



Keeping Northwest California wild since 1977

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*Transmitted via electronic mail*

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**RE: Comments on Caltrans' Hwy 197/199 STAA Access Project and  
Recirculation of Draft EIR and Supplemental EA**

Dear Responsible Officials,

I am writing on behalf of the Environmental Protection Information Center (“EPIC”), a nonprofit organization that works to protect and restore ancient forests, watersheds, coastal estuaries, and native species in northwestern California. Consistent with this mission, EPIC submits the following comments and attachments to the California Department of Transportation (“Caltrans”) on the proposed Highway 197/199 STAA Safe Access Project (the “Project”). Please include all attachments in the administrative record for this Project.

EPIC is aware that Caltrans, through this recirculation, is attempting to limit public comment to supplemental reports concerning tree impacts. Given the marked changes in the recirculated document, however, EPIC believes comment is appropriate on the nature and scope of the Project, its impacts, and alternatives. Furthermore, under NEPA, the agency has an ongoing duty to continually evaluate new information presented by the public and other sources when that information bears on a decision. Here, Caltrans must accept all information presented on the overall impacts of the Project and cannot limit its evaluation based on an illegal restriction. EPIC incorporates by reference its previously submitted comments on this Project.

As an initial matter, EPIC opposes the Project and demands that Caltrans simply abandon the Project in its entirety. We view this Project together with several others, including the already completed STAA project at Big Lagoon, the Highway 101 widening project through Richardson Grove State Park, the STAA project on Highway 299, the and the Willits Bypass project.

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Fundamentally, these projects constitute one major project to establish a STAA transportation network into and through coastal Northern California. When taken together, these Caltrans' projects pose significant and unnecessary risks to our region. STAA access already exists for the area from Highway 101 to the north and Highway 299 to the south. Instead of spending \$35 million on a project that is designed to allow the largest trucks on the road to travel down one of the narrowest and steepest highways in California, we urge Caltrans to spend that limited public funds on maintaining existing facilities and improving safety in ways that make common sense.

If Caltrans does not abandon the project, then EPIC maintains that an Environmental Impact Statement (EIS) must be prepared under the National Environmental Policy Act (NEPA). By law, an EIS must be prepared when a project "may" have a significant impact on the environment. Based on the clear risks involved with this major highway development project, it is clear that significant impacts "may" occur and therefore an EIS is required.

The project would have significant impacts on:

- The Wild and Scenic Smith River
- Old-growth Redwoods and Douglas-fir trees
- Endangered Marbled Murrelets, Northern Spotted Owls, Coho and Chinook Salmon, Steelhead and Cutthroat Trout
- Tourism and recreational opportunities along the Smith River National Recreation Area, Six Rivers National Forest, Redwoods National and State Parks, Jedediah Smith Redwoods State Park, and Ruby Van Deventer County Park
- The steep and geologically unstable Smith River canyon slopes
- Rare plants, including species only in the Smith River serpentine soils

Based on the recirculated documents, and information which EPIC has recently obtained from Caltrans, EPIC maintains that the following additional significant impacts will result from the Project:

- Increases in large truck traffic as a result of an alternate travel route for STAA trucks being created between Grant's Pass, Oregon and the Bay Area by way of Highway 101 (and through Richardson Grove).
- Increases of safety hazards from increased large truck traffic, including truck cargo spills that threaten water quality and endanger the drinking water supply And increased potential for traffic accidents in general given the unsafe condition occurring as a result of the design exceptions being implemented to make way for STAA trucks.

Caltrans' own Route Concept Report acknowledges, "the geophysical constraints of the relatively narrow, steep and rocky Smith River Canyon" and concludes that environmental concerns and ecological sensitivities make State Route 199 a "poor candidate for extensive upgrading." That report recommended leaving SR 199 "basically a 2-lane, conventional highway, with passing lanes."

EPIC urges Caltrans to adopt the "no project" alternative and abandon this Project and focus on maintaining the existing road infrastructure.

## **Harm to Old-Growth Redwood and Douglas-Fir Trees, and Removal of Trees**

### **Tree Roots and Removal of Hundreds of Trees**

At both project locations on SR 197, many old-growth redwood trees (with a dbh of more than 36 inches) are within the project area. Caltrans admits that the agency will impact many old-growth tree roots. EPIC prevailed in the federal case against Caltrans' Richardson Grove project on the issue of old-growth tree roots and the lack of analysis by Caltrans. EPIC raised this point in a recent letter. Caltrans clearly has attempted to improve its analysis of the impacts to tree roots through development of an "Arborist/Forester" report and supplement to the Natural Environment Study through the submission of a Memorandum by Gail Popham, which are the basis for the recirculated DEIR/SEA. However, Caltrans essentially ignored our concerns.

Moreover, the data in the Arborist/Forester Report and the Popham Memo is routinely inconsistent and unreliable. Here are some examples.

