

Appendix 8.2 Notice of Preparation



July 15, 2008

**NOTICE OF PREPARATION
OF A DRAFT PROGRAM ENVIRONMENTAL IMPACT REPORT
AND NOTICE OF EIR SCOPING MEETING**

*pursuant to the California Environmental Quality Act, as amended and
CEQA Guidelines*

ROUTE 238 BYPASS LAND USE STUDY

NOTICE IS HEREBY GIVEN that the City of Hayward is undertaking a study to analyze the opportunities and constraints for future redevelopment of a number of State-owned vacant and/or underdeveloped parcels of land totaling approximately 355 acres, which extend in an "arcing" north-south direction from the east side of Foothill Boulevard just south of the I-580 freeway in the north, to Industrial Boulevard in the south. Some, but not all properties are contiguous to each other. These properties were acquired by Caltrans as right-of-way for the planned Foothill Bypass Freeway (Route 238), which will not be constructed. The study will result in development of a Concept Design Plan that could result in amendments to the City of Hayward General Plan and Zoning Ordinance.

As an alternative to the Foothill Bypass Freeway, the City is pursuing implementation of the 238 Corridor Improvement Project, which is a different project for which separate environmental analysis has been conducted. That project entails improvements along the existing Foothill Boulevard-Mission Boulevard corridor.

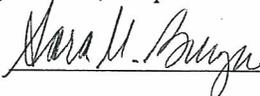
Serving as the Lead Agency, the City of Hayward will be preparing a Program Environmental Impact Report (EIR), which will examine at a general program level, the potentially significant environmental effects of potential development that could occur as a result of the study and related amendments, as well as providing alternatives and/or mitigation measures to reduce or avoid those significant impacts. A Draft EIR (DEIR) will be published for public review and comment, and a Final EIR will be prepared to respond to comments received during the review period on the DEIR. The City of Hayward City Council must certify the EIR as a complete, accurate, and objective analysis prior to approving the proposed project.

The Lead Agency needs to know your views as to the scope and content of the EIR. If you represent a public agency, please provide information that is germane to your statutory responsibilities as they may be affected by this project. Responsible and trustee agencies are encouraged to use the EIR that will be prepared by the City when considering approvals they may grant related to the project. A scoping meeting will be held on **Wednesday, July 30, 2008 between 6:30 and 8 p.m.** in the City Council Chambers at Hayward City Hall, 777 B Street, Hayward, CA 94541.

The project location and general description, as well as a preliminary discussion of the potential environmental effects, are contained in the attached materials, which includes the Initial Study. Due to the time limits mandated by State law, your response must be sent **not later than 30 days after receipt of this notice**. Please send your response to:

Sara Buizer, AICP, Senior Planner
City of Hayward Planning Division
777 B Street
Hayward, CA 94541

Please provide the name, mailing address, telephone number and e-mail address of a contact person with your response.

Signed: 

Date: July 15, 2008

Appendix 8.3

Responses to Notice of Preparation



H A Y W A R D A R E A P L A N N I N G A S S O C I A T I O N

Hayward City Council
by hand at Sept 25 Work Session

September 25, 2007

RE: 238 Land Use Study Environmental Impact Report

Dear Council:

Hayward is going to get \$100,000 for writing an EIR on proposed changes in land use policy in the 238 corridor. Since South Hayward has been cleared and properties with no zoning change do not need much if any clearance, the focus is likely to be on a smaller area where plan designations and zoning are being changed.

HAPA requests that the scope of the EIR include global warming issues, and we believe that can be done within available funds. The evaluation should include per capita impacts, so that a large project with significant pollution reductions can be compared fairly with smaller project that have significantly higher emissions per capita. See Tony Held et al., Climate Change Focus Group, "Addressing Climate Change in NEPA and CEQA Documents, Jones & Stokes, August 2007,

HAPA requests that Quarry Village be studied to the Specific Plan level as part of the 238 Land Use Study. Otherwise, delaying until after the General Plan decision in February 2009 results in too much delay for the project.

We believe that the \$400,000 the City has for the General Plan may not be enough for a Specific Plan and that a Specific Plan is not included in the scope of work of the consultants. Therefore it is necessary to get additional funds and to see if the consultants can do the additional work required. We and our developer would like to confer with city staff about the scope of work for a Specific Plan, how much it would cost, what inputs would be needed from Quarry Village, and what sources of funds are available from MTC and BAAQMD, probably in the context of new Joint Policy Committee policy on global warming.

