

# Memorandum

**To:** CHAIR AND COMMISSIONERS

**Date:** May 21, 2009

**From:** BIMLA G. RHINEHART  
Executive Director

**File:** Book Item 2.2c (10)  
Action

**Ref:** Final Environmental Impact Report – Hyampom Road Improvements Project (Resolution E-09-49)

**ISSUE:** Should the Commission, as a Responsible Agency, accept the Final Environmental Impact Report (FEIR) and approve Hyampom Road Improvements Project (project) to be considered for funding?

**RECOMMENDATION:** Staff recommends that the Commission accept the FEIR and approve the project to allow for consideration of funding.

**BACKGROUND:** The project will rehabilitate, reconstruct and widen a 1.5-mile segment of Hyampom Road, including a bridge over Hayfork Creek, to two 11' lanes and two 2' shoulders. The bridge, locally known as the "Nine-Mile Bridge", is also programmed for a new steel girder, repainting, barrier rail replacement and deck refinishing.

The Trinity County (County) Board of Supervisors, as the CEQA lead agency for the project, certified the FEIR on June 17, 2003. On May 22, 2009, the County provided written confirmation that there are no new impacts that were not addressed in the FEIR.

The FEIR identified certain significant effects on the environment that, absent the adoption of mitigation measures, would be caused by the construction and operation of the project. Environmental impacts relate to geology, soils and seismicity; hydrology, water quality, hazardous waste and materials, air quality, noise, biological resources, and cultural resources.

The County adopted a mitigation monitoring plan to mitigate to a less than significant level all of the significant effects on the environment for this project. The County Board of Supervisors found that changes or alternations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects of this project, and mitigate all of the significant environmental effects to a less than significant level, as identified in the FEIR.

The FEIR provides environmental clearance for two projects that are programmed in the STIP as follows:

Hyampom Road Improvements Project Post Mile 6.8 to 8.3

This project will consist of road rehabilitation and reconstruction, and widening the road, which is less than two standard lanes, to two 11' foot lanes with two 2' shoulders, including retaining walls, cuts and fills as needed, along the cited segment of Hyampom Road within the stated post miles.

The project is estimated to cost \$5,797,000 and is fully programmed with STIP RIP. Construction is estimated to begin in May 2010.

Rehabilitate and Widen Bridge 5C-067 on Hyampom Road

This project will widen the bridge to two 11' foot lanes with two 2' shoulders and will require the addition of a new steel girder, widening of the support walls and abutments, barrier rail replacement, repainting and deck refinishing.

The project is estimated to cost \$1,200,000 and is anticipated to be programmed with STIP (\$489,000), Federal ARRA (\$556,000), HBP PM (\$137,000) and Local (\$18,000) funds. Construction is estimated to begin in August 2009.