The August 21, 2012 Gail Popham Memorandum ("Popham Memo" or "Popham") provides inconsistent numbers of trees to be removed. It attempts to compare the numbers of trees to be removed as indicated in the March 2010 NES report with the more recent "Arborist/Forester Report." But these numbers are not consistent.

Popham reports that the March 2010 NES report determined that **224 trees** would be removed from seven locations. In the same document, Popham reports that Caltrans initially estimated **220 trees** would be removed.

Popham then reports that the "Arborist/Forester Report" revised estimate identifies **98 additional, or a total of 322 trees** to be removed. However, in the same document she then states the revised estimate is approximately **331 trees**, an increase of **111 trees**. Table 1, included in the memorandum, has a third and different number, listing **320 trees** to be removed.

Moreover, these figures are not consistent the figures in the "Arborist/Forester Report." For example, Popham Table 1 lists **138 trees** to be removed at the Washington Curve location, yet the Arborist/Forester Report advises at page 48 that **143 trees** will be removed. Other inconsistencies are noted in review of the Arborist/Forester report.

In the "Arborist/Forester" Report, the analysis is limited to only 4 of the 7 project locations, and potential effects only as to redwood trees at Ruby 1 and 2, and old growth Douglas-fir at PCN2.

The report advises that the "PEZ trees evaluated in this report are not necessarily the same trees that were identified in the DEIR/EA." The reason is "that the DEIR/EA identified many trees that are outside of the PEZ, and, as such, are not directly relevant to the project as planned." (p. 15) However, we could not find any explanation that justifies this statement, and identifies those trees which have been removed from consideration as potentially effected.

In addition, while summary conclusions are made as to what effects may or may not be "likely" we could not find any analysis of the current status of the trees, both individually and as

ecological communities. In order to evaluate whether the conclusions, for example, that root zone effects are “mostly none, minimal or slight,” we need an explanation of the current conditions and relative health of the trees and their ecological communities. We believe that is missing from the “Arborist/Forester Report,” the Popham Memo as well as the Recirculated DEIR/EA.

The report considers the effect of natural fill on root systems (p. 10), but this does not equate to the kind of fill that root systems will encounter with this road project and use.

In addition, we note that the report failed to evaluate an “old growth” stand of trees, “although 2 large old Douglas-fir trees alongside the highway are unavoidable and will be removed as a consequence of the project.” (p. 40) The claim that “their removal will not change the characteristic of the “old growth” is not documented or justified.

Even though the Report admits at p. 48 that a 33" DBH Douglas Fir may not survive due to substantial root area being affected, it fails to evaluate the related effect this loss will have on the surrounding trees and slope.

The Arborist/Forester report is also internally inconsistent as to the number of trees to be removed.

**Ruby 1**, on page 19, it reports that 2 alders and 2 redwoods will be removed, for a total of **4 trees**. On the next page, however, it refers to the **6** trees to be removed.

**Ruby 2**, the text lists **9 trees** plus one associated sprout will be removed (p. 29), but the Table 8 lists **only 6 trees** for removal.

**Patrick Creek Narrows 2**, no clear summary of tree removal is provided. Adding the figures from Table 12 indicates that **74 trees** will be removed. Adding the trees identified in the Discussion on page 47 indicates that **61 trees** will be removed. The “Summary of Tree Removals on Hillside above Rt. 199” states “**80 stems** in all” but the list only identifies **27 trees** slated for removal. And these figures are inconsistent with the Popham Table 1, which indicates that **108 trees** will be removed.

**Washington Curve**, the text at page 48 states that **143 trees** will be removed; the text at page 51 states **140 trees** will be removed. And the list immediately below identifies only **108 trees** to be removed. As noted, the Popham Table 1 advises that **138 trees** will be removed.

And, just as with Richardson Grove, Caltrans is consistent in its inability to adequately mitigate for harm to the trees. While it represents that only hand digging, and air-spades will be used around tree root zones, in fact, it authorizes the construction engineer to decide on other methods for excavation. (DEIR2.3-25.) Without any standards to ensure no harm to the root zones. The only guidance is “to *minimize*” disturbance or damage.

### **Possible Removal of Old-Growth Redwoods**

Caltrans admits that the agency may choose to remove old growth redwood trees within Ruby Van Deventer County Park, along SR 197. Somehow, the agency maintains that by purchasing old-growth redwoods off-site would mitigate for this harm. The agency ignores that fact that less than 2 percent of the original old-growth redwoods remain, and that the loss of even one tree cannot be mitigated for hundreds of years. This potential for removing old-growth Redwoods is clearly a significant impact on an increasingly rare ecosystem, which Caltrans has failed to analyze.

### **Removal of Old-growth Douglas-fir**

Caltrans admits that the project will result in the removal of old-growth douglas-fir trees. The Arborist/Forester Report declined to evaluate the impact of removing these irreplaceable resources. The removal of these trees, and in conjunction with extensive road side cuts, will have a significant impact on the visual quality of the Wild & Scenic Smith River as well as numerous negative ecological impacts. For purposes of the timeframe for this Project, the loss of old-growth trees is an irreparable harm that cannot be mitigated, because it takes centuries to replace these trees on the landscape.

