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February 13, 2024

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Governor's Office of Planning & Research

**Feb 14 2024**

**STATE CLEARINGHOUSE**

**SUBJECT:** Initial Comments on Caltrans Draft Environmental Impact Report (DEIR) and Draft Environmental Impact Statement (DEIS) for the Last Chance Grade Permanent Restoration Project, Del Norte County (Highway 101 Post Miles 12.7 to 16.5) – SCH # 2021110050

Dear Steve Croteau,

Thank you for the opportunity to provide comments on the draft Environmental Impact Report/Environmental Impact Statement (DEIR) for the Last Chance Grade (LCG) Permanent Restoration Project. The project site is located on a section of U.S. Highway 101 in southern Del Norte County, California approximately 10 miles south of Crescent City, between post miles 12.7 and 16.5. For many years, geologic instability has continuously threatened this section of highway often requiring one-way traffic controls to ensure safe passage while Caltrans undertakes costly highway repairs. The purpose of the project is to develop a long-term solution to the instability and potential roadway failure at LCG.

We greatly appreciate the years of collaboration on this project to date, and that the DEIR already reflects many of the comments we have discussed with Caltrans. This letter provides some further overview comments from Commission staff on the DEIR, however, we also understand a coastal development permit (CDP) application will be forthcoming, and we hope these comments help inform the development of the information and materials necessary to support a complete application submittal.

### **Jurisdiction**

The project appears to be wholly within the coastal zone, although the northern end of the project is near the inland extent of the coastal zone boundary. The project site includes areas within the CDP jurisdiction of the Commission and areas within the Commission-delegated CDP jurisdiction of Del Norte County. Portions of the project within the County's

jurisdiction include areas where improvements are proposed within the existing state highway right-of-way. Portions of the project within the Commission's jurisdiction include areas outside the existing state right-of-way owned by the federal government.

Caltrans, as the applicant, may request of Del Norte County that the County agree that a single consolidated CDP be processed for all proposed development associated with the project in both jurisdictions, rather than two separate CDPs, and if the County agrees, the Commission's Executive Director will agree to the consolidated permit processing using the Coastal Act as the standard of review. If Caltrans and/or the County do not agree to the consolidated CDP process, then two separate CDPs will be required for the project. The County's CDP would be appealable to the Commission.

### **Standard of Review**

The standard of review that the Commission will use in its review of the CDP application (whether as a consolidated CDP or a CDP just for Commission jurisdiction) will be the Coastal Act, with the County's certified local coastal program (LCP) used as guidance. As such, the following comments on the DEIR are organized according to relevant Coastal Act sections raised by the project, as these policies will be used to evaluate the CDP application upon submittal. At a broad level, the Coastal Act requires the protection of coastal resources including but not limited to protection of marine resources, biological productivity, and water quality; protection of public access and recreation; protection of environmentally sensitive habitat areas; and protection of scenic resources and public views to and along the coast.

### **General Comments on Alternatives and Project Resiliency**

The draft environmental document evaluates two build alternatives, Alternative X and Alternative F, and the No-Build Alternative. Alternative X would involve reengineering and partially realigning a 1.6-mile-long section of the existing highway to minimize the risk of landslides. Main project components would include 1.6 miles of retaining walls along the roadway, an underground drainage system to help reduce landslide risk by capturing groundwater, and strategic eastward retreats from the existing roadway. Alternative F would involve constructing a 6,000-foot (1.1-mile) tunnel east of the existing highway to avoid the most intense areas of known landslides and geologic instability. Main components would include a tunnel and associated portals, a bridge at the northern portal to connect the tunnel alignment to the existing highway, and an on-site Operations and Maintenance Center (OMC) for tunnel support.