We would then request a work session with the Council to see if it is feasible to pursue this higher level of planning. We believe it is appropriate given the progressive nature of Quarry Village for the public to pay for the environmental review, and also reduces the conflict of interest characteristic of EIRs paid for by developers. Also, Quarry Village faces great financing and marketing challenges, and needs to reduce its regulatory risk.

We believe this request is consistent with the Council's previously expressed support for studying Quarry Village.

Sincerely,

Sherman Lewis, President
Hayward Area Planning Association
2787 Hillcrest Ave.
Hayward CA 94542
510-538-3692
sherman@quarryvillage.us



H A Y W A R D A R E A P L A N N I N G A S S O C I A T I O N

September 25, 2007

Hayward City Council
by hand at Sept 25 Work Session

RE: Fee Schedules

Dear Council:

The City Finance Department maintains a Master Fee Schedule and the Planning and Public Works Departments maintain a Development Fee Schedule. These schedules overlap about 85 percent and have some problems. The Development Fee Schedule has some rates that are inconsistent with the Master Fee Schedule. The Master Fee Schedule leaves out some useful information contained in the Development Fee Schedule. The two schedules often present fees with a different outline and in a different order. On a related matter, the Building Department has a spreadsheet with useful formulas for calculating building fees, but some of the formulas are inaccurate.

This letter is to let you know that I will be giving the Department of Community Development a draft Master Fee Schedule that includes all relevant information and corrects some inaccurate wording. I will submit an abstract from the Master Fee Schedule that has all of the information needed for a Development Fee Schedule, but in a format that makes it easy to see how one relates to the other. I will submit a spreadsheet based on the fee schedule that corrects some formula problems and could be developed to allow applicants to make their own fee estimates. I will submit a spreadsheet based on the city's spreadsheet that shows how it can be used for the project I am working on, Quarry Village.

I hope the city may find this useful.

Sincerely,

Sherman Lewis, President
Hayward Area Planning Association
2787 Hillcrest Ave.
Hayward CA 94542
510-538-3692
sherman@quarryvillage.us



H A Y W A R D A R E A P L A N N I N G A S S O C I A T I O N

September 23, 2007

Hayward City Council
by hand at Sept 25 Work Session

RE: Route 238 LATIP and Housing Program

Dear Council:

In the 238 process, HAPA is concerned about fairness for Caltrans tenants and the preservation of affordable housing. The agreement pursuant to the consent decree will probably cease to be binding because the bypass is no longer going to be built. HAPA believes that two statutes require Caltrans, ACTA, the City, and the County to support a housing program.

I. The first statute is Government Code 54235 to 54238.7 , which states in part,

“The Legislature finds and declares that actions of state agencies including the sales of surplus residential properties which result in the loss of decent and affordable housing for persons and families of low or moderate income is contrary to state housing, urban development, and environmental policies and is a significant environmental effect, within the meaning of Article XIX of the California Constitution, which will be mitigated by the sale of surplus residential property pursuant to the provisions of this article. The Legislature further finds and declares that the displacement of large numbers of persons as a result of the sale of surplus residential property owned by agencies of the state is a significant environmental effect, within the meaning of Article XIX of the California Constitution which will be mitigated by sale of such properties pursuant to the provisions of this article. The Legislature further finds and declares that the sale of surplus residential property pursuant to the provisions of this article will directly serve an important public purpose. Wherefore, the Legislature intends by this article to preserve, upgrade and expand the supply of housing available to persons and families of low or moderate income. The Legislature further intends by this article to mitigate the environmental effects, within the meaning of Article XIX, of the California Constitution, caused by highway activities.” [§ 54235]

Further, the statute states “this article shall not apply to freeway routes rescinded on or after January 1, 1984.” [§ 54238.3. (a)]

In 1961, the California Transportation Commission (CTC) adopted a freeway route, route 238, from I-580 in Castro Valley to I-680 in Fremont, and route 92, from the San Mateo Bridge to I-580 in Dublin Canyon, with a large interchange between the two freeways on the slope of Carlos Bee Blvd. above Mission Blvd. In 1980 the CTC rescinded that route 238 from Industrial Parkway to I-680 and route 92 from I-880 to I-580. In 1982, the CTC rescinded route 238 as a freeway from I-580 to Industrial Parkway (See CTC Minutes of April 25, 1980, p. 3.)