Attachments

- Resolution No. 09-49
- Project Location
- CEQA Findings of Fact

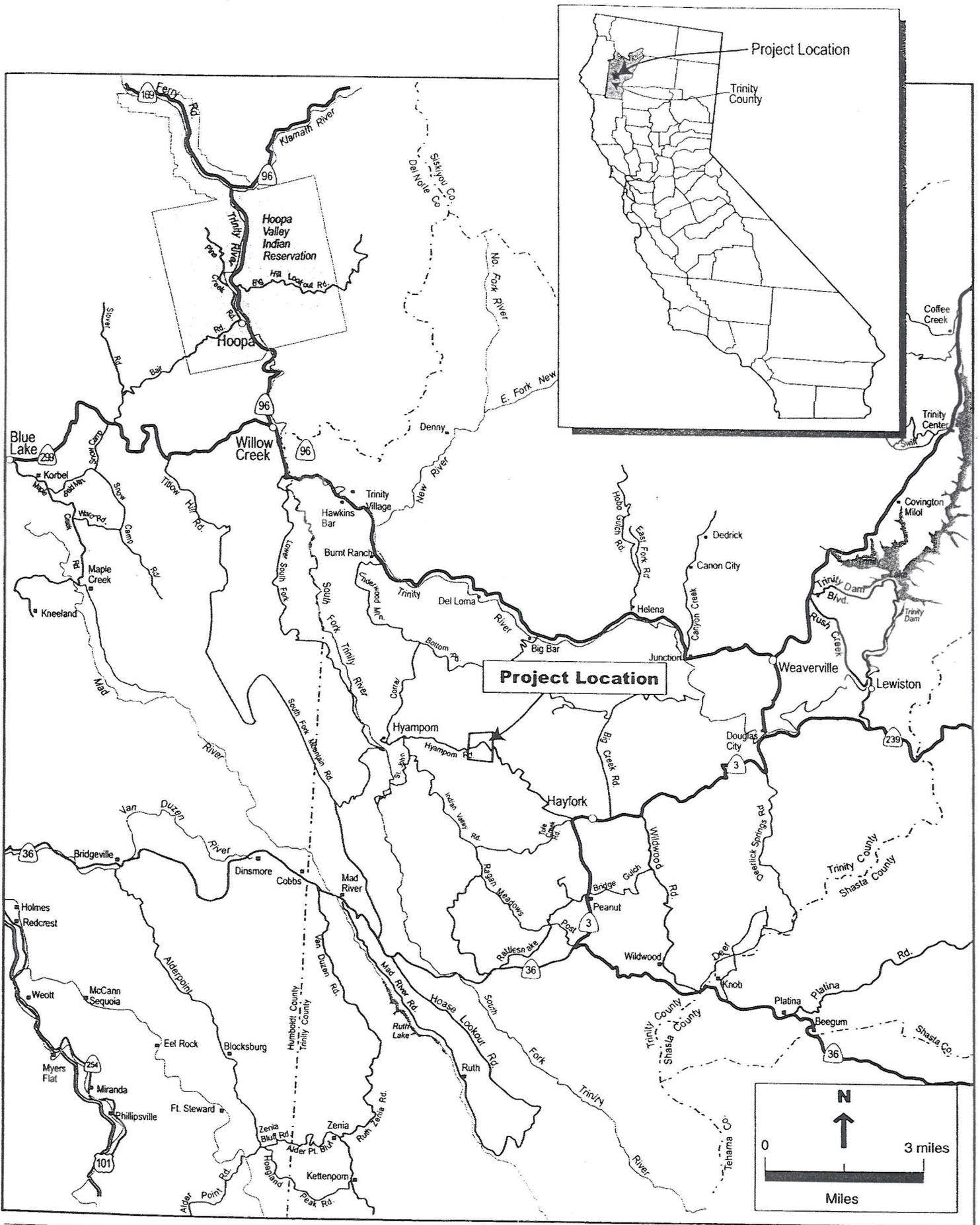
# CALIFORNIA TRANSPORTATION COMMISSION

## Resolution for Consideration of Funding

02-TRI

Resolution E-09-49

- 1.1 **WHEREAS**, the County of Trinity has completed a Final Environmental Impact Report pursuant to the California Environmental Quality Act (CEQA) and the CEQA Guidelines for the following project:
  - Hyampom Road Improvements Project
- 1.2 **WHEREAS**, the County of Trinity Board of Supervisors has certified that the Final Environmental Impact Report has been completed pursuant to CEQA and the State CEQA Guidelines for its implementation; and
- 1.3 **WHEREAS**, the project will rehabilitate and widen a 1.5-mile segment of Hyampom Road, including the “Nine-Mile Bridge”; and
- 1.4 **WHEREAS**, the California Transportation Commission, as a Responsible Agency, has considered the information contained in the Final Environmental Impact Report; and
- 1.5 **WHEREAS**, written findings state changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects of this project, and mitigate all of the significant environmental effects to a less than significant level; and
- 1.6 **WHEREAS**, a Mitigation Monitoring and Reporting Program was adopted for this project; and
- 2.1 **NOW, THEREFORE, BE IT RESOLVED** that the California Transportation Commission does hereby accept the findings and approve the above referenced project to allow for consideration of funding.



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Hyampom Roadway Project  
**Figure 1**  
 Project Vicinity

**EXHIBIT A  
TO  
RESOLUTION OF THE BOARD OF SUPERVISORS  
OF THE COUNTY OF TRINITY SELECTING AN  
ALTERNATIVE, MAKING CEQA FINDINGS OF FACT,  
ADOPTING A MITIGATION MONITORING PROGRAM,  
AND DIRECTING COUNTY STAFF TO PROCEED WITH  
THE HYAMPOM ROAD IMPROVEMENTS PROJECT, POST MILE 6.8 TO 8.3**

**CEQA FINDINGS OF FACT**

**OF THE BOARD OF SUPERVISORS  
OF THE COUNTY OF TRINITY  
for the  
THE HYAMPOM ROAD IMPROVEMENTS PROJECT,  
POST MILE 6.8 TO 8.3**

**August 6, 2003**

**I. INTRODUCTION**

The Environmental Impact Report (“EIR”) prepared for the Hyampom Road Improvements Project, Post Mile 6.8 to 8.3 (the “Project”) addresses the potential environmental effects associated with reconstruction, widening and minor realignment of a 1.5 mile segment of Hyampom Road, rehabilitation of Nine-mile Bridge, and replacement of a culvert at James Creek with a bridge. These findings have been prepared to comply with requirements of the California Environmental Quality Act (“CEQA”) (Pub. Resources Code, § 21000 et seq.) and the CEQA Guidelines (Cal. Code Regs., tit. 14, § 15000 et seq.).

Detailed information regarding the project location, project description, objectives, environmental setting, Related Environmental Review and Consultations, background, project history, environmental effects and cumulative environmental effects is included in the Environmental Impact Report (EIR). The EIR for the Hyampom Road Improvements Project from Post Mile 6.8 to 8.3 consists of the Draft EIR dated March 31, 2002, the Final EIR dated May 29, 2003, EXHIBIT A of *Resolution of the Board of Supervisors of the County of Trinity Certifying a Final EIR* ERRATA SHEET dated June 10, 2003, and the Addendum to the Final EIR dated July 22, 2003.

## **II. RECORD OF PROCEEDINGS**

For purposes of CEQA and these Findings, the Record of Proceedings for the Project consists of the following documents, at a minimum:

- The Notice of Preparation and all other public notices issued by the County in conjunction with the Project;
- The Draft and Final EIRs for the Hyampom Road Improvements Project from Post Mile 6.8 to 8.3, and all documents cited as “References” in those documents;
- The Addendum to the Final EIR for the Hyampom Road Improvements Project from Post Mile 6.8 to 8.3, dated July 22, 2003.
- All comments submitted by agencies or members of the public during the 45-day public comment period on the Draft EIR;
- All comments and correspondence submitted to the County with respect to the Project, in addition to timely comments on the Draft EIR;
- The mitigation monitoring plan for the Project;
- All findings and resolutions adopted by County decision-makers in connection with the Project (including these findings), and all documents cited or referred to therein;
- All reports, studies, memoranda, maps, staff reports, or other planning documents relating to the Project prepared by the County, consultants to the County, or responsible or trustee agencies with respect to the County's compliance with the requirements of CEQA and with respect to the County's actions on the Project;
- All documents submitted to the County by other public agencies or members of the public in connection with the Project, up through the close of the public hearing on June 17, 2003;
- Any minutes and/or verbatim transcripts of all information sessions, public meetings, and public hearings held by the County in connection with the Project;
- Any documentary or other evidence submitted to the County at such information sessions, public meetings, and public hearings;
- Matters of common knowledge to the County, including, but not limited to, federal, state, and local laws and regulations;
- The County of Trinity General Plan, including, but not limited to, the Circulation Element of the General Plan;

- Any documents expressly cited in these findings, in addition to those cited above; and
- Any other materials required to be in the record of proceedings by Public Resources Code section 21167.6, subdivision (e).

The custodian of the documents comprising the record of proceedings is the Trinity County Department of Transportation, PO Box 2490, 303 Trinity Lakes Boulevard, Weaverville, CA 96093.

