

**OFFICE OF HISTORIC PRESERVATION  
DEPARTMENT OF PARKS AND RECREATION**

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September 19, 2013

Reply in Reference To: FHWA000717A

Anmarie Medin  
Chief, Cultural Studies Office  
Division of Environmental Analysis, MS 27  
P.O. Box 942874  
Sacramento, CA 94274-7507

RE: Supplemental Determination of Eligibility and Notification of a Finding of No Adverse Effect for the US Highway 101 Willits Bypass Project, Mendocino County, California

Dear Ms. Medin:

Thank you for Caltrans' efforts to continue consultation regarding the above noted undertaking in accordance with the *Programmatic Agreement (PA) Among the Federal Highway Administration, the Advisory Council on Historic Preservation, the California State Historic Preservation Officer, and the California Department of Transportation Regarding Compliance with Section 106 of the National Historic Preservation Act, as it Pertains to the Administration of the Federal-Aid Highway Program in California* (PA). Pursuant to Stipulation VIII.C.5 of the PA, Caltrans is requesting my concurrence on Determination of Eligibility and a Finding of No Adverse Effect for properties identified within the Area of Potential Effects (APE) for the project.

The California Department of Transportation (Caltrans), in conjunction with the Federal Highway Administration (FHWA) proposes to improve U.S. Highway 101 in Mendocino County, California in the community of Willits, through the Little Lake Valley by the construction of a 5.9 mile bypass. The bypass begins approximately 0.6 miles south of the current Haehl Creek, crossing beneath U.S. Highway 101 (US101), and ends approximately 1.8 miles south of the Reynolds Highway's intersection with US 101; between Post-mile (PM) 43.1 and PM 52.3. Supplemental investigations implementing a Buried Site Testing Program were conducted in 2011 resulting in the identification of four prehistoric and one multicomponent site with the Area of Potential Effects (APE) for the project.

In addition to the Caltrans letter dated August 5, 2013, you have submitted the following documents as evidence of your efforts to identify and evaluate historic properties in the project APE:

- *Willits Bypass Project Buried Site Testing, Supplemental Historic Property Survey Report 01-MEN-101, PM 43.1/52.3, EA 03-1A790*. Prepared by California Department of Transportation; August 2013 (SHPSR-August 2013)

- *Buried Site Model for the U.S. Highway 101; Willits Bypass Project, Little Lake Valley, Mendocino County, California.* Prepared by Jason Windingstad of Statistical Research, Inc. for the California Department of Transportation; October 2010.
- *Extended Phase I Geoarchaeological and Archaeological Investigations along U.S. Route 101 Willits Bypass Project, Little Lake Valley Mendocino County, California.* Prepared by Windingstad and Reddy for the California Department of Transportation; May 16, 2012.
- *Revised Final Extended Phase I Geoarchaeological and Archaeological Investigations along U.S. Route 101 Willits Bypass Project, Little Lake Valley Mendocino County, California.* Prepared by Seetha Reddy for the California Department of Transportation; July 25, 2013.

Subsurface archaeological field work implementing the Buried Sites Testing Program was conducted between September 17 and October 24, 2012. Native American consultation has been ongoing with several tribes. A Native American monitor provided monitoring during these subsurface investigations. Implementing the results of the probability model for buried archaeological sites and taking into consideration subsurface impacts from construction of the Willits Bypass, all 27 bent locations supporting a viaduct section of the bypass and the area of a pond that will be relocated outside of the right-of-way for the project, were tested for subsurface archaeological deposits. These efforts resulted in the identification of seven archaeological sites CA-MEN-3567; MEN-3568, MEN-3569, MEN-3570, MEN-3571, MEN-3594, MEN-5386/H and five isolates. Two of these sites (CA-MEN-3567, MEN-3571) Caltrans determined to lie outside the project APE. My comments regarding these resources are discussed below.

Caltrans has determined the following:

- **CA-MEN-3568:** Caltrans has assumed this site eligible for the NRHP for the purposes of the project and made of finding of **No Adverse Effect with Standard Conditions/ESA Action Plan**. I concur with this finding.
- **CA-MEN-3570:** Caltrans has assumed this site eligible for the NRHP for the purposes of the project and made of finding of **No Adverse Effect with Standard Conditions/ESA Action Plan**. I concur with this finding.
- **5 Isolates** identified are considered by Caltrans to be **exempt under Stipulation VIII.C.I** of the PA. I concur with this finding.

Three sites will be directly impacted by construction and were evaluated for eligibility to the NRHP.