Overall, in designing each alternative and considering the environmental impacts associated with each, we strongly recommend that Caltrans consider project design life and resiliency over the long term. Please evaluate each project alternative across a range of sea-level rise (SLR) scenarios (using the Commission's adopted SLR policy guidance, which will likely be updated later this year in response to updated OPC guidance) and consider whether there are additional important design features needed to minimize hazard risks as may be exacerbated by SLR. In general, we support a project alternative that is resilient, adaptable, and that will minimize coastal resource impacts over the long-

term factoring in projected SLR. As we move forward, we should continue to evaluate how each the project alternative will be adapted in the future, including near the end of project design life, and whether it is foreseeable that there will be a need for additional significant impacts related to future adaptation at the end of the project design life. If so, and if there are added measures that could be integrated into project design up front that would prolong design life and improve project resiliency and adaptability while minimizing long-term impacts, please evaluate such design alternatives.

Although the Commission's engineering and geology technical staff have not had the opportunity to complete a detailed review of the two project alternatives under consideration and any currently available technical studies supporting those alternatives, our team looks forward to a detailed review of the basis of design report and other technical studies developed to support each alternative to understand the degree to which each alternative minimizes hazard risks, assures stability and structural integrity, avoids creating or contributing significantly to erosion, geologic instability, or destruction of the site or surrounding area, and avoids to the extent feasible the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs over the project service life consistent with section 30253 of the Coastal Act.

Finally, the evaluation of alternatives should address the various past emergency actions that have been taken for Last Chance Grade and explain how those emergency improvements that are in place now will be integrated into each project alternative or otherwise decommissioned and restored as part of the proposed action.

## **Public Access**

### *Coastal Act Requirements*

Section 30210 of the Coastal Act requires that maximum public access shall be provided consistent with public safety needs and the need to protect natural resource areas from overuse. Section 30212 of the Coastal Act requires that access from the nearest public roadway to the shoreline be provided in new development projects, except where it is inconsistent with public safety, military security, or protection of fragile coastal resources, or where adequate access exists nearby. Section 30211 of the Coastal Act requires that development not interfere with the public's right to access gained by use or legislative authorization. Section 30214 of the Coastal Act provides that the public access policies of the Coastal Act shall be implemented in a manner that takes into account the capacity of the site and the fragility of natural resources in the area. In applying Sections 30210, 30211, 30212, and 30214, the Commission is required to show that any denial of a permit application based on these sections or any decision to grant a permit subject to special conditions requiring public access is necessary to avoid or offset a project's adverse impact on existing or potential access, or to otherwise increase access consistent with the mandate for maximum public access.

### *Comments and Recommendations*

The existing highway has 12-foot-wide lanes and, except for a few locations, shoulder widths range from 0 to 4 feet. Vehicle speeds range from 35 to 55 miles per hour (mph).

Alternative X proposes 12-foot-wide lanes, shoulder widths of 8 to 10 feet, and would accommodate vehicle speeds of 35 mph. Alternative F would maintain 12-foot-wide lanes in either direction, shoulders would be expanded to 8 to 10 feet, and accommodate vehicle speeds of at least 45 mph. Under Alternative F separated 6-foot-wide bike/pedestrian lanes would be included within the tunnel. These would be approximately 8 feet above the highway and located above pressurized emergency egress corridors. The lanes would be accessed by ramps at the portals. The new separated pedestrian path and the widened shoulders represent appreciated public recreational access improvements; however, there are project aspects that warrant additional consideration to ensure consistency with the public recreational access policies of the Coastal Act.

Given that this section of US Highway 101 is a designated State Scenic Highway and is part of the Pacific Coast Bike Route, we appreciate the inclusion of bike and pedestrian improvements in the project alternatives under consideration. As this stretch of roadway is the only viable route between Klamath and Crescent City and is within the Redwoods State and National Park, and as the Coastal Trail runs roughly parallel to the east of the project limits (crossing the highway in the northern part of the project limits), we support incorporating project elements that promote slower vehicular speeds. Slower speeds will improve safety for bicyclists and pedestrians in this important coastal recreational area. We recommend Caltrans consider incorporating additional traffic calming measures including, but not limited to, narrowing travel lane widths, installing rumble strips, improved safety features for pedestrian crossings, and similar improvements to increase public safety for all multi-modal transportation.