The Board of Supervisors has relied on all of the documents listed above in reaching its decision on the Hyampom Road Improvements Project from Post Mile 6.8 to 8.3, even if not every document was formally presented to the County Board of Supervisors as part of the County files generated in connection with the Hyampom Road Improvements Project from Post Mile 6.8 to 8.3. Without exception, any documents set forth above not found in the Project files fall into one of two categories. Many of them reflect prior planning or legislative decisions of which the County was aware in approving the Hyampom Road Improvements Project from Post Mile 6.8 to 8.3. (See *County of Santa Cruz v. Local Agency Formation Commission* (1978) 76 Cal.App.3d 381, 391-392 [142 Cal.Rptr. 873]; *Dominey v. Department of Personnel Administration* (1988) 205 Cal.App.3d 729, 738, fn. 6 [252 Cal.Rptr. 620].) Other documents influenced the expert advice provided to County staff or consultants, who then provided advice to the County Board of Supervisors. For that reason, such documents form part of the underlying factual basis for the County Board of Supervisors' decisions relating to the approval of the Hyampom Road Improvements Project from Post Mile 6.8 to 8.3. (See Pub. Resources Code, § 21167.6, subd. (e)(10); *Browning-Ferris Industries v. County Board of Supervisors of County of San Jose* (1986) 181 Cal.App.3d 852, 866 [226 Cal.Rptr. 575]; *Stanislaus Audubon Society, Inc. v. County of Stanislaus* (1995) 33 Cal.App.4th 144, 153, 155 [39 Cal.Rptr.2d 54].)

### **III. FINDINGS REQUIRED UNDER CEQA**

Public Resources Code section 21002 provides that “public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects[.]” The same statute states that the procedures required by CEQA “are intended to assist public agencies in systematically identifying both the significant effects of proposed projects and the feasible alternatives or feasible mitigation measures which will avoid or substantially lessen such significant effects.” Section 21002 goes on to state that “in the event [that] specific economic, social, or other conditions make infeasible such project alternatives or such mitigation measures, individual projects may be approved in spite of one or more significant effects.”

The mandate and principles announced in Public Resources Code section 21002 are implemented, in part, through the requirement that agencies must adopt findings before approving projects for which EIRs are required. (See Pub. Resources Code, § 21081, subd. (a); CEQA Guidelines, § 15091, subd. (a).) For each significant environmental effect identified in an EIR for a project, the approving agency must issue a written finding reaching one or more of three permissible conclusions. The first

such finding is that “[c]hanges or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.” (CEQA Guidelines, § 15091, subd. (a)(1).) The second permissible finding is that “[s]uch changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.” (CEQA Guidelines, § 15091, subd. (a)(2).) The third potential conclusion is that “[s]pecific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR.” (CEQA Guidelines, § 15091, subd. (a)(3).) Public Resources Code section 21061.1 defines “feasible” to mean “capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological factors.” CEQA Guidelines section 15364 adds another factor: “legal” considerations. (See also *Citizens of Goleta Valley v. Board of Supervisors* (“*Goleta IP*”) (1990) 52 Cal.3d 553, 565 [276 Cal. Rptr. 410].)

The CEQA Guidelines do not define the difference between “avoiding” a significant environmental effect and merely “substantially lessening” such an effect. The County must therefore glean the meaning of these terms from the other contexts in which the terms are used. Public Resources Code section 21081, on which CEQA Guidelines section 15091 is based, uses the term “mitigate” rather than “substantially lessen.” The CEQA Guidelines therefore equate “mitigating” with “substantially lessening.” Such an understanding of the statutory term is consistent with the policies underlying CEQA, which include the policy that “public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects.” (Pub. Resources Code, § 21002.)

For purposes of these findings, the term “avoid” refers to the effectiveness of one or more mitigation measures to reduce an otherwise significant effect to a less than significant level. For reasons set forth in the EIR, all of the significant environmental effects identified therein can be fully “avoided” – that is, reduced to a less than significant level – by the adoption of the recommended mitigation measures. Because the Board of Supervisors has chosen to adopt all such recommended mitigation measures, there is no need to identify any instances in which a significant effect has been merely “substantially lessened,” rather than “avoided,” by the adoption of mitigation measures. It may be worth noting, though, that the County understands the term “substantially lessen” to refer to the effectiveness of such measure or measures to substantially reduce the severity of a significant effect, but not to reduce that effect to a less than significant level. These interpretations appear to be mandated by the holding in *Laurel Hills Homeowners Association v. County Board of Supervisors* (1978) 83 Cal.App.3d 515, 519-527 [147 Cal.Rptr. 842], in which the Court of Appeal held that an agency had satisfied its obligation to substantially lessen or avoid significant effects by adopting numerous mitigation measures, not all of which rendered the significant impacts in question less than significant. In any event, there is no need here to address the legal implications of a finding that a significant effect has been substantially lessened but not avoided. All such effects associated with the Project have been avoided (reduced to a less than significant level) through the adoption of mitigation measures.

Although CEQA Guidelines section 15091 requires only that approving agencies specify that a particular significant effect is “avoid[ed] or substantially lessen[ed],” these findings, for purposes of clarity, in each case will specify whether the effect in question has been reduced to a less than significant level, or has simply been substantially lessened but remains significant.

Moreover, although section 15091, read literally, does not require findings to address environmental effects that an EIR identifies as merely “potentially significant,” these findings will nevertheless fully account for all such effects identified in the Final EIR.

In short, CEQA requires that the lead agency adopt mitigation measures or alternatives, where feasible, to substantially lessen or avoid significant environmental impacts that will otherwise occur. Project modification or alternatives are not required, however, where such changes are infeasible or where the responsibility for modifying the project lies with some other agency. (CEQA Guidelines, § 15091, subs. (a), (b).)