### **Harm to Coho Salmon and other salmonids**

The Smith Rivers numerous fish species, including Coho Salmon, Chinook Salmon, Steelhead, and Coastal Cutthroat Trout would be negatively impacted by the project in the vicinity of Patrick Creek.

Caltrans admits negative impacts to Coho Salmon, a species protected under both the federal Endangered Species Act (ESA) and California Endangered Species Act (CESA).

Effects on coho salmon are expected to occur at Patrick Creek Narrows Location 2 sites because of the work proposed at these locations and the proximity to the Middle Fork Smith River. Coho salmon may be killed by construction activity. CESA stipulates that any lethal take of a state-listed species be fully mitigated. To fully mitigate for lethal take of coho under CEQA, the Department may be required to improve fish passage at upstream tributaries to the Middle Fork Smith River to the extent deemed acceptable by DFG. Incidental take authorization may be requested from NMFS for impacts on coho salmon. Caltrans admits that the project is likely to adversely affect Coho Salmon and their critical habitat. See generally, DEIS at 2.3-67.

Caltrans admits that juvenile coastal cutthroat trout may be harmed or killed by the work associated with the bridge replacement at Patrick Creek Narrows. Both bridge replacement alternatives will destroy nearly an acre of rearing and foraging habitat for cutthroat trout.

Caltrans has failed to actually ensure that the Project will not jeopardize the continued existence of the Coho Salmon or destroy or adversely modify critical habitat. While the filling of wetlands and bridge replacement have been consulted over, the overall operation of increased large truck traffic has not been analyzed. Considering that several major accidents and spills of toxic

chemicals have occurred on Hwy 199, it follows that the purpose of this project in bringing larger trucks and more traffic will only increase that risk in the future.

Caltrans also has failed to meet the duty to conserve, as defined by the ESA § 7(a)(1) and relevant caselaw. Section 7(a)(1) of the ESA directs Federal agencies to utilize their authorities to further the purposes of the ESA by carrying out conservation programs for the benefit of threatened and endangered species. Because Caltrans is operating under the delegation of authority to implement federal law by the Federal Highway Administration, Caltrans must comply with ESA Section 7(a)(1). Caltrans cannot point to a single action or set of actions, no less a program, for carrying out this conservation duty. Illustrative of this failure is the Caltrans bridge and culvert on Little Mill Creek on Hwy 197 just down the road from major work proposed in this Project. The bridge and culvert is a complete fish passage barrier, preventing the Coho Salmon from reaching spawning and rearing habitat. A Caltrans commissioned study in fact identified the Little Mill Creek barrier a priority for action, and yet the agency has completely ignored the problem. See Lang 2005 (attached via email to these comments). By failing to consider the existing fish passage barriers and other harm caused by Caltrans roadways and actions (including sediment, and polluted runoff), the agency has failed in its duties under the ESA.

### **Impacts Associated with Increased Large Truck Traffic**

The recirculated documents fail to address the core impacts associated with expanding the use of Highway 197/199 to permit STAA trucks. Even with the project, the highways cannot physically accommodate these trucks without mandating design exceptions to not require adherence to the state highway design standards. The consequence is an **increased** safety hazard, which will impact not only the motorists who use these highways, but the natural resources along the highways, including the trees.

We asked Smith Engineering and Management to provide comment on this issue, as Caltrans continues to ignore it. Because the Project Study Report was not identified or listed as a Reference to the June 2010 DEIR/EA, and Fact Sheet Exceptions Reports were not available until a few months ago<sup>1</sup>, EPIC provides Smith's comments now. In its thrust to open up coastal Northern California with an STAA transportation network, Caltrans has ignored these increased safety hazards. It must be addressed in document that the public is permitted to review and comment on.

In addition, as the Friends of Del Norte shows in its comments, opening Highways 197/199 to STAA trucks will definitely increase traffic from the inland Interstate-5 transportation network. This is particularly true during the winter months, when I-5 can be closed for extended periods of time due to snow and ice. Truckers will use the alternative coastal route to avoid those delays, and inherent hazards associated with weather conditions. Highway 197/199 do not have those weather limitations. These significant impacts must be evaluated including the direct, indirect and cumulative impacts.

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<sup>1</sup> We note for the record that while Caltrans has made some materials available to EPIC for review, it has not made all public records available to EPIC for review prior to this November 5, 2012 deadline, thereby depriving EPIC of the ability to fully comment on all necessary issues.

Sincerely,



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Enc.:

- November 5, 2012 Smith Engineering and Management Letter Addressed to Jason Meyer
- Lang, M. 2005. Caltrans District 1 Pilot Fish Passage Assessment Study: Volume 1 – Overall Results. Final Technical Report: Submitted to California Department of Transportation for the project: F 2001 EN 10 Researching State Highway Culverts to Determine Impacts on Threatened and Endangered Salmonids. Available at: <http://www.calfish.org/>