

Memorandum

To: ALL DISTRICT DIRECTORS
ALL DISTRICT DEPUTY DIRECTORS FOR
ENVIRONMENTAL/PLANNING
ALL DISTRICT DEPUTY DIRECTORS FOR
CONSTRUCTION
ALL DISTRICT ENVIRONMENTAL OFFICE CHIEFS

Date: April 25, 2002

File No.:

From: DEPARTMENT OF TRANSPORTATION
DIVISION OF ENVIRONMENTAL ANALYSIS - MS27

Subject: Environmental Compliance for Best Interest Determinations (BID) During Construction

When the California Department of Transportation (Department) proposes to change a project's limits or scope during the construction phase from that of the original programming and construction authorization, the District Director and the Headquarter's Construction Division Chief must make a Best Interest Determination (BID) that the proposed change is in the public interest. The California Division of the Federal Highway Administration (FHWA) recently requested that the Department develop and implement specific measures to avoid violations of environmental laws and regulations that may result from construction changes.

To ensure that FHWA's concerns regarding environmental and other requirements are satisfied, the Division of Construction is now requiring all BIDs be forwarded to Headquarter's Office of Federal Resources. The Office of Federal Resources will work with the district to:

- determine whether the FNM-76 needs to be augmented for the proposed contract changes, and
- determine whether the FTIP is still applicable

All BIDs will be forwarded to Headquarter's Office of Federal Resources. To enable the Office of Federal Resources to make their determinations, the district must provide documentation to ensure that:

- Air quality conformity requirements have been met
- Right of Way Certification remains valid
- NEPA requirements have been met
- Design standards have been met

The Office of Federal Resources will require FHWA involvement in this process when a FSTIP Amendment is deemed necessary, or when NEPA approvals are needed, except for Programmatic CEs. The districts will determine whether the R/W Certification is still valid.

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The district must ensure that the NEPA approval, all permit approvals, resource agency coordination, and mitigation measures are sustainable by conducting an environmental reevaluation. Depending on the magnitude of the project changes, the reevaluation may be formal or informal in accordance with FHWA policy; however, the results must be documented and forwarded to the Office of Federal Resources. The reevaluation must also consider whether the changes in the project scope are sufficient to warrant reconsideration of the validity of the CEQA compliance. The District Environmental Chief must ensure appropriate technical specialists have been involved in the reevaluation. A Construction Bulletin will be forthcoming to further explain the BID process from the Division of Construction's perspective.

If you have any questions about the environmental compliance component of a Best Interest Determination, please call Denise O'Connor at CALNET 8-453-5157. Thank you.

A handwritten signature in black ink, appearing to read "Gary R. Winters", with a long horizontal flourish extending to the right.

GARY R. WINTERS, Chief
Division of Environmental Analysis