



September 28, 2007

Kim Floyd, Project Manager
California Department of Transportation
P.O. Box 3700
Eureka, CA 95502-3700

Re: Eureka-Arcata 101 Corridor Improvement Project

Ms. Floyd:

On behalf of the board, staff and supporting members of Humboldt Baykeeper these comments are submitted regarding the combined Draft Environmental Impact Statement/Environmental Impact Report (DEIS) for the proposed Eureka-Arcata 101 Corridor Improvement Project ("the Project"). Humboldt Baykeeper appreciates the effort that has been expended by your staff and the environmental review that has been conducted. We appreciate the opportunity to present you with our concerns regarding this Project.

Inadequate Alternatives Assessment

Alternative 5, the safety corridor as a long-term solution, should be re-examined as the most feasible and environmentally protective alternative. The amount of funding for additional enforcement and public awareness campaigns is minimal compared to the amount of public funding that will be used to build any of the proposed alternatives. Double fine zone legislation can be renewed. The DEIS states that it does not meet the safety criterion, since it could result in higher percentage of fatal injury collisions than state average, yet the fact is that there have been no fatal injury collisions since the safety corridor was established. It appears that the safety corridor continues to be effective even though enhanced enforcement, public awareness campaigns, and double fines for speeding have expired. Statistics on collisions in the safety corridor before, during, and after these "features" existed should be included for public review and comment. Assessing the effectiveness of the U.S. 101 safety corridor based on a review of safety corridors in other areas of the state are inadequate when local statistics should be readily available.

Growth Inducing Impacts

Both CEQA and NEPA require review of whether the approval of a proposed project would result in increased growth or changes in growth patterns. Section 3.1.2 of the DEIR/S evaluates whether the Project may result in such growth inducing impacts. Due to the potential for growth inducing impacts to the area along and to the east of the Project, we must support the adoption of Alternative 7, the No Action Alternative.

The analysis of potential growth inducing impacts states that only Alternatives 2 and to a lesser degree 3 would have the possibility to result in any growth inducing impacts. DEIS at 79. The document goes on to state that

“However, any new development near the Indianola Cutoff intersection would require permits and environmental review. Therefore, for the aforementioned reasons, although possible, it is not reasonably foreseeable that any of the project alternatives would likely induce substantial growth or indirectly create an incentive to develop large-scale development...”

DEIS at 81-82

As an initial matter, we must disagree with staff’s assessment that only Alternatives 2 and 3 have the potential to induce growth, and specifically disagree with the assessment that none of the proposed alternatives, other than Alternative 7, “(w)ill attract more residential development or new population into the community or planning area.” DEIS at 78. By increasing the public’s perception that the 101 corridor is “safer” development pressures in all of the communities east of 101 will increase. Though the 101 corridor is not the only access to these areas, it is the main artery that connects them to both Eureka and Arcata. Further, the fact that “permits and environmental review” would be required for any further development is an insufficient basis under CEQA for not performing a complete and thorough environmental review of potential growth inducing impacts.

Reuse of Soils Contaminated with Lead Levels that Exceed Hazardous Waste Criteria

Humboldt Baykeeper additionally has concerns regarding the possible onsite reuse of soils that are contaminated with aerielly deposited lead. DEIS at 183. The entirety of the Project is located on filled wetlands. It is essentially located within the historic footprint of Humboldt Bay. The water table in this area is exceptionally shallow, and in many areas in the winter can rise to levels almost at the surface. Soils contaminated with lead, a water soluble substance, at levels that exceed hazardous waste criteria should not be reused in such a sensitive area. There are additional concerns regarding the potential for road surface failure in large storm or earthquake events that could result in the discharge of these contaminated materials directly into the Bay, a result that could occur even if such soils are “encapsulated” prior to reuse.

The DEIS does not adequately discuss the cumulative impacts of either removing or reusing in place soils that contain lead at levels that exceed the hazardous waste criteria. The document merely states that the Project “would have a net positive cumulative environmental effect relating to hazardous substances that presently exist in the project

corridor: this is because any one of the project Build Alternatives would remove hazardous substances from the shallow soils within the road shoulders and median areas and, then either encapsulate the material via a California Department of Toxic Substances Control variance or dispose the material at an approved disposal facility.” DEIS at 184. This discussion is inadequate as to the potential cumulative effects.