In addition, although there are no direct coastal access points located within the project limits, this section of Highway 101 provides access to important coastal access points, such as Wilson Creek Beach, beaches to the north accessible from existing pull-outs, and the Damnation Creek Trail and California Coastal Trail (CCT). We recommend that Caltrans consider proposing improvements to the Coastal Trail or other trails and access points in the vicinity to mitigate for the project's public access impacts, to maximize public access, and to be consistent with Caltrans' own policies related to complete streets and the California Coastal Trail.

Third, as noted in the DEIR, Alternative F involves constructing a 1.1-mile tunnel east of the existing highway, bypassing approximately 8,000 linear feet of existing roadway and Caltrans right of way, all of which would be decommissioned. Decommissioning would include removing existing structures, to the extent feasible, such as the roadway, culverts, and walls. Areas not needed for ongoing maintenance activities would be contoured to match surrounding topography and restored with native vegetation where feasible. While the DEIR does not advance a specific plan to deconstruct or readapt the old highway for other uses, such as pedestrian access, we recommend such a plan be evaluated in the environmental document. Please consider designating the decommissioned highway as a section of the CCT or explaining in detail why such an option is not proposed as it has been elsewhere in the state in other highly erosive coastal environments (e.g., Gleason Beach, Sonoma County and Devils Slide Tunnel, San Mateo County).

Lastly, to minimize impacts to public access during construction we request that the Traffic

Management Plan prepared for the project consider avoiding lane closures on very busy weekend periods, busy holidays, or major community events, and avoid full road closures to the greatest extent feasible. Additionally, the TMP should consider cumulative impacts to traffic from this construction site combined with other nearby construction and/or emergency repairs.

## **Biological Resources**

### *Coastal Act Requirements*

Section 30240(b) of the Coastal Act requires that environmentally sensitive habitat areas (ESHAs) be protected against any significant disruption of habitat values potentially resulting from adjacent development. Section 30240(b) of the Coastal Act states, in applicable part, the following:

*Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.*

### Comments and Recommendations

Both build alternatives would affect various biological resources, including late successional (mature to old-growth) redwood forest and other coniferous forest habitat for marbled murrelet and northern spotted owl, and wetlands. Further, both project alternatives would remove suitable habitat for marbled murrelet and northern spotted owl, which are federal and state listed species; suitable habitat includes critical habitat for marbled murrelet. Both the Coastal Act and LCP (which again serves as guidance) strictly limit development within ESHA and generally require that impacts be minimized to the maximum extent feasible including through avoidance and mitigation measures.

The Coastal Act defines environmentally sensitive habitat areas (ESHAs) as areas in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments (Section 30107.5). Therefore, when assessing impacts, it is important to note that the definition of ESHA is not strictly tied to rarity but also covers 'especially valuable' habitat, which includes areas such as riparian or those with particular unique values. In terms of interpreting what is 'easily disturbed or degraded,' this applies not only to the resources across the broader landscape but also to the specific areas subject to analysis as incremental loss or degradation remain problematic. Once project details have been finalized, we will be able to better explore how best to address any unavoidable temporary and permanent impacts to ESHA. We suggest early and continuous coordination with our ecology staff to ensure ESHA impacts are properly analyzed.

Please be advised that Commission staff will need a complete draft Habitat Mitigation and Monitoring Plan (HMMP) for a complete CDP application before this item can be scheduled for a Commission hearing on the CDP application. That HMMP will need to

estimate temporary and permanent construction impacts on ESHA and wetlands, provide a plan for on-site restoration and mitigation, and a plan for off-site mitigation if required.