With respect to a project for which significant impacts are not avoided or substantially lessened either through the adoption of feasible mitigation measures or feasible environmentally superior alternative, a public agency, after adopting proper findings, may nevertheless approve the project if the agency first adopts a statement of overriding considerations setting forth the specific reasons why the agency found that the project’s “benefits” rendered “acceptable” its “unavoidable adverse environmental effects.” (CEQA Guidelines, §§ 15093, 15043, subd. (b); see also Pub. Resources Code, § 21081, subd. (b).) Such a statement of overriding considerations is not required for this Project because, as noted above, all significant effects will be mitigated to less than significant levels through the adoption of mitigation measures. This result also relieves the County of having to consider whether any alternative other than the one chosen by the County is environmentally superior in any respect. (See *Laurel Hills*, *supra*, 83 Cal.App.3d at p. 521; *Citizens for Quality Growth v. City of Mount Shasta* (1988) 198 Cal.App.3d 433, 445.)

#### **IV. LEGAL EFFECTS OF FINDINGS**

In adopting these findings as an exhibit to the resolution approving the Project, the County hereby binds itself, and fully intends to bind itself, to implement these measures. These findings, in other words, are not merely informational, but rather constitute a binding set of obligations created as part of the Board of Supervisors’ approval the Project.

The mitigation measures, which are referenced in the Mitigation Monitoring Program adopted concurrently with these findings, will be effectuated through the process of constructing and implementing the Project.

#### **V. MITIGATION MONITORING PROGRAM**

A Mitigation Monitoring Program (“MMP”) has been prepared for the Project and has been adopted concurrently with these Findings. (See Pub. Resources Code, § 21081.6, subd. (a)(1).) The County

will use the MMP to track compliance with Project mitigation measures. The MMP will remain available for public review during the compliance period.

## **VI. SIGNIFICANT EFFECTS AND MITIGATION MEASURES**

The EIR identified several potentially significant environmental effects (or “impacts”) that the Hyampom Road Improvements Project, Post Mile 6.8 to 8.3 could cause. **All of these significant effects can be mitigated to less than significant levels through the adoption of feasible mitigation measures.** Stated another way, for all identified significant effects, “changes or alterations have been required in, or incorporated into, the project which avoid . . . the significant environmental effect[s] identified in the final EIR.” (CEQA Guidelines, § 15091, subd. (a)(1).) Because the Board is not finding that any mitigation measures are “within the responsibility and jurisdiction of another agency,” and is not rejecting any measures as “infeasible” (*id.*, § 15091, subds. (a)(2), (a)(3)), the Board has no need to repeat the same finding again and again, as sometimes occurs in CEQA findings in which different significant effects and different mitigation measures are subject to different findings. *All* recommended mitigation measures set forth in the EIR are adopted, and are sufficient to render the significant effects less than significant.

This Section lists the potentially significant environmental effects and the mitigation measures that reduce these effects to less than significant. (The EIR also identifies impacts that are not significant or potentially significant environmental impacts, even without mitigation. Those impacts are not listed in this section, as nothing in CEQA requires findings to address such impacts).

Although, as a legal matter, the Board of Supervisors need not be bound by statements in the EIR regarding the significance of environmental effects (see Pub. Resources Code, § 21082.2, subd. (e)), the Board finds the evidence and reasoning set forth in the EIR to be persuasive, and hereby adopts all such evidence and reasoning as its own. More specifically, the Board agrees that County staff’s use of the Initial Study Checklist questions, as found in Appendix G to the CEQA Guidelines, along with the “mandatory findings of significance” set forth in CEQA Guidelines section 15065, constitutes an appropriate means of inquiring whether particular environmental effects are or are not significant, both before and after mitigation. The Board is also persuaded by the staff’s reasoning in the EIR regarding why or why not, in light of such inquiries regarding the significance of impacts, the identified impacts were identified as significant prior to mitigation, and less than significant after mitigation. Rather than repeat all of these points herein, the Board instead incorporates the entire EIR by reference herein, and relies on the EIR’s explanations regarding the nature of the effects at issue, and the effectiveness of mitigation. For the sake of creating an unambiguous record of the Board’s decision to adopt and carry out all recommended mitigation measures, however, each significant effect and all recommended (and adopted) mitigation measures are set forth below.

**Geology Impact – 1:** The proposed project may result in soil erosion and slope instability.

**Geology Mitigation –1:** Areas disturbed during construction will be stabilized and revegetated in accordance with a revegetation plan prepared by TCDOT in consultation with the Forest

Service as part of the design phase of the project and incorporated into the project plans and specifications. The following seed mix is proposed for use during revegetation, pending approval by the Forest Service: California brome (*Bromus carinatus*), Blue wildrye (*Elymus glaucus*), Idaho fescue (*Festuca idahoensis*), Lotus (*Lotus crassifolius/L. purshianus*), and Arroyo lupine (*Lupinus succulentus*). The seed will be obtained from a supplier that has certified weed-free stock genetically related to natives found in Trinity County. Seed, fiber, commercial fertilizer and water will be applied by hydroseeding, in accordance with methods identified as Type D erosion control measures in Section 20-2 through 20-3 of the Caltrans Standard Specifications. Seed will be applied in the fall or spring, when soils are moist or expected to be moist soon after distribution. Certified weed-free straw or rice straw will be used for mulching the reseeded areas. The straw will be applied with the hydroseed mix, or spread at least two inches thick and in a way to insure good contact with the soil. No herbicides or pesticides shall be applied.

**Geology Mitigation-2:** A California Registered civil engineer shall design the proposed cuts and fills in accordance with the Caltrans Design Manual, AASHTO Design Guide, California Standard Plans and California Standard Specifications, and in accordance with the recommendations of a site-specific Geotechnical Review. Field review and materials exploration shall be conducted by a California Registered Geologist, Certified Engineering Geologist or Geotechnical Engineer during design to determine the stability of materials encountered in proposed cuts, and any necessary treatments. Rock buttresses, slope rounding, rock catchment systems and/or other appropriate methods recommended by the Project Geologist to prevent slope failures will be incorporated into project design.

