted "\$7,200, as adjusted by regulation, in accordance with section 4633(d) of this title" for "\$5,250".

Subsec. (b). Pub. L. 112-141, §1521(c)(2), substituted period at end of second sentence for ", except that, in the case of a displaced homeowner who has owned and occupied the displacement dwelling for at least 90 days but not more than 180 days immediately prior to the initiation of negotiations for the acquisition of such dwelling, such payment shall not exceed the payment such person would otherwise have received under section 4623(a) of this title had the person owned and occupied the displacement dwelling 180 days immediately prior to the initiation of such negotiations."

1987—Pub. L. 100-17 amended section generally, revising and restating as subsecs. (a) and (b) provisions formerly contained in introductory provisions and in pars. (1) and (2).

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112-141 effective 2 years after the date of enactment of Pub. L. 112-141, see section 1521(g) of Pub. L. 112-141, set out as a note under section 308 of Title 23, Highways.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-17 effective on effective date provided in regulations promulgated under section 4633 of this title (as amended by section 412 of Pub. L. 100-17), but not later than 2 years after Apr. 2, 1987, see section 418 of Pub. L. 100-17, set out as a note under section 4601 of this title.

§4625. Relocation planning, assistance coordination, and advisory services

(a) Planning of programs or projects undertaken by Federal agencies or with Federal financial assistance

Programs or projects undertaken by a Federal agency or with Federal financial assistance shall be planned in a manner that (1) recognizes, at an early stage in the planning of such programs or projects and before the commencement of any actions which will cause displacements, the problems associated with the displacement of individuals, families, businesses, and farm operations, and (2) provides for the resolution of

such problems in order to minimize adverse impacts on displaced persons and to expedite program or project advancement and completion.

(b) Availability of advisory services

The head of any displacing agency shall ensure that the relocation assistance advisory services described in subsection (c) of this section are made available to all persons displaced by such agency. If such agency head determines that any person occupying property immediately adjacent to the property where the displacing activity occurs is caused substantial economic injury as a result thereof, the agency head may make available to such person such advisory services.

(c) Measures, facilities, or services; description

Each relocation assistance advisory program required by subsection (b) of this section shall include such measures, facilities, or services as may be necessary or appropriate in order to—

- (1) determine, and make timely recommendations on, the needs and preferences, if any, of displaced persons for relocation assistance;
- (2) provide current and continuing information on the availability, sales prices, and rental charges of comparable replacement dwellings for displaced homeowners and tenants and suitable locations for businesses and farm operations;
- (3) assure that a person shall not be required to move from a dwelling unless the person has had a reasonable opportunity to relocate to a comparable replacement dwelling, except in the case of—
 - (A) a major disaster as defined in section 5122(2) of this title;
 - (B) a national emergency declared by the President; or
 - (C) any other emergency which requires the person to move immediately from the dwelling because continued occupancy of such dwelling by such person constitutes a substantial danger to the health or safety of such person;
- (4) assist a person displaced from a business or farm operation in obtaining and becoming established in a suitable replacement location;
- (5) supply (A) information concerning other Federal and State programs which may be of assistance to displaced persons, and (B) technical assistance to such persons in applying for assistance under such programs; and
- (6) provide other advisory services to displaced persons in order to minimize hardships to such persons in adjusting to relocation.

(d) Coordination of relocation activities with other Federal, State, or local governmental actions

The head of a displacing agency shall coordinate the relocation activities performed by such agency with other Federal, State, or local governmental actions in the community which could affect the efficient and effective delivery of relocation assistance and related services.

(e) Selection of implementation procedures

Whenever two or more Federal agencies provide financial assistance to a displacing agency other than a Federal agency, to implement functionally or geographically related activities which will result in the displacement of a person, the heads of such Federal agencies may agree that the procedures of one of such agencies shall be utilized to implement this subchapter with respect to such activities. If such agreement cannot be reached, then the head of the lead agency shall designate one of such agencies as the agency whose procedures shall be utilized to implement this subchapter with respect to such activities. Such related activities shall constitute a single program or project for purposes of this chapter.

(f) Tenants occupying property acquired for programs or projects; eligibility for advisory services

Notwithstanding section 4601(1) of this title, in any case in which a displacing agency acquires property for a program or project, any person who occupies such property on a rental basis for a short term or a period subject to termination when the property is needed for the program or project shall be eligible for advisory services to the extent determined by the displacing agency.

(Pub. L. 91–646, title II, §205, Jan. 2, 1971, 84 Stat. 1897; Pub. L. 100–17, title IV, §408, Apr. 2, 1987, 101 Stat. 252.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (e), was in the original "this Act", meaning Pub. L. 91–646, Jan. 2, 1971, 84 Stat. 1894, known as the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4601 of this title

and Tables.

AMENDMENTS

1987—Pub. L. 100–17, substituted "Relocation planning, assistance coordination, and advisory services" for "Relocation assistance advisory services" in catchline and amended text generally, revising and restating as subsecs. (a) to (f) provisions formerly contained in subsecs. (a) to (d).

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–17 effective on effective date provided in regulations promulgated under section 4633 of this title (as amended by section 412 of Pub. L. 100–17), but not later than 2 years after Apr. 2, 1987, see section 418 of Pub. L. 100–17, set out as a note under section 4601 of this title.

§4626. Housing replacement by Federal agency as last resort

(a) If a program or project undertaken by a Federal agency or with Federal financial assistance cannot proceed on a timely basis because comparable replacement dwellings are not available, and the head of the displacing agency determines that such dwellings cannot otherwise be made available, the head of the displacing agency may take such action as is necessary or appropriate to provide such dwellings by use of funds authorized for such project. The head of the displacing agency may use this section to exceed the maximum amounts which may be paid under sections 4623 and 4624 of this title on a case-by-case basis for good cause as determined in accordance with such regulations as the head of the lead agency shall issue.

(b) No person shall be required to move from his dwelling on account of any program or project undertaken by a Federal agency or with Federal financial assistance, unless the head of the displacing agency is satisfied that comparable replacement housing is available to such person.

(Pub. L. 91–646, title II, §206, Jan. 2, 1971, 84 Stat. 1898; Pub. L. 100–17, title IV, §409, Apr. 2, 1987, 101 Stat. 253.)

AMENDMENTS

1987—Subsec. (a). Pub. L. 100–17 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: "If a Federal project cannot proceed to actual construction because comparable replacement sale or rental housing is not available, and the head of the Federal agency determines that such housing cannot otherwise be made available he may take such action as is necessary or appropriate to provide such housing by use of funds authorized for such project."

Subsec. (b). Pub. L. 100–17 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: "No person shall be required to move from his dwelling on or after January 2, 1971, on account of any Federal project, unless the Federal agency head is satisfied that replacement housing, in accordance with section 4625(c)(3) of this title, is available to such person."

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–17 effective on effective date provided in regulations promulgated under section 4633 of this title (as amended by section 412 of Pub. L. 100–17), but not later than 2 years after Apr. 2, 1987, see section 418 of Pub. L. 100–17, set out as a note under section 4601 of this title.

§4627. State required to furnish real property incident to Federal assistance (local cooperation)

Whenever real property is acquired by a State agency and furnished as a required contribution incident to a Federal program or project, the Federal agency having authority over the program or project may not

accept such property unless such State agency has made all payments and provided all assistance and assurances, as are required of a State agency by sections 4630 and 4655 of this title. Such State agency shall pay the cost of such requirements in the same manner and to the same extent as the real property acquired for such project, except that in the case of any real property acquisition or displacement occurring prior to July 1, 1972, such Federal agency shall pay 100 per centum of the first \$25,000 of the cost of providing such payments and assistance.

(Pub. L. 91-646, title II, §207, Jan. 2, 1971, 84 Stat. 1898.)

§4628. State acting as agent for Federal program

Whenever real property is acquired by a State agency at the request of a Federal agency for a Federal program or project, such acquisition shall, for the purposes of this chapter, be deemed an acquisition by the Federal agency having authority over such program or project.

(Pub. L. 91-646, title II, §208, Jan. 2, 1971, 84 Stat. 1899.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning [Pub. L. 91-646, Jan. 2, 1971, 84 Stat. 1894](#), known as the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4601 of this title and Tables.

§4629. Public works programs and projects of District of Columbia government and Washington Metropolitan Area Transit Authority

Whenever real property is acquired by the government of the District of Columbia or the Washington Metropolitan Area Transit Authority for a program or project which is not subject to sections 4630 and 4631 of this title, and such acquisition will result in the displacement of any person on or after January 2, 1971, the Mayor of the District of Columbia or the Washington Metropolitan Area Transit Authority, as the case may be, shall make all relocation payments and provide all assistance required of a Federal agency by this chapter. Whenever real property is acquired for such a program or project on or after such effective date, such Mayor or Authority, as the case may be, shall make all payments and meet all requirements prescribed for a Federal agency by subchapter III of this chapter.

(Pub. L. 91-646, title II, §209, Jan. 2, 1971, 84 Stat. 1899; Pub. L. 93-198, title IV, §421, Dec. 24, 1973, 87 Stat. 789.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning [Pub. L. 91-646, Jan. 2, 1971, 84 Stat. 1894](#), known as the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4601 of this title and Tables.

Subchapter III of this chapter, referred to in text, was in the original "title III of this Act", meaning title III of [Pub. L. 91-646, Jan. 2, 1971, 84 Stat. 1904](#), which enacted subchapter III of this chapter, repealed sections 3071 to 3073 of this title, section 141 of Title 23, Highways, and section 596 of Title 33, Navigation and Navigable Waters, and enacted provisions set out as a note under section 4651 of this title. For complete classification of title III to the Code, see Tables.

TRANSFER OF FUNCTIONS

"Mayor" substituted for "Commissioner" pursuant to section 421 of [Pub. L. 93-198, title IV, Dec. 24, 1973, 87 Stat. 789](#). Office of Commissioner of District of Columbia, as established by Reorg. Plan No. 3 of 1967, abolished as of noon Jan. 2, 1975, by [Pub. L. 93-198, title VII, §711, Dec. 24, 1973, 87 Stat. 818](#), and replaced by Office of Mayor of District of Columbia by section 421 of [Pub. L. 93-198](#).

§4630. Requirements for relocation payments and assistance of federally assisted program; assurances of availability of housing

Notwithstanding any other law, the head of a Federal agency shall not approve any grant to, or contract or agreement with, a displacing agency (other than a Federal agency), under which Federal financial assistance will be available to pay all or part of the cost of any program or project which will result in the displacement of any person on or after January 2, 1971, unless he receives satisfactory assurances from such displacing agency that—

- (1) fair and reasonable relocation payments and assistance shall be provided to or for displaced persons, as are required to be provided by a Federal agency under sections 4622, 4623, and 4624 of this title;
- (2) relocation assistance programs offering the services described in section 4625 of this title shall be provided to such displaced persons;
- (3) within a reasonable period of time prior to displacement, comparable replacement dwellings will be available to displaced persons in accordance with section 4625(c)(3) of this title.

(Pub. L. 91–646, title II, §210, Jan. 2, 1971, 84 Stat. 1899; Pub. L. 100–17, title IV, §410, Apr. 2, 1987, 101 Stat. 254.)

AMENDMENTS

1987—Pub. L. 100–17 in introductory provisions substituted "displacing agency (other than a Federal agency)" for "State agency" and "assurances from such displacing agency" for "assurances from such State agency", and in par. (3) substituted "comparable replacement dwellings" for "decent, safe, and sanitary replacement dwellings".

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–17 effective on effective date provided in regulations promulgated under section 4633 of this title (as amended by section 412 of Pub. L. 100–17), but not later than 2 years after Apr. 2, 1987, see section 418 of Pub. L. 100–17, set out as a note under section 4601 of this title.

EFFECTIVE DATE

Section as completely applicable to all States after July 1, 1972, but until such date applicable to a State to extent the State is able under its laws to comply with this section, see section 221 (b) of Pub. L. 91–646, set out as a note under section 4601 of this title.

§4631. Federal share of costs

(a) Cost to displacing agency; eligibility

The cost to a displacing agency of providing payments and assistance under this subchapter and subchapter III of this chapter shall be included as part of the cost of a program or project undertaken by a Federal agency or with Federal financial assistance. A displacing agency, other than a Federal agency, shall be eligible for Federal financial assistance with respect to such payments and assistance in the same manner and to the same extent as other program or project costs.

(b) Comparable payments under other laws

No payment or assistance under this subchapter or subchapter III of this chapter shall be required to be made to any person or included as a program or project cost under this section, if such person receives a payment required by Federal, State, or local law which is determined by the head of the Federal agency to have substantially the same purpose and effect as such payment under this section.

(c) Agreements prior to January 2, 1971; advancements

Any grant to, or contract or agreement with, a State agency executed before January 2, 1971, under which Federal financial assistance is available to pay all or part of the cost of any program or project which will result in the displacement of any person on or after January 2, 1971, shall be amended to include the cost of providing payments and services under sections 4630 and 4655 of this title. If the head of a Federal

agency determines that it is necessary for the expeditious completion of a program or project he may advance to the State agency the Federal share of the cost of any payments or assistance by such State agency pursuant to sections 4626, 4630, 4635, and 4655 of this title.

(Pub. L. 91–646, title II, §211, Jan. 2, 1971, 84 Stat. 1900; Pub. L. 100–17, title IV, §411, Apr. 2, 1987, 101 Stat. 254.)

REFERENCES IN TEXT

Subchapter III of this chapter, referred to in subsecs. (a) and (b), was in the original "title III of this Act", meaning title III of Pub. L. 91–646, Jan. 2, 1971, 84 Stat. 1904, which is classified principally to subchapter III of this chapter. For complete classification of title III to the Code, see Tables.

AMENDMENTS

1987—Subsec. (a). Pub. L. 100–17, §411(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: "The cost to a State agency of providing payments and assistance pursuant to sections 4626, 4630, 4635, and 4655 of this title, shall be included as part of the cost of a program or project for which Federal financial assistance is available to such State agency, and such State agency shall be eligible for Federal financial assistance with respect to such payments and assistance in the same manner and to the same extent as other program or project costs, except that, notwithstanding any other law in the case where the Federal financial assistance is by grant or contribution the Federal agency shall pay the full amount of the first \$25,000 of the cost to a State agency of providing payments and assistance for a displaced person under sections 4626, 4630, 4635, and 4655 of this title, on account of any acquisition or displacement occurring prior to July 1, 1972, and in any case where such Federal financial assistance is by loan, the Federal agency shall loan such State agency the full amount of the first \$25,000 of such cost."

Subsec. (b). Pub. L. 100–17, §411(b), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: "No payment or assistance under section 4630 or 4655 of this title shall be required or included as a program or project cost under this section, if the displaced person receives a payment required by the State law of eminent domain which is determined by such Federal agency head to have substantially the same purpose and effect as such payment under this section, and to be part of the cost of the program or project for which Federal financial assistance is available."

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–17 effective on effective date provided in regulations promulgated under section 4633 of this title (as amended by section 412 of Pub. L. 100–17), but not later than 2 years after Apr. 2, 1987, see section 418 of Pub. L. 100–17, set out as a note under section 4601 of this title.

§4632. Administration; relocation assistance in programs receiving Federal financial assistance

In order to prevent unnecessary expenses and duplications of functions, and to promote uniform and effective administration of relocation assistance programs for displaced persons under sections 4626, 4630, and 4635 of this title, a State agency may enter into contracts with any individual, firm, association, or corporation for services in connection with such programs, or may carry out its functions under this subchapter through any Federal or State governmental agency or instrumentality having an established organization for conducting relocation assistance programs. Such State agency shall, in carrying out the relocation assistance activities described in section 4626 of this title, whenever practicable, utilize the services of State or local housing agencies, or other agencies having experience in the administration or conduct of similar housing assistance activities.

(Pub. L. 91–646, title II, §212, Jan. 2, 1971, 84 Stat. 1900.)

§4633. Duties of lead agency

(a) General provisions

The head of the lead agency shall—

(1) develop, publish, and issue, with the active participation of the Secretary of Housing and Urban Development and the heads of other Federal agencies responsible for funding relocation and acquisition actions, and in coordination with State and local governments, such regulations as may be necessary to carry out this chapter;

(2) provide, in consultation with the Attorney General (acting through the Commissioner of the Immigration and Naturalization Service), through training and technical assistance activities for displacing agencies, information developed with the Attorney General (acting through the Commissioner) on proper implementation of section 4605 of this title;

(3) ensure that displacing agencies implement section 4605 of this title fairly and without discrimination in accordance with section 4605(b)(2)(B) of this title;

(4) ensure that relocation assistance activities under this chapter are coordinated with low-income housing assistance programs or projects by a Federal agency or a State or State agency with Federal financial assistance;

(5) monitor, in coordination with other Federal agencies, the implementation and enforcement of this chapter and report to the Congress, as appropriate, on any major issues or problems with respect to any policy or other provision of this chapter; and

(6) perform such other duties as may be necessary to carry out this chapter.

(b) Regulations and procedures

The head of the lead agency is authorized to issue such regulations and establish such procedures as he may determine to be necessary to assure—

(1) that the payments and assistance authorized by this chapter shall be administered in a manner which is fair and reasonable and as uniform as practicable;

(2) that a displaced person who makes proper application for a payment authorized for such person by this subchapter shall be paid promptly after a move or, in hardship cases, be paid in advance;

(3) that any aggrieved person may have his application reviewed by the head of the Federal agency having authority over the applicable program or project or, in the case of a program or project receiving Federal financial assistance, by the State agency having authority over such program or project or the Federal agency having authority over such program or project if there is no such State agency; and

(4) that each Federal agency that has programs or projects requiring the acquisition of real property or causing a displacement from real property subject to the provisions of this chapter shall provide to the lead agency an annual summary report the ¹ describes the activities conducted by the Federal agency.

(c) Applicability to Tennessee Valley Authority and Rural Electrification Administration

The regulations and procedures issued pursuant to this section shall apply to the Tennessee Valley Authority and the Rural Electrification Administration only with respect to relocation assistance under this subchapter and subchapter I.

(d) Adjustment of payments

The head of the lead agency may adjust, by regulation, the amounts of relocation payments provided under sections 4622(a)(4), 4622(c), 4623(a), and 4624(a) of this title if the head of the lead agency determines that cost of living, inflation, or other factors indicate that the payments should be adjusted to meet the policy objectives of this chapter.

(Pub. L. 91–646, title II, §213, Jan. 2, 1971, 84 Stat. 1900; Pub. L. 100–17, title IV, §412, Apr. 2, 1987, 101 Stat. 254; Pub. L. 102–240, title I, §1055, Dec. 18, 1991, 105 Stat. 2002; Pub. L. 105–117, §2, Nov. 21, 1997, 111 Stat. 2385; Pub. L. 112–141, div. A, title I, §1521(d), July 6, 2012, 126 Stat. 578.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(1), (4) to (6), (b)(1), (4), and (d), was in the original "this Act", meaning Pub. L. 91–646, Jan. 2, 1971, 84 Stat. 1894, known as the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4601 of this title and Tables.

AMENDMENTS

2012—Subsec. (b)(4). Pub. L. 112–141, §1521(d)(1), added par. (4).

Subsec. (d). Pub. L. 112–141, §1521(d)(2), added subsec. (d).

1997—Subsec. (a)(2) to (6). Pub. L. 105–117 added pars. (2) and (3) and redesignated former pars. (2) to (4) as (4) to (6), respectively.

1991—Subsec. (c). Pub. L. 102–240 inserted "and the Rural Electrification Administration" after "Tennessee Valley Authority".

1987—Pub. L. 100–17 in amending section generally, substituted "Duties of lead agency" for "Regulations and procedures" in section catchline.

Subsec. (a). Pub. L. 100–17 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: "In order to promote uniform and effective administration of relocation assistance and land acquisition of State or local housing agencies, or other agencies having programs or projects by Federal agencies or programs or projects by State agencies receiving Federal financial assistance, the heads of Federal agencies shall consult together on the establishment of regulations and procedures for the implementation of such programs."

Subsec. (b). Pub. L. 100–17 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: "The head of each Federal agency is authorized to establish such regulations and procedures as he may determine to be necessary to assure—

"(1) that the payments and assistance authorized by this chapter shall be administered in a manner which is fair and reasonable, and as uniform as practicable;

"(2) that a displaced person who makes proper application for a payment authorized for such person by this subchapter shall be paid promptly after a move or, in hardship cases, be paid in advance; and

"(3) that any person aggrieved by a determination as to eligibility for a payment authorized by this chapter, or the amount of a payment, may have his application reviewed by the head of the Federal agency having authority over the applicable program or project, or in the case of a program or project receiving Federal financial assistance, by the head of the State agency."

Subsec. (c). Pub. L. 100–17 amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: "The head of each Federal agency may prescribe such other regulations and procedures, consistent with the provisions of this chapter, as he deems necessary or appropriate to carry out this chapter."