### Describing and Quantifying Impacts

Commission staff have prepared memos summarizing the Commission's mitigation practices for Caltrans staff, and on general requirements for an HMMP, and we can provide these to you. Some of the issues that we will need to clarify going forward include:

- The definitions provided in the Draft EIR/EIS for temporary and permanent impacts do not match past Commission decisions and typical practices. The Commission typically considers impacts to be temporary if there is no significant ground disturbance and areas are fully restored to pre-project conditions within one year. Short-term temporary impacts are where disturbance and recovery are complete within 12 months. Long-term temporary impacts typically refer to impacts involving a sustained period for construction that is followed by rapid recovery of the existing community (not an extended duration required for recovery of the existing community). Any impacts that do not meet these parameters shall be considered "permanent impacts."
- We recommend identifying/quantifying habitat conversion impacts, and as appropriate, identify appropriate mitigation for this type of impact.
- We recognize that there are presently efforts underway to better map and describe vegetation communities along the North Coast and anticipate that ESHA determinations will be refined and may change as updated information becomes available. An updated/revised ESHA analysis with overlaid maps and updated calculations for ESHA impacts will be needed.
- We noted several sensitive natural communities (SNC's) excluded from the estimated ESHA impacts, such as coastal brambles and red alder forest (except where accounted for as riparian). We suggest this exclusion is premature and inappropriate. While it may be that these communities are presumed to recover from disturbance more rapidly than others, it remains that project impacts to these SNC's will be sustained over a period of time, which can have cascading effects. Rarity is based on the state ranking system and not regional status, and even for communities that are rare statewide but locally abundant, any loss represents an adverse effect on the resource overall. Incremental acceptance of losses from within the coastal zone is also problematic. We recommend assuming that all sensitive natural communities will meet the definition of ESHA under the Coastal Act.
- The tally of impacts excludes all but late-stage successional portions of SNCs. We recommend tallying all impacts for all types of SNCs, as even early-stage habitat, shrubs, and trees less than 24-in DBH are considered valuable coastal resources, for which impacts must be avoided, then minimized and mitigated accordingly.

- The cascara forest is notably absent of VegCAMP evaluation or determined rarity status; however, given that it is long-lived and contains the greatest shrub and herbaceous plant diversity in BSA#1, it might be presumed to qualify as ESHA. More information is warranted.
- It is unclear whether the wetland delineations appropriately evaluated areas with less than three parameters. Wetland delineation data sheets will be necessary for CDP review. In addition, we note that wetlands are characterized generally by functional type. To support the CDP application, we will need to see this information paired with identification of the vegetation community for each wetland (per Manual of CA Vegetation classification), as this will also inform the Commission's ESHA determinations and wetland mitigation requirements. Also, there is a "coastal feature" wetland that lacks sufficient information and for which additional detail/description is needed.
- Generally, the conclusions seem to be that impacts will be negligible for nearly all wildlife species, because there is plenty of a given habitat type in the surrounding area for them to electively disperse or relocate to, and because effects would be "temporary" [though arguably sustained over many years]. Please note that ESHA determinations may be based on habitat use, and indirect habitat impacts also should be considered, including redistribution or sub-lethal effects. Moreover, several SNCs excluded from the presented ESHA analysis [see above comments] support many of these sensitive coastal species, sometimes nearly exclusively.
- If available, it would be helpful to present detail of trees with individual ID numbers. Further, if available, data for trees under 24-in DBH should also be provided. While we recognize the difficulty of recording via GPS every tree that might be potentially impacted given the project area size, we thought we understood that Caltrans would identify/count trees between 6 inches and up to 24 inches (no GPS) and identify, count, obtain DBH, and GPS all trees 24 inches and greater and quantify impacts in terms of spatial scale (e.g., number of trees per type and size class per acre).
- The environmental document does not discuss large mammals that may be impacted by the project, e.g., mountain lions, bobcats, coyotes, and black bears. Consider whether the project may impact denning habitat for such species and as needed appropriate measures to protect such habitat, including surveys, avoidance, and buffers.
- It is unclear why species listed in Appendices H and I as having a high or moderate potential to occur were not included in further discussion. Please address these species or explain why potential impacts to these species have not been further evaluated.