**Geology Impact-4:** Construction activities associated with the project would temporarily expose soils to wind and water erosion within the proposed project area.

**Geology Mitigation-3:** The following measures will be implemented:

- Soil exposure will be minimized during construction through the use of standard Best Management Practices, including but not limited to geofabrics, silt fences, straw bales and wattles, and temporary sediment basins. Exposed dust-producing surfaces will be sprinkled daily until wet while avoiding producing runoff.
- The TCDOT contractor will conduct daily inspections and maintenance of erosion and sediment control measures. Failures will be repaired each workday if they occur.
- All temporary erosion and sediment control measures will be removed after the working area is stabilized or as directed by the project engineer.

**Hydrology Impact-5:** Temporary water quality impacts could occur as a result of construction of the Hyampom Road Improvements project.

**Hydrology Mitigation-1:** The following measures will be implemented:

- No contact of wet concrete with the live stream will be allowed. Groundwater that comes in contact with wet concrete, such as within bridge footing excavations, will not be allowed to enter the creek but will be pumped to a truck or upland for disposal or treatment, or it may be discharged to a sediment-stilling basin on site and percolated back into the soil.
- If drilling muds are used to drill holes within the ordinary high-water zone, all drilling muds and fluid within all drilled holes will be pumped through a closed system, contained on-site in tanks, removed from the project area, and disposed of off-site at an appropriate facility.
- The TCDOT contractor will remove all spoils materials from the drilled pier holes and dispose of the material in a manner that will not result in discharge of runoff of sediment into Waters of the United States.
- Heavy equipment will not be operated in the active flow channel of any creek.
- Complete diversion or damming of surface flows will not be allowed. A cofferdam may be installed along the edge of the low flow channel of Hayfork Creek, but shall not result in complete dewatering or impedance of flows within the creek.
- Maintenance and refueling areas for equipment will be located a minimum of 100 ft away from the active stream channel. If equipment must be washed, washing will occur where the water cannot flow into the creek channel.
- Spill containment booms will be maintained on-site at all times during construction operations and/or staging or fueling of equipment.

**Hydrology Impact-6:** Use of staging areas near Hayfork Creek or James Creek could result in discharge of construction materials or chemicals to the water bodies.

**Hydrology Mitigation-2:** All staging areas will be established at least 50 feet from the top of the stream bank or 50 feet from the outer edge of the riparian habitat, whichever is farther. This buffer will be clearly identified on the design drawings and delineated in the field with orange construction barrier fencing. Sedimentation fencing or other erosion and sediment control measures will be installed between the staging area and the riparian area to prevent sediment and pollutant discharges to creeks and riparian areas. There will be no removal of riparian vegetation for staging purposes.

**Hazards Impact – 1:** Road closures and lane closures during construction could interfere with

emergency response or emergency evacuation, including response to wildland fires.

**Hazards Mitigation – 1:** The TCDOT will coordinate closely with emergency service providers before and during construction. A Fire Plan will be developed between the TCDOT, USFS, Hayfork Fire District, Hyampom Community Services District, Trinity County Sheriff's Office and Trinity Ambulance Service. The plan shall establish lines of communication so that the construction crew receives notification of an emergency need to open the road prior to the arrival of emergency vehicles at the site. Procedures will also be established to keep emergency service providers advised of the location of construction crews, the activities going on at the time and the estimated time to clear the road for each activity. Communication shall also include current information on the status and passability of alternate routes. The emergency service providers will use this information to determine the fastest way to reach the emergency site under the present circumstances.

**Hazards Impact – 4:** Fuels, oils, greases, solvents or other hazardous materials used in construction or construction equipment could be accidentally released to the environment.

**Hazards Mitigation – 3:** The Contractor shall exercise every reasonable precaution to protect streams from pollution with fuels, oils and other harmful materials. The Contractor will be required to have adequate spill containment equipment on hand at all times. All waste petroleum products and empty petroleum product containers will be disposed of properly at a recycling or disposal site legally authorized to accept that type of waste. The Trinity County Environmental Health Department and NCRWQCB must be notified immediately in the event of a release of significant quantities of hazardous materials. In the event of a release into Hayfork Creek, CDFG must also be notified.

NOTE: This impact is also mitigated by the previously listed measures:  
Hydrology Mitigation 1 and Hydrology Mitigation 2

**Hazards Impact – 5:** The combined road rehabilitation projects proposed by TCDOT and CFLHD will result in similar delays for emergency vehicles during construction

**Hazards Mitigation – 4:** CFLHD Resident Engineers will be in direct radio contact with the USFS. The CFLHD Contractor will be required to have a serviceable telephone, radiotelephone or radio system connecting each construction operation with the Contractor's headquarters. A radio-equipped fire patrolperson vehicle will satisfy this requirement if in operation during the time required. When such headquarters is at a location which makes communication to it clearly impractical, the Forest Service will accept a reasonable alternative location. The communication system shall provide prompt and reliable communications between the Contractor's headquarters (or above stated alternative) and Forest Service via commercial or Forest Service telephone. The communications system shall be operable during Contractor's operation in the fire precautionary period and at the time fire patrolperson service is required.

**Air Quality Impact – 2:** Project construction activities associated with the proposed project would generate short-term air emissions.

**Air Quality Mitigation-1:** At any time when visible dust is emitted by project operations, all excavated areas, access roads, stockpiles and other areas that are not paved, rocked or covered shall be watered by the construction contractor at least daily. Water shall be applied in a fine spray that does not result in runoff from the watered surfaces.

**Air Quality Mitigation-2:** The construction contractor shall be required to maintain construction vehicles in good running condition.

**Biology Impact – 1:** The proposed project would result in permanent impacts to various vegetative communities, including the loss of several hundred trees.