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective on the date of enactment of Pub. L. 112–141, see section 1521(g) of Pub. L. 112–141, set out as a note under section 308 of Title 23, Highways.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–240 effective Dec. 18, 1991, and applicable to funds authorized to be appropriated or made available after Sept. 30, 1991, and, with certain exceptions, not applicable to funds appropriated or made available on or before Sept. 30, 1991, see section 1100 of Pub. L. 102–240, set out as a note under section 104 of Title 23, Highways.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–17 effective Apr. 2, 1987, to the extent such amendment prescribes authority to develop, publish, and issue regulations, and otherwise to take effect on effective date provided in such regulations but not later than 2 years after Apr. 2, 1987, see section 418 of Pub. L. 100–17, set out as a note under section 4601 of this title.

ABOLITION OF IMMIGRATION AND NATURALIZATION SERVICE AND TRANSFER OF FUNCTIONS

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of Title 8, Aliens and Nationality.

IMPROVEMENT OF ADMINISTRATION AND IMPLEMENTATION OF THIS CHAPTER

Memorandum of the President dated February 27, 1985, 50 F.R. 8953, provided:

The purpose of this Memorandum is to improve administration and implementation of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 [42 U.S.C. 4601 et seq.].

Specifically, I hereby direct the following actions:

1. The Presidential Memorandum of September 6, 1973 on this subject is superseded.
2. As with other Administration management improvement initiatives, a lead agency, the Department of Transportation (DOT), is designated to coordinate and monitor implementation of the Act, and consult periodically with State and local governments and other organizations and interest groups affected by administration of the Act.
3. DOT, jointly with the Department of Housing and Urban Development, shall interact with the principal executive departments and agencies affected by the Act in developing Administration policy.
4. Within 90 days of the date of this Memorandum, all affected executive departments and agencies shall propose common regulations under the Act. Within one year of the date of this Memorandum, such departments and agencies shall issue common regulations under the Act. Such regulations shall be consistent with the model policy promulgated by DOT, in consultation and coordination with other affected agencies, and published in final form in the Federal Register simultaneously with this Memorandum.
5. DOT shall report annually to the President's Council on Management Improvement, through the Office of Management and Budget, on implementation of the Act.

¹ So in original. Probably should be "that".

§4634. Agency coordination

(a) Agency capacity

Each Federal agency responsible for funding or carrying out relocation and acquisition activities shall have adequately trained personnel and such other resources as are necessary to manage and oversee the relocation and acquisition program of the Federal agency in accordance with this chapter.

(b) Interagency agreements

Not later than 1 year after July 6, 2012, each Federal agency responsible for funding relocation and acquisition activities (other than the agency serving as the lead agency) shall enter into a memorandum of understanding with the lead agency that—

- (1) provides for periodic training of the personnel of the Federal agency, which in the case of a Federal agency that provides Federal financial assistance, may include personnel of any displacing agency that receives Federal financial assistance;
- (2) addresses ways in which the lead agency may provide assistance and coordination to the Federal agency relating to compliance with the ¹ chapter on a program or project basis; and
- (3) addresses the funding of the training, assistance, and coordination activities provided by the lead agency, in accordance with subsection (c).

(c) Interagency payments

(1) In general

For the fiscal year that begins 1 year after July 6, 2012, and each fiscal year thereafter, each Federal agency responsible for funding relocation and acquisition activities (other than the agency serving as the lead agency) shall transfer to the lead agency for the fiscal year, such funds as are necessary, but not less than \$35,000, to support the training, assistance, and coordination activities of the lead agency described in subsection (b).

(2) Included costs

The cost to a Federal agency of providing the funds described in paragraph (1) shall be included as part of the cost of 1 or more programs or projects undertaken by the Federal agency or with Federal financial assistance that result in the displacement of persons or the acquisition of real property.

(Pub. L. 91–646, title II, §214, as added Pub. L. 112–141, div. A, title I, §1521(e), July 6, 2012, 126 Stat. 578.)

REFERENCES IN TEXT

This chapter and the chapter, referred to in subsecs. (a) and (b)(2), were in the original "this Act" and "the Act", respectively, meaning Pub. L. 91–646, Jan. 2, 1971, 84 Stat. 1894, known as the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4601 of this title and Tables.

PRIOR PROVISIONS

A prior section 4634, Pub. L. 91–646, title II, §214, Jan. 2, 1971, 84 Stat. 1901, required head of each Federal agency to submit an annual report to the President respecting programs and policies established or authorized by this chapter, and the President to submit such reports to Congress, prior to repeal by Pub. L. 100–17, title IV, §§415, 418, Apr. 2, 1987, 100 Stat. 255, 256, effective on effective date provided in regulations promulgated under section 4633 of this title (as amended by section 412 of Pub. L. 100–17), but not later than 2 years after Apr. 2, 1987.

EFFECTIVE DATE

Section effective on the date of enactment of Pub. L. 112–141, see section 1521(g) of Pub. L. 112–141, set out as a note under section 308 of Title 23, Highways.

¹ So in original. Probably should be "this".

§4635. Planning and other preliminary expenses for additional housing

In order to encourage and facilitate the construction or rehabilitation of housing to meet the needs of displaced persons who are displaced from dwellings because of any Federal or Federal financially assisted project, the head of the Federal agency administering such project is authorized to make loans as a part of the cost of any such project, or to approve loans as a part of the cost of any such project receiving Federal financial assistance, to nonprofit, limited dividend, or cooperative organizations or to public bodies, for necessary and reasonable expenses, prior to construction, for planning and obtaining federally insured mortgage financing for the rehabilitation or construction of housing for such displaced persons. Notwithstanding the preceding sentence, or any other law, such loans shall be available for not to exceed 80 per centum of the reasonable costs expected to be incurred in planning, and in obtaining financing for, such housing, prior to the availability of such financing, including, but not limited to, preliminary surveys and analyses of market needs, preliminary site engineering, preliminary architectural fees, site acquisition, application and mortgage commitment fees, and construction loan fees and discounts. Loans to an organization established for profit shall bear interest at a market rate established by the head of such Federal agency. All other loans shall be without interest. Such Federal agency head shall require repayment of loans made under this section, under such terms and conditions as he may require, upon completion of the project or sooner, and except in the case of a loan to an organization established for profit, may cancel any part or all of a loan if he determines that a permanent loan to finance the rehabilitation or the construction of such housing cannot be obtained in an amount adequate for repayment of such loan. Upon repayment of any such loan, the Federal share of the sum repaid shall be credited to the account from which such loan was made, unless the Secretary of the Treasury determines that such account is no longer in existence, in which case such sum shall be returned to the Treasury and credited to miscellaneous receipts. (Pub. L. 91–646, title II, §215, Jan. 2, 1971, 84 Stat. 1901.)

§4636. Payments not to be considered as income for revenue purposes or for eligibility for assistance under Social Security Act or other Federal law

No payment received under this subchapter shall be considered as income for the purposes of title 26; or for the purposes of determining the eligibility or the extent of eligibility of any person for assistance under the Social Security Act [42 U.S.C. 301 et seq.] or any other Federal law (except for any Federal law providing low-income housing assistance).

(Pub. L. 91–646, title II, §216, Jan. 2, 1971, 84 Stat. 1902; Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 100–17, title IV, §413, Apr. 2, 1987, 101 Stat. 255.)

REFERENCES IN TEXT

The Social Security Act, referred to in text, is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended, which is classified generally to chapter 7 (§301 et seq.) of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

AMENDMENTS

1987—Pub. L. 100–17 inserted "(except for any Federal law providing low-income housing assistance)" before period at end.

1986—Pub. L. 99–514 substituted "Internal Revenue Code of 1986" for "Internal Revenue Code of 1954", which for purposes of codification was translated as "title 26" thus requiring no change in text.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–17 effective on effective date provided in regulations promulgated under section 4633 of this title (as amended by section 412 of Pub. L. 100–17), but not later than 2 years after Apr. 2, 1987, see section 418 of Pub. L. 100–17, set out as a note under section 4601 of this title.

§4637. Repealed. Pub. L. 100–17, title IV, §415, Apr. 2, 1987, 101 Stat. 255

Section, Pub. L. 91–646, title II, §217, Jan. 2, 1971, 84 Stat. 1902, related to displacement by code enforcement, rehabilitation, and demolition programs receiving Federal assistance.

EFFECTIVE DATE OF REPEAL

Repeal effective on effective date provided in regulations promulgated under section 4633 of this title (as amended by section 412 of Pub. L. 100–17), but not later than 2 years after Apr. 2, 1987, see section 418 of Pub. L. 100–17, set out as an Effective Date of 1987 Amendment note under section 4601 of this title.

§4638. Transfers of surplus property

The Administrator of General Services is authorized to transfer to a State agency for the purpose of providing replacement housing required by this subchapter, any real property surplus to the needs of the United States within the meaning of chapters 1 to 11 of title 40 and division C (except sections 3302, 3307 (e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41. Such transfer shall be subject to such terms and conditions as the Administrator determines necessary to protect the interests of the United States and may be made without monetary consideration, except that such State agency shall pay to the United States all net amounts received by such agency from any sale, lease, or other disposition of such property for such housing.

(Pub. L. 91–646, title II, §218, Jan. 2, 1971, 84 Stat. 1902; Pub. L. 100–17, title IV, §414, Apr. 2, 1987, 101 Stat. 255.)

CODIFICATION

In text, "chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41" substituted for "the Federal Property and Administrative Services Act of 1949, as amended" on authority of Pub. L. 107–217, §5(c), Aug. 21, 2002, 116 Stat. 1303, which Act enacted Title 40, Public Buildings, Property, and Works, and Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

AMENDMENTS

1987—Pub. L. 100–17 inserted "net" after "all".

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–17 effective on effective date provided in regulations promulgated under section 4633 of this title (as amended by section 412 of Pub. L. 100–17), but not later than 2 years after Apr. 2, 1987, see section 418 of Pub. L. 100–17, set out as a note under section 4601 of this title.

SUBCHAPTER III—UNIFORM REAL PROPERTY ACQUISITION POLICY

§4651. Uniform policy on real property acquisition practices

In order to encourage and expedite the acquisition of real property by agreements with owners, to avoid litigation and relieve congestion in the courts, to assure consistent treatment for owners in the many Federal programs, and to promote public confidence in Federal land acquisition practices, heads of Federal agencies shall, to the greatest extent practicable, be guided by the following policies:

(1) The head of a Federal agency shall make every reasonable effort to acquire expeditiously real property by negotiation.

(2) Real property shall be appraised before the initiation of negotiations, and the owner or his designated representative shall be given an opportunity to accompany the appraiser during his inspection of the property, except that the head of the lead agency may prescribe a procedure to waive the appraisal in cases involving the acquisition by sale or donation of property with a low fair market value.

(3) Before the initiation of negotiations for real property, the head of the Federal agency concerned shall establish an amount which he believes to be just compensation therefor and shall make a prompt offer to acquire the property for the full amount so established. In no event shall such amount be less than the agency's approved appraisal of the fair market value of such property. Any decrease or increase in the fair market value of real property prior to the date of valuation caused by the public improvement for which such property is acquired, or by the likelihood that the property would be acquired for such improvement, other than that due to physical deterioration within the reasonable control of the owner, will be disregarded in determining the compensation for the property. The head of the Federal agency concerned shall provide the owner of real property to be acquired with a written statement of, and summary of the basis for, the amount he established as just compensation. Where appropriate the just compensation for the real property acquired and for damages to remaining real property shall be separately stated.

(4) No owner shall be required to surrender possession of real property before the head of the Federal agency concerned pays the agreed purchase price, or deposits with the court in accordance with section 3114(a) to (d) of title 40, for the benefit of the owner, an amount not less than the agency's approved appraisal of the fair market value of such property, or the amount of the award of compensation in the condemnation proceeding for such property.

(5) The construction or development of a public improvement shall be so scheduled that, to the greatest extent practicable, no person lawfully occupying real property shall be required to move from a dwelling (assuming a replacement dwelling as required by subchapter II will be available), or to move his business or farm operation, without at least ninety days' written notice from the head of the Federal agency concerned, of the date by which such move is required.

(6) If the head of a Federal agency permits an owner or tenant to occupy the real property acquired on a rental basis for a short term or for a period subject to termination by the Government on short notice, the

amount of rent required shall not exceed the fair rental value of the property to a short-term occupier.

(7) In no event shall the head of a Federal agency either advance the time of condemnation, or defer negotiations or condemnation and the deposit of funds in court for the use of the owner, or take any other action coercive in nature, in order to compel an agreement on the price to be paid for the property.

(8) If any interest in real property is to be acquired by exercise of the power of eminent domain, the head of the Federal agency concerned shall institute formal condemnation proceedings. No Federal agency head shall intentionally make it necessary for an owner to institute legal proceedings to prove the fact of the taking of his real property.

(9) If the acquisition of only a portion of a property would leave the owner with an uneconomic remnant, the head of the Federal agency concerned shall offer to acquire that remnant. For the purposes of this chapter, an uneconomic remnant is a parcel of real property in which the owner is left with an interest after the partial acquisition of the owner's property and which the head of the Federal agency concerned has determined has little or no value or utility to the owner.

(10) A person whose real property is being acquired in accordance with this subchapter may, after the person has been fully informed of his right to receive just compensation for such property, donate such property, and part thereof, any interest therein, or any compensation paid therefor to a Federal agency, as such person shall determine.

(Pub. L. 91–646, title III, §301, Jan. 2, 1971, 84 Stat. 1904; Pub. L. 100–17, title IV, §416, Apr. 2, 1987, 101 Stat. 255.)

REFERENCES IN TEXT

Subchapter II, referred to in par. (5), was in the original "title II", meaning title II of Pub. L. 91–646, Jan. 2, 1971, 84 Stat. 1895, which is classified principally to subchapter II of this chapter. For complete classification of title II to the Code, see Short Title note set out under section 4601 of this title and Tables.

This chapter, referred to in par. (9), was in the original "this Act", meaning Pub. L. 91–646, Jan. 2, 1971, 84 Stat. 1894, known as the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4601 of this title and Tables.

This subchapter, referred to in par. (10), was in the original "this title", meaning title III of Pub. L. 91–646, Jan. 2, 1971, 84 Stat. 1904, which is classified principally to this subchapter. For complete classification of title III to the Code, see Tables.

CODIFICATION

In par. (4), "section 3114(a) to (d) of title 40" substituted for "section 1 of the Act of February 26, 1931 (46 Stat. 1421; 40 U.S.C. 258a)" on authority of Pub. L. 107–217, §5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

AMENDMENTS

1987—Par. (2). Pub. L. 100–17, §416(a), inserted provision respecting the waiver of appraisal in cases involving the acquisition of property with a low fair market value.

Par. (9). Pub. L. 100–17, §416(b), amended par. (9) generally. Prior to amendment, par. (9) read as follows: "If the acquisition of only part of a property would leave its owner with an uneconomic remnant, the head of the Federal agency concerned shall offer to acquire the entire property."

Par. (10). Pub. L. 100–17, §416(c), added par. (10).

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–17 effective on effective date provided in regulations promulgated under section 4633 of this title (as amended by section 412 of Pub. L. 100–17), but not later than 2 years after Apr. 2, 1987, see section 418 of Pub. L. 100–17, set out as a note under section 4601 of this title.

SAVINGS PROVISION

Pub. L. 91–646, title III, §306, Jan. 2, 1971, 84 Stat. 1907, provided in part that: "Any rights or liabilities now existing under prior Acts or portions thereof shall not be affected by the repeal of such prior Act or portions thereof under this section [repealing sections 3071 to 3073 of this title, section 141 of Title 23, Highways, and section 596 of Title 33, Navigation and Navigable Waters]."

§4652. Buildings, structures, and improvements

(a) Notwithstanding any other provision of law, if the head of a Federal agency acquires any interest in real property in any State, he shall acquire at least an equal interest in all buildings, structures, or other improvements located upon the real property so acquired and which he requires to be removed from such real property or which he determines will be adversely affected by the use to which such real property will be put.

(b)(1) For the purpose of determining the just compensation to be paid for any building, structure, or other improvement required to be acquired by subsection (a) of this section, such building, structure, or other improvement shall be deemed to be a part of the real property to be acquired notwithstanding the right or obligation of a tenant, as against the owner of any other interest in the real property, to remove such building, structure, or improvement at the expiration of his term, and the fair market value which such building, structure, or improvement contributes to the fair market value of the real property to be acquired, or the fair market value of such building, structure, or improvement for removal from the real property, whichever is the greater, shall be paid to the tenant therefor.

(2) Payment under this subsection shall not result in duplication of any payments otherwise authorized by law. No such payment shall be made unless the owner of the land involved disclaims all interest in the improvements of the tenant. In consideration for any such payment, the tenant shall assign, transfer, and release to the United States all his right, title, and interest in and to such improvements. Nothing in this subsection shall be construed to deprive the tenant of any rights to reject payment under this subsection and to obtain payment for such property interests in accordance with applicable law, other than this subsection.

(Pub. L. 91–646, title III, §302, Jan. 2, 1971, 84 Stat. 1905.)

§4653. Expenses incidental to transfer of title to United States

The head of a Federal agency, as soon as practicable after the date of payment of the purchase price or the date of deposit in court of funds to satisfy the award of compensation in a condemnation proceeding to acquire real property, whichever is the earlier, shall reimburse the owner, to the extent the head of such agency deems fair and reasonable, for expenses he necessarily incurred for—

- (1) recording fees, transfer taxes, and similar expenses incidental to conveying such real property to the United States;
- (2) penalty costs for prepayment of any preexisting recorded mortgage entered into in good faith encumbering such real property; and
- (3) the pro rata portion of real property taxes paid which are allocable to a period subsequent to the date of vesting title in the United States, or the effective date of possession of such real property by the United States, whichever is the earlier.

(Pub. L. 91–646, title III, §303, Jan. 2, 1971, 84 Stat. 1906.)

§4654. Litigation expenses

(a) Judgment for owner or abandonment of proceedings

The Federal court having jurisdiction of a proceeding instituted by a Federal agency to acquire real property by condemnation shall award the owner of any right, or title to, or interest in, such real property such sum as will in the opinion of the court reimburse such owner for his reasonable costs, disbursements, and expenses, including reasonable attorney, appraisal, and engineering fees, actually incurred because of the condemnation proceedings, if—

- (1) the final judgment is that the Federal agency cannot acquire the real property by condemnation; or
- (2) the proceeding is abandoned by the United States.

(b) Payment

Any award made pursuant to subsection (a) of this section shall be paid by the head of the Federal agency for whose benefit the condemnation proceedings was instituted.

(c) Claims against United States

The court rendering a judgment for the plaintiff in a proceeding brought under section 1346(a)(2) or 1491 of title 28, awarding compensation for the taking of property by a Federal agency, or the Attorney General effecting a settlement of any such proceeding, shall determine and award or allow to such plaintiff, as a part of such judgment or settlement, such sum as will in the opinion of the court or the Attorney General reimburse such plaintiff for his reasonable costs, disbursements, and expenses, including reasonable attorney, appraisal, and engineering fees, actually incurred because of such proceeding.

(Pub. L. 91-646, title III, §304, Jan. 2, 1971, 84 Stat. 1906.)

§4655. Requirements for uniform land acquisition policies; payments of expenses incidental to transfer of real property to State; payment of litigation expenses in certain cases

(a) Notwithstanding any other law, the head of a Federal agency shall not approve any program or project or any grant to, or contract or agreement with, an acquiring agency under which Federal financial assistance will be available to pay all or part of the cost of any program or project which will result in the acquisition of real property on and after January 2, 1971, unless he receives satisfactory assurances from such acquiring agency that—

- (1) in acquiring real property it will be guided, to the greatest extent practicable under State law, by the land acquisition policies in section 4651 of this title and the provisions of section 4652 of this title, and
- (2) property owners will be paid or reimbursed for necessary expenses as specified in sections 4653 and 4654 of this title.

(b) For purposes of this section, the term "acquiring agency" means—

- (1) a State agency (as defined in section 4601(3) of this title) which has the authority to acquire property by eminent domain under State law, and
- (2) a State agency or person which does not have such authority, to the extent provided by the head of the lead agency by regulation.

(Pub. L. 91-646, title III, §305, Jan. 2, 1971, 84 Stat. 1906; Pub. L. 100-17, title IV, §417, Apr. 2, 1987, 101 Stat. 256.)

AMENDMENTS

1987—Pub. L. 100-17 designated existing provisions as subsec. (a), substituted "an acquiring agency" for "a State agency" and "such acquiring agency" for "such State agency", and added subsec. (b).

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-17 effective on effective date provided in regulations promulgated under section 4633 of this title (as amended by section 412 of Pub. L. 100-17), but not later than 2 years after Apr. 2, 1987, see section 418 of Pub. L. 100-17, set out as a note under section 4601 of this title.