Impacts to Wetlands and Waters Adjacent to the Project

Inadequate information is provided in the DEIS as to the mitigation that will be performed to compensate for the impacts to wetlands and other waters in the Project vicinity. Humboldt Baykeeper must therefore encourage the adoption of the No Action Alternative.

Though the DEIS for the Project states that impacts to wetlands will be mitigated, the DEIS does not identify the particular mitigation that will actually be undertaken. CEQA guidelines, 14 C.C.R. §15126.4(a)(1)(B), states that where several mitigation measures are available to mitigate an impact, each should be discussed and the basis for selecting a particular measure should be identified. The DEIS discusses five conceptual mitigation strategies for wetland impacts but does not clearly identify what particular action(s) would be undertaken or what standards will be applied in determining which measure would be selected. DEIS at 254-270. The CEQA guidelines state that “(f)ormulation of mitigation measures should not be deferred until some future time.” 14 C.C.R. §15126.4(a)(1)(B). The mitigation measures for wetlands impacts clearly violates this CEQA requirement.

Though the DEIS assigns low value to the wetlands within the Project area, these wetlands and waters do in fact provide important functions and value to the local environment. Water fowl and wading birds such as egrets and herons are regularly seen feeding in the wetlands and waters adjacent to the Project, even within the median area. Waters adjacent to the Project are known habitat for threatened or endangered species such as tidewater goby, Coho Salmon and Chinook Salmon. Additionally, these areas are adjacent to, though not entirely contiguous with, four important wildlife areas and refuges.

The low wetland value is assigned to these wetlands due to three factors: their proximity to the roadway, the fact that some of them are mowed on a regular basis, and that they are not contiguous with other wetland areas. DEIS at 256. These factors should not be considered determinative of the value placed on these wetlands. Additionally these factors should not be considered when identifying the mitigation that will be chosen for the Project, should the Project go forward. Depending upon the Action Alternative selected there will be anywhere from 3.89 to 15.41 acres of wetlands impacted. As it is impossible to accurately determine the true value and function provided by any wetland, any mitigation should increase the total area, as well as the wetland function and value, not simply result in “no net loss”. CEQA requires that any mitigation measure for a project be roughly proportional to the impact of the proposed project, 14 C.C.R.

§15126.4(4)(B), a low value should not be assigned to the wetlands and waters that will be impacted in order to avoid implementing appropriate mitigation measures.

These wetlands adjacent to the Project also serve an important function as sinks for sediment and toxicant retention. The DEIS states that the majority of the stormwater runoff from the 101 corridor leaves the area as sheet flow. DEIS at 170, 172-173. This sheet flow drains directly into these adjacent wetlands and waters where any toxicants that might be found have the opportunity to be filtered out prior to final discharge into Humboldt Bay. This is an important function that needs to be more fully considered in the environmental review for the Project.

Botanical Scoping

Several special status plant species known to occur in the project area¹ are not addressed in the Affected Environment section (page 272). The following species have the potential to occur within and/or adjacent to the project area, are protected under 14 CCR §15380 (d), and should be addressed in the DEIS:

Scientific Name:	Common Name:	CNPS List:
<i>Montia howellii</i>	Howell's montia	2.2
<i>Puccinellia pumila</i>	dwarf alkali grass	2.2
<i>Sidalcea malviflora</i> ssp. <i>patula</i>	Siskiyou checkerbloom	1B.2
<i>Sidalcea oregana</i> ssp. <i>eximia</i>	coast checkerbloom	1B.2
<i>Viola palustris</i>	marsh violet	2.2

Impacts to Special Status Plant Species

Impacts to documented occurrences of Humboldt Bay owl's clover (*Castilleja ambigua* ssp. *humboldtiensis*) and Point Reyes bird's beak (*Cordylanthus maritimus* ssp. *palustris*) are not adequately addressed. Avoidance of occurrences at Gannon Slough only considers possible effects due to mechanical impacts. Changes in hydrology and sedimentation rates could alter the elevation and other characteristics of the salt marsh that could result in expansion of the invasive Chilean cordgrass (*Spartina densiflora*), to the detriment of the rare plant populations. Impacts to two other rare plant occurrences—one at the Northwest margin of Eureka Slough in another west of the Route 101 right-of-way in Eureka Slough—are not addressed in the Environmental Consequences section (DEIS at 273).