### Noise

- With respect to noise impacts, please explain what ambient noise levels at key areas are, such as existing roadside and interior forested areas where work would

be conducted. Given this is an undeveloped remote environment, we would expect ambient noise levels to be relatively low. Please also specify metrics used (e.g., rsm, max peak, etc.) and where these are being measured.

- Even with limits imposed to allow construction work, increases of even 10 dB over ambient may have adverse effects on sensitive wildlife receptors. Typically, we expect sensitive receptors like bird nests to be protected such that they do not experience more than 65 dB; the allowance for up to 90dB per BR-2J is excessive considering the logarithmic scale, and such noise should be mitigated for. Bats may be even more sensitive to certain types of noise, including during torpor season when noise restrictions do not appear to be applied. Are there opportunities to use sound barriers here? How is noise expected to attenuate in these landscapes?
- While we understand the need for the use of helicopters for geotechnical investigations, this presents the potential for adverse noise effects on sensitive wildlife. Please provide an analysis of expected noise levels with helicopter activity at various distances including general fly-over at top of and below canopy, as well as during more intense activities associated w/ boring and equipment deliveries.
- Please specify the expected noise levels during steel drill platform installation and the ongoing boring itself
- Have vibrations associated with boring, tunneling, etc. been examined? Have impacts to denning wildlife from such activities been considered?

#### Mitigation Measures

- For BR-2, we recommend standard and minimum buffers be established for all living resources, including, but not limited to, nesting birds, with allowance for less than standard to minimal only following consultation with appropriate parties. For nesting bird buffers we typically recommend 300 feet for passerines and 500 feet for raptors.
- The measures include in-stream monitoring, which we appreciate. The measures reference potential restrictions but we did not see these specified – please include in future materials.
- In addition to lighting being downcast, directional, and minimized to extent feasible, lighting also should include specifications appropriate for wildlife and the surrounding environment including those that reference color, brightness, etc.
- Please specify breeding seasons for all sensitive wildlife (e.g., this information is not provided for several mammals) and specify that consultation with appropriate agencies will be undertaken.
- Please clarify why there are no pertinent protections in-place for vole species.
- Please consider whether it may be appropriate to use exclusionary fencing from



active work zones to preclude entrance by species such as sensitive frogs. Another option may be to provide for checks by an approved monitor at the start of each work day to ensure species have not moved in to the work area and be subject to harm.

- We recommend qualified biological monitors be present for all work and not rely solely on construction staff to be watching for and identifying sensitive wildlife.
- Does BR-4 only rely on post-construction grading and hydroseed only, with no active revegetation?

### Compensatory Mitigation

- Compensatory mitigation is expected for all impacts, with 1:1 being applicable only to those qualifying as short-term (absent significant ground disturbance) or if mitigation occurs in advance of the impact and is documented as successful. Long-term temporary and permanent impacts will require additional compensatory mitigation.
- For those permanent impacts, note that the Commission typically requires a minimum starting mitigation ratio of 4:1 for wetland mitigation and 3:1 for ESHA mitigation. However, as recognized in the EIR, in the case of tree mitigation for impacts to such significant old growth forests, these ratios should be higher. These base ratios that the Commission typically applies also assume mitigation in the form of habitat creation or substantial restoration, and activities such as enhancement or preservation (which are included in the EIR as an option) are increased to double or triple the base ratios, respectively.
- While late-stage successional habitat may be the most valuable, it is not the only valuable resource. We recommend proposing appropriate mitigation for the adverse effects on the many other resources that would be affected by either alternative (or construction and operation) of the project.
- The DEIR offers two potential mitigation options overall – essentially funding existing restoration projects or acquiring and preserving existing forest habitat. Given the magnitude of the impacts and the complexity of developing an appropriate mitigation package, we recommend developing additional mitigation options that include a combination of both options rather than just one or the other.