Appendix E United States Department of
Transportation Standard Title VI
Non-Discrimination Assurances

The United States Department of Transportation (USDOT)
Standard Title VI/Non-Discrimination Assurances
DOT Order No. 1050.2A

The California Department of Transportation (herein referred to as the "Recipient"), **HEREBY AGREES THAT**, as a condition to receiving any Federal financial assistance from the U.S. Department of Transportation (DOT), through the Federal Highway Administration (FHWA), is subject to and will comply with the following:

Statutory/Regulatory Authorities

- Title VI of the Civil Rights Act of 1964 (42 U.S.C § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 C.F.R Part 21 (entitled *Nondiscrimination In Federally-Assisted Programs Of The Department Of Transportation—Effectuation Of Title VI Of The Civil Rights Act Of 1964*);
- 28 C.F.R. § 50.3 (U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964)

The preceding statutory and regulatory cites hereinafter are referred to as the "Acts" and "Regulations," respectively.

General Assurances

In accordance with the Acts, the Regulations, and other pertinent directives, circulars, policy, memoranda, and/or guidance, the Recipient hereby gives assurance that it will promptly take any measures necessary to ensure that:

"No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity," for which the Recipient receives Federal financial assistance from DOT, including the FHWA.

The Civil Rights Restoration Act of 1987 clarified the original intent of Congress, with respect to Title VI and other Non-discrimination requirements (The Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973), by restoring the broad, institutional-wide scope and coverage of these non-discrimination statutes and requirements to include all programs and activities of the Recipient, so long as any portion of the program is Federally assisted.

Specific Assurances

More specifically, and without limiting the above general Assurance, the Recipient agrees with and gives the following Assurances with respect to all programs or activities for which the Recipient receives Federal financial assistance:

1. The Recipient agrees that each “activity,” “facility,” or “program,” as defined in §§ 21.23 (b) and 21.23 € of 49 C.F.R. § 21 will be (with regard to an “activity”) facilitated, or will be (with regard to a “facility”) operated, or will be)with regard to a program”) conducted in compliance with all requirements imposed by, or pursuant to the Acts and the Regulations.
2. The Recipient will insert the following notification in all solicitations for bids, Requests For Proposals for work, or material subject to the Acts and the Regulations made in connection with all programs or activities for which the Recipient receives Federal financial assistance, and in adapted form, in all proposals for negotiated agreements regardless of funding source:

“The California Department of Transportation, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively insure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin for an award.”

3. The Recipient will insert the clauses of Appendix A and E of this Assurance in every contract or agreement subject to the Acts and the Regulations.
4. The Recipient will insert the clauses of Appendix B of this Assurance, as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a Recipient.
5. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the Assurance will extend to the entire facility and facilities operated in connection therewith.

6. That where the Recipient receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the Assurance will extend to rights to space on, over, or under such property.
7. That the Recipient will include the clauses set forth in Appendix C and Appendix D of this Assurance, as a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the Recipient with other parties:
 - a. for the subsequent transfer or real property acquired or improved under the applicable activity, project, or program; and
 - b. for the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.
8. That this Assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or interest therein, or structures or improvements thereon, in which case the Assurance obligates the Recipient, or any transferee for the longer of the following periods:
 - a. the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or
 - b. the period during which the Recipient retains ownership or possession of the property.
9. The Recipient will provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he/she delegates specific authority to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Acts, the Regulations, and this Assurance.

10. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Acts, the Regulations, and this Assurance.

By signing this ASSURANCE, the Recipient also agrees to comply (and require any sub-recipients, sub-grantees, contractors, successors, transferees, and/or assignees to comply) with all applicable provisions governing DOT's access to records, accounts, documents, information, facilities, and staff. You also recognize that you must comply with any program or compliance reviews, and/or complaint investigations conducted by DOT. You must keep records, reports, and submit the material for review upon request to DOT, or its designee in a timely, complete, and accurate way. Additionally, you must comply with all other reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.

The Recipient gives this ASSURANCE in consideration of and for obtaining any Federal grants, loans, contracts, agreements, property, and/or discounts, or other Federal-aid and Federal financial assistance extended after the date hereof to the recipients by the U.S. Department of Transportation under all programs or activities receiving Federal financial assistance. This ASSURANCE is binding on California, other recipients, sub-recipients, sub-grantees, contractors, subcontractors and their subcontractors', transferees, successors in interest, and any other participants in all programs or activities receiving Federal financial assistance. The person(s) signing below is authorized to sign this ASSURANCE on behalf of the Recipient.

California Department of Transportation
(Name of Recipient)

by original signed by Toks Omishakin
(Signature of Authorized Official)

DATED Nov. 25, 2019

APPENDIX A

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the “contractor”) agrees as follows:

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Federal Highway Administration, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Non-discrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, national origin, age, sex, or disability in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
3. **Solicitation for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor’s obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, national origin, age, sex, or disability.

4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the FHWA to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Recipient or the FHWA, as appropriate, and will set forth what efforts it has made to obtain the information.

5. **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
 1. withholding payments to the contractor under the contract until the contractor complies; and/or
 2. cancelling, terminating, or suspending a contract, in whole or in part.

6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Recipient or the FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

APPENDIX B

CLAUSES FOR DEEDS TRANSFERRING UNITED STATES PROPERTY

The following clauses will be included in deeds effecting or recording the transfer of real property, structures, or improvements thereon, or granting interest therein from the United States pursuant to the provisions of Assurance 4:

NOW THEREFORE, the U.S. Department of Transportation as authorized by law and upon the condition that the California Department of Transportation will accept title to the lands and maintain the project constructed thereon in accordance with Title 23 U.S.C., the regulations for the administration of the preceding statute, and the policies and procedures prescribed by the FHWA of the U.S. Department of Transportation in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. § 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the California Department of Transportation all the right, title and interest of the U.S. Department of Transportation in and to said lands described in Exhibit A attached hereto and made a part hereof.

(HABENDUM CLAUSE)

TO HAVE AND TO HOLD said lands and interests therein unto the California Department of Transportation and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and will be binding on the California Department of Transportation, its successors and assigns.

The California Department of Transportation, in consideration of the conveyance of said lands and interest in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person will on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed [,] [and]* (2) that the California Department of Transportation will use the lands and interests in lands and interest in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and Acts may be amended[, and (3) that in the event of breach of any of the above-mentioned non-discrimination conditions, the Department will have a right to enter or re-enter said lands and facilities on said lands, and that above described land and facilities will thereon revert to and vest in and become the absolute property of the U.S. Department of Transportation and its assigns as such interest existed prior to this instruction].*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to make clear the purpose of Title VI.)

APPENDIX C

CLAUSES FOR TRANSFER OF REAL PROPERTY ACQUIRED OR IMPROVED UNDER THE ACTIVITY, FACILITY, OR PROGRAM

The following clauses will be included in deeds, licenses, leases, permits, or similar instruments entered into by the California Department of Transportation pursuant to the provisions of Assurance 7(a):

- A. The (grantee, lessee, permittee, etc. as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add "as a covenant running with the land"] that:
 1. In the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a U.S. Department of Transportation activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.
- B. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Non-discrimination covenants, the California Department of Transportation will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued.*

C. With respect to a deed, in the event of breach of any of the above Non-discrimination covenants, the California Department of Transportation will have the right to enter or re-enter the lands and facilities thereon, and the above described lands and facilities will there upon revert to and vest in and become the absolute property of the California Department of Transportation and its assigns.*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

APPENDIX D

CLAUSES FOR CONSTRUCTION/USE.ACCESS TO REAL PROPERTY ACQUIRED UNDER THE ACTIVITY, FACILITY OR PROGRAM

The following clauses will be included in deeds, licenses, permits, or similar instruments/agreements entered into by the California Department of Transportation pursuant to the provisions of Assurance 7(b):

- A. The (grantee, licensee, permittee, etc., as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, "as a covenant running with the land") that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishings of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits or, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and Regulations, as amended, set forth in this Assurance.
- B. With respect to (licenses, leases, permits, etc.) in the event of breach of any of the above of the above Non-discrimination covenants, the California Department of Transportation will have the right to terminate the (license, permits, etc., as appropriate) and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, permit, etc., as appropriate) had never been made or issued.*
- C. With respect to deeds, in the event of breach of any of the above Non-discrimination covenants, the California Department of Transportation will there upon revert to and vest in and become the absolute property of the California Department of Transportation and its assigns.

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

APPENDIX E

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the “contractor”) agrees to comply with the following non-discrimination statutes and authorities, including, but not limited to:

Pertinent Non-Discrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 *et seq.*), prohibits discrimination on the basis of sex;
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 U.S.C. § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations 49 C.F.R. parts 37 and 38;

- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 *et seq*).

Appendix F National Marine Fisheries Service
Biological Opinion



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration

NATIONAL MARINE FISHERIES SERVICE
West Coast Region
777 Sonoma Avenue, Room 325
Santa Rosa, California 95404-4731

October 16, 2020

Refer to NMFS No: WCRO-2020-02509

Darrell Cardiff
Senior Planner, Local Assistance
California Department of Transportation, District 1
P.O. Box 3700
Eureka, California 95502-3700

Re: Endangered Species Act Section 7(a)(2) Biological Opinion, and Magnuson-Stevens Fishery Conservation and Management Act Essential Fish Habitat Response for the Honeydew Bridge Replacement Project (BRLS-5904 (024))

Dear Mr. Cardiff:

Thank you for your letter of September 1, 2020, requesting consultation with NOAA's National Marine Fisheries Service (NMFS) pursuant to section 7 of the Endangered Species Act of 1973 (ESA) (16 U.S.C. 1531 et seq.) for the Honeydew Bridge Replacement Project, California Department of Transportation (Caltrans¹) Local Assistance reference BRLS-5904 (024). This consultation was conducted in accordance with the 2019 revised regulations that implement section 7 of the ESA (50 CFR 402, 84 FR 45016).

NMFS also reviewed the likely effects of the proposed action on essential fish habitat (EFH), pursuant to section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1855(b)), and concluded that the action would adversely affect the EFH of Pacific Coast Salmon. Therefore, we have included the results of that review in Section 3 of this document.

Based on the best scientific and commercial information available, NMFS concludes that the action, as proposed, is not likely to jeopardize the continued existence of the California Coastal (CC) Chinook salmon Evolutionarily Significant Unit (ESU) or the Northern California (NC) steelhead Distinct Population Segment (DPS). The action is also not likely to destroy or adversely modify designated critical habitat for the CC Chinook salmon ESU or the NC steelhead DPS. NMFS expects the proposed action would result in incidental take of NC steelhead and CC Chinook salmon. However, we do not expect the action to result in adverse impacts to individual SONCC coho salmon or their critical habitat. An incidental take statement is included with the enclosed biological opinion. The incidental take statement includes non-

¹ Pursuant to 23 USC 327, and through a series of Memorandum of Understandings beginning June 7, 2007, the Federal Highway Administration (FHWA) assigned and Caltrans assumed responsibility for compliance with Section 7 of the federal Endangered Species Act (ESA) and the Magnuson-Stevens Fishery Conservation and Management Act (MSA) for federally-funded transportation projects in California. Therefore, Caltrans is considered the federal action agency for consultations with NMFS for federally funded projects involving FHWA. Caltrans proposes to administer federal funds for the implementation of the proposed action and is, therefore, considered the federal action agency for this consultation.

discretionary reasonable and prudent measures and terms and conditions that are expected to further reduce anticipated incidental take of CC Chinook salmon and NC steelhead.

In addition, we would like to express our gratitude for the significant efforts made by you and the applicant, Humboldt County, to reduce potential impacts of the project based on our technical assistance. Please contact Mike Kelly at (707) 825-1622, Northern California Office, Arcata, or via email at Mike.Kelly@noaa.gov if you have any questions concerning this section 7 consultation, or if you require additional information.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Alecia Van Atta', with a stylized flourish at the end.

Alecia Van Atta
Assistant Regional Administrator
California Coastal Office

Enclosure

cc: w/enclosure:

Christa Unger, Caltrans Local Assistance, District 1, Eureka, CA
Jennifer Olson, California Department of Fish and Wildlife, Eureka, CA
NMFS ARN# 151422WCR2020AR00188

**Endangered Species Act (ESA) Section 7(a)(2) Biological Opinion [and Magnuson-Stevens
Fishery Conservation and Management Act Essential Fish Habitat Response]**

Honeydew Bridge Replacement Project,
Humboldt County, California


NMFS Consultation Number: WCRO-2020-02509
Action Agency: California Department of Transportation

Affected Species and NMFS' Determinations:

ESA-Listed Species	Status	Is Action Likely to Adversely Affect Species or Critical Habitat?	Is Action Likely to Jeopardize the Species?	Is Action Likely to Destroy or Adversely Modify Critical Habitat?
Southern Oregon/North California Coast (SONCC) coho salmon (<i>Oncorhynchus kisutch</i>)	Threatened	No	No	No
California Coastal (CC) Chinook salmon (<i>O. tshawytscha</i>)	Threatened	Yes	No	No
Northern California (NC) steelhead (<i>O. mykiss</i>)	Threatened	Yes	No	No

Fishery Management Plan That Identifies EFH in the Project Area	Does Action Have an Adverse Effect on EFH?	Are EFH Conservation Recommendations Provided?
Pacific Coast Salmon FMP	Yes	Yes

Consultation Conducted By: National Marine Fisheries Service, West Coast Region

Issued By: 
Alecia Van Atta
Assistant Regional Administrator
California Coastal Office

Date: October 16, 2020

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1. INTRODUCTION

This Introduction section provides information relevant to the other sections of this document and is incorporated by reference into Sections 2 and 3, below.

1.1. Background

NOAA's National Marine Fisheries Service (NMFS) prepared the biological opinion (opinion) and incidental take statement (ITS) portions of this document in accordance with section 7(b) of the Endangered Species Act (ESA) of 1973 (16 USC 1531 et seq.), and implementing regulations at 50 CFR 402, as amended.

We also completed an essential fish habitat (EFH) consultation on the proposed action, in accordance with section 305(b)(2) of the Magnuson-Stevens Fishery Conservation and Management Act (MSA) (16 U.S.C. 1801 et seq.) and implementing regulations at 50 CFR 600.

We completed pre-dissemination review of this document using standards for utility, integrity, and objectivity in compliance with applicable guidelines issued under the Data Quality Act (DQA) (section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001, Public Law 106-554). The document will be available within two weeks at the NOAA Library Institutional Repository [<https://repository.library.noaa.gov/welcome>]. A complete record of this consultation is on file at the NMFS Northern California Office in Arcata, California.

1.2. Consultation History

On May 2, 2017 NMFS staff participated in an interagency field site review to discuss the project and resource protection issues.

On May 10, 2018, the California Department of Transportation (Caltrans) submitted a Biological Assessment (BA) and a request to initiate formal consultation.

On May 16, 2018, NMFS provided comments on the BA and notified Caltrans that it contained insufficient information to allow formal consultation to proceed. At this time, NMFS also requested that Caltrans and Humboldt County consider less impactful construction methods.

On June 27, 2018, NMFS attended a second interagency field review to discuss the project as it related to requested BA information needs.

On July 9, 2018, NMFS provided a letter to Caltrans to close out the consultation request due to 45 days elapsing without Caltrans providing the requested information.

On May 7, 2020, Humboldt County, NMFS, Caltrans, and consultant staff met via phone conference to review alternative project construction approaches to minimize impacts.

On May 20, 2020, NMFS provided Humboldt County's design consultant information to help them design the river diversion.

On August 21, 2020, Humboldt County provided a new draft BA for NMFS' review.

On August 24, 2020, NMFS provided comments on the new draft BA, and recommended that Caltrans request initiation of consultation once comments were addressed.

On September 1, 2020, Caltrans requested initiation of formal section 7 consultation. However, the BA contained what appeared to be an illogical conclusion regarding impacts to critical habitat for SONCC coho salmon. Later that day Caltrans provided an updated request letter that clarified that the conclusion should be that SONCC coho critical habitat was not likely to be adversely affected.

On September 2, 2020, NMFS notified Caltrans that we had initiated formal consultation.

On September 9, 2020, NMFS requested information on the quantity of new impervious surface that would be created by the new bridge approaches. Caltrans provided this information on September 14, 2020.

On September 10, 2020, NMFS requested more information about the type of bridge deck and drainage from the deck. Humboldt County provided this information via email on September 14 and 15, 2020.

1.3. Proposed Federal Action

Under the ESA, "action" means all activities or programs of any kind authorized, funded, or carried out, in whole or in part, by Federal agencies (50 CFR 402.02).

Under MSA, Federal action means any action authorized, funded, or undertaken, or proposed to be authorized, funded, or undertaken by a Federal Agency (50 CFR 600.910).

We considered, under the ESA, whether or not the proposed action would cause any other activities and determined that it would not.

The proposed action consists of replacing an existing single lane bridge with a new two-span bridge over the Mattole River near the community of Honeydew, in Humboldt County, California as described in detail in Caltrans' BA (Caltrans 2020). Project elements that may affect salmonids or critical habitat, and accompanying measures to minimize impacts, are summarized below, while the remaining project description is incorporated by reference to Caltrans' BA. In the following descriptions, "Caltrans" refers to Caltrans, Humboldt County (the applicant), and their contractor(s).

Caltrans proposes to conduct activities below the ordinary high water mark (OHWM) of the Mattole River between June 15 and October 15 in both years of construction.

1.3.1 Construction Staging and Access

Caltrans will create temporary staging areas along Wilder Ridge Road just southeast of the intersection with Mattole Road; along the south bank gravel bar near and beneath the existing bridge; along the detour road near its intersection with Mattole Road; and at the north Mattole Road bridge approach. Some amount of grading will be required, particularly at the river bar location.

A detour route, as described in section 1.3.2, will serve the dual purpose of public detour and construction access. Additional temporary access road surface will be graded on the gravel bar for contractor access to work areas.

Caltrans will also create gravel work pads partly in the wetted channel using washed gravel of suitable size for spawning salmon. (Some or all of this rock may be contoured and left in the channel after construction to augment course sediment.) For the north bank gravel pad, Caltrans estimates that 15 cubic yards of gravel would be placed below the OHWM elevation. For the Pier 2 gravel pad, Caltrans estimates that about 350 cubic yards of gravel would be placed below the OHWM elevation over an approximate length of 160 feet along the river. A portion of the Pier 2 gravel pad will likely be placed into water, with the area of the in-water portion depending on the river level and wetted channel location. No heavy equipment access into the water is required for pad construction. Caltrans proposes to use containment techniques to minimize turbidity, and they will relocate fish from the affected area. Qualified biologists will be employed to monitor pad construction and conduct fish relocation. The contractor will prepare stream diversion and fish relocation plans, and Caltrans will provide these plans to NMFS for review of consistency with the anticipated effects to fish and habitat that are analyzed in this Biological Opinion.

Access areas and roads will result in temporary loss of approximately 0.18 acre of various herbaceous species, two willows of 9.0 and 6.8-inch diameter at breast height (DBH), and three cottonwoods of 12.4 to 18.4 DBH. These areas will be replanted with appropriate species. (Additional vegetation will be removed permanently in the area of the north-end bridge approach, as described below.)

1.3.2 Detour Construction

Caltrans will build the new bridge on the existing alignment, which requires construction of a temporary detour bridge approximately 1600 feet downstream of the existing bridge. A single span prefabricated bridge will cross the river from a temporary gravel approach road at the south riverbank to a temporary gravel approach on the north bank connecting to Burrell Road. The gravel approach will be retained on the river side by the installation of temporary sheet piles vibrated into place. Caltrans anticipates that pre-cast concrete dead man anchors and tie-back rods will be used to provide additional lateral support for the upper section of the sheet piles. The temporary detour bridge will be about 100 feet long and about 18 feet wide, with supporting cast-in-place concrete spread footings on the gravel approach behind the sheet pile retaining system. The river opening between the sheet pile roadway approaches will be about 77 feet wide. This design would accommodate a maximum flow conveyance of 8,900 cubic feet per second

(cfs) at a flow velocity of eight feet per second. This width will also allow unimpeded upstream migration for all life stages of salmonids during normal summer base flows.

The north bank gravel approach road will require approximately 200 cubic yards of gravel below the OHWM elevation over an approximate length of 50 feet along the river. The south bank gravel approach road will require about 670 cubic yards of gravel below the OHWM elevation over an approximate length of 70 feet along the river. Portions of the gravel approaches to the detour bridge will be constructed in water using the same techniques and protections described in section 1.3.1 for the in-water portions of the gravel work pads. The river diversion and fish relocation plans would also address detour bridge construction.

The temporary detour bridge will be needed for both construction seasons. At the end of the first construction season the temporary detour bridge, concrete spread footing, approach fills, and shoring system would be removed. In the second construction season, the gravel approach fills, retaining system, cast-in-place concrete spread footings, and single span prefabricated bridge would be re-installed. At the end of the second construction season the entire temporary bridge, cast-in-place concrete spread footings, gravel fills, and retaining system would be removed.

Within the river floodway, the gravel detour approach roads would likely consist of washed gravel topped with 12 inches of aggregate base with geotextile fabric placed in between to prevent crushed rock from mixing with rounded gravels.