Efforts to preserve the supply of affordable housing could delay the ability of Caltrans and local government to plan the future of the surplus ROW.

This issue has special urgency because the schedule for rescinding the bypass expressway reaches a decision in the spring of 2008 while the land use decision is scheduled for February, 2009.

II. The second statute is Government Code 14528.5 to 14528.6. This law allows surplus ROW to be sold to fund a LATIP, but also requires that the LATIP include a housing program for tenants and housing conservation, defined in detail in the .6 section. However, 6 does not specify a funding source.

.6 d (in part) states "At a minimum, the program shall provide that the total number of new units for persons or families of low or moderate income to be provided shall be equal to or greater than the number of units occupied by persons or families of low or moderate income displaced by the local alternative transportation improvement program, and that the total number of new housing units to be provided for lower income households shall be equal to or greater than the number of units occupied by lower income households displaced by the local alternative transportation improvement program. The number of units so provided shall be determined at least one year prior to the date the commission approves the local alternative transportation improvement program."

This language requires that agencies determine the number of families to be displaced by the LATIP, provision of housing to match the displacement, and determination of the units to be provided at least one year prior to CTC approval of the LATIP, none of which has been done.

The LATIP is scheduled for March, 2008, six months from now, ignoring the one year requirement.

The solution to this is fairly simple.

- Support, as suggested by Steve Ronfeldt, the addition to the city's draft bill of a third sentence to section 14528.5(b) stating: "Nor shall the commission approve a local alternative transportation program under this section or rescind State Highway Route 238 without commitments providing sufficient funding and resources for meeting the requirements set forth in section 14528.6."
- Support use of ACTA funds for the housing program or use of funds set aside by Hayward as required by the Consent Decree.

Sincerely,



Sherman Lewis, President
Hayward Area Planning Association
2787 Hillcrest Ave.
Hayward CA 94542
510-538-3692
sherman@quarryvillage.us

STATE OF CALIFORNIA—BUSINESS, TRANSPORTATION AND HOUSING AGENCY

ARNOLD SCHWARZENEGGER, Governor

DEPARTMENT OF TRANSPORTATION

111 GRAND AVENUE
P. O. BOX 23880
OAKLAND, CA 94628-0660
PHONE (510) 822-5491
FAX (510) 286-5559
TTY 711



*Flex your power!
Be energy efficient!*

August 18, 2008

ALA238318
ALA-238-VAR
SCH#2008072066

Ms. Sara Buizer, AICP
Planning Department
City of Hayward
777 B Street
Hayward, CA 94541

Dear Ms. Buizer:

Route 238 Bypass Land Use Study – Notice of Preparation

Thank you for including the California Department of Transportation (Department) in the environmental review process for the Route 238 Bypass Land Use Study. We have reviewed the Notice of Preparation (NOP) and have the following comments:

Please be advised that the Department plans include several projects on State Route 238 (SR-238) and Interstate 580 (I-580) in the vicinity of Hayward. Scheduling of construction and other project phases are subject to change:

- Pavement rehabilitation from SR-238/I-680 separation to the junction of SR-92 scheduled to begin Spring 2009 and Fall 2011
- Plant replacement on SR-238 scheduled to begin Spring 2010 and end on Spring 2014
- Widening and pavement rehabilitation on SR-238 between I-580 and I-880 scheduled to be completed by the end of Summer 2010

Mitigation Measures

The lead agency is responsible for assessing impacts to State Highways, including improvements and all project mitigation measures. The future project's fair share contribution, and financing, scheduling, implementation responsibilities and lead agency monitoring should be fully discussed in project-specific traffic impact studies and environmental documents. Mitigation Monitoring Report Plans (MMRPs) should also be included in project-specific environmental documents.

Transportation

On page 23 of the NOP, points 'd' and 'e' state, "specific measures addressing site-specific deficiencies will not be able to be provided until specific development proposals are submitted and reviewed by the City." Although there are no specific projects proposed at this time, please include an assessment of various assumed land use alternatives in the environmental document.

