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**A. Environmental Review**

On March 19, 2009, the Solano County Transportation Authority, as lead agency, certified a Final Environmental Impact Report (FEIR) (State Clearinghouse (SCH) No. 2000072051) for the Jepson Parkway Project, Phase 2 (Project) and filed a Notice of Determination (NOD) at the SCH on March 19, 2009. The State Water Board is a responsible agency under CEQA (Pub. Resources Code, § 21069) and in making its determinations and findings, must presume that Solano County Transportation Authority's certified environmental document comports with the requirements of CEQA and is valid. (Pub. Resources Code, § 21167.3.) The State Water Board has reviewed and considered the environmental document and finds that the environmental document prepared by Solano County Transportation Authority addresses the Project's water quality and supply impacts. (Cal. Code Regs., tit. 14, § 15096, subd. (f).) The environmental document includes the mitigation monitoring and reporting program (MMRP) developed by Solano County Transportation Authority for all mitigation measures that have been adopted for the Project to reduce potential significant impacts. (Pub. Resources Code, § 21081.6, subd. (a)(1); Cal. Code Regs., tit. 14, § 15091, subd. (d).)

**B. Incorporation by Reference**

Pursuant to CEQA, these Findings of Facts (Findings) support the issuance of this Order based on the Project FEIR, the application for this Order, and other supplemental documentation, including the MMRP and the Compensatory Mitigation Plan.

All CEQA project impacts, including those discussed in subsection C below, are analyzed in detail in the Project FEIR which is incorporated herein by reference. The Project FEIR is available at: [http://www.sta.ca.gov/Content/10080/The\\_Jepson\\_Parkway\\_Project.html](http://www.sta.ca.gov/Content/10080/The_Jepson_Parkway_Project.html)

Requirements under the purview of the State Water Board in the MMRP developed to ensure that the mitigation measures are implemented and are incorporated herein by reference.

Finally, the Permittee's application for this Order, including all supplemental information provided, is incorporated herein by reference.

**C. Findings**

The FEIR describes the potential significant environmental effects to waters of the state. Having considered the whole of the record, the State Water Board makes the following findings:

1. Findings regarding impacts that will be mitigated to a less than significant level. (Pub. Resources Code, § 21081, subd. (a)(1); Cal. Code Regs., tit. 14, § 15091, subd. (a)(1).)

*There are changes or alterations that have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the FEIR.*

**a.i. Potential Significant Impact – Impact BR-5:**

Direct impacts would result from placement of permanent fill in seasonal wetlands. Additional seasonal wetlands could be indirectly affected by sedimentation and possibly by modification of hydrology.

a.ii. Facts in Support of Finding:

In order to mitigate for **Impact BR-5**, the permittee will obtain the appropriate permits related to water quality. Copies of these permits will be provided to the contractor with the construction specifications. The permittee will be responsible for ensuring compliance with the conditions set forth in the permits (mitigation measure BR-4). The permittee will also be responsible for the implementation of the Jepson Parkway Phase 2: Restoration and Compensatory Mitigation Plan, based on permit requirements.

The permittee will ensure that the contractor implements general water quality and storm water runoff measures to protect water quality and aquatic resources in Union Creek, tributary streams, and wetlands (mitigation measure BR-5), as described in section IX of the Certification.

The permittee will ensure the contractor will minimize indirect impacts on wetlands throughout the study area by implementing the following measures (mitigation measure BR-6):

- The Project design will include culverts for all seasonal and perennial drainages in order to maintain hydrologic connections.
- Construction activities will be prohibited in saturated soils and ponded waters during the wet season (spring and winter) to the maximum extent possible. Where such activities are unavoidable, protective practices, such as padding or vehicles with balloon tires, will be employed.
- Geotextile cushions and other appropriate materials (e.g., timber pads, prefabricated equipment pads, geotextile fabric) will be used in saturated conditions to minimize damage to the substrate and vegetation.
- Exposed slopes and stream banks will be stabilized immediately following completion of construction activities. Waters will be restored in a manner that encourages vegetation to reestablish to its pre-project condition and reduces the effects of erosion on the drainage system.
- During construction, trees, shrubs, debris, or soils that are inadvertently deposited below the ordinary high water mark of any streams will be removed in a manner that minimizes disturbance of the creek bed and bank.
- All activities will be completed promptly to minimize their duration and resultant impacts.
- Construction inspectors will routinely inspect areas to ensure that protective measures are in place and effective.
- All protective measures will remain in place until all construction activities near the resource have been completed and will be removed immediately following construction and reclamation activities.