Alternatively, approaches and abutments for the detour bridge may be constructed by excavating and grading the existing gravel bar and compacting local gravels using heavy equipment and water. Or if deemed necessary to strengthen the detour road base, river run gravel fill over geotextile fabric, with an aggregate base topping would be used. Water for fill compaction and dust control will be extracted from a pit excavated to ground water in the gravel bar on site at least 50-feet away from the wetted river channel.

1.3.3 Old Bridge Demolition

The existing bridge will be removed during the second season once the gravel pads are constructed and the detour is in place. Timber decking and railings on the bridge will first be removed. Then cranes placed on each side of the river will sequentially hoist the two steel truss spans and place them on the south bank gravel bar to be dismantled. The existing reinforced concrete Pier 2 will be demolished using a percussion hammer (hoe-ram), typically mounted on a large excavator. The pier will be removed to at least three feet below the existing grade. Abutment 3 and Abutment 1 will then be demolished and removed to at least three feet below the existing grade. All demolition materials will be contained to minimize the possibility of material entering the river channel. Additionally, hydroacoustic monitoring will be conducted during demolition of Pier 2, and demolition will cease if injurious sound energy levels are approached.

1.3.4 New Bridge Construction

The new bridge will be a two-span composite welded steel plate girder bridge with a cast-in-place concrete deck located on the existing alignment with an overall length of 375 feet. The new

bridge would carry two lanes of traffic, with each lane 11 feet wide plus a 3-foot shoulder, for a total clear width of 28 feet. The bridge is designed to drain via sheet flow over the edges rather than draining to the ends or via scuppers. Therefore, water will drain to the river channel similarly to the present bridge.

Abutment 1 (north bridge abutment) will consist of a foundation of thirteen 10-inch steel H-piles impact driven about 45-feet deep, or two 60-inch cast-in-drilled-hole (CIDH) piles. Pier 2 (the central bridge pier) will be on a foundation consisting of two 84-inch diameter CIDH piles. Abutment 3 (south bridge abutment) will be built on a foundation consisting of two 60-inch CIDH piles. If steel H-piles are required to be impact driven at Abutment 1, hydroacoustic monitoring will take place to ensure that injurious sound energy levels are not exceeded.

The bridge superstructure support consists of segments of steel girder supported by the single pier and the two abutments. An additional gravel work pad to support a crane will be constructed on the north bank above OHWM. This pad will be contained behind temporary gabion walls. A temporary shoring tower constructed on the river bar will be used to help support the steel girders during placement by a large crane. No piles will be necessary for the shoring tower or falsework supports. The bridge deck will then be constructed on top of the girders using techniques to contain any materials that might fall.

Installation of temporary sheet piles may be required for shoring the construction areas surrounding the central pier and the Abutment 3 foundations. Vibratory pile driving will be used for installing shoring sheet piles surrounding these features. Drilling fluids and slurries for the CIDH pile installation will be contained to prevent contamination of surface water and groundwater and will be properly disposed of outside of the riverbed and banks in accordance with typical Standard Specifications, which will be supported by a contractor-provided material handling and disposal plan.

Adequate dewatering at the Pier 2 location during construction would be achieved by means of diking/diversion of water and sump pumping from a cofferdammed excavation. Caltrans will provide temporary water pollution control measures, including, but not limited to, dikes, infiltration basins, and ditches, which may become necessary because of the construction process. In all cases, water pumped from excavations will be handled so as not to reach river water.

New rock slope protection (RSP), 1/4- to 1/2-ton method B, will be installed. The locations and extents of RSP have not yet been designed. It is anticipated that RSP will be placed by an excavator with a bucket/thumb attachment that would pick and place/fit together the RSP. The addition of RSP would be in locations to supplement existing RSP, mostly near the new bridge abutments outside of the active river channel. None of the RSP would be placed below the OHWM elevation.

The new bridge approaches will be paved and cover a larger area than the existing approaches. This will create approximately 0.2 acre of new impervious surface with approximately half of that area on each end of the bridge. Additionally, the approach on the north end of the bridge will

permanently displace 46 live alder trees varying from 6.0 to 16.5-inch DBH, and seven dead alder trees of 7.2 to 10.5-inch DBH.

1.3.5 Monitoring

During impact pile driving (if required) and demolition activities (hoe-ram operations), hydroacoustic monitoring would ensure that pile driving stops in a given day before sound levels reach the cumulative injury thresholds at the predicted attenuation distances. However, Caltrans' hydroacoustic analysis predicts that injury thresholds are unlikely to be reached. A qualified biologist will monitor all in-stream construction activities to ensure adherence to all environmental permit conditions and avoidance and minimization measures.

1.3.6 Conservation Measures and Best Management Practices

Water pollution control scheduling and methods will be specified in the contractor's Storm Water Pollution Prevention Plan (SWPPP) and Environmental Commitments Record for the proposed action. Specific methods are indicated in Caltrans' Construction Site Best Management Practices (BMP) Manual (Caltrans 2017). Caltrans' BA provides details on specific measures. Most of these measures are standard practices that have proven efficacy and are familiar to NMFS' staff. Please refer to Caltrans' BA and the above-referenced manuals for details.

1.3.7 Aquatic Species Relocation

In order to protect salmonids from impacts that could occur due to construction of the in-water gravel work pads and temporary bridge approaches, fish may be relocated if any remain in these enclosures. Caltrans will construct the enclosures for these fills incrementally, which often causes salmonids to volitionally leave the enclosed area likely due to the creation of a zone of still shallow water (Mike Kelly, NMFS, personal observations, 2006, 2009, 2011). To facilitate this, the enclosures will be constructed up to the point that a gap is available for fish to escape through, and any remaining fish would be herded out using a small beach seine. Given the simplicity of the habitat, these removal efforts should be fully effective. However, some fish may be captured and relocated in any remain in the completed enclosure. All fish relocation work will be conducted by qualified biologists hired by the contractor. Caltrans will prepare an Aquatic Species Relocation Plan for NMFS' review prior to project implementation. Methods may include seining gear, electrofishing gear, and dip nets. Electrofishing for salmonids would comply with Guidelines for Electrofishing Waters Containing Salmonids Listed under the Endangered Species Act (NMFS 2000), and any seining or other capture and removal techniques would adhere to the California Salmonid Stream Habitat Restoration Manual (Flosi et al. 2010).

1.3.8 Other Activities Caused by the Proposed Action

We considered whether or not the proposed action would cause any other activities and determined that it would not. The new bridge will serve the same function as the current bridge without inducing additional traffic or facilitating use by types of vehicles unable to use the current bridge.

2. ENDANGERED SPECIES ACT: BIOLOGICAL OPINION AND INCIDENTAL TAKE STATEMENT

The ESA establishes a national program for conserving threatened and endangered species of fish, wildlife, plants, and the habitat upon which they depend. As required by section 7(a)(2) of the ESA, each Federal agency must ensure that its actions are not likely to jeopardize the continued existence of endangered or threatened species, or adversely modify or destroy their designated critical habitat. Per the requirements of the ESA, Federal action agencies consult with NMFS and section 7(b)(3) requires that, at the conclusion of consultation, NMFS provide an opinion stating how the agency's actions would affect listed species and their critical habitats. If incidental take is reasonably certain to occur, section 7(b)(4) requires NMFS to provide an ITS that specifies the impact of any incidental taking and includes non-discretionary reasonable and prudent measures (RPMs) and terms and conditions to minimize such impacts.

Caltrans determined the proposed action is not likely to adversely affect SONCC coho salmon or its critical habitat. Our concurrence is documented in the "Not Likely to Adversely Affect" Determinations section (Section 2.13).

2.1. Analytical Approach

This biological opinion includes both a jeopardy analysis and an adverse modification analysis. The jeopardy analysis relies upon the regulatory definition of "jeopardize the continued existence of" a listed species, which is "to engage in an action that reasonably would be expected, directly or indirectly, to reduce appreciably the likelihood of both the survival and recovery of a listed species in the wild by reducing the reproduction, numbers, or distribution of that species" (50 CFR 402.02). Therefore, the jeopardy analysis considers both survival and recovery of the species.

This biological opinion relies on the definition of "destruction or adverse modification," which "means a direct or indirect alteration that appreciably diminishes the value of critical habitat as a whole for the conservation of a listed species" (50 CFR 402.02).

The designation(s) of critical habitat for (species) use(s) the term primary constituent element (PCE) or essential features. The 2016 critical habitat regulations (50 CFR 424.12) replaced this term with physical or biological features (PBFs). The shift in terminology does not change the approach used in conducting a "destruction or adverse modification" analysis, which is the same regardless of whether the original designation identified PCEs, PBFs, or essential features. In this biological opinion, we use the term PBF to mean PCE or essential feature, as appropriate for the specific critical habitat.

The 2019 regulations define effects of the action using the term "consequences" (50 CFR 402.02). As explained in the preamble to the regulations (84 FR 44977), that definition does not change the scope of our analysis and in this opinion we use the terms "effects" and "consequences" interchangeably.

We use the following approach to determine whether a proposed action is likely to jeopardize listed species or destroy or adversely modify critical habitat:

- Evaluate the rangewide status of the species and critical habitat expected to be adversely affected by the proposed action.
- Evaluate the environmental baseline of the species and critical habitat.
- Evaluate the effects of the proposed action on species and their habitat using an exposure-response approach.
- Evaluate cumulative effects.
- In the integration and synthesis, add the effects of the action and cumulative effects to the environmental baseline, and, in light of the status of the species and critical habitat, analyze whether the proposed action is likely to: (1) directly or indirectly reduce appreciably the likelihood of both the survival and recovery of a listed species in the wild by reducing the reproduction, numbers, or distribution of that species, or (2) directly or indirectly result in an alteration that appreciably diminishes the value of critical habitat as a whole for the conservation of a listed species.
- If necessary, suggest a reasonable and prudent alternative to the proposed action.

2.2. Rangewide Status of the Species and Critical Habitat

This opinion examines the status of each species that would be adversely affected by the proposed action. The status is determined by the level of extinction risk that the listed species face, based on parameters considered in documents such as recovery plans, status reviews, and listing decisions. This informs the description of the species' likelihood of both survival and recovery. The species status section also helps to inform the description of the species' "reproduction, numbers, or distribution" as described in 50 CFR 402.02. The opinion also examines the condition of critical habitat throughout the designated area, evaluates the conservation value of the various watersheds and coastal and marine environments that make up the designated area, and discusses the function of the PBFs that are essential for the conservation of the species.

2.2.1 Species Description and General Life History

CC Chinook Salmon: The CC Chinook salmon ESU are typically fall spawners, returning to bays and estuaries before entering their natal streams in the early fall. The adults tend to spawn in the mainstem or larger tributaries of rivers. As with the other anadromous salmon, the eggs are deposited in redds for incubation. When the 0+ age fish emerge from the gravel in the spring, they typically migrate to saltwater shortly after emergence. Prey resources during out-migration are critical to Chinook salmon survival as they grow and move out to the open ocean.

NC Steelhead: Steelhead exhibit the most complex suite of life history strategies of any salmonid species. They have both anadromous and resident freshwater life histories that can be expressed by individuals in the same watershed. The anadromous fish generally return to freshwater to spawn as 4- or 5-year-old adults. Unlike other Pacific salmon, steelhead can survive spawning and return to the ocean to return to spawn in a future year. It is rare for steelhead to survive more than two spawning cycles. Steelhead typically spawn between December and May. Like other Pacific salmon, the steelhead female deposits her eggs in a redd for incubation. The 0+ age fish

emerge from the gravel to begin their freshwater life stage and can rear in their natal stream for 1 to 4 years before migrating to the ocean.

Steelhead rear in freshwater for an extended period before migrating to saltwater. As such, they enter the estuary at mean size of about 170 to 180 mm or 6.5 to 7.0 inches, and are, therefore, more oriented to deeper water channels in contrast to Chinook salmon that typically enter the estuary as 0+ fish. The CDFW data indicate that steelhead smolts generally migrate downstream toward the estuary between March 1 and July 1 each year, although they have been observed as late as September (Ricker et al. 2014). The peak of the outmigration timing varies from year to year within this range, and generally falls between early April and mid-May.

2.2.2 Status of Species and Critical Habitat

In this biological opinion, NMFS assesses four population viability parameters to help us understand the status of each species and their ability to survive and recover. These population viability parameters are: abundance, population productivity, spatial structure, and diversity (McElhane et al. 2000). While there is insufficient information to evaluate these population viability parameters in a thorough quantitative sense, NMFS has used existing information, including the Coastal Multispecies Recovery Plan (NMFS 2016), to determine the general condition of each population and factors responsible for the current status of each DPS or ESU. We use these population viability parameters as surrogates for numbers, reproduction, and distribution, the criteria found within the regulatory definition of jeopardy (50 CFR 402.20).

Status of CC Chinook Salmon

CC Chinook Salmon Abundance and Productivity: Low abundance, generally negative trends in abundance, reduced distribution, and profound uncertainty as to risk related to the relative lack of population monitoring in California have contributed to NMFS' concern that CC Chinook salmon are at risk of becoming endangered in the foreseeable future throughout all or a significant portion of their range. Where monitoring has occurred, Good et al. (2005) found that historical and current information indicates that CC Chinook salmon populations are depressed. Uncertainty about abundance and natural productivity, and reduced distribution are among the risks facing this ESU. Concerns regarding the lack of population-level estimates of abundance, the loss of populations from one diversity stratum, as well as poor ocean survival contributed to the conclusion that CC Chinook salmon are "likely to become endangered" in the foreseeable future (Good et al. 2005, Williams et al. 2011, Williams et al. 2016).

CC Chinook Salmon Spatial Structure and Diversity: Williams et al. (2011) found that the loss of representation from one diversity stratum, the loss of the spring-run history type in two diversity substrata, and the diminished connectivity between populations in the northern and southern half of the ESU pose a concern regarding viability for this ESU. Based on consideration of this updated information, Williams et al. (2016) concluded the extinction risk of the CC Chinook salmon ESU has not changed since the last status review. The genetic and life history diversity of populations of CC Chinook salmon is likely very low and is inadequate to contribute to a viable ESU, given the significant reductions in abundance and distribution.

Status of NC Steelhead

NC Steelhead Abundance and Productivity: With few exceptions, NC steelhead are present wherever streams are accessible to anadromous fish and have sufficient flows. The most recent status review by Williams et al. (2016) reports that available information for winter-run and summer-run populations of NC steelhead do not suggest an appreciable increase or decrease in extinction risk since publication of the last viability assessment (Williams et al. 2011). Williams et al. (2016) found that population abundance was very low relative to historical estimates, and recent trends are downwards in most stocks.

NC Steelhead Spatial Structure and Diversity: NC steelhead remain broadly distributed throughout their range, with the exception of habitat upstream of dams on both the Mad River and Eel River, which has reduced the extent of available habitat. Extant summer-run steelhead populations exist in Redwood Creek and the Mad, Eel (Middle Fork) and Mattole Rivers. The abundance of summer-run steelhead was considered “very low” in 1996 (Good et al. 2005), indicating that an important component of life history diversity in this DPS is at risk. Hatchery practices in this DPS have exposed the wild population to genetic introgression and the potential for deleterious interactions between native stock and introduced steelhead. However, abundance and productivity in this DPS are of most concern, relative to NC steelhead spatial structure and diversity (Williams et al. 2011).

Status of Critical Habitats

The condition of CC Chinook salmon and NC steelhead critical habitat, specifically its ability to provide for their conservation, has been degraded from conditions known to support viable salmonid populations. NMFS has determined that currently depressed population conditions are, in part, the result of the following human induced factors affecting critical habitat: overfishing, artificial propagation, logging, agriculture, mining, urbanization, stream channelization, dams, wetland loss, and water withdrawals (including unscreened diversions for irrigation). Impacts of concern include altered stream bank and channel morphology, elevated water temperature, lost spawning and rearing habitat, habitat fragmentation, impaired gravel and wood recruitment from upstream sources, degraded water quality, lost riparian vegetation, and increased erosion into streams from upland areas (Weitkamp et al. 1995, 64 FR 24049, 70 FR 37160). Diversion and storage of river and stream flow has dramatically altered the natural hydrologic cycle in many of the streams within the ESU’s and DPS. Altered flow regimes can delay or preclude migration, dewater aquatic habitat, and strand fish in disconnected pools, while unscreened diversions can entrain juvenile fish.

2.2.4 Factors Responsible for the Decline of Species and Degradation of Critical Habitats

The factors that caused declines include hatchery practices, ocean conditions, habitat loss due to dam building, degradation of freshwater habitats due to a variety of agricultural and forestry practices, water diversions, urbanization, over-fishing, mining, climate change, and severe flood events exacerbated by land use practices (Good et al. 2005, Williams et al. 2016). Sedimentation and loss of spawning gravels associated with poor forestry practices and road building are particularly chronic problems that can reduce the productivity of salmonid populations. From 2014 through 2016, the drought in California reduced stream flows and increased temperatures, further exacerbating stress and disease. Ocean conditions have been unfavorable in recent years

(2014 to present) due to the El Niño in 2015 and 2016. Reduced flows can cause increases in water temperature, resulting in increased heat stress to fish and thermal barriers to migration.

One factor affecting the range wide status and aquatic habitat at large is climate change. Information since these species were listed suggests that the earth's climate is warming, and that this change could significantly impact ocean and freshwater habitat conditions, which affect survival of all three species of listed salmonids subject to this consultation. In the coming years, climate change will influence the ability to recover some salmon species in most or all of their watersheds. Steelhead are particularly vulnerable to climate change due to their need for year-round cool water temperatures (Moyle 2002). Through effects on air temperatures and stream flows, climate change is expected to increase water temperatures. Climate change effects on stream temperatures within Northern California are already apparent. For example, in the Klamath River, Bartholow (2005) observed a 0.5°C per decade increase in water temperature since the early 1960's, and model simulations predict a further increase of 1-2°C over the next 50 years (Perry et al. 2011).

In coastal and estuarine ecosystems, the threats from climate change largely come in the form of sea level rise and the loss of coastal wetlands. Sea levels will likely rise exponentially over the next 100 years, with possibly a 50-80 cm rise by the end of the 21st century (IPCC 2014). This rise in sea level will alter the habitat in estuaries and either provide increased opportunity for feeding and growth or in some cases will lead to the loss of estuarine habitat and a decreased potential for estuarine rearing. Marine ecosystems face an entirely unique set of stressors related to global climate change, all of which may have deleterious impacts on growth and survival while at sea. In general, the effects of changing climate on marine ecosystems are not well understood given the high degree of complexity and the overlapping climatic shifts that are already in place (e.g., El Niño, La Niña, Pacific Decadal Oscillation) and will interact with global climate changes in unknown and unpredictable ways. Overall, climate change is believed to represent a growing threat, and will challenge the resilience of salmonids in Northern California.

2.3. Action Area

“Action area” means all areas to be affected directly or indirectly by the Federal action and not merely the immediate area involved in the action (50 CFR 402.02). The action area boundary for this proposed action encompasses approximately 32 acres, including all areas to be used for site access, construction activities, and equipment and materials storage and staging. The action area includes sufficient distances upstream and downstream along the mainstem Mattole River channel to account for potential construction related impacts to aquatic organisms from alteration of water quality, construction noise and other disturbances. The length of river channel included in the action area, extending from 450 feet upstream of the new bridge alignment to 450 feet downstream of the temporary detour bridge, was based on highly conservative estimates of the potential hydroacoustic behavior impact distances associated with limited pile-driving and percussive concrete demolition, and potential for construction-related effects on water quality. Caltrans' BA includes a map that delineates the action area.

2.4. Environmental Baseline

The “environmental baseline” refers to the condition of the listed species or its designated critical habitat in the action area, without the consequences to the listed species or designated critical habitat caused by the proposed action. The environmental baseline includes the past and present impacts of all Federal, State, or private actions and other human activities in the action area, the anticipated impacts of all proposed Federal projects in the action area that have already undergone formal or early section 7 consultations, and the impact of State or private actions which are contemporaneous with the consultation in process. The consequences to listed species or designated critical habitat from ongoing agency activities or existing agency facilities that are not within the agency’s discretion to modify are part of the environmental baseline (50 CFR 402.02).

In the action area, the threat to CC Chinook salmon and NC steelhead from climate change is likely to include a continued increase in average summer air temperatures; more extreme heat waves; and an increased frequency of drought (Lindley et al. 2007). In future years and decades, many of these changes are likely to further degrade habitat throughout the watershed by, for example, reducing streamflow during the summer and raising summer water temperatures. Many of these impacts will likely occur in the action area via reduced flows and higher water temperatures.

2.4.1 Status of Listed Species and Habitat in the Action Area

Chinook Salmon

Chinook salmon occurring in the action area belong to the Mattole River population of CC Chinook salmon, which is within the North Coastal Diversity Stratum. The spawner abundance target is 4,000 adults. Based on the number of live fish and redds seen on spawning grounds during recent surveys conducted by the Mattole Salmon Group (MSG), the spawning population likely numbers in the hundreds. However, the population is likely above its depensation threshold (NMFS 2016), which can be thought of as the number of spawners needed for survival of the population.