**Biology Mitigation – 1:** To minimize removal and disturbance of Douglas fir forest, Oregon oak woodland, and riparian habitats, the following avoidance and minimization measures will be implemented:

- Prior to the initiation of construction activities TCDOT shall clearly demarcate (with uniquely colored construction stakes or high visibility orange mesh fencing) the limits of construction within natural habitat areas.
- Prior to the onset of site grading, construction personnel shall be informed about the importance of avoiding ground-disturbing activities outside the designated construction work area. The TCDOT Resident Engineer and Environmental Compliance Specialist, with support from qualified biologists, will ensure that construction equipment and associated activities avoid any disturbance of sensitive resources outside the project areas.
- All material stockpiling and staging areas will be located within project right-of-ways in non-sensitive areas, or at designated disturbed/developed areas outside of design construction zones;
- Vehicle and equipment refueling and lubrication will only be permitted in designated disturbed/developed areas where accidental spills can be immediately contained;
- Project plans shall clearly indicate the locations of environmentally sensitive areas such as the Hayfork Creek riparian corridor, boundaries of waters of the United States, limited operation buffers (if present), and other areas where access or disturbance is prohibited on a temporary or permanent basis; and
- Minimize tree and shrub removal to the extent necessary for construction and to provide adequate line-of-sight and hazard reduction. When feasible, trees or shrubs that interfere with construction or project operation will be pruned or topped, but not removed.

**Biology Mitigation – 2:** Riparian vegetation that will be permanently removed (rather than trimmed or topped) will be replaced at a 3:1 ratio. Replacement may occur in areas where the road is realigned away from Hayfork Creek, to enhance the riparian corridor. The exact planting locations shall be determined by the County in coordination with the USFS, and a Riparian Mitigation Plan shall be prepared, including the following elements:

- Prior to construction, a qualified biologist or restoration ecologist shall count and identify riparian tree and shrub species that may be removed to accommodate construction.
- To mitigate for the loss of riparian habitat, TCDOT will conduct mitigation through planting at a ratio of 3:1 (per mature woody riparian plant) for habitat permanently lost due to project construction activities. Replacement of permanently lost riparian habitat would occur within the project area in disturbed areas or other areas currently devoid of riparian vegetation but judged by a qualified restoration ecologist or botanist as having potential to support and sustain riparian vegetation adjacent to Hayfork Creek. However, new tree and shrub vegetation will not be planted within 30 feet of Nine-mile Bridge, to ensure maintenance access to the bridge, and unobstructed flows under the bridge.
- Following the completion of construction activities, plantings shall be installed to replace all riparian trees and shrubs that would be removed as a result of the project. All nonnative species that are removed will be replaced with native species. Replacement trees and shrubs should be planted in the appropriate season (i.e., spring or preferably fall) following the completion of construction. Propagules (i.e., shrub cuttings, tree seedlings) shall be obtained either onsite or from a local nursery and planted along Hayfork Creek within the immediate project area.
- The County shall monitor the plantings annually for up to three years to ensure that trees and shrubs have become established. Supplemental planting would be conducted, as necessary, to ensure that the performance standard of three surviving trees per one mature riparian tree removed is met. Once riparian mitigation has been successfully completed, the County shall submit a memorandum to CDFG, USFS and the U.S. Army Corps of Engineers.

NOTE: This impact is also mitigated by the previously listed measure: **Geology Mitigation – 1**

**Biology Impact – 2:** The project could result in the introduction or spread of noxious weed species, which could displace native species, changing the diversity of species or number of species of plants.

**Biology Mitigation-3:** To avoid the introduction or spread of noxious weeds into previously uninfested areas or the spread of existing noxious weeds, the County will implement the following measures:

- The Construction Supervisor and/or the Resident Engineer will be educated on weed identification and the importance of controlling and preventing the spread of noxious weeds;
- Construction equipment will be washed prior to entering and exiting the project area in order to remove seed materials and lessen the potential for the spread of invasive weeds;
- Only native, noninvasive species or nonpersistent hybrids and certified weed-free materials will be used for revegetation and erosion control;
- Disposal of soil or plant materials from areas containing invasive species will not be allowed in uninfested native vegetation areas.

**Biology Impact – 4:** Project construction could result in impacts to specialstatus plant species.

**Biology Mitigation 4:** The following measures would be implemented in order to mitigate impacts to clustered (Brownie) lady's slipper:

- A qualified botanist shall conduct a focused survey for clustered lady's slipper in the project area in spring (April-May) of the year of design to determine the precise location of the occurrence and to determine whether or not the occurrence will be directly affected by the project;
- If clustered lady's slipper is found to occur in or near areas to be disturbed, the bridge design shall be modified to fully avoid the population if practical and feasible, and the population shall be clearly demarcated with construction barrier fencing;
- If complete avoidance is not feasible, the entire population will be transplanted to another suitable location on James Creek.

In the event that transplantation is necessary, a qualified botanist would do the following:

- Identify a suitable transplantation site (i.e., densely shaded [ $>60\%$  canopy cover], perennially damp, dense duff layer) on James Creek upstream of the impact site in consultation with the Forest Service botanist;
- Perform transplantation when plants are dormant or after fruit maturation and while sufficient soil moisture and air temperature will prevent desiccation (i.e., October-November);
- Transplant all potentially affected individuals with a sufficient quantity of soil to protect the roots of the affected plants (transplant soil and plants as a unit if possible); and
- Monitor transplant site for a period of three years following transplantation to assess success of transplantation efforts. Monitoring will include an annual assessment of site conditions, health, survivorship of transplanted individuals, and reproductive potential (i.e., fruit-set). Annual monitoring will be summarized in a brief letter report and submitted to the Forest Service following completion of monitoring efforts.

**Biology Mitigation 5:** Potential impacts to the Canyon Creek stonecrop shall be reduced by fencing the known population with construction barrier fencing and avoiding these areas during construction.

**Biology Mitigation 6:** The following measures would be implemented in order to mitigate impacts to Nile's madia:

- Complete construction within the vicinity of the population of Madia located at Station 117 after seed set (i.e., complete work mid-July through October). This construction window is flexible: the County would consult with the USFS if construction needs to occur outside the given dates.
- Stockpile soil within the vicinity of Station 117 in order to preserve the madia seedbank and reapply after construction is complete. This is feasible if reapplication occurs prior to the onset of fall rains, i.e., if stockpiling and reapplication can occur within the same construction season.

