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**Sent:** Wednesday, July 08, 2009 6:53 AM  
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**Subject:** Placer Parkway Corridor Preservation -- Parkway Response to EPA Feedback

**Attachments:** Parkway Response to EPA Feedback\_7 08 09.doc

Erin – thanks for your June 26 feedback to our June 12 easement bullet points list. Your discussion, last week, with Gary Sweeten for clarifications was very helpful.

The attached responds to the questions outlined your June 26 email.

Please let me know if you have any questions. Thanks again!

**Stan** -- PLACER COUNTY TRANSPORTATION PLANNING AGENCY -- 299 Nevada St., Auburn, CA 95603 -- 530.823.4033 -- [www.pctpa.net](http://www.pctpa.net)

RESPONSE TO ERIN FORESMAN FEEDBACK  
(responses in *italics*)  
7/07/09

Re: Placer Parkway Corridor Preservation - Easement Bullet Points Pursuant to  
Concurrence Point 4  
Foresman Email 6/26/09

Erin,

Following are the transportation agencies' responses (in *italics*) to the questions you posed in your June 26, 2009 e-mail message.

1.
    - b. and c. Will the area identified in green stripes, on Alternative 5 in the file "Draft Placer Parkway Conservation Easement.PDF" be identified as the "no access zone"?
    - d. Somehow, the area identified for no access needs to be incorporated into the project description for Alternative 5.
    - e. How will it be maintained in Tier 2 so that all alternatives considered in Tier 2 include the no access area.
- b. and c. This area will be the "no-development buffer zone" for which easement protection commitments have been identified.*
- d. At this time, the Final EIR and the Final EIS may be circulated separately. Both documents (or a combined Final EIS/EIR – depending upon completion of the modified NEPA/404 process) will describe the Tier 1 NEPA/404 consultation and identify the easement framework and the map. We also intend to include this language in a Chapter of the EIS called Preferred Alternative. If SPRTA adopts Alternative 5, the description will be included in the resolution of adoption, and if FHWA selects Alternative 5, this language will be included in the Record of Decision.*
- e. The easement provision will be included in the description of the Preferred Alternative which, if adopted by FHWA and SPRTA, will be the subject of Tier 2. The Preferred Alternative corridor will be the area within which alternative specific roadway alignments will be considered, so the easement provision will be part of all initial Tier 2 build alternatives. Although the Tier 2 process may consider any feasible alternatives, it is the intent of the agencies' participating in the NEPA/404 process that the conservation framework and map would be maintained in Tier 2 and that with the*

*framework included Tier 2 need not look outside the Alternative 5 corridor for the LEDPA.*

*For clarity, please note that more detailed study in Tier 2 may identify some adjustments in the boundaries of the corridor, as described on Page 2-9 of the Draft Tier 1 EIS/EIR. It is intended that the easement framework would apply to the corridor within which the alternatives analyzed in Tier 2 occur, with the eastern and western extents fixed as identified in the map referenced above, and with a no-development buffer width for the preferred alignment of approximately 1,000 feet in such area.*

2.

Terms of the no access easement – I recommend replacing language highlighted in yellow below with language from the multi-agency approved conservation easement template quoted in “b” below. This language is already agreed upon by multiple natural resource regulatory agencies.

- a. If the easement will not be accepted by such a non-profit organization, or if the organization is no longer able to hold the easement, it may be held by the state or any city, county, city and county, district, or other state or local governmental entity, if otherwise authorized to acquire and hold title to real property.
- b. “Grantee is authorized to hold this conservation easement pursuant to California Civil Code Section 815.3 and Government Code Section 65965. Specifically, Grantee is (i) a tax-exempt nonprofit organization qualified under 501(c)(3) of the Internal Revenue Code of 1986, as amended, and qualified to do business in California; (ii) a “qualified organization” as defined in section 170(h)(3) of the Internal Revenue Code; and (iii) an organization which has as its primary and principal purpose and activity the protection and preservation of natural lands or resources in its natural, scenic, agricultural, forested, or open space condition or use.”
- c. This language is consistent with anticipating no change in land use from what is currently happening today around the Alternative 5 Placer Parkway corridor as it provides for maintaining natural lands in **agricultural and open space** condition or use.

*a. The language highlighted has a different purpose than the proposed language offered in b – its intent is to describe what entities might hold the easement if a non-profit is unable to hold it. It should not be deleted. We understand and agree with your concerns that a local jurisdiction would not be the easement-holder of choice. We suggest that the language be modified to read: “If the easement will not be accepted by such a non-profit organization, or if the organization is no longer able to hold the easement, the first priority shall be made to convey it to a federal agency or to a state governmental entity such as California Department of Fish and Game. Failing that, it may be held by any city, county, city and*

*county, district, or other local governmental entity, if otherwise authorized to acquire and hold title to real property.”*

*b. As discussed below, we did not expect to provide specific easement language as part of a framework. However, we have no objection in principle to using this proposed language as the definition of the kind of non-profit organization intended to hold the easement.*

*c. We agree that the intention of the easement is to prohibit access by maintaining the area for the purposes set forth in the easement.*

3.

It was my understanding that the transportation agencies would provide the specific language regarding prohibition of interchange structures in the airspace over the property. This language wasn't provided, only a statement that it would be provided. Please provide the language that is likely to be used in the easement document regarding prohibition of interchange structures in the airspace over the property. I think agreement on this language is necessary before we can provide concurrence.

*We did not expect to provide specific language as part of a framework. The specific language should be worked out during the Tier 2 process, at which time more detailed information would be available, as it is not practicable to consider every eventuality during Tier 1. The following language, or substantially similar language, is intended:*

*“Grantee has the right to prevent any activity on or use of the Property that is inconsistent with the Purpose of this Conservation Easement, including but not limited to the construction of any structures under, over, around or through the Property intended to provide access to the adjacent highway known as Placer Parkway, including but not limited to interchanges.”*

4.

We need to understand how the conservation easement will be adjusted to prevent access on both sides of the parkway facility in order to concur at this point. The general statement, “It is agreed that the easement would be adjusted to protect both sides of the roadway in the event that the roadway were to be located at the very edge of the corridor, to preserve access control,” is too general. Understanding approximately how much additional area outside of the corridor area will be placed under easement to prevent parkway access is necessary for completing the concurrence point.

*The easement will be entirely within the buffer zone, and will be approximately 1000 feet wide. The width of the buffer zone will not change, but if necessary, the Parkway corridor will be adjusted to assure that the buffer extends approximately 25 feet on both sides of the roadway.*