The spawning distribution of Chinook salmon is concentrated primarily in the Mattole River headwaters and upper river tributaries based on redd surveys conducted between 1994 and 2017 by MSG. Chinook salmon appear to spawn with some consistency throughout the middle mainstem Mattole River, including small numbers in the vicinity of the action area. Spawning in the action area is likely limited to years when lower fall and winter flow conditions exclude them from upper tributaries (MSG 2011; MSG 2018a). Based on their fall and winter run timing, no adult Chinook salmon are expected in the action area during the construction season.

The majority of juvenile Chinook salmon migrate to sea during the spring. Prior to downstream migration, juvenile Chinook salmon have been observed rearing in the mainstem and larger tributaries (Bajer 2011). During the summer when the river becomes disconnected from the sea, small numbers of juvenile Chinook salmon have been observed in large pool habitats in the upper mainstem river (Mattole River and Range Partnership 2009), which may also include the action area. Outmigrant trapping data at river kilometer 6.3 in the lower mainstem Mattole River was conducted from April into July, until 2011, with gear deployment and removal contingent on

a river flow of 300 to 400 cfs, and closure of river mouth, respectively. The most recent population estimates of juvenile Chinook salmon, those from 2009, 2010, and 2011, were 123,874, 170,823, and 461,832, respectively (Piscitelli 2012). Because Chinook salmon primarily spawn upstream of the action area, most or all outmigrating juveniles pass through the action area.

The life stage of Chinook salmon that could be present in the action area is the pre-smolt stage. The key limiting stresses for this life stage are shelter, floodplain connectivity, water quality (turbidity), low flows and diversions, estuary condition, and water temperature (NMFS 2016). The river channel in the action area is dominated by a homogeneous pool with little habitat complexity and cover, and which is likely to be very warm in the summer, nearing upper thermal limits for juvenile salmonid rearing. No large wood accumulations presently occur in the action area, but willows and trees along the north riverbank, along with the large rip-rap boulders, do provide a small amount of shelter and shade.

Because the action area is on the mainstem Mattole River, water quantity may not be as limiting as it is in smaller tributaries. However, the flow in the action area may be reduced relative to natural levels, so some loss of habitat and higher daytime temperatures could result from lower flows. The action area is also in a confined reach with high banks on both sides. Therefore, the floodplain is restricted to the adjacent gravel bars and riparian vegetation at the base of the slopes on either side of the channel, so it does not appear that floodplain connection is limiting in the action area. Turbidity in the action area is likely not a habitat issue during the summer months due to the seasonality of rainfall.

The potential for juvenile Chinook salmon to occur in the action area during the summer months was further evaluated using MSG snorkel survey data within approximately 10 river miles of the action area. Data for July and August 2006 to 2017, showed fewer than ten juvenile Chinook salmon in total within 10 river miles of the action area, with mean pool counts of 1 to 2 per pool, where they occurred. These data suggest that a very small number of juvenile Chinook salmon could occur in the action area during the proposed in-water work window, and Caltrans estimates no more than five juvenile Chinook salmon may be present during each of the two construction seasons. NMFS agrees that their presence in low numbers may be possible, especially early in the construction season when water temperatures may still be tolerable, and we believe that the estimate of five juveniles per year is a reasonable conservative estimate.

Steelhead

Steelhead occurring in the action area belong to the Mattole River population of NC steelhead, which is within the North Coastal Diversity Stratum. The population occurs in two distinct runs: a winter-run, which enters the river between November and April, with a spawner abundance target of 10,700 adults; and a summer-run, which enters the river between May and October, with an effective population size of about 500 individuals (NMFS 2016).

There are no comprehensive survey results of winter-run steelhead abundance available for the Mattole River. However, steelhead redds are counted during surveys focused on coho salmon. Based on the number of live fish and redds seen on spawning grounds during recent surveys

conducted by MSG, the spawning population of winter-run steelhead likely averages around 1000 adults (NMFS 2016).

Additionally, steelhead in the Mattole River display the half-pounder life history. Half-pounders are immature steelhead that reside in fresh water for a portion of their life cycle before returning to the sea. Half-pounders are regularly observed during summer snorkel surveys conducted by the MSG, but in low numbers in the vicinity of the action area.

Critical habitat for all three life stages that may be present during the summer construction period is limited in the same basic ways as is described above for Chinook salmon. Additionally, for the adult and half-pounder life stages, the lack of cover and shallow depth of the pool may limit its usefulness as holding habitat, though some fish may still utilize it for this purpose.

The potential for juvenile steelhead to occur in the action area during the proposed in-water work window was evaluated using summer (July-August) snorkel survey observations within approximately 10 river miles of the project area. Data from 2000 to 2017 suggest juvenile steelhead are present and relatively abundant in every reach of the Mattole River, with average densities ranging from about 25 to 60 juvenile steelhead (ages 0 and 1+ combined) (MSG 2015; MSG 2018b). A mean of 61.7 young-of-year (YOY) steelhead per pool was reported for the 2015 summer snorkel data in a reach just downstream of the action area (MSG 2015).

Based on these summer snorkel survey results and the condition of habitat in the action area, Caltrans estimates that up to two adult summer-run, four half-pounder, and 50 juvenile steelhead may be present in the action area during each of the two construction seasons. NMFS agrees that this is a reasonable estimate.

2.5. Effects of the Action

Under the ESA, “effects of the action” are all consequences to listed species or critical habitat that are caused by the proposed action, including the consequences of other activities that are caused by the proposed action. A consequence is caused by the proposed action if it would not occur but for the proposed action and it is reasonably certain to occur. Effects of the action may occur later in time and may include consequences occurring outside the immediate area involved in the action (see 50 CFR 402.17). In our analysis, which describes the effects of the proposed action, we considered 50 CFR 402.17(a) and (b).

1.1 2.5.1 Fish Relocation and In-stream Structures

As described in section 1.3.1 and 1.3.2, Caltrans proposes to construct work pads and detour bridge approaches that are likely to encroach into the wetted channel. Gravel fill and containment structures are likely to encroach into useable habitat for juvenile steelhead and Chinook salmon, but will avoid the deeper pool area that may be used by adult steelhead and half-pounders, and the fills are positioned to avoid areas on the downstream side of riffle crests where upwelling of cool water can create important summer rearing habitat for juvenile salmonids. Therefore, only juvenile salmonids would be relocated during construction of these in-stream structures, and the structures are located in areas that are likely to contain fewer salmonids than other locations in the action area.

In the absence of fish relocation, juvenile salmonids would be exposed to physical injury from construction equipment and placement of fill and containment structures. This exposure would likely kill them. However, while fish relocation substantially avoids impacts from construction, fish relocation activities themselves can injure or even kill fish. The amount of unintentional injury or mortality attributable to fish removal varies widely depending on the method used, ambient conditions, and the expertise and experience of the field crew. Fish collecting gear, whether passive or active poses some risk to individuals, including stress, disease transmission, injury, or death (Hayes et al. 1996). In addition, relocated fish may have to compete with other fish for available resources such as food and habitat, and the growth rate of fish can be slowed when population density is high (Ward et al. 2007). However, the areas to be filled are extremely small relative to equivalent habitat in the action area, and the fills will be located outside of the most functional habitat. Therefore, the number of fish requiring relocation is likely minimized.

Based on the results of various studies of salmonid seasonal occupancy and densities, consideration of the quality and quantity of adjacent habitat (see *Environmental Baseline* section), and the techniques proposed to herd fish out of partially constructed enclosures, NMFS expects that no more than two juvenile Chinook salmon, and 10 juvenile steelhead would be captured and relocated to adjacent habitat in each of the two construction seasons.

Mortality of Relocated Fish

Data on fish relocation efforts from water diversion activities since 2004 shows most average mortality rates are below three percent for salmonids. Given the measures that would be implemented to avoid and minimize impacts to fish during relocation efforts, NMFS expected no more than three percent of all relocated fish would be subject to potential injury or mortality.

If we apply the three percent minimum mortality rate to the predicted number of juvenile CC Chinook and NC steelhead that we expect to be captured and relocated, we would expect less than one of each to be injured or killed in total for both construction seasons. However, analyzing population impacts based on fractions of fish is not logical, so we conservatively estimate that one juvenile of each species could be killed or injured in each construction season.

2.5.2 Noise and Visual Disturbance

Vibratory Pile Driving

Caltrans will use vibratory pile driving for all sheet piles used to contain and stabilize fill for temporary bridge approaches and for the cofferdam around Pier 2. Compared to impact pile driving, vibratory pile driving generally produces more continuous, lower energy sounds below the thresholds associated with injury. There are currently no established noise thresholds associated with continuous sound waves, and vibratory methods are generally considered effective measures for avoiding or minimizing the risk of injury to fish from pile driving noise. Vibratory installation may cause behavioral reactions in rearing juveniles and holding half-pounder and adult steelhead. Juvenile salmonids may move away from the vibrations or become habituated (Mike Kelly, personal observations 2006, 2009, 2011). Half-pounders and adults may leave the adjacent pool to seek similar holding habitat up- or downstream of the action area. However, these behavioral impacts are unlikely to reduce an individual salmonid's survival and fitness.

Impact Noise and Hydroacoustic Effects

Caltrans' BA evaluated potential underwater noise levels generated by planned construction activities, and determined that impact pile installation is unlikely to exceed currently adopted hydroacoustic noise thresholds that may cause injury to fish. Based on analyses provided in Caltrans' BA and confirmed by NMFS, single strike noise levels that are known to cause injury to fish (>206 dB re: 1 μ Pa) would not occur at any distance from the piles. Therefore, listed salmonids would not be exposed to single strike injurious noise levels.

Sound energy levels above 150 dB (re: 1 μ Pa) can accumulate to cause barotrauma in exposed fish. This cumulative sound exposure level is abbreviated as cSEL. Based on accepted standards of the Fisheries Hydroacoustic Working Group (2008), fish under two grams may suffer barotrauma at a cSEL of 183 dB, and fish over two grams may experience barotrauma at a cSEL of 187 dB. However, levels below these thresholds do not continue to accumulate if fish are not re-exposed within 12 hours.

Caltrans (2020, Appendix F) presented the calculations used to determine the distances from the piles over which injury may be possible. However, the calculation did not provide a sound energy level (SEL) that would allow direct calculation of cSEL distances (because the example monitoring data they used did not provide an SEL reading), though they intuit that cSEL levels of 183 dB would not reach the wetted channel. So, NMFS used the established method (SEL equals peak pressure minus 25 dB if direct measurement is unavailable (Caltrans 2015)) to predict SEL levels based on peak levels monitored at the sample location to confirm Caltrans' results. This calculation resulted in predicted distances of three to five meters from the piles, which confirms that injurious cSEL levels would not extend into water, which is approximately 20 meters from the water. Therefore, NMFS agrees that real time monitoring will ensure that exposure of salmonids to injurious sound levels in the Mattole River during impact pile driving will not occur.

Elevated cSEL's could also be produced during demolition of the old Pier 2 using a percussive hammer (hoe-ram). Distances of potential barotrauma are difficult to predict during hoe-ram use because the total number of blows, and the number of blows over 150 dB, cannot be accurately anticipated. Caltrans concludes that injurious sound levels are unlikely to be reached given that the demolition will take place in a dewatered cofferdam away from the water's edge. However, Caltrans proposes hydroacoustic monitoring during Pier 2 demolition to confirm avoidance of injurious levels of sound pressure, and activity will cease before injurious cumulative cSEL's are reached in a given day. Therefore, NMFS agrees that real time monitoring will ensure that exposure of salmonids to injurious sound levels in the Mattole River during Pier 2 demolition will not occur.

Additionally, juvenile salmonids could be exposed to underwater noise levels exceeding the behavior thresholds (150dB) without reaching the injurious cSEL threshold. Caltrans' analysis predicts that exposure to 150 dB sound levels would occur over a radius of 80 feet from the piles.

Temporary behavioral changes that fish may exhibit in response to pile driving noise include startle, altering behavioral displays, avoidance, displacement, and reduced feeding success.

Observations of juvenile steelhead exposed to pile driving noise above the 150 dB behavioral threshold at the Mad River Bridges Highway 101 project indicate that the juvenile salmonids quickly habituate to the noise and resume normal surface-feeding behavior within a few minutes of the first pile strikes (Mike Kelly, NMFS, personal observations 2009, 2011). Therefore, NMFS believes that periodic behavioral changes caused by sub-injurious sound exposure will not result in decreased fitness or survival of individual juvenile salmonids. Similar to the predicted reaction by half-pounders and adult steelhead to vibratory pile driving described above, NMFS believes that behavioral changes will not result in a decrease in fitness or survival of individual adult or half-pounder steelhead.

2.5.3 Water Quality

Pollutants from construction operations, or from the mobilization of sediment both during and after construction, have the potential to impact water quality within the action area.

Turbidity and Sedimentation

Short term increases in suspended sediment and turbidity are anticipated during construction and removal of the work pads and the detour bridge abutments. Additionally, there is likely to be an increase in suspended sediments and turbidity throughout the action area during the first rainfall of the season as disturbed sediments mobilize and adjust.

Increases in suspended sediment or turbidity can affect water quality, which in turn can affect fish health and behavior. Salmonids typically avoid areas of higher suspended sediment, which means they displace themselves from their preferred habitat in order to seek areas with less suspended sediment. Fish unable to avoid suspended sediment can experience negative effects from exposure.

Research has shown that length of exposure to total suspended solids (TSS) plays a more dominant role than TSS concentration (Anderson et al. 1996). Long term exposure to elevated TSS conditions may cause an endocrine stress response (elevated plasma cortisol, glucose, and hematocrits), suggesting an increased physiological burden that could influence growth, fecundity, and longevity (Redding et al. 1987). Therefore, when considering the effects of TSS on listed fish, it is important to consider the frequency and the duration of the exposure, not just the TSS concentration (Newcombe and Jensen 1996).

Construction of the work pads and detour bridge abutments, and their removal at the end of each construction season, are the activities that could generate harmful turbidity. However, Caltrans proposes to use techniques and materials, as described in section 1.3, that are proven to minimize turbidity to insignificant levels and durations. Therefore, NMFS considers the potential amounts and duration of turbidity generated by the proposed Project to be unlikely to reduce the fitness of listed salmonids in the action area.

The first rains of the season will likely produce turbidity of short duration and low concentration, and will occur when the most vulnerable life stages are not present. Additionally, through project design and implementation of standard wet-weather BMPs, as described in detail in Caltrans' BA and Manual of Construction Site Best Management Practices (Caltrans 2017), levels of

suspended sediment and turbidity during rain events are likely to be controlled sufficiently to avoid exposing salmonids to injurious durations and concentrations. Therefore, NMFS considers the potential amounts and duration of turbidity generated during rain events to be unlikely to reduce the fitness of listed salmonids in the action area.

Pollutants Associated with Stormwater Runoff and Spills

Contaminants generated by traffic, pavement materials, and airborne particles that settle may be carried by stormwater runoff into receiving waters. Stormwater runoff can introduce metals (e.g., copper, zinc, cadmium, lead and nickel) into waterways, where aquatic species can be affected. Copper and zinc are of particular concern due to their effect on salmonids at low concentrations. Dissolved copper and zinc in stormwater road runoff are difficult to remove, and have known negative effects on salmonids and other fishes (Sandahl et al. 2007).

The new bridge is designed to drain via sheet flow to the edges – similar to how the present bridge drains. However, the project will not increase the amount of traffic in the action area, and potential delivery of traffic-related contaminants is expected to remain similar to pre-project levels, which are unlikely to be harmful to fish due to the very low traffic volumes. Existing levels of roadway-type contaminant levels in the action area are unknown, but are likely to be well below harm thresholds in this rural watershed. Additionally, any rainwater that may contain contaminants would be immediately and significantly diluted upon entrainment into the flowing river. Therefore, NMFS does not expect reductions in fitness of individual listed salmonids residing in the action area due to toxic materials in stormwater runoff.

Accidental spills from construction equipment pose a significant risk to water quality, particularly for construction activities in or near watercourses, and at the onset of the rainy season when the first flush could trigger the discharge of spilled materials. However, in-stream activities would be suspended and all construction areas stabilized cleaned prior to the onset of the rainy season. Furthermore, the proposed minimization measures are expected to prevent chemical contamination during construction. Given the proven minimization measures and BMPs proposed, NMFS expects the likelihood of an accidental spill of contaminants reaching a waterway at a level that would harm fish to be improbable.

2.5.4 Effects to Critical Habitat

Streambanks and Streambed

Abutments for the new bridge will occupy areas well above the OHWM, so the new abutments and RSP will not impact streambank critical habitat, with the exception of riparian vegetation, as described below.

Covering of potential instream habitat with work pads and detour bridge abutments may create a temporary reduction in available habitat; however, as described in Section 2.5.1, the in-stream fills are relatively small and will be located away from the most functional habitat in the action area. Also, the fill will not persist beyond the first flows that move bedload, and if gravel is left behind after the structures are removed, it may provide a beneficial augmentation of coarse sediment in the action area. Therefore, NMFS believes that any impacts to the streambed habitat

due to temporary gravel fills will have inconsequential impacts to critical habitat in the action area.

Additionally, the new mid-channel pier will occupy a similar footprint to the existing pier, so any existing impact to streambed habitat will persist into the future. However, this footprint is extremely small relative to the available streambed in the action area, and satellite images going back to 2004 show the pier out of the water during base flow periods. This position relative to the wetted low-flow channel seems likely to persist given that the pier is positioned on the inside bar of a ~90-degree confined bend. These same satellite images do not show any obvious hydraulic or geomorphic influence by the pier on the channel. Therefore, we expect the pier's continued displacement of streambed, and any hydraulic impacts, to be inconsequential to the value of critical habitat in the action area.

Impervious Surface

As a result of the project, there would be an estimated 0.2-acre increase in impervious surface, with approximately half that total at each of the two bridge approaches. New impervious surface has the potential to cause an increase in peak flow and higher runoff volumes that can lead to channel scouring and bank erosion which, in turn, can increase sediment and turbidity in receiving waters. It can also lead to decreased storage capacity and outflow efficiency, thereby negatively affecting floodplain processes that are important for salmonids. However, due to the relatively small amount of new impervious surface in a watershed that is almost entirely within forest and agricultural landscape, NMFS believes that no changes in peak flow or runoff volume would occur that could produce a meaningfully measurable impact to salmonid habitat.

Riparian Habitat

Approximately 0.18 acre of temporary riparian loss would occur to various herbaceous species, two willows of 9.0 and 6.8-inch diameter at breast height (DBH), and three cottonwoods of 12.4 to 18.4 DBH. These trees and vegetation will be replanted.

The new approach on the north end of the bridge will permanently displace 46 live alder trees varying from 6.0 to 16.5-inch DBH, and seven dead alder trees of 7.2 to 10.5-inch DBH. No conifers will be removed.

NMFS expects that the loss of these trees will have minimal impact on the functional values of existing riparian habitat given the small scale of the impact relative to the remaining trees in the action area. Additionally, none of the permanently removed trees provide overhanging cover and likely provide little to no shade to the channel. Plentiful vegetative cover will remain in the action area, and no measurable increase in water temperature or reduction in the amount of terrestrial food input into the river is anticipated. And because no conifers will be removed, there will be no impacts to the primary source of future large woody debris contributions to the river channel. Therefore, impacts to riparian vegetation are not expected to result in any fitness consequences to individual listed salmonids in the action area.

2.5.5 Combined Effects

The potential exists for simultaneous construction-related impacts to have a synergistic effect that is greater or different than each stressor acting alone. Simultaneous project impacts may include visual impacts from workers and equipment working near or over the watercourses at the same time when fish may be exposed to noise and vibration from construction equipment or pile driving activities. Fish may also be exposed to noise and/or visual disturbances during minor increases in turbidity when the work pads and detour bridge abutments are placed and removed. Most potential project impacts would not occur simultaneously due to logistics of bridge construction that require one phase of the project to be completed prior to starting another. Because combined effects are either unlikely or of very low intensity, NMFS does not expect any reductions in listed salmonid fitness from any combined effects of individual construction elements.

2.6. Cumulative Effects

“Cumulative effects” are those effects of future state or private activities, not involving Federal activities, that are reasonably certain to occur within the action area of the Federal action subject to consultation (50 CFR 402.02 and 402.17(a)). Future Federal actions that are unrelated to the proposed action are not considered in this section because they require separate consultation pursuant to section 7 of the ESA.

NMFS expects ongoing adverse effects on critical habitat and individual listed salmonids in the action area due private water withdrawals from shallow wells or directly from tributary streams (NMFS 2016) that may lower the mainstem summer base flow. Lower summer base flows reduce available rearing habitat for juvenile salmonids and holding habitat for summer-run steelhead, and may contribute to higher daytime water temperatures due to lower volume of water available to moderate daily temperature swings. State and local groups are making focused efforts to reduce the impacts of private water withdrawals, but the related impacts are likely to persist into the near future before measurable benefits accrue.