**Biology Impact – 5:** Project construction could result in impacts to the Trinity bristlesnail, a state-listed invertebrate.

**Biology Mitigation 7:** Impacts on the Trinity bristlesnail will be fully mitigated through a comprehensive mitigation plan that involves avoidance and minimization of impacts to Trinity bristlesnail habitat as well as individual snails. The mitigation plan shall also include measures to restore degraded habitat for the snail with appropriate restoration measures and a commensurate monitoring plan to document project success. The Mitigation Plan for the Trinity Bristlesnail is included as Appendix D of the Draft EIR.

- The County shall initiate consultation with the California Department of Fish and Game (CDFG) to obtain an Incidental Take Permit (ITP) under the California Endangered Species Act for project related effects on the Trinity bristlesnail. Upon completion of consultation and issuance of the ITP the County shall comply with all conditions and measures stipulated to minimize and fully mitigate for impacts to the species and its habitat. At a minimum, mitigation agreed to within the ITP shall include the following mitigation measures:
  - Clearly depict James Creek and its associated riparian vegetation and Hayfork Creek and its associated riparian vegetation as Environmentally Sensitive Areas (ESAs) on all project drawings and plans;
  - Prior to the initiation of construction activities clearly demarcate (with uniquely colored construction stakes) the limits of construction within natural habitat areas (i.e., Douglas fir forest, Oregon oak woodland, and riparian habitats); staked boundaries may be inspected by a representative of DFG prior to the onset of earthwork
  - Implement the avoidance and minimization provisions required by Biology Mitigation – 1 in this Draft EIR.
- The County shall retain an experienced biologist to conduct a focused survey in all optimal habitat areas, and optimal microhabitat areas within suboptimal habitat areas (i.e. in the James Creek Riparian corridor and in mesic moderately shaded Douglas fir forest and Oregon oak woodland on southeast and west facing slopes) within the area to be disturbed for Trinity bristlesnail individuals. The survey shall be conducted in the month of May prior to construction to maximize the potential for species detection. If individuals of Trinity bristlesnail are found within areas proposed for disturbance within the project area they shall be captured and moved to suitable sites outside the project area that contain optimal habitat within the local watershed. Capture and relocation of the Trinity bristlesnail shall only proceed after applicable permits and permissions are obtained from CDFG.
- Restore disturbed habitat within James Creek in accordance with the Mitigation Plan.
- The County shall perform annual and longterm monitoring for 15 years, in accordance with the Mitigation Plan.
- The County shall restore a minimum of 0.13 acre of optimal Trinity bristlesnail habitat. Planted trees shall have a combined survival rate of 80% by the fall of the fifth year of monitoring. By the end of year 15 the restoration area shall exhibit a dense continuous canopy cover and significant development of a leafnold layer (a continuous layer at least 5 cm thick).
- The County shall perform remedial actions if necessary to achieve performance standards.
- If remedial plantings are necessary, they will be monitored for an additional 10 years, or until performance standards are met.

**Biology Impact – 6:** Project construction could result in impacts to the nonlisted invertebrate species that are listed as Survey and Manage Species in the Northwest Forest Plan.

**Biology Mitigation 8:** Potential impacts to terrestrial mollusks, including Survey & Manage species, shall be reduced through the implementation of the Mitigation Recommendations for U.S. Forest Service Survey and Manage Species Potentially Affected by the Proposed Hyampom Road Improvement Project (PM 6.5-8.3) by May & Associates, Inc. November 2002, in consultation with the ShastaTrinity National Forest. Mitigation shall include the following:

- Implement the avoidance and minimization provisions required by Biology Mitigation – 1 in this Draft EIR.
- Limit ground disturbing and soil compacting activities to the minimum necessary within the project area. Talus, debris, and vegetation shall be maintained to the extent feasible to provide for cool moist areas during fall and spring and to provide refuge sites for summer aestivation and winter hibernation.
- Existing trees, canopy closure, surface vegetation, woody debris, and uncompacted forest litter shall be protected to the extent feasible

**Biology Impact 7:** In-stream construction could result in direct impacts to special status fish species.

**Biology Mitigation- 9:** The County shall perform in-stream construction activities, within the Ordinary High Water Mark of Hayfork Creek or James Creek, only between June 15 and October 15. Construction may continue after October 15 if there is no threat of rain, with permission from CDFG and/or NOAA Fisheries. In-stream construction shall be completed within one construction season, or all temporary equipment, materials and fills shall be removed from the Ordinary High Water Channel by October 15.

**Biology Mitigation – 10:** The County shall construct rock slope protection and retaining wall systems so as to minimize or avoid in-stream construction activities. Any unavoidable instream construction activities shall be isolated from the stream flow through the use of temporary cofferdams.

**Biology Impact 8:** Indirect impacts to special status fish species could result from pollution or sedimentation of Hayfork Creek.

NOTE: This impact is mitigated by the previously listed measures:

**Geology Mitigation –1, Geology Mitigation-2 Hydrology Mitigation – 1,  
Hydrology Mitigation – 2, Hazards Mitigation – 2 and Biology Mitigation –2.**

**Biology Impact – 10:** Project construction could result in impacts to special-status bird species.

**Biology Mitigation –11:** TCDOT shall complete the second year of the USFWS two-year protocol-level surveys for northern spotted owl. In the event that no northern spotted owls are detected during the second year of surveys no further measures will be employed to avoid or minimize impacts to the species.

If a nest tree of a nesting pair (i.e., activity center) is detected within 400 m (¼ mi) of proposed earthwork the USFS will be notified of the location of the nest. The activity center will be protected as follows:

No construction activities that exceed 90 A-weighted decibels (dBA) measured 15.2 m (50 ft) from the source will occur within 305 m (1,000 ft) of the nest tree during the period between February 1 and July 10 unless a qualified biologist experienced with the assessment of nesting northern spotted owls determines that nesting has failed prior to July 10 or if the biologist determines that the young are capable of tolerating noise disturbance of the magnitude generated by the construction of the project.