Impacts to suitable (unoccupied) habitat for these two species should also be addressed since they are both annual plants with a high likelihood of colonizing in expanding into

¹ California Department of Fish and Game, Natural Diversity Database. Nov. 2002. Special Vascular Plants, Bryophytes, and Lichens. Biannual publication, Mimeo. 150 pp. Online Quadviewer visited on Sept. 25, 2007. <<http://www.dfg.ca.gov/whdab/html/cnddb.html>>

unoccupied salt marsh. Both species are semi-parasitic, and the current extent and potential impacts to their host species should also be addressed.²

Impacts to Rare Natural Communities

Northern Coastal Salt Marsh is a rare natural community that is known to occur within and adjacent to the project area.³ Rare natural communities are those communities that are of highly limited distribution. Rare natural communities may or may not contain rare, threatened, or endangered species.

Impacts to plant communities that either support or are dominated by one or more rare, threatened or endangered species should therefore be addressed during environmental review.⁴ Section IV (b) of the Checklist asks if the project would have a substantial adverse impact on a “*sensitive natural community identified ... by the California Department of Fish and Game or U.S. Fish and Wildlife Service.*”

Northern Coastal Salt Marsh is a rare natural community identified by the Department of Fish and Game, and it is also a plant community that supports one or more rare, threatened or endangered species. Therefore, impacts to Northern Coastal Salt Marsh within and adjacent to the project area should be addressed in the DEIS.

Impacts of Invasive Species

Potential impacts related to expansion of the invasive species Chilean cordgrass (*Spartina densiflora*) and common reed (*Phragmites australis*) are not adequately addressed in the DEIS.

Changes to physical and biological properties of Northern Coastal Salt Marsh that could encourage colonization and/or expansion of Chilean cordgrass should be addressed, since such changes would have significant negative impacts on rare plant species and/or rare plant communities within and/or adjacent to the project area. Such changes can include but are not limited to: changes in hydrology, stormwater runoff quantity and quality, timing/seasonality of stormwater runoff, salinity, tidal fluctuations, sedimentation rates, and elevation of salt marsh.

² Marvier, Michelle A., and David L. Smith. 1997. Conservation Implications of Host Use for Rare Parasitic Plants. *Conservation Biology* 11: 839-848.

³ List of California Terrestrial Natural Communities Recognized by the California Natural Diversity Database, Sept. 2003. California Department of Fish and Game, Sacramento, CA; California Department of Fish and Game, Natural Diversity Database. Nov. 2002. Special Vascular Plants, Bryophytes, and Lichens. Biannual publication, Mimeo. 150 pp. Online Quadviewer visited on Sept. 25, 2007. <<http://www.dfg.ca.gov/whdab/html/cnddb.html>>

⁴ Wagner, Keith G. 2003. CEQA and Rare Vegetation Communities. California Native Plant Society's Vegetation Program - Sampler newsletter. Sacramento, CA.

The common reed occurrence on the east side of Route 101 poses a unique quandary in that this species is known to respond to mechanical disturbance with aggressive expansion via rhizomatous growth.⁵ Further detail as to methods for controlling the spread of this species should be addressed.

Conclusion

Humboldt Baykeeper appreciates the opportunity to present these comments for your consideration. Inadequate information has been presented to support the need for this Project, especially considering the limited funds available and other important areas in need. Based upon the reasons discussed above, we urge the approval of Alternative 7 – the No Action Alternative.

Thank you,

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Humboldt Baykeeper

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Humboldt Baykeeper

⁵ Marks, M., B. Lapin, and J. Randall. 1994. *Phragmites australis* (*P. communis*): Threats, management, and monitoring. *Natural Areas Journal* 14: 285-294.