Other ongoing adverse effects include abnormally high fine sediment and low volumes of large woody debris. These impacts are mainly related to historic timber harvest and timber roads. However, restoration efforts focused on road stabilization and recruitment of large wood are ongoing and are expected to improve habitat conditions in the action area over time.

Additionally, it is difficult if not impossible to distinguish between the action area’s future environmental conditions caused by global climate change that are properly part of the environmental baseline versus cumulative effects. Therefore, all relevant future climate-related environmental conditions in the action area are described in the environmental baseline (Section 2.4).

2.7. Integration and Synthesis

The Integration and Synthesis section is the final step in our assessment of the risk posed to species and critical habitat as a result of implementing the proposed action. In this section, we add the effects of the action (Section 2.5) to the environmental baseline (Section 2.4) and the cumulative effects (Section 2.6), taking into account the status of the species and critical habitat

(Section 2.2), to formulate the agency's biological opinion as to whether the proposed action is likely to: (1) Reduce appreciably the likelihood of both the survival and recovery of a listed species in the wild by reducing its numbers, reproduction, or distribution; or (2) appreciably diminish the value of designated or proposed critical habitat as a whole for the conservation of the species.

NMFS has developed a Viable Salmonid Population (VSP) concept that includes the parameters of population abundance, population growth rate, population spatial structure, and population diversity for defining a viable population which is an independent Pacific salmonid population that has a negligible risk of extinction due to threats from demographic variation, local environmental variation, and genetic diversity changes over a 100-year time period. An ESU or DPS is typically made up of multiple independent populations. Therefore, NMFS must assess whether changes to VSP parameters of the independent populations affected by a proposed action results in a reduction in the numbers, reproduction, or distribution of the ESU or DPS as a whole.

2.7.1 Summary of Baseline, Status of the Species, and Cumulative Effects

We describe critical habitat for CC Chinook salmon and NC steelhead at the ESU/DPS scale as mostly degraded in section 2.2.2. Although there are exceptions, the majority of streams and rivers in these ESUs/DPS have impaired habitat. Additionally, critical habitat in the ESUs often lacks the ability to establish essential features due to ongoing and past human activities. While habitat generally remains degraded across the ESUs/DPS, restorative actions have likely improved the conservation value of critical habitat throughout the range of these ESUs/DPS.

CC Chinook in the action area belong to the Mattole River Population of the North Coastal Diversity Stratum. This population is likely above the depensation threshold and has a low risk of extinction (NMFS 2016).

Winter- and summer-run NC steelhead in the action area belong to the Mattole River Population of the Northern Coastal Diversity Stratum. This population is likely above the depensation threshold and has a low risk of extinction (NMFS 2016).

The cumulative effects of those state and private activities that occur in the Mattole River watershed, as discussed in the environmental baseline section, may continue to impair, but not preclude the recovery of, critical habitat in the action area. NMFS expects that ongoing improvements in legacy effects of poor timber harvest practices and agricultural development will result in improved habitat conditions for CC Chinook salmon and NC steelhead. Focused recovery actions as identified in the Recovery Plan (NMFS 2016) are expected to further improve habitat in the Mattole River. Additionally, due to the negligible nature of the proposed action's long-term impacts, NMFS does not expect the proposed action to exacerbate the effects of climate change on salmonids or their critical habitat in the action area.

2.7.2 Summary of Effects to Individual Salmonids

NMFS anticipates miniscule effects to CC Chinook salmon and NC steelhead and their critical habitats from expected levels of chemical contamination, temporary and permanent loss of riparian vegetation, disturbance of streambanks and the streambed due to construction access, increased sediment and turbidity during various activities and due to exposure to sound during

impact pile driving. However, adverse effects are likely due to capture, handling, and relocation efforts intended to protect fish from potential exposure to in-water work activity. NMFS predicts that handling of juvenile Chinook salmon and steelhead during relocation efforts could result in mortality of no more than one of each species during each of two construction seasons.

The loss of two juvenile NC steelhead and CC Chinook salmon individuals from either one or two cohorts is not expected to affect future adult returns in any cohort for either species. The loss of juveniles represents a miniscule percentage of the overall number of individuals in the population. The overall number of individuals in the population will likely provide a compensatory effect. Other areas of the Mattole River watershed are expected to continue to contribute to the population during the time period when some juveniles in the action area may be harmed or killed as a result of this proposed project. Therefore, NMFS does not expect any appreciable effects on VSP parameters, and, thus, the proposed action is not expected to reduce the survival and recovery of the NC steelhead DPS or the CC Chinook salmon ESU, and the project is unlikely to appreciably diminish the value of designated critical habitat for the conservation of the species.

2.7.3 Summary of Effects to Critical Habitat

NMFS has determined that the effects to critical habitat from the proposed action are limited to short-term effects on the streambed substrate, minor turbidity events, and inconsequential short-term and permanent effects of riparian vegetation loss. The new bridge will fully span the channel and 100-year floodplain. The proposed action would perpetuate any habitat impacts of the mid-channel pier by replacing it in kind. However, the pier occupies a miniscule portion of habitat and appears to have an inconsequential impact on the hydrology of the action area. The results of our analysis indicate that negative effects on critical habitat would be temporary or negligible. Therefore, changes to critical habitat due to the project are unlikely to appreciably reduce the likelihood of survival and recovery of the CC Chinook salmon ESU or the NC steelhead DPS.

2.8. **Conclusion**

After reviewing and analyzing the current status of the listed species and critical habitat, the environmental baseline within the action area, the effects of the proposed action, the effects of other activities caused by the proposed action, and cumulative effects, it is NMFS' biological opinion that the proposed action is not likely to jeopardize the continued existence of CC Chinook salmon or NC steelhead or destroy or adversely modify their designated critical habitat.

2.9. **Incidental Take Statement**

Section 9 of the ESA and Federal regulations pursuant to section 4(d) of the ESA prohibit the take of endangered and threatened species, respectively, without a special exemption. "Take" is defined as to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect, or to attempt to engage in any such conduct. "Harm" is further defined by regulation to include significant habitat modification or degradation that actually kills or injures fish or wildlife by significantly impairing essential behavioral patterns, including breeding, spawning, rearing, migrating, feeding, or sheltering (50 CFR 222.102). "Incidental take" is defined by regulation as takings that result from, but are not the purpose of, carrying out an otherwise lawful activity conducted by the Federal agency or applicant (50 CFR 402.02). Section 7(b)(4) and section 7(o)(2) provide that taking that is incidental to an otherwise lawful agency action is not considered to be

prohibited taking under the ESA if that action is performed in compliance with the terms and conditions of this ITS.

2.9.1. Amount or Extent of Take

In the biological opinion, NMFS determined that incidental take is reasonably certain to occur as follows:

Take of juvenile Chinook salmon and steelhead may occur in the form of capture during fish relocation. NMFS expects that no more than two juvenile Chinook salmon, and 10 juvenile steelhead would be captured and relocated to adjacent habitat in each of the two construction seasons. Of these, no more than three percent of all relocated fish would be subject to potential injury or mortality, so we conservatively estimate that one juvenile of each species could be killed or injured in each construction season.

2.9.2. Effect of the Take

In the biological opinion, NMFS determined that the amount or extent of anticipated take, coupled with other effects of the proposed action, is not likely to result in jeopardy to the species or destruction or adverse modification of critical habitat.

2.9.3. Reasonable and Prudent Measures

“Reasonable and prudent measures” are nondiscretionary measures that are necessary or appropriate to minimize the impact of the amount or extent of incidental take (50 CFR 402.02).

NMFS believes the following reasonable and prudent measures are necessary and appropriate to minimize take of CC Chinook salmon and NC steelhead:

1. Undertake measures to ensure that harm and mortality to threatened Chinook salmon and steelhead resulting from fish relocation activities are low.
2. Ensure construction methods, minimization measures, and monitoring are properly implemented during construction.
3. Prepare and submit a post-construction report regarding the effects of fish relocation and construction activities.

2.9.4. Terms and Conditions

The terms and conditions described below are non-discretionary, and Caltrans must comply with them in order to implement the RPMs (50 CFR 402.14). Caltrans has a continuing duty to monitor the impacts of incidental take and must report the progress of the action and its impact on the species as specified in this ITS (50 CFR 402.14). If the entity to whom a term and condition is directed does not comply with the following terms and conditions, protective coverage for the proposed action would likely lapse.

1. The following terms and conditions implement reasonable and prudent measure 1:
 - a. Qualified biologists with expertise in the areas of anadromous salmonid biology shall conduct fish relocation activities associated with construction. Caltrans will ensure that all biologists working on the project are qualified to conduct fish

- relocation in a manner which minimizes all potential risks to salmonids.
- b. Salmonids shall be handled with extreme care and kept in water to the maximum extent possible during rescue activities. All captured fish must be kept in cool, shaded, and aerated water protected from excessive noise, jostling, or overcrowding or potential predators any time they are not in the stream, and fish will not be removed from this water except when released. Captured salmonids will be relocated as soon as possible to an instream location in which suitable habitat conditions are present to allow for adequate survival for transported fish and fish already present. Fish will be distributed between multiple areas if biologists judge that overcrowding may occur in a single area.
 - c. If any salmonids are found dead or injured, the biologist will contact NMFS biologist Mike Kelly by phone immediately at (707) 825-1622. The purpose of the contact is to review the activities resulting in the take and to determine if additional protective measures are required. All salmonid mortalities will be retained, placed in an appropriately-sized sealable plastic bag, labeled with the date and location, fork length, and be frozen as soon as possible. Frozen samples will be retained by the biologist until specific instructions are provided by NMFS. The biologist may not transfer biological samples to anyone other than the NMFS Northern California Office in Arcata, California without obtaining prior written approval from the South Coast Branch Chief. Any such transfer will be subject to such conditions as NMFS deems appropriate.
2. The following terms and conditions implement reasonable and prudent measure 2:
- a. Caltrans shall allow any NMFS employee(s) or any other person(s) designated by NMFS, to accompany field personnel to visit the project site during activities described in this opinion.
 - b. Caltrans shall contact NMFS within 24 hours of meeting or exceeding take of listed species prior to project completion. Notify Mike Kelly by phone at 707-825-1622. This contact acts to review the activities resulting in take and to determine if additional protective measures are required.
 - c. Caltrans shall make available to NMFS data from the hydroacoustic monitoring on a real-time basis (i.e., daily monitoring data should be accessible to NMFS upon request).
3. The following term and condition implements reasonable and prudent measure 3:
- a. Caltrans shall provide a written report to NMFS by January 15 of the year following construction of the project. The report shall be sent to NMFS via email to Mike.Kelly@noaa.gov or via mail to Mike Kelly at 1655 Heindon Road, Arcata, CA 95521. The reports shall contain, at a minimum, the following information:

Construction related activities -- The report will include the dates construction began and was completed; a discussion of any unanticipated

effects or unanticipated levels of effects on salmonids, a description of any and all measures taken to minimize those unanticipated effects, and a statement as to whether or not any unanticipated effects had any effect on ESA-listed fish; the number of salmonids (by ESU and DPS) killed or injured during Project construction; and photographs taken before, during, and after the activity from photo reference points; and a qualitative assessment of the fate of individual salmonids exposed to noise above barotrauma thresholds.

Fish Relocation – The report will include a description of the location from which fish were removed and the release site(s) including photographs; the date and time of the relocation effort; a description of the equipment and methods used to collect, hold, and transport salmonids; the number of fish relocated by species; the number of fish injured or killed by species and a brief narrative of the circumstances surrounding salmonid injuries or mortalities; and a description of any problems which may have arisen during the relocation activities and a statement as to whether or not the activities had any unforeseen effects.

2.10 Conservation Recommendations

Section 7(a)(1) of the ESA directs Federal agencies to use their authorities to further the purposes of the ESA by carrying out conservation programs for the benefit of the threatened and endangered species. Specifically, conservation recommendations are suggestions regarding discretionary measures to minimize or avoid adverse effects of a proposed action on listed species or critical habitat or regarding the development of information (50 CFR 402.02).

While no conifers, which provide long-term instream habitat value, will be removed, the removed alder trees could have shorter term habitat value if placed in streams or left on the gravel bar where they would be mobilized by high winter flows. Therefore, NMFS recommends that any trees or large wood that are removed during construction be made available to habitat restoration projects, or that a reasonable number of felled trees be placed on the gravel bar. Caltrans should offer these trees to restoration partners such as the Mattole Salmon Group. Caltrans may contact NMFS if help with such coordination is desired.

2.11 Reinitiation of Consultation

This concludes formal consultation for the Honeydew Bridge Replacement Project. As 50 CFR 402.16 states, reinitiation of consultation is required and shall be requested by the Federal agency or by the Service where discretionary Federal agency involvement or control over the action has been retained or is authorized by law and if: (1) The amount or extent of incidental taking specified in the ITS is exceeded, (2) new information reveals effects of the agency action that may affect listed species or critical habitat in a manner or to an extent not considered in this opinion, (3) the identified action is subsequently modified in a manner that causes an effect to the listed species or critical habitat that was not considered in the biological opinion, or (4) a new species is listed or critical habitat designated that may be affected by the action.

2.12 “Not Likely to Adversely Affect” Determinations

Juvenile and adult SONCC coho salmon migrate through the action area seasonally, but have not been found in this reach of the Mattole River during summer snorkel surveys conducted by MSG (MSG 2018b). The absence of juvenile coho salmon in this reach may be explained by high water temperatures, the long distance upstream where coho salmon typically spawn, the smolt outmigration being typically over by mid-June, and the outright scarcity of coho salmon in the watershed. Additionally, CDFW provided an email (CDFW 2018) to Humboldt County that states: *... based on proposed timing of project implementation (June 15 – October 15) we do not feel that the project is likely to result in State-defined take of coho salmon (catch, capture, kill) because they are highly unlikely to be present during the work window proposed.* This email is provided as Appendix D in the BA. Therefore, the effects of the proposed action to individuals is expected to be discountable, as there are no individuals expected to be exposed.

Critical habitat for SONCC coho salmon is present in the action area. As described in the BA and in section 2.5.4 of this opinion, all impacts to salmonid habitat are inconsequential and will occur during the summer construction season, and we expect these impacts to be undetectable by the time coho salmon return to the action area in the fall or winter. Therefore, the effects of the proposed action to SONCC coho salmon critical habitat is expected to be discountable

Based on this analysis, NMFS concurs with Caltrans that the proposed action is not likely to adversely affect the subject listed species and designated critical habitat.

3. MAGNUSON-STEVENS FISHERY CONSERVATION AND MANAGEMENT ACT ESSENTIAL FISH HABITAT RESPONSE

Section 305(b) of the MSA directs Federal agencies to consult with NMFS on all actions or proposed actions that may adversely affect EFH. Under the MSA, this consultation is intended to promote the conservation of EFH as necessary to support sustainable fisheries and the managed species’ contribution to a healthy ecosystem. For the purposes of the MSA, EFH means “those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity”, and includes the physical, biological, and chemical properties that are used by fish (50 CFR 600.10). Adverse effect means any impact that reduces quality or quantity of EFH, and may include direct or indirect physical, chemical, or biological alteration of the waters or substrate and loss of (or injury to) benthic organisms, prey species and their habitat, and other ecosystem components, if such modifications reduce the quality or quantity of EFH. Adverse effects on EFH may result from actions occurring within EFH or outside of it and may include site-specific or EFH-wide impacts, including individual, cumulative, or synergistic consequences of actions (50 CFR 600.810). Section 305(b) of the MSA also requires NMFS to recommend measures that can be taken by the action agency to conserve EFH. Such recommendations may include measures to avoid, minimize, mitigate, or otherwise offset the adverse effects of the action on EFH [CFR 600.905(b)]

This analysis is based, in part, on the EFH assessment provided by Caltrans and descriptions of EFH for Pacific Coast salmon (PFMC 2014) contained in the fishery management plans

developed by the Pacific Fisheries Management Council (PFMC) and approved by the Secretary of Commerce.

3.1 Essential Fish Habitat Affected by the Project

Essential Fish Habitat is defined as “those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity” (16 U.S.C. 1802[10]). “Waters” include aquatic areas and their associated physical, chemical, and biological properties that are used by fish, and may include areas historically used by fish where appropriate; “substrate” includes sediment, hard bottom, structures underlying the waters, and associated biological communities; “necessary” means habitat required to support a sustainable fishery and a healthy ecosystem; and “spawning, breeding, feeding, or growth to maturity” covers a species’ full life cycle. The term “adverse effect” means any impacts which reduce the quality and/or quantity of EFH. Adverse effects may include direct or indirect physical, chemical, or biological alterations of the waters or substrates and loss of, or injury to, benthic organisms, prey species, and their habitats, and other ecosystem components. Adverse effects may be site-specific or habitat-wide impacts, including individual, cumulative, or synergistic consequences of actions (50 CFR 600.910). The EFH consultation mandate applies to all species managed under a Fishery Management Plan (FMP) that may be present in the action area.

There is suitable habitat for juvenile salmonid rearing, adult salmonid holding, and adult salmon spawning in the action area. Habitat Areas of Particular Concern (HAPC) are described as complex channel and floodplain habitat, spawning habitat, thermal refugia, estuaries, and submerged aquatic vegetation. HAPCs exist in the action area as: spawning habitat and floodplain habitat.

3.2 Adverse Effects on Essential Fish Habitat

The potential effects to salmonid critical habitat have already been described in the *Effects* section. The adverse effects to EFH and HAPCs in the action area include:

1. Temporary reduction in available habitat due to presence of work pads and detour bridge abutments.
2. Noise and visual disturbance during impact pile driving, pier demolition, and associated construction activities.
3. Temporary reduction in water quality caused by increase in suspended sediments and turbidity during construction of the work pads and detour bridge abutments, and the first rain events following construction.
4. Temporary and permanent loss of riparian vegetation.

3.3 Essential Fish Habitat Conservation Recommendations

The anticipated adverse effects from the proposed action are temporary and minor. However, NMFS has the following EFH recommendation:

While no conifers, which provide long-term instream habitat value, will be removed, the removed alder trees could have shorter term habitat value if placed in streams or left on the gravel bar where they would be mobilized by high winter flows. Therefore, NMFS

recommends that any trees or large wood removed during construction be made available to habitat restoration projects, or that a reasonable number of felled trees be left on the gravel bar. Caltrans should offer these trees to restoration partners such as the Mattole Salmon Group. Caltrans may contact NMFS if help with such coordination is desired.

3.4 Supplemental Consultation

Caltrans must reinitiate EFH consultation with NMFS if the proposed action is substantially revised in a way that may adversely affect EFH, or if new information becomes available that affects the basis for NMFS' EFH Conservation Recommendations (50 CFR 600.920(1)).

4. DATA QUALITY ACT DOCUMENTATION AND PRE-DISSEMINATION REVIEW

The Data Quality Act (DQA) specifies three components contributing to the quality of a document. They are utility, integrity, and objectivity. This section of the opinion addresses these DQA components, documents compliance with the DQA, and certifies that this opinion has undergone pre-dissemination review.

4.1 Utility

Utility principally refers to ensuring that the information contained in this consultation is helpful, serviceable, and beneficial to the intended users. The intended user of this opinion is Caltrans. Other interested users could include the applicant (Humboldt County), CDFW, and restoration partners such as the Mattole Salmon Group. Individual copies of this opinion were provided to Caltrans. The document will be available within two weeks at the NOAA Library Institutional Repository [<https://repository.library.noaa.gov/welcome>]. The format and naming adhere to conventional standards for style.

4.2 Integrity

This consultation was completed on a computer system managed by NMFS in accordance with relevant information technology security policies and standards set out in Appendix III, 'Security of Automated Information Resources,' Office of Management and Budget Circular A-130; the Computer Security Act; and the Government Information Security Reform Act.

4.3 Objectivity

Information Product Category: Natural Resource Plan

Standards: This consultation and supporting documents are clear, concise, complete, and unbiased; and were developed using commonly accepted scientific research methods. They adhere to published standards including the NMFS ESA Consultation Handbook, ESA regulations, 50 CFR 402.01 et seq., and the MSA implementing regulations regarding EFH, 50 CFR 600.

Best Available Information: This consultation and supporting documents use the best available information, as referenced in the References section. The analyses in this opinion and EFH consultation contain more background on information sources and quality.

Referencing: All supporting materials, information, data and analyses are properly referenced, consistent with standard scientific referencing style.

Review Process: This consultation was drafted by NMFS staff with training in ESA and MSA implementation, and reviewed in accordance with West Coast Region ESA quality control and assurance processes.