"Caltrans improves mobility across California"

Ms. Sara Buizer/City of Hayward
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Please identify traffic impact fees, when appropriate. Development plans require traffic impact fees based on projected traffic and/or based on associated cost estimates for transportation facilities necessitated by development.

Scheduling and costs associated with planned improvements on Department's right of way (ROW) should be listed. Viable funding sources correlated to the pace of improvements for roadway improvements should also be identified.

Cumulative Impact

Cumulative impacts should also be considered where alternatives contemplate work that would affect resources within the Department's ROW such as any greenhouse gases, tree removal, scenic resources, seasonal wetlands, water quality impacts (e.g. Bay Conservation Development Commission permit(s), culverts etc.) and any of those stipulated in Section 4(f) of the Department of Transportation Act (DOT Act) of 1966.

Greenhouse Gases and Sustainability

Consider providing specific methods for implementing sustainable life styles to reduce carbon footprint and GHG emissions that would affect resources within the Department's (ROW). For instance, please demonstrate how transportation project proposals promote sustainable methods for transportation projects along the State Highway System in addition to those stated by the Governors Office of Planning and Research Technical Advisory, June 19, 2008.

Water Quality

Where appropriate, please provide discussion on any Departmental ROW regarding alteration or impacts to drainage facilities, and culverts. Please review Hydrology and Water Quality, Appendix G, Environmental Checklist for California Environmental Quality Act (CEQA) guidance.

Community Planning

The Department encourages the City of Hayward to locate any needed housing, jobs and neighborhood services near major mass transit nodes, and connect these nodes with streets configured to facilitate walking and biking, as a means of promoting mass transit use and reducing regional vehicle miles traveled and traffic impacts on the state highways.

Please consider developing and applying pedestrian, bicycling and transit performance or level/quality of service measures and modeling pedestrian, bicycle and transit trips that the project will generate so that impacts can be quantified. Mitigation measures resulting from this analysis should improve pedestrian and bicycle access to transit facilities, thereby reducing traffic impacts on state facilities.

In addition, please analyze secondary impacts on pedestrians and bicyclists that may result from any traffic impact mitigation measures. Describe any pedestrian and bicycle mitigation measures that would in turn be needed as a means of maintaining and improving access to transit facilities and reducing traffic impacts on state highways.

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The document should identify and demonstrate analysis on direct or indirect effects adversely on the general population. Discuss all efforts to ensure meaningful opportunities for public participation and discussion on beneficial and adverse impacts on the overall community in terms of air quality, noise impacts, water pollution, hazardous waste, community cohesion, employment effects, traffic congestion, safety and construction/temporary impacts (FHWA Western Resource Center Interim Guidance on Environmental Justice, 2001).

Traffic Impact Study

The environmental document should include an analysis of the impacts of each of the proposed alternatives on State highway facilities in the vicinity of the project site. Please ensure that a Traffic Impact Study (TIS) is prepared providing the information detailed below:

1. Information on the plan's traffic impacts in terms of trip generation, distribution, and assignment. The assumptions and methodologies used in compiling this information should be addressed. The study should clearly show the percentage of project trips assigned to State facilities.
2. Current Average Daily Traffic (ADT) and AM and PM peak hour volumes on all significantly affected streets, highway segments and intersections.
3. Schematic illustration and level of service (LOS) analysis for the following scenarios: 1) existing, 2) existing plus project, 3) cumulative and 4) cumulative plus project for the roadways and intersections in the project area.
4. Calculation of cumulative traffic volumes should consider all traffic-generating developments, both existing and future, that would affect the State highway facilities being evaluated.
5. The procedures contained in the 2000 update of the Highway Capacity Manual should be used as a guide for the analysis. We also recommend using the Department's "Guide for the Preparation of Traffic Impact Studies"; it is available on the following web site:
<http://www.dot.ca.gov/hq/traffops/developserv/operationalsystems/reports/tisguide.pdf>
6. Mitigation measures should be identified where plan implementation is expected to have a significant impact. Mitigation measures proposed should be fully discussed, including financing, scheduling, implementation responsibilities, and lead agency monitoring.

We encourage the City of Hayward to coordinate preparation of the study with our office, and we would appreciate the opportunity to review the scope of work.

We look forward to reviewing the TIS, including Technical Appendices, and environmental document for this project. Please send two copies to the address at the top of this letterhead, marked ATTN: Yatman Kwan, Mail Stop #10D.