**Biology Mitigation – 12:** Pre-construction surveys to verify that Cooper's hawk, sharpshinned hawk, Vaux's swift, and hermit warbler are not nesting within the vicinity of the proposed project shall be completed in the spring prior to the commencement of construction activities. If more than one year of construction is required to complete the project, then these preconstruction surveys shall be completed in the spring prior to each construction season. The biologist conducting the surveys shall locate and map active nests within the project area or within ½ km (1/3 mile) of its boundaries. If nests of any of these species are found, a limited operating period shall apply to construction activities within 500 feet of the nest. If Cooper's or sharpshinned hawk nests are found, no construction activities shall occur within 500 feet of the nest site until the end of August or until the nestlings have fledged. If Vaux's swift nests are found, no construction activities shall occur within 500 feet of the nest site until early September or until the nestlings have fledged. If hermit warbler nests are found, no construction activities shall occur within 500 feet of the nest site until early July or until the nestlings have fledged. The locations of nest sites shall be provided to the CDFG, USFWS, and USFS, and additional agency-required measures shall be implemented.

**Biology Impact – 12:** Project construction could result in discharge of fill to "waters of the U.S."

**Biology Mitigation – 13:** A Clean Water Act Section 404 Permit (probably under Nationwide Permits #s 13 and #14) shall be obtained from the ACOE, a 401 Water Quality Certification or Waiver shall be obtained from the RWQCB, and a 1601 Streambed Alteration Agreement shall be obtained from the CDFG. These permits shall be obtained prior to construction. The stipulations of these permits shall be included in the Plans, Specifications and contract documents prepared for this project and enforced in the field by the TCDOT Resident Engineer.

**Cultural Impact – 1:** Excavations associated with the proposed project could result in the accidental destruction of previously undiscovered archaeological or historical resources, or could result in the uncovering of Native American human remains.

**Cultural Mitigation –1:** Members of the Nor-El-Muk Nation and the Wintu Education and Cultural Council will be consulted before construction begins. They will be notified of the construction schedule, and invited to visit the site to view the project limits. If construction is to occur in areas considered by the Nor-El-Muk Nation or Wintu Cultural Council to be likely to contain burials or other archeological resources, then the Nation or Council may assign a representative to monitor construction in that vicinity at their own expense.

**Cultural Mitigation –2:** In the event that previously unidentified cultural or paleontological resources are encountered during construction, there shall be no further excavation or disturbance of that area. The contractor shall avoid the materials and their context. The Trinity County DOT Project Engineer shall be notified immediately. A qualified archaeologist shall evaluate the find to determine its historical or archaeological significance. If the find is determined to be significant historical or archaeological resource, the archaeologist shall make recommendations for appropriate mitigation. Work in the area shall not resume until the mitigation measures recommended by the archaeologist have been implemented.

**Cultural Mitigation –3:** In the event that previously unidentified evidence of human burial or human remains are discovered, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains. The Trinity County Coroner must be informed and consulted, per state law. If the coroner determines the remains to be Native American, he or she shall contact the Native American Heritage Commission within 24 hours. The Native American Heritage Commission shall identify the person or persons it believes to be the most likely descendent. They will be given an opportunity to make recommendations for means of treatment of the human remains and any associated grave goods. Work in the area shall not continue until the human remains are dealt with according to the recommendations of the County Coroner, Native American Heritage Commission, and/or the most likely descendent have been implemented.

**Utilities Impact – 1:** During construction, the proposed project could impact police, medical and fire protection services response times between Hyampom and Hayfork.

NOTE: This impact is mitigated by the previously listed **Hazards Mitigation – 1.**

**Utilities Impact – 4:** The proposed project, in combination with other projects on Hyampom Road proposed by TCDOT and CFLHD will result in delays for emergency vehicles during several construction seasons.

NOTE: This impact is mitigated by the previously listed **Hazards Mitigation – 4.**

The following two impacts were determined to be less than significant before mitigation. However, mitigation is proposed to further reduce these impacts:

**Hazards Impact – 3:** Construction and operation of the proposed project could result in the exposure of the public or construction workers to contaminated soils or groundwater.

**Hazards Mitigation – 2:** If obvious signs of contamination in soils or groundwater are encountered during excavation (odors, sheens or discolored soil), work in that excavation will stop immediately. The TCDOT and the Trinity County Division of Environmental Health will be notified. The soils and/or groundwater will be sampled and tested for suspected contaminants. A Workplan and Site Safety Plan will be prepared addressing safety procedures for completing the excavation, and disposal of the spoils and wastewater generated by the excavation. The workplan shall be approved by the Trinity County Division of Environmental Health and/or the NCRWQCB. Only workers with current Hazardous Waste Operations and Emergency Response (HAZWOPER) training shall be permitted to work in this area. Grading and construction on uncontaminated sections of the project may continue. Remediation of the contaminated

soil and or groundwater in the surrounding area shall be the responsibility of the party responsible for the contamination.

**Noise Impact – 1:** Noise levels within the project area will increase temporarily during construction.

**Noise Mitigation – 1:** Construction activities shall comply with the Trinity County Noise Ordinance by either scheduling construction activities in order to qualify for the Noise Source Exemption, or by limiting construction noise to comply with the exterior and interior noise level standards at the nearest residence, as set forth in the current Trinity County Noise Ordinance. If no Noise Ordinance is in effect at the time of construction, then construction activities producing significant noise (80 dB or greater at 50 feet) shall be scheduled for between the hours of 7:00 a.m. and 8:00 p.m. Monday through Saturday, with no construction taking place on Sunday.

## **VI. FINDINGS**

Based on the analysis of environmental impacts and mitigation measures in the EIR, summarized above, the Trinity County Board of Supervisors finds that:

Changes or alternations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects of this project, and mitigate all of the significant environmental effects to a less than significant level, as identified in the final EIR.