5. REFERENCES

- Anderson, P. G., B. R. Taylor, and G. C. Balch. 1996. Quantifying the Effects of Sediment Release on Fish and their Habitats. Canadian Manuscript Report of Fisheries and Aquatic Sciences No. 2346, Department of Fisheries and Oceans.
- Bajer, A. 2011. Final report. Summer Steelhead Survey, 2009 season. Mattole River Watershed. Submitted in fulfillment of 319(H) III Contract #08-603-551-0. Mattole Salmon Group.
- Bartholow, J. M. 2005. Recent water temperature trends in the Lower Klamath River, California. *North American Journal of Fisheries Management* 25(1):152–162.
- Bjornn, T. C. and D. W. Reiser. (1991). Habitat Requirements of Salmonids in Streams. *American Fisheries Society Special Publication* 19(837): 83-138.
- Caltrans 2015. Technical Guidance for Assessment and Mitigation of the Hydroacoustic Effects of Pile Driving on Fish. CTHWANP-RT-15-306.01.01. Division of Environmental Analysis. November 2015.
- Caltrans. 2017. Construction Site Best Management Practices (BMP) Manual. May 2017.
- Caltrans. 2020. Honeydew Bridge Replacement Project biological assessment. Local Assistance reference BRLS-5904 (024). September 2020. Eureka, California.
- CDFW (California Department of Fish and Wildlife). 2018. Email from Jennifer Olson to Humboldt County describing likelihood of coho salmon being in the action area. April 26, 2018.
- Fisheries Hydroacoustic Working Group. (2008). Agreement in Principle for Interim Criteria for Injury to Fish from Pile Driving Activities. Memorandum to NOAA Fisheries, U.S. Fish and Wildlife Service, California/Washington/Oregon Departments of Transportation, California Department of Fish and Game, and U.S. Federal Highways Administration. June 12, 2008.
- Flosi, G. S. Downie, J. Hopelain, M. Bird, R. Coey, and B. Collins. 2010. California Salmonid Stream Habitat Restoration Manual. Part IV Fish Sampling Methods. California Department of Fish and Game Wildlife and Fisheries Division.

- Good, T. P., R. S. Waples, and P. Adams (*editors*). 2005. Updated status of federally listed ESUs of West Coast salmon and steelhead. U.S. Department of Commerce, NOAA Tech. Memo. NMFS-NWFSC-66. 597 pp.
- Hayes, D. B., C. P. Ferreri, and W. W. Taylor. 1996. Active fish capture methods. Pages 193–220 *in* B.R. Murphy and D.W. Willis, editors. Fisheries Techniques, 2nd edition. American Fisheries Society. Bethesda, Maryland. 732 pp.
- Intergovernmental Panel on Climate Change (IPCC). 2014. Climate Change 2014 Synthesis Report AR5. Valencia, Spain.
- Kelly, M. 2006. Personal observation.
- Kelly, M. 2009. Personal observation.
- Kelly, M. 2011. Personal observation.
- Lindley, S. T., R. S. Schick, E. Mora, P. B. Adams, J. J. Anderson, S. Greene, C. Hanson, B. May, D. McEwan, R. B. MacFarlane, C. Swanson, and J. G. Williams. 2007. Framework for assessing viability of threatened and endangered Chinook salmon and steelhead in the Sacramento-San Joaquin Basin. *San Francisco Estuary and Watershed Science* 5: Article 4.
- Mattole River and Range Partnership. 2009. Mattole Integrated Coastal Watershed Management Plan. Foresight 2020. 190 pp.
- MSG (Mattole Salmon Group). 2011. Spawning Ground Surveys, 2010-2011 Season. Petrolia, California. California Department of Fish & Game Contract No. P0910506 Mattole River Salmonid Population Monitoring & U. S. Department of the Interior Bureau of Land Management Assistance Agreement No. BCA072012.
- MSG. 2015. Mattole Watershed Juvenile Coho Salmon Distribution Monitoring 2013-2014. Petrolia, California. California Department of Fish and Wildlife Fisheries Restoration Grant Program, Contract No. P1210521.
- MSG. 2018a. Final Report: Mattole River 2017-2018 Adult Salmon and Steelhead Abundance Monitoring. California Department of Fish and Wildlife Fisheries Restoration Grants Program, Contract No. P160534.
- MSG. 2018b. Mattole River Juvenile Coho Salmon Summer Spatial Structure Monitoring 2017. Technical Report prepared by the Mattole Salmon Group in partial fulfillment of California Department of Fish and Wildlife Fisheries Restoration Grant Program, Contract No. P1610536.
- McElhany, P., M. H. Ruckelshaus, M. J. Ford, T. C. Wainwright, and E. P. Bjorkstedt. 2000. Viable salmonid populations and the recovery of evolutionarily significant units. U.S.

- Dept. Commerce, NOAA Technical Memorandum NMFS-NWFSC-42. 156 pp.
- Moyle, P. B. 2002. *Inland Fishes of California*. Second Edition. University of California Press. Berkeley, California.
- Newcombe, C. P. and J. O. T. Jensen. 1996. Channel Suspended Sediment and Fisheries: A Synthesis for Quantitative Assessment of Risk and Impact. *North American Journal of Fisheries Management*, 16(4): 693-727.
- NMFS (National Marine Fisheries Service). 2000. Guidelines for Electrofishing Waters Containing Salmonids Listed Under the Endangered Species Act. June 2000. Available: http://www.westcoast.fisheries.noaa.gov/publications/reference_documents/esa_refs/section4d/electro2000.pdf.
- NMFS (National Marine Fisheries Service). 2016. Final Coastal Multispecies Recovery Plan. National Marine Fisheries Service, West Coast Region, Santa Rosa, California.
- Perry, R.W., Risley, J.C., Brewer, S.J., Jones, E.C., and Rondorf, D.W., 2011, simulating daily water temperatures of the Klamath River under dam removal and climate change scenarios: U.S. Geological Survey Open-File Report 2011-1243. 78 pp.
- PFMC (Pacific Fishery Management Council). 2014. Appendix A to the Pacific Coast Salmon Fishery Management Plan, as modified by Amendment 18. Identification and description of essential fish habitat, adverse impacts, and recommended conservation measures for salmon. Pacific Fishery Management Council, Portland, Oregon. September 2014. 196 pp. + appendices.
- Piscitelli, A. 2012. Juvenile salmonid downstream migrant trapping on the mainstem Mattole River at Petrolia, California, 2011. Mattole Salmon Group report. 25p.
- Redding, J. M., C. B. Schreck, and F. H. Everest. 1987. Physiological Effects on Coho Salmon and Steelhead of Exposure to Suspended Solids. *Transactions of the American Fisheries Society*, 116(5), 737-744.
- Ricker, S., and C. W. Anderson. 2014. Freshwater Creek salmonid life cycle monitoring station. Annual report. California Department of Fish and Game, Anadromous Fisheries Resource Assessment and Monitoring Program. 50 Ericson Ct., Arcata, California. 42 p. plus appendices.
- Sandahl, J. F., D. H. Baldwin, J. J. Jenkins, and N. L. Scholz. 2007. A Sensory System at the Interface between Urban Stormwater Runoff and Salmon Survival. *Environmental Science and Technology* 41(8):2998–3004.
- Ward, D. M., K. H. Nislow, J. D. Armstrong, S. Einum, C. L. Folt. 2007. Is the Shape of the Density–Growth Relationship for Stream Salmonids Evidence for Exploitative Rather than Interference Competition? *Journal of Animal Ecology*, 76:135–138.

Weitkamp, L. A., T. C. Wainwright, G. J. Bryant, G. B. Milner, D. J. Teel, R. G. Kope, and R. S. Waples. 1995. Status review of coho salmon from Washington, Oregon, and California. NOAA Technical Memorandum NMFS-NWFSC-24. U.S. Department of Commerce, NOAA, Northwest Fisheries Science Center, Seattle, Washington. 258 pp.

Williams, T. H., S. T. Lindley, B. C. Spence, and D. A. Boughton. 2011. Status review for Pacific salmon and trout listed under the Endangered Species Act: Southwest. National Marine Fisheries Service, Southwest Fisheries Science Center, Santa Cruz, California.

Williams, T. H., B. C. Spence, D. A. Boughton, R. C. Johnson, L. Crozier, N. Mantua, M. O'Farrell, and S. T. Lindley. 2016. Viability assessment for Pacific salmon and steelhead listed under the Endangered Species Act: Southwest. 2 February 2016 Report to National Marine Fisheries Service – West Coast Region from Southwest Fisheries Science Center, Fisheries Ecology Division 110 Shaffer Road, Santa Cruz, California 95060.

Federal Register Notices Cited

50 CFR 402.02. Interagency Cooperation—Endangered Species Act of 1973, as amended.

50 CFR 402.14. Consultation Procedures—Endangered Species Act of 1973, as amended.

50 CFR 402.16. Reinitiation of Formal Consultation—Endangered Species Act of 1973, as amended.

64 FR 24049. National Marine Fisheries Service. Final Rule and Correction. Designated Critical Habitat; Central California Coast and Southern Oregon/Northern California Coasts Coho Salmon. May 5, 1999.

70 FR 37160. National Marine Fisheries Service. Final Rule. Endangered and Threatened Species: Final Listing Determinations for 16 ESUs of West Coast Salmon, and Final 4(d) Protective Regulations for Threatened Salmonid ESUs. June 28, 2005.

Appendix G California State Clearinghouse
Notice of Preparation
(SCH #:2017022027)



NOTICE OF PREPARATION

Date: February 10, 2017

To: State Clearinghouse, Responsible Agencies, Trustee Agencies, Interested Parties, and Organizations

Subject: Notice of Preparation of an Environmental Impact Report/Environmental Assessment and Public Scoping Meeting for the Humboldt County Public Works Department Honeydew Bridge Replacement Project, Humboldt County, California

Contact: Mr. Andrew Bundschuh, Environmental Permitting & Compliance Manager
Humboldt County Public Works Department – Natural Resources Division
1106 Second Street
Eureka, California 95501
Phone: (707) 445-7741
E-mail: abundschuh@co.humboldt.ca.us

Public Comment Period: February 15, 2017 to March 15, 2017

Scoping Meeting: March 1, 2017, 5-7 p.m., Mattole Grange #569

Purpose of the Notice

Humboldt County (County) is the lead agency for preparation of an environmental impact report (EIR) under the California Environmental Quality Act (CEQA) for the Honeydew Bridge Replacement Project. Since the project is receiving federal funding through the Highway Bridge Program (HBP) administered by the Federal Highway Administration (FHWA), the environmental document must also comply with the National Environmental Policy Act (NEPA). FHWA is the NEPA lead agency. To comply with NEPA, an Environmental Assessment (EA) will be prepared to allow FHWA to make a determination on whether the project would constitute a major federal action that would significantly affect the human environment. The two lead agencies have agreed to prepare a joint EIR/EA which satisfies the requirements of both CEQA and NEPA. In its role as the NEPA agency, FHWA will participate in the environmental review in a manner that satisfies federal requirements under NEPA and ensures that the EIR/EA, and underlying administrative record supports FHWA's decision on the proposed project. The Draft EIR/EA will include elements to ensure it is fully compliant with FHWA NEPA requirements and Federal executive orders.

The purpose of this Notice of Preparation (NOP; 14 CCR 15082) is to inform responsible and trustee agencies and interested parties about the proposed project and to solicit comments on the scope and content of the environmental information to be included in the EIR/EA. We are seeking your views on any significant environmental issues or concerns you may have about the project or project area, reasonable alternatives to the proposed project, and mitigation measures that may alleviate significant impacts. Please contact Andrew Bundschuh at the number or e-mail listed above for any questions about the project or environmental review process.

Project Location

The project is located on Mattole Road where it crosses the Mattole River near the community of Honeydew, Humboldt County, CA (refer to Figure 1 – Project Location and Vicinity). The project study area consists of approximately 25 acres of rural residential lands located within the boundaries of unincorporated Humboldt County (refer to Figure 2 – Project Study Area). The project study area includes the following zoning: AG-B-6 (Agricultural General – Special Building Site); AE-U (Agricultural Exclusive - Unclassified); C-2 (Community Commercial); and FR-B-5 (2.5) (Forestry Recreation – Special Building Site). Additional details are presented below:

Adjacent Roadways:	Wilder Ridge Road, Burrel Road
APNs:	107-272-012; 107-271-001, -002; 107-102-016; and 107-102-013
USGS Quad:	Section 1, Township 3 South, Range 1 West, HB&M, <i>Honeydew 7.5'</i> USGS quadrangle map
Lat./Long.:	Centroid of project site - 40.2438982° N / -124.1230673°W
Elevation:	360 feet above mean sea level

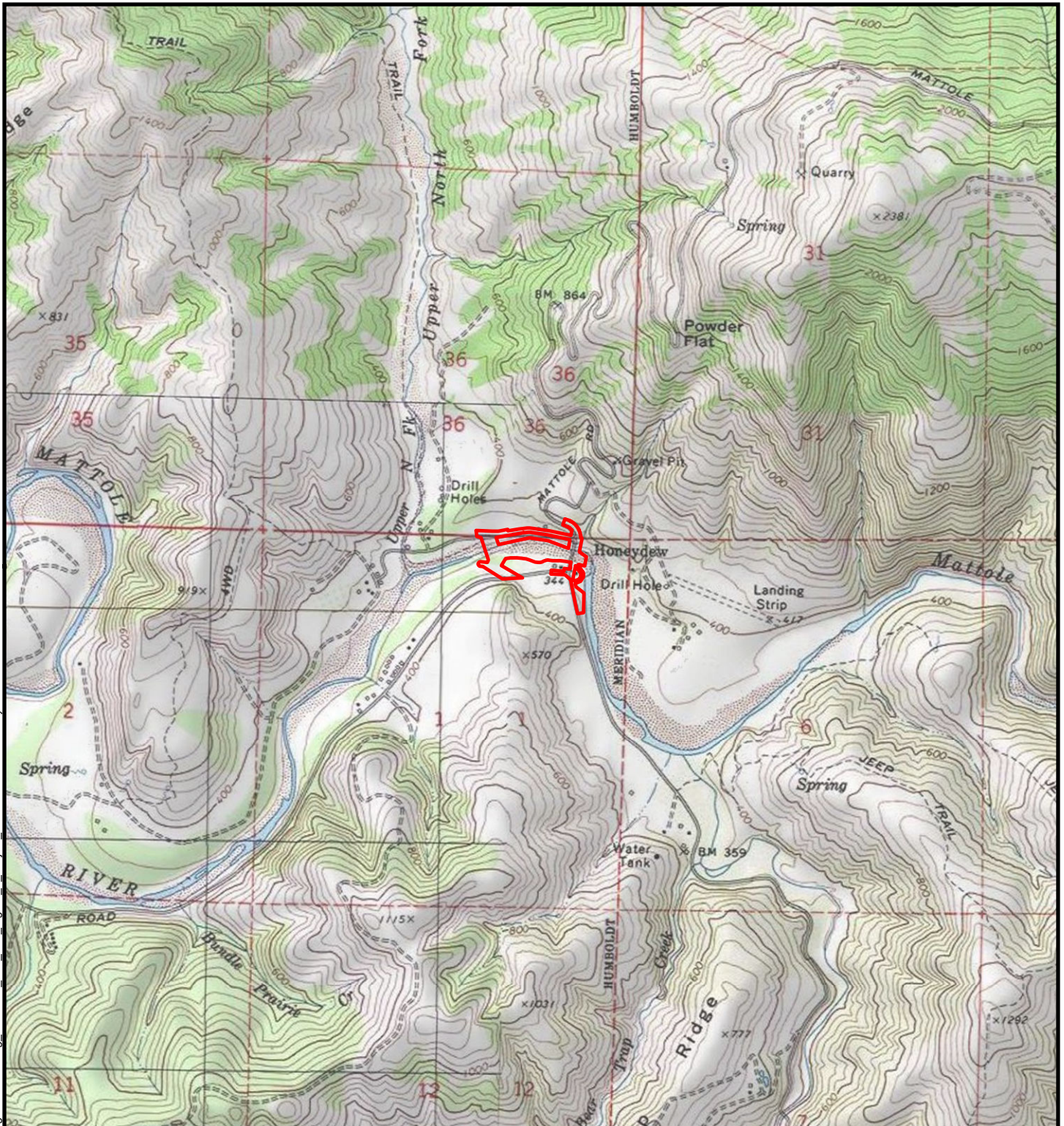
Project Background

The County is in the preliminary design and environmental approval phase for proposed replacement of the Honeydew Bridge (Bridge No. 04C-0055) along Mattole Road over the Mattole River, near the community of Honeydew. This bridge provides a critical transportation link across the Mattole River. The bridge is a single-lane structure comprised of two steel Camelback truss spans that was constructed in 1920; it was determined eligible for listing in the National Register of Historic Places in 2003 following a Caltrans Historic Bridge Inventory, under Criterion C (excellent example of its type, period, and method of construction as a rare Camelback truss).

In 1997, the County Board of Supervisors passed a resolution stating that the bridge needed to be replaced due to a local sufficiency rating identified as part of a Caltrans Structure Maintenance inspection. Funding was secured through the federal Highway Bridge Program (HBP) that is administered by Caltrans. In 2011, the County Public Works Department initiated technical studies and retained the services of Morrison Structures, Inc. as their engineering design consultant. Work completed to date includes the hydraulic analysis, geotechnical evaluation, and preliminary design for the bridge and road approaches. A public meeting was held in the Honeydew community on January 23, 2013 to discuss bridge alternatives. In reviewing some of the public meeting comments provided as an attachment to the Section 106 documentation, it appears there was a high level of local interest in the project, with concerns primarily associated with locating the bridge on the existing alignment and potential for speeding with a new, two-lane bridge.

Based on multiple design considerations (e.g., hydraulics, line of sight for vehicles, etc.), the existing bridge alignment was identified as the preferred alignment for the new bridge. Three bridge type configurations were identified in Morrison Structures, Inc.'s April 12, 2013 Recommended Bridge Type memorandum: two-span, steel Camelback through truss; two-span, composite welded steel girder; and two-span, precast-pre-stressed concrete spliced girder. The proposed project also includes a temporary detour crossing over the Mattole River located 1,300 feet downstream, removal of the existing bridge and pier, and construction of a new pier and bridge abutments. Two construction seasons are anticipated due to the limited in-river work window (i.e., June-October). In Season 1, deep foundations for the new pier and south abutment will be constructed; the new bridge pier centerline is 11 feet north of the existing pier, which will allow for cast-in-drilled-hole (CIDH)

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 Study Area (15.93 acres)

Public Land Survey:
T02S, R01W, Sec. 36
T03S, R01W, Sec. 1

USGS 7.5 Quad:
Honeydew 1970
Shubrick Peak 1969

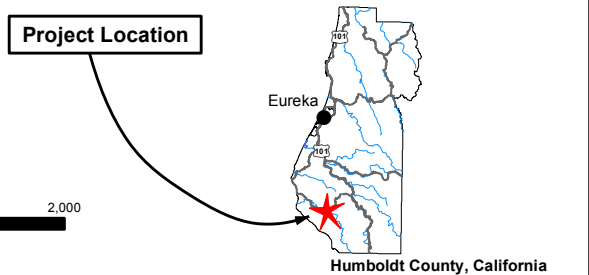
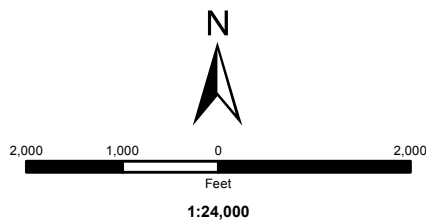
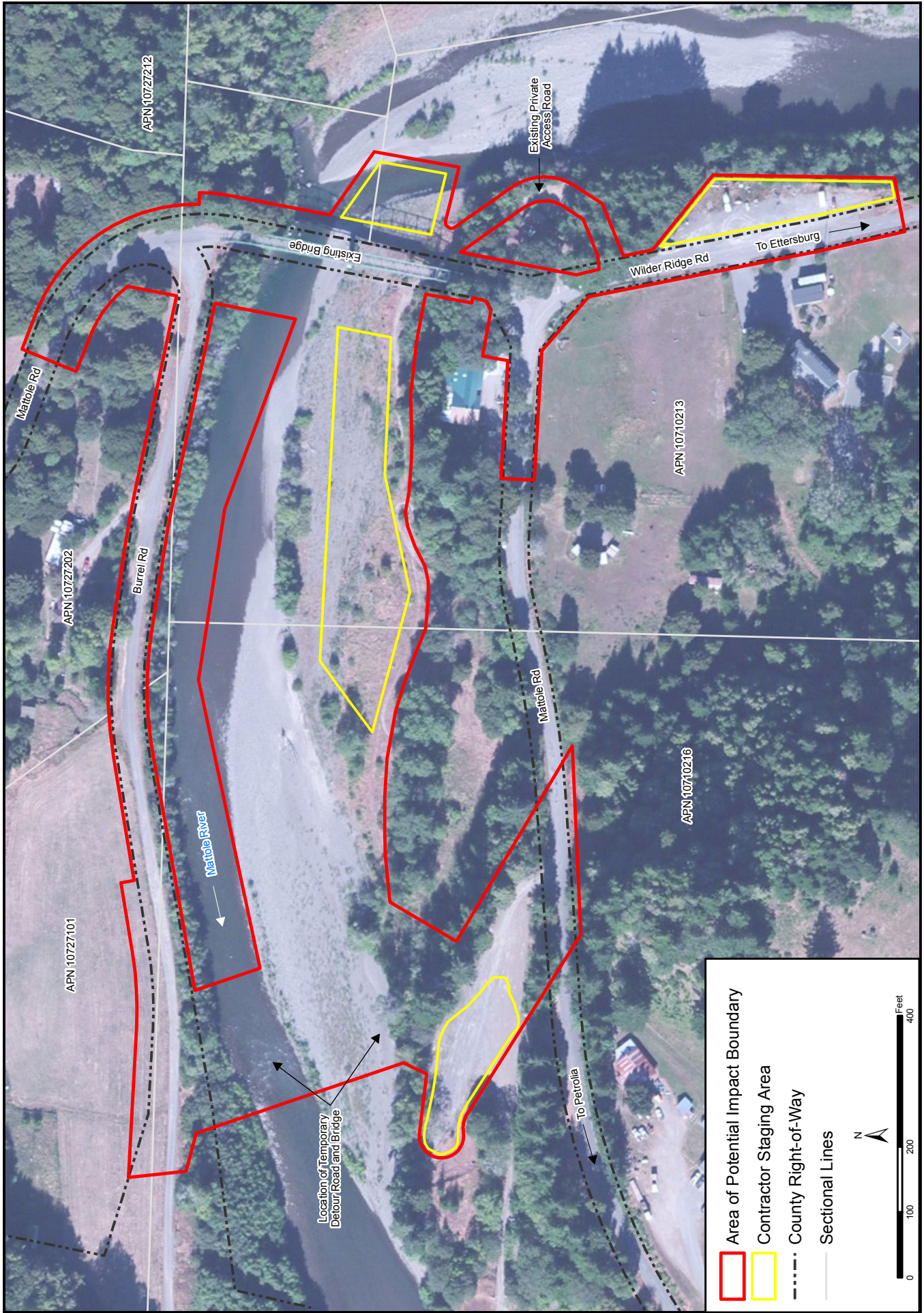


Figure 1
Project Location



Honeydew Bridge Replacement Project

Figure 2
Project Study Area

Area of Potential Impact Boundary
 Contractor Staging Area
 County Right-of-Way
 Sectional Lines

0 100 200 400 Feet
 N

installations without needing to close the existing bridge to through traffic. In Season 2, the downstream detour would be constructed and temporary supports installed to support both bridge demolition and new bridge construction.