## **Visual Resources**

### *Coastal Act Requirements*

Coastal Act Section 30251 requires that new development be sited and designed to (a) protect views to and along the coast, (b) minimize the alteration of natural landforms, and (c) be visually compatible with the character of the surrounding area. The DED describes that the section of Highway 101 within the project area is officially designated

as a State Scenic Highway and is listed as a view corridor for the False Klamath Cove area in Del Norte County's certified Local Coastal Program (LCP).

### Comments and Recommendations

The proposed project is located on a stretch of Highway 101 that is designated as highly scenic due to views of the Pacific Ocean, steep coastal bluffs, and spectacular setting through late seral successional forested park lands. Accordingly, there are visual resource concerns with both Alternatives X and F. Overall, both alternatives have visual resource impacts related to tree removal and new roadway infrastructure, and Alternative X proposes an Operations Maintenance Center that raises significant visual concerns. While we appreciate that the Operations Maintenance Center is proposed to have a green "living" roof, we recommend that additional visual screening techniques be added to minimize visual impacts. We also recommend Caltrans consider developing plans for providing visual mitigation such as improving the visual quality in nearby visually degraded areas, removal/retirement of billboards along the highway (where feasible), and other potential mitigation options. We are happy to work with you in developing an appropriate mitigation package.

Finally, as noted in the DEIR, all lighting would be directed downward and would be placed to minimize light intrusion. We recommend that Caltrans consider minimizing permanent lighting to reduce visual impacts, and, as recommended above, lighting also should include specifications appropriate for wildlife and the surrounding environment including those that reference color, brightness, etc.

## **Minimize Energy Consumption and Vehicle Miles Traveled**

### *Coastal Act Requirements*

*New development shall do all of the following: ... (c) Be consistent with requirements imposed by an air pollution control district or the State Air Resources Board as to each particular development. (d) Minimize energy consumption and vehicle miles traveled.*

### Comments and Recommendations

Some greenhouse gas (GHG) emissions will result from the construction activities of the project, and as acknowledged in the DEIR for the project, GHG emissions are cumulative, and even these relatively small emissions will still contribute to the cumulative load of GHG emissions. The DEIR analyzes the potential for GHG emissions from construction, and for any long-term changes. Caltrans has identified some mitigation measures to reduce GHG emissions associated with construction activities. These steps include measures designed to reduce the number and duration of idling vehicles, to limit construction activities that will create traffic back-ups and increase idling vehicles, and to require proper maintenance and operation of all equipment. We recommend considering whether there are more robust, forward-thinking measures such as the use ZEVs, ride sharing, zero-emission construction equipment, battery and solar based energy sources that could be used.

Regarding long-term changes, current Caltrans projects have an obligation under both Caltrans policies and Coastal Act policies to reduce GHG emissions and air quality impacts. In this case, the project includes improved and safer roadway shoulders to support cycling activities, which may contribute to a reduction in GHG emissions and VMTs. The shoulder improvements will also make cycling safer, which will encourage the use of bicycles for transportation through the project area as an option instead of cars. There are also proposed pedestrian coastal trail improvements. The DEIR correctly notes that the loss of and replacement/preservation of old growth forest may affect GHG emissions. As Caltrans continues to develop its mitigation package, please consider developing measures of GHG sequestration that the mitigation may provide and potential tools to monitor that sequestration over time. The project also references long-term strategies to reduce emissions that are underway by the state and Caltrans as an agency as evidence this project will be consistent with the need to lower emissions over time. However, the project does not cite and specific measures here or by District 1 in the area that could help reduce emissions – such as support ZEV development and charging, implementing GHG reduction measures into maintenance operations, etc. These measures would help Caltrans District 1 demonstrate the Last Chance Grade project is consistent with mandates to reduce GHG emissions and improve air quality.

Overall, we strongly support project features that will minimize GHG emissions here and recommend that more robust measures be considered for reducing construction emissions.

Once again, we appreciate the ongoing collaboration on this project, and look forward to continuing to work together on its final steps as we move toward the CDP application process. Thank you for the opportunity to comment.

Sincerely,

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