- **CA-MEN-5386/H:** Caltrans evaluated this site and determined the site **Not Eligible to the NRHP**. This site lacks integrity of association due to redistribution in a secondary context by water activity. I concur with this finding.
- **CA-MEN-3569 & CA-MEN-3594:** Both sites exhibit high integrity. Upon completion of subsurface testing and analysis, Caltrans determined both sites ineligible to the NRHP. I do not concur with this finding as per the following. No subsurface testing was conducted outside the area of direct impact from construction activities. Therefore, site boundaries and components are unknown. Because archaeological excavation is in itself a destructive process, I agree disturbing additional intact site deposits is not currently

warranted for the project. Ethnographic information, historical accounts and density of archaeological deposits within the Little Lake Valley (Valley) suggest active intermittent prehistoric use over a lengthy timespan. There is the real potential the Valley may become an archaeological district as more information emerges. Until site boundaries and components are known for these two sites, it is impossible to determine their contribution to an archaeological district, if any. Both sites appear to be discrete features with no association to a larger site; therefore based on the information provided, appear ineligible to the NRHP. Because testing was confined to the Area of Direct Impact (ADI), there is not enough information available to make this judgment. Nor is there enough information to determine eligibility under the NRHP Criteria. Eligibility to Criterion A and D cannot be determined because of the limited area of the subsurface testing. However, any information potential under Criterion D, within the ADI, has already been obtained from both sites during subsurface testing and analysis. Therefore, I have made a **Finding of No Adverse Effect with Standard Conditions/ESA Action Plan**. Subsurface ground disturbance must be limited to the ADI as currently defined for these site locations. The area adjacent to these sites, within the APE, will be subject to the ESA Action Plan for the project.

The documents provided by Caltrans state that two sites CA-MEN-3567 and CA-MEN-3571 were determined to lie outside the project APE. Recent events during the week of September 9 – 13, 2013 have determined this is not true. Not only do both sites lie well within the APE for the project, CA-MEN-3571, has been severely damaged by construction activities. I wish to consult further on plans to address this issue. In addition, during review of the submitted documents, the delineation of the APE was found to be incorrect in the area of the pond relocation. Caltrans determined this was a reporting error by providing a 7.5 minute base map projection of the APE dated May 29, 2013. Given the errors regarding the APE and resulting damage to unevaluated archaeological resources, I have no confidence in the accuracy of the APE map. Nor do I think the 7.5 minute projection is sufficient to demonstrate APE boundaries. I am requesting a map of the APE that depicts known archaeological sites at a projection sufficient to identify map locations in the field; signed by appropriate personnel.

I have some trepidation concurring with Findings of No Adverse Effect with Standard Conditions/ESA Action Plan listed above. Section X.B.2. and Attachment 5 of the PA clearly state in regard to ESAs:

“All appropriate protection measures are defined (e.g., signing, staking, fencing, monitoring provisions) and the information included in the Final Construction Plans, Contract Special Provisions, and Pending File of the Resident Engineer (RE) assigned to the construction project.”

In recent consultation with Caltrans it is my understanding that none of the archaeological resources are delineated in the construction plans and Contract Special Provisions even though many of these resources have been known for a significant period of time; as far back as 2004. In addition construction work began within the APE prior to the placement of ESA fencing allowing incidents of construction activities within ESA boundaries on several occasions.

There also seems to be a discrepancy in treatment between the vertical APE and horizontal APE. ESAs have not been established for buried sites within the APE that are below the ADI. As you are likely aware, construction activities may change depending upon unanticipated field conditions during construction. All sites within the APE of the project, including buried sites

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below the ADI, require ESA delineation to ensure that last minute construction changes do not impact these sites. Construction personnel cannot comply with ESA restrictions if they do not know an ESA is present and if they are not marked in the field. Caltrans has not adhered to the PA regarding ESAs. A Finding of No Adverse Effect with Standard Conditions/ESA Action Plan is only valid when the actions associated with that finding are carried out. I request Caltrans address this situation immediately.

On September 13, 2013, my office learned of a unanticipated discovery of a site that had been found on July 8, 2013, was tested on August 16-17, 2013 and determined to be Post Review Discovery #4 (PRD#4). Section XV.B.2 of the PA states that consulting parties, including the SHPO, will be notified within 48 hours of an unanticipated discovery and at a minimum include information specified in 36 CFR 800.13(b)(3). This was not done which violates the provisions of the PA.

Pursuant to Stipulation VIII.C.5 of the PA, Caltrans has requested my concurrence with the above determinations. Based on your identification efforts, I concur with the determinations as listed above. However, the violations of the PA and unfortunate results are of great concern to me. Consultation efforts shall continue to address these problems if Caltrans wishes to continue working under the PA for this project. If you agree with the determinations as I have proposed and concur you still wish to comply with the PA and my requests, please evidence your agreement by signing the signature block below. Please return an original signature to me as soon as possible. Alternatively, you may provide me with a separate letter concurring with the proposed conditions.

If you have any questions or concerns, please contact Associate State Archaeologist, Kim Tanksley at (916) 445-7035 or by email at [kim.tanksley@parks.ca.gov](mailto:kim.tanksley@parks.ca.gov).

Sincerely,



Carol Roland-Nawi, PhD  
State Historic Preservation Officer

I concur with the foregoing:

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Anmarie Medin  
Chief, Cultural Studies Office

Date