Purpose and Need

The purpose of the project is to provide a road crossing that meets modern highway design standards, accommodates local and regional transportation needs, and provides an increased level of public safety (vehicles, pedestrians, and cyclists). The existing Honeydew Bridge was constructed in 1920 and is at or near the end of its service life. The bridge exhibits signs of significant structural fatigue; does not comply with modern geometric and seismic standards; contains only one travelable lane; lacks standard shoulder width; is unsafe for pedestrians; is cost prohibitive in terms of long term life cycle maintenance and repair costs; and cannot accommodate large permit loads due to lane width, height and structural limitations for weight loading. The County of Humboldt resolves that:

- Honeydew Bridge (4C-055) is critically needed for emergency vehicle access for local residents and for fire access to forested areas.
- Honeydew Bridge (4C-055) is critically needed since there is no available detour nor alternate access route to serve the needs of existing residences.
- Honeydew Bridge (4C-055) is significant to the local economy in that it provides access to important timber and agricultural lands.
- Honeydew Bridge (4C-055) has restricted vertical clearance which prohibits the transport of critically-needed heavy equipment to repair and reopen roads during severe storms and disasters. The replacement of the bridge will alleviate this problem and improve the response time during emergencies.

Over the last few decades, the population density in the Mattole Valley has steadily increased. Current ADT numbers at the bridge crossing are estimated around 350-400 with an anticipated increase to 500 near 2020. These traffic numbers on a one-lane bridge contribute to the unsafe nature of the bridge. The lack of a pedestrian lane makes travel across the bridge by both pedestrians and bicyclists unsafe. Although interim improvements have been conducted on the bridge since 1980; however, the bridge still presents safety concerns for pedestrians and vehicular traffic.

Logical Termini and Independent Utility

The Federal Highway Administration (FHWA) regulations outline three general principles in Title 23 CFR 771.111(f) that are to be used to frame a highway project. In order to ensure meaningful evaluation of alternatives and to avoid commitments to transportation improvements before they are fully evaluated, a project must meet these three criteria:

- Connect logical termini and be of sufficient length to address environmental matters on a broad scope.
- Have independent utility or independent significance, i.e., be usable and be a reasonable expenditure even if no additional transportation improvements are made in the area.
- Not restrict consideration of alternatives for other reasonably foreseeable transportation improvements.

Identification of Logical Termini

This project connects at logical termini and is of sufficient length to address environmental matters on a broad scope. Logical termini for a project are defined as (1) rational end points for a transportation improvement, and (2) rational end points for a review of the environmental impacts. Mattole Road, 200 feet west and 200 feet east of the Mattole River, are rational end points since the project, as contained within these limits, fully addresses the identified need for improving public safety along Mattole Road at the Mattole River crossing.

Independent Utility of the Project

This project will be usable and be a reasonable expenditure even if no additional transportation improvements are made in the area. The project will provide substantial benefits to the public (i.e., improve public safety), regardless of whether or not other transportation improvement projects are implemented.

Effect on Other Reasonably Foreseeable Transportation Projects

The Honeydew Bridge Replacement Project would not prevent or obstruct implementation of other transportation projects in the area. The schedule for the project allows for three phases of design and construction to space out the activities. The project will not restrict consideration of alternatives for other reasonably foreseeable transportation improvements in the project area.

Project Description

General

The existing structurally deficient and functionally obsolete bridge will be replaced with a modern structure that will meet current design criteria. The proposed bridge types are all two-span structures with equal span lengths of 187 feet - 7 ½ inches for a total bridge length of 375 feet - 3 inches. It will carry two lanes of traffic with each lane width 11-foot plus a 2-foot shoulder, for a clear width of 26 feet.

Alternatives

Three replacement structure alternatives have been considered. Each of the three alternative configurations will be on existing alignment and consist of two equal spans. Additionally, all three alternatives will likely consist of a steel H-pile supported north abutment, and cast-in-drilled-hole (CIDH) supported pier and south abutment. Alternative 1 is a steel Camelback through truss similar in configuration to the existing bridge. Alternative 2 is a haunched, composite welded steel girder. The third alternative is a haunched, precast, prestressed, spliced girder, similar in geometry to Alternative 2.

Design

The replacement structure will be designed for the HL93, Tandem, and P15 Permit Design vehicle loadings as specified in Caltrans Bridge Design Specifications (BDS), Seismic Design Criteria V1.6, and AASHTO 6th Ed. The hydraulic Design Criteria established in the Caltrans Local Procedures Manual prescribe that the structure be capable of conveying the base or 100-year flood (Q100) and passing the 50-year flood (Q50) “without causing objectionable backwater, excessive flow velocities or encroaching on through traffic lanes.” In addition, AASHTO requires at least 3 feet of freeboard (clearance) above the 50-year flood or flood of record. The minimum soffit elevation required to meet these criteria is 335.41 feet.

Detour

During the bridge replacement project, a temporary detour road and temporary bridge is proposed to be constructed 1,300 feet downstream from the existing bridge. The detour road will connect Mattole Road via Burrel Road and will also provide the main access to the bridge construction site. Detour road construction will consist of river run gravel fill over geotextile fabric, with an aggregate base topping. The temporary detour bridge will cross the main thalweg of the Mattole River and will most likely consist of a Bailey bridge or other erectable bridge type. The temporary bridge will be installed at an elevation with sufficient freeboard so that small fluctuations in river levels can be accommodated. Figure 2 depicts the locations and extents of the planned detour route, staging areas, access routes, and work area boundaries (bridge and roadway).

Transportation Access

The existing bridge will be temporarily supported, disassembled, match marked, and transferred to the County for storage. Access to the bridge site is available from: (1) Highway 101 directly, (2) Highway 101 via Ettersburg, and (3) Highway 101 via Petrolia. Direct access from Highway 101 along Mattole Road passes through a state park, is a distance of 22 miles, and roadway geometry limits vehicular length to approximately 50 feet. Access via Ettersburg is along Wilder Ridge Road and Briceland Thorne Road, and is a total distance of 33 miles from Highway 101. Access along this route is limited by road geometry, but it provides a better alternative than the direct access from Highway 101. Using steerable trailers, bridge member lengths of up to 90 feet can likely be accommodated. The bridge site can also be accessed from the northwest, through Ferndale and Petrolia. Construction equipment and materials have historically been transported into the Honeydew area through this route, and the transport of bridge member lengths up to 90 feet may be possible. The George Lindley Memorial Bridge (4C-78) and the Dry Creek Bridge (4C-241) capacities will prevent permit trucks from using this third route.

Staging

Temporary staging areas will be available at three locations: (1) along Wilder Ridge Road, just southeast of the intersection with Mattole Road; (2) all along the south bank gravel bar near and beneath the existing bridge and; (3) at the north Mattole Road Bridge approach. The Wilder Ridge Road staging area is located along the east side of Wilder Ridge Road, approximately 300 feet south of the intersection with Mattole Road. The south bank gravel bar temporary staging area (primary construction staging area) will be located between the detour road located 1,300 feet to the west and the private access road a few hundred feet upstream from the bridge. The north approach staging area will be located on Mattole Road, immediately north of the existing bridge north abutment.

Falsework

Based upon field observations, no problems with falsework are anticipated during the construction season. Due to the types of bridge alternatives recommended, the amount of falsework required for the construction will be a minimum compared to that required for a standard cast-in-place concrete box girder. The existing truss demolition and new bridge construction will likely require clean gravel pads or work trestles in the active streambed. These trestles and work platforms will likely require H piles, probably in the 14x89 size range and driven about 30 feet deep, based on typical falsework requirements. Clean gravel pads will be placed as necessary in the channel margins in the active stream to provide work trestle access or work pads for construction equipment and temporary supports during bridge removal and construction. The trestle and gravel work pads will be removed prior to the October work deadline, and in-stream areas temporarily affected by construction will be returned to their pre-construction condition. The primary construction staging area to

remove and replace the existing bridge will be along the south bank gravel bar. There will be access to this construction staging area from the downstream detour road and also from Wilder Ridge Road along an upstream existing private access road.

Construction Sequencing

Because of the short time period of low flows for the Mattole River, two summer seasons will be required to construct the bridge replacement project regardless of the structure type alternative selected.

The first season of work will be to construct the deep foundations required for the new pier and south abutment. This will involve either using the private access road or constructing the portion of the detour road necessary to provide construction access. Large diameter CIDH pile foundations will likely be used for each alternative, at both the center pier and south abutment. The new bridge pier centerline is located 11 feet north of the existing pier centerline. This will allow for the CIDH installations without requiring closure of the existing bridge or impacting the existing bridge support.

The second season of work will be to construct the detour, temporary supports, dismantle and remove the old bridge and construct the pier wall, abutments, retaining walls, superstructure, and approaches. Temporary supports used to remove the existing bridge trusses could also be used to erect the new bridge. After completion of the second season of work, the detour bridge and roadbed material from the detour road, construction access road, and private access road will be removed.

Adequate de-watering at the pier location during construction will be achieved by means of diking/diversion of surface water and sump pumping. Imported embankment material will be required for the approach roadway at the south end of the bridge. This fill will be located outside of the ordinary high water channel of the Mattole River. The contractor will provide temporary water pollution control measures, including but not limited to, dikes, basins, and ditches, which may become necessary as a result of the construction process.

New rock slope protection (RSP), 1/4 to 1/2 ton method B, will be installed. The locations and extents are not yet decided. This will be placed by an excavator with a bucket/thumb attachment that would pick and place/fit together the RSP.

Construction Criteria and Methods

Construction specifications will be in accordance with the Special Provisions and the current Caltrans Standard Plans, Standard Specifications, and Standard Special Provisions at the time the construction contract is awarded. Equipment and materials will be staged in the three designated staging areas only and traffic will be maintained through the area during the first season on the existing bridge and during the second season on the detour bypass.

Temporary work platforms and detour route will be constructed of river run gravel fill or properly sized salmon spawning gravel “fish rock.” Gravel will be uncrushed, rounded, natural river rock with no sharp edges. It will be washed at least once and have a cleanliness value of 85 or higher based on Caltrans Test No. 227. Gravel will also be completely free of oils, clay, debris, and organic material.

Because fish rock does not stay together under pressure of heavy equipment, clean crushed angular gravel will be placed on top of the fish rock with geotextile fabric to separate the crushed angular gravels from the fish

rock. Once the new bridge is completed, the crushed rock atop the gravel work platforms and temporary detour will be removed and disposed of offsite.

Final design has not been completed at this time, and the exact construction for the work pads and falsework trestles has not been selected. The actual number, size, types, and depth of piles to be driven for the complete project is indeterminate. The most likely option for the north abutment will be HP 10X57 driven about 30 feet. The pier will most likely be two 7-foot diameter CIDH. The south abutment will most likely be two 48-inch CIDH. In addition, sheet piles may be required for the construction of the pier cap.

Potential Environmental Effects and Scope of the EIR/EA

The EIR/EA to be prepared for the proposed project will provide a project-level analysis of the impacts pertaining to the resources area identified below. The EIR/EA will be prepared in accordance with CEQA Statutes, CEQA Guidelines, Caltrans' NEPA guidelines, and other applicable regulatory requirements. The impact analysis will consider impacts resulting directly from the proposed project, both direct and indirect, as well as the proposed project's contribution to cumulative impacts in the project area. The EIR/EA will identify feasible mitigation measures to reduce or avoid project-specific and cumulative impacts. To ensure the EIR/EA adequately addresses the full range of issues and alternatives to the proposed project and that all significant issues are addressed, comments and suggestions are invited from all interested parties during the NOP scoping process.

- **Aesthetics** – Potential impacts to the visual character of the project site and surrounding public view areas along the Mattole River and adjacent roadways, including the removal of a historic bridge. The County and their consultant team will prepare a Visual Impact Assessment report, the results of which will be incorporated into the EIR/EA.
- **Air Quality/Greenhouse Gas Emissions** – Potential impacts from fugitive dust emissions and equipment/vehicle emissions during construction.
- **Biological Resources** – Potential impacts on special-status species, including threatened and endangered species and associated critical habitat (i.e., Northern California steelhead Distinct Population Segment [DPS], California Coastal Evolutionarily Significant Unit [ESU] Chinook salmon, and Southern Oregon/Northern California ESU coho salmon), nesting migratory birds and raptors, riparian vegetation, and waters of the state/United States as a result of proposed project construction activities. The County and their consultant team will be conduct a floristic inventory, special-status species habitat assessment, aquatic habitat characterization, and a delineation of waters of the state and United States. Technical reports include a wetland delineation report (if jurisdictional waters are present); northern spotted owl habitat assessment; Biological Assessment/Essential Fish Habitat Assessment, including a hydroacoustic analysis of proposed pile-driving activities, to evaluate potential impacts of the proposed project on listed salmonids and to support Section 7 Endangered Species Act consultation; and a Natural Environment Study report that will evaluate potential impacts to all biological resources.
- **Cultural Resources** – Potential impacts to cultural resources, including the proposed removal of a historic bridge eligible for listing in the National Register of Historic Places, as a result of proposed project construction activities. The EIR/EA will also address potential impacts to tribal cultural resources in accordance with AB 52. The County retained Roscoe & Associates to complete an

Archaeological Survey Report/Historic Property Survey Report and JRP Historical Consulting LLC to complete the Historic Resources Evaluation Report (HRER) and Finding of Adverse Effect (FOAE) document. The FOAE needs to be approved by Caltrans and the State Historic Preservation Officer (SHPO), along with a Memorandum of Agreement (MOA) that will identify measures to mitigate adverse effects on the historic bridge. This information will be summarized in the EIR/EA.

- **Geology and Soils** – Potential impacts to soils, including soil erosion during construction, and the level of geologic and seismic risks. The level of risk to people and property will be determined based on analysis of the project study area soil properties and seismic hazard potential conducted as part of the geotechnical investigation.
- **Hazards/Hazardous Materials** – Given the age of the existing bridge, there is potential for potentially hazardous materials such as lead-based paint, treated wood, and asbestos-containing materials to be present. If present, these would pose a risk to the construction workers and public during construction of the proposed project. The County and their consultant team will be conducting an Initial Site Assessment to determine if potentially hazardous materials are present. If they are, additional testing will be conducted to determine levels present and appropriate avoidance and minimization measures and mitigation measures. This information will be incorporated into the EIR/EA. Other potential hazards to be addressed include increased risk of fire and impediment to emergency routes during construction.
- **Hydrology and Water Quality** – Potential impacts to water quality and associated beneficial uses within the Mattole River due to erosion/sedimentation and potential for accidental spills from construction equipment/vehicles during construction. Potential impacts to the hydrology of the Mattole River as a result of in-river construction activities.
- **Recreation** – Potential impacts to recreational users along the Mattole River during the construction phase.
- **Noise/Vibration** – Potential impacts on ambient noise levels during construction of the proposed project, including pile-driving activities, which may impact sensitive receptors (e.g., local residents).
- **Traffic and Circulation** – Potential impacts to adjacent roadways due to increased construction vehicle and equipment traffic during the proposed project construction phase.
- **Growth-Inducing and Cumulative Impacts** – Potential growth-inducing and cumulative impacts resulting from the proposed project pursuant to CEQA Guidelines 15126(d) and 15130.

For this project, the County identifies the baseline as the environmental conditions in within the project study area and vicinity as they exist at the time the NOP is issued (CEQA Guidelines, Section 15125).

NEPA Compliance

Since Caltrans will use the EIR/EA document to demonstrate compliance with NEPA, the EIR/EA will include additional elements to ensure it is fully compliant with Caltrans/FHWA NEPA requirements and Federal executive orders. These include:

- Purpose and Need Statement

- Environmental Justice
- Socio/Economics
- Section 4(f)
- Short-term uses and Long-term Productivity
- Irreversible and Irretrievable Commitments of Resources

Comments provided during the scoping process may identify additional environmental issues to be evaluated.

Discussion of Alternatives

CEQA Guidelines 15126.6(a) requires that an EIR describe a range of reasonable alternatives for the project. The EIR/EA will evaluate the comparative merits of the alternatives, which will include a No-Project/No-Action Alternative and may include alternative bridge type selections. The alternatives will be determined, in part, by public input received during the NOP comment period. To ensure that the EIR/EA adequately addresses the full range of issues and alternatives related to the proposed project and that all significant issues are identified, comments and suggestions are invited from all interested parties.

Responsible and Trustee Agencies

The following agencies may have statutory responsibilities in connection with approval of the proposed project:

- California Department of Fish & Wildlife (Region 1)
- California Regional Water Quality Control Board (North Coast Region)
- California Department of Transportation (District 1)
- California State Lands Commission
- State Historic Preservation Officer
- National Marine Fisheries Service (Santa Rosa Field Office)
- U.S. Army Corps of Engineers (San Francisco District)
- U.S. Fish & Wildlife Service (Arcata Field Office)

Public Scoping Meeting

A public scoping meeting will be held on Wednesday, March 1, 2017 at 5:00 P.M., until 7:00 P.M. The meeting will occur at the following location:

Mattole Grange #569
 36512 Mattole Road
 Petrolia, CA 95558

Note: Do not mail NOP comments to the above address.

The purpose of the scoping meeting is to present information about the proposed project, describe the State's CEQA process and the associated Caltrans NEPA process and timelines, and solicit input, including written comments, on the scope and content of the EIR/EA. The format of the meetings will be an open house style with stations set up for attendees to obtain information about the project and environmental process and discuss their concerns with the project staff. Comment forms will be available for those who wish to submit written comments at the meeting.

Interested parties, including public agencies, are encouraged to attend the meeting to learn more about the proposed project and the environmental review process and to express any concerns about the proposed project and offer suggestions regarding the environmental impacts, including any mitigation measures and alternatives. The public scoping meeting information has also been published in local newspapers.

Public Review Period

The Notice of Preparation is being circulated for public review and comment for a period of 30 days beginning February 15, 2017. Written comments will be accepted by the County through 5:00 P.M. on March 15, 2017. This information will be considered when preparing the EIR/EA.

You may submit comments in three ways: (1) by U.S. mail, (2) by electronic mail (e-mail), or (3) by attending the public scoping meeting and submitting written comments at that time. Comments provided by e-mail should include "Honeydew Bridge Replacement Project NOP Scoping Comments" in the subject line, and the name and physical address of the commenter should be contained in the body of the email.

Please send all comments via mail to:

Mr. Andrew Bundschuh, Environmental Permitting and Compliance Manager
Humboldt County Public Works Department
Natural Resources Division
1106 Second Street
Eureka, California 95501

OR via e-mail to:

abundschuh@co.humboldt.ca.us

Your views and comments on how the project may affect the environment are welcomed and will be used to identify the issues to be analyzed in depth in the EIR/EA.

Sincerely,



Andrew Bundschuh
Environmental Permitting and Compliance Manager