Encroachment Permit

Any work or traffic control within the State ROW requires an encroachment permit that is issued by the Department. Traffic-related mitigation measures will be incorporated into the construction

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plans during the encroachment permit process. See the following website link for more information: <http://www.dot.ca.gov/hq/traffops/developserv/permits/>

To apply for an encroachment permit, submit a completed encroachment permit application, environmental documentation, and five (5) sets of plans which clearly indicate State ROW to the address at the top of this letterhead, marked ATTN: Michael Condic, Mail Stop #5E.

Should you have any questions regarding this letter, please call Yatman Kwan of my staff at (510) 622-1670.

Sincerely,



LISA CARBONI
District Branch Chief
Local Development - Intergovernmental Review

c: State Clearinghouse

From: Sara Buizer <Sara.Buizer@hayward-ca.gov>
Subject: FW: Rt. 238 Bypass Land Use Study - web update
Date: August 14, 2008 3:04:46 PM GMT
To: "Jerry Haag" <jphaag@pacbell.net>

See below comments from Debbie Frederick, the woman we spent a good deal of time speaking with at the end of the scoping meeting.

Sara

Sara Buizer, AICP
Senior Planner
City of Hayward
Planning Division
777 B Street
Hayward, CA 94541
(510) 583-4191
www.hayward-ca.gov

From: Debbie Frederick [mailto:debbie254@comcast.net]
Sent: Wednesday, August 13, 2008 9:37 PM
To: Sara Buizer
Subject: RE: Rt. 238 Bypass Land Use Study - web update

Hello, Sara, thank you for sending this. I checked the web site & printed the list of Comments/Questions from the July 30 Scoping meeting.

I believe comments could be accepted til Aug 18?- The one comment I remember that I was asked to email was that Bunker Hill Blvd is not appropriate to be opened up to through traffic at it's north end (onto Carlos Bee Blvd). It is much too narrow, &, I think most everyone involved supports preserving it's semi-rural environmental quality- which would be much diminished or destroyed if when through (it is too easily a short cut from Harder to Carlos Bee). I hope the Scoping report would consider an emergency only exit at that end.
Thanks.

From: Sara Buizer [mailto:Sara.Buizer@hayward-ca.gov]
Sent: Wednesday, August 13, 2008 9:36 AM
Subject: Rt. 238 Bypass Land Use Study - web update

Interested Parties:

I wanted to let you know the project web page, link below, has been updated with the comments we received at the Environmental Impact Report (EIR) Scoping Meeting held on July 30, 2008. The web page also includes an overview of the EIR process.

<http://www.hayward-ca.gov/forums/rte-238blus/238blus.shtm>



ALAMEDA COUNTY
CONGESTION MANAGEMENT AGENCY

1333 BROADWAY, SUITE 220 • OAKLAND, CA 94612 • PHONE: (510) 836-2560 • FAX: (510) 836-2185
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January 21, 2009

AC Transit
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Greg Harper

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Dennis R. Fay

Ms. Sara Buizer
Senior Planner
City of Hayward Planning Division
777 B Street
Hayward, CA 94541
Sara.Buizer@hayward-ca.gov

SUBJECT: Comments on the Notice of Preparation of a Draft Program Environmental Impact Report (EIR) for the Route 238 Bypass land Use Study

Dear Ms. Buizer:

Thank you for the opportunity to comment on the Notice of Preparation of a Draft Program Environmental Impact Report (EIR) for the Route 238 Bypass land Use Study. The Land Use Study is an analysis of the opportunities and constraints for future redevelopment of 355 acres of several former Caltrans right-of-way parcels. The site is the location of previously planned Foothill Bypass Freeway (Route 238), which will not be constructed. The study will result in development of a Concept Design Plan that could result in amendments to the City of Hayward General Plan and Zoning Ordinance.