The permittee will implement the Jepson Parkway Phase 2: Restoration and Compensatory Mitigation Plan which outlines a plan to compensate for permanent and temporary impacts to waters of the state. Compensation includes the purchase of mitigation credits, the rehabilitation of temporary impacts, and the creation of vegetative swales within the project area (mitigation measure BR-8 & BR-9).

**b.i. Potential Significant Impact – Impact BR-7:**

Placement of permanent fill would result in direct impacts on seasonal drainages. Additional areas of seasonal drainages would be indirectly affected by sedimentation and possibly by modification of hydrology, as discussed above for seasonal wetlands.

**b.ii. Facts in Support of Finding:**

In order to mitigate for **Impact BR-7**, mitigation measures BR-4, BR-6 and BR-9 (Previously discussed) will be implemented by the permittee.

**c.i. Potential Significant Impact – Impact BR-8:**

Placement of permanent fill would result in direct impacts on perennial drainages. Additional areas of perennial drainages would be indirectly affected by sedimentation and possibly by modification of hydrology.

**c.ii. Facts in Support of Finding:**

In order to mitigate for **Impact BR-8**, mitigation measures BR-4, BR-6 and BR-9 (Previously discussed) will be implemented by the permittee.

2. Findings regarding mitigation measures which are the responsibility of another agency. (Pub. Resources Code, § 21081, subd. (a)(2); Cal. Code Regs., tit. 14, §15091, subd.(a)(2).)

*There are changes or alterations that are within the responsibility and jurisdiction of another public agency and not the jurisdiction of the State Water Board. Such changes have been adopted by such other agency or can and should be adopted by such other agency.*

**a.i. Potential Significant Impact – Impact BR-16:**

Records of the northwestern pond turtle observations have been recorded within a 10-mile radius of the study area. The presence and variety of size classes implies that the species is breeding at that area. Northwestern pond turtles occur in the study area based on the presence of suitable aquatic habitat.

**a.ii. Facts in Support of Finding:**

In order to mitigate for **Impact BR-16**, preconstruction surveys for western pond turtles will be conducted by a qualified biologist in all areas of aquatic habitat that cannot be avoided within 12 hours prior to any construction activities. If any western pond turtles are found, they should be moved, or encouraged to move to a safe location outside of the construction zone (mitigation measure BR-16).

**c.i. Potential Significant Impact – Impact BR-24:**

The project could adversely affect wetlands identified as suitable vernal pool crustacean habitat located adjacent to Leisure Town Road and Vanden Road, between Cement Hill Road and Airbase parkway, and along the east side of Walters Road.

**c.i.i. Facts in Support of Finding:**

In order to mitigate for **Impact-BR24**, the permittee will implement mitigation measure BR-22 and BR-23. BR-22 will minimize the potential impacts by requiring that seeds are salvaged, or topsoil with seeds is salvaged, for use in suitable enhanced, restored, and/or creation of suitable habitat if it is approved by the USFWS. BR-23 will compensate for permanent loss of habitat by preserving and creating additional habitat for these species using compensation ratios approved by the USFWS.

**d.i. Potential Significant Impact – Impact BR-27:**

Although no aquatic habitat for California tiger salamanders would be affected, terrestrial habitat could be adversely affected due to construction activities along Vanden Road

**d.i.i. Facts in Support of Finding:**

In order to mitigate for **Impact-27**, the permittee will implement mitigation measure BR-26 which will minimize disturbance of breeding and dispersing California tiger salamanders by limiting construction activities within upland and aquatic areas during the dry season, between May 1 and October 15. If construction activities are necessary between those times, the permittee will contact the California Department of Fish and Wildlife, Sacramento Field Office for approval to extend the work period. The work area will be limited to the minimum necessary for construction. A qualified wildlife biologist will monitor all construction activities and if a specimen is found, that biologist will immediately halt all construction activities. The biologist will then contact U.S. Fish and Wildlife Service and/or California Department of Fish and Wildlife for advice on how to proceed. Furthermore, the permittee will compensate for the removal or disturbance of potential upland habitat and suitable aquatic habitat consistent with the requirements of the U.S. Fish and Wildlife Service's Biological Opinion.

**D. Determination**

The State Water Board has determined that the Project, when implemented in accordance with the MMRP and the conditions in this Order, will not result in any significant adverse water quality or supply impacts. (Cal. Code Regs., tit. 14, § 15096, subd. (h).) The State Water Board will file a NOD with the SCH within five (5) working days from the issuance of this Order. (Cal. Code Regs., tit. 14, §§ 15096, subd. (i).)