The ACCMA respectfully submits the following comments:

- The City of Hayward adopted Resolution 92-269 on September 22, 1992 establishing guidelines for reviewing the impacts of local land use decisions consistent with the Alameda County Congestion Management Program (CMP). Based on our review of the NOP, the proposed project appears to generate at least 100 p.m. peak hour trips over existing conditions. If this is the case, the CMP Land Use Analysis Program requires the City to conduct a traffic analysis of the project using the Countywide Transportation Demand Model for projection years 2015 and 2030 conditions. Please note the following paragraph as it discusses the responsibility for modeling.
 - The CMA Board amended the CMP on March 26th, 1998 so that local jurisdictions are responsible for conducting the model runs themselves or through a consultant. The Countywide model, which is based on Cube software and developed incorporating ABAG's socio-economic data for Projections 2007, is available to the local jurisdictions for this purpose. To receive permission to use the Countywide model, the City of Hayward must submit a letter to the CMA requesting use of the model and describing the project. A copy of a sample letter agreement is available upon request.

- Potential impacts of the project on the Metropolitan Transportation System (MTS) need to be addressed. (See 2007 CMP Figures E-2 and E-3 and Figure 2). The DEIR should address all potential impacts of the project on the MTS roadway and transit systems. These include I-880, I-580, I-238, Foothill Boulevard, Mission Boulevard, Harder Road, Tennyson Road, Industrial Parkway West, Jackson Street, B Street, D Street and A Street, as well as BART and AC Transit. Potential impacts of the project must be addressed for 2015 and 2030 conditions.
 - Please note that the ACCMA does not have a policy for determining a threshold of significance for Level of Service for the Land Use Analysis Program of the CMP. Professional judgment should be applied to determine the significance of project impacts (Please see chapter 6 of 2007 CMP for more information).
 - In addition, the adopted 2007 CMP requires using 2000 Highway Capacity Manual for freeway capacity standards.

- The adequacy of any project mitigation measures should be discussed. On February 25, 1993, the CMA Board adopted three criteria for evaluating the adequacy of DEIR project mitigation measures:
 - Project mitigation measures must be adequate to sustain CMP service standards for roadways and transit;
 - Project mitigation measures must be fully funded to be considered adequate;
 - Project mitigation measures that rely on state or federal funds directed by or influenced by the CMA must be consistent with the project funding priorities established in the Capital Improvement Program (CIP) section of the CMP or the Regional Transportation Plan (RTP).

The DEIR should include a discussion on the adequacy of proposed mitigation measures relative to these criteria. In particular, the DEIR should detail when proposed roadway or transit route improvements are expected to be completed, how they will be funded, and what would be the effect on LOS if only the funded portions of these projects were assumed to be built prior to project completion.

- Potential impacts of the project on CMP transit levels of service must be analyzed. (See 2007 CMP, Chapter 4). Transit service standards are 15-30 minute headways for bus service and 3.75-15 minute headways for BART during peak hours. The DEIR should address the issue of transit funding as a mitigation measure in the context of the CMA's policies as discussed above.

- The DEIR should also consider demand-related strategies that are designed to reduce the need for new roadway facilities over the long term and to make the most efficient use of existing facilities (see 2007 CMP, Chapter 5). The DEIR should consider the use of TDM measures, in conjunction with roadway and transit improvements, as a means of attaining acceptable levels of service. Whenever possible, mechanisms that encourage ridesharing, flextime, transit, bicycling, telecommuting and other means of reducing peak hour traffic trips should be considered. The Site Design Guidelines

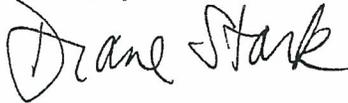
Ms. Sara Buizer
January 21, 2009
Page 3

Checklist may be useful during the review of the development proposal. A copy of the checklist is enclosed.

- The EIR should consider opportunities to promote countywide bicycle routes identified in the Alameda Countywide Bicycle Plan, which was approved by the ACCMA Board on October 26, 2006. The approved Countywide Bike Plan is available at <http://www.accma.ca.gov/pages/HomeBicyclePlan.aspx>
- For projects adjacent to state roadway facilities, the analysis should address noise impacts of the project. If the analysis finds an impact, then mitigation measures (i.e., soundwalls) should be incorporated as part of the conditions of approval of the proposed project. It should not be assumed that federal or state funding is available.

Thank you for the opportunity to comment on this Notice of Preparation. Please do not hesitate to contact me at 510/836-2560 if you require additional information.

Sincerely,



Diane Stark
Senior Transportation Planner

cc: Beth Walukas, Manager of Planning, ACCMA
Roxy Carmichael-Hart, City of Hayward
file: CMP - Environmental Review Opinions - Responses - 2009