Mountain Tunnel Improvements Special Use Authorization (#54922)
Decision Notice and Finding of No Significant Impact

Stanislaus National Forest
Groveland Ranger District
Tuolumne and Mariposa Counties, California

The United States Forest Service (Forest Service or USFS) prepared an environmental assessment (EA) for the Mountain Tunnel Improvements Special Use Authorization project in compliance with the National Environmental Policy Act and other relevant laws and regulations. The EA discloses the direct, indirect, and cumulative effects that would result from the alternatives.

This document contains the Decision Notice (DN) and Finding of No Significant Impact (FONSI). The DN identifies the decision and the rationale for selecting the proposed action. The FONSI shows that the decision does not cause significant impacts on the human environment and explains why an Environmental Impact Statement (EIS) is not necessary (Appendix A). The EA and other supporting documents are available at the Stanislaus National Forest Headquarters in Sonora, CA or online on the project website at http://www.fs.fed.us/nepa/nepa_project_exp.php?project=54922 and are incorporated by reference into this DN and FONSI.

Decision

My decision is to issue a 10-year special use permit (SUP) to the San Francisco Public Utilities Commission (SFPUC) to authorize the use of and implementation of the proposed actions as described in the EA of the Mountain Tunnel Improvements Special Use Authorization project (54922) and as itemized below:

- Install culverts at the entrances to Adits 5/6 and 8/9 to collect, protect, and direct ephemeral drainages underground as they pass in front of the adit entrances.
- Construct road improvements and install drainage features along National Forest Transportation System (NFTS) road 1S28B.
  - Place concrete paving along the southern 2,510-foot portion of the road. New road materials would consist of properly graded gravel base and surface courses.
  - Construct additional drainage features (approximately 10) to provide cross drainage at approximately 200-foot intervals along the southern portion of the road. These cross-drainage features would be concrete water bars constructed at the ground surface and incorporated into the paving.
  - Repair failed outboard road shoulders and construct six turnouts to improve temporary construction traffic movements and safety.
  - Install slope protection measures to reduce slope stability and rockfall hazards.
- Construct road improvements and install drainage features along NFTS road 1S01, which provides access to Adit 5/6.

- Widen the existing road for approximately 4,580 feet to maintain a consistent roadway width of approximately 12 feet.
- Construct additional drainage features (approximately 20) to provide cross drainage at approximately 200-foot intervals along the 4,580 feet of improved roadway. These cross-drainage features would consist of concrete water bars constructed at the ground surface and incorporated into the paving.
- Construct up to seven new turnouts, varying between 100 feet and 300 feet long, to allow safer vehicle passage.
- Install a concrete deck overhang along two stretches of the road, totaling approximately 280 feet, where there are active slope hazards.
- Place gravel on NFTS road 1S01 areas that rut during construction.
- Install slope protection measures to reduce slope stability and rockfall hazards.

▪ Construct road improvements along NFTS road 1N10, which provides access to Adit 8/9.

- Widen approximately 2,720 feet of road to maintain a consistent roadway width of approximately 12 feet.
- Protect the existing inboard concrete v-ditch with culvert outlets for long-term drainage.
- Construct six new turnouts, approximately 200 to 300 feet each, to allow safer vehicle passage.
- Place gravel on NFTS road 1N10 in areas that rut during construction.
- Install slope protection measures to reduce slope stability and rockfall hazards.

▪ Place geotextile fabric and gravel on the northern portion (approximately 745 feet) of Second Garrote Road, which provides access to the Second Garrote Shaft from Old Highway 120.

▪ Use the following staging areas for construction, parking, equipment storage, temporary material storage, and trailers:

- Early Intake Staging Area EI-S1;
- South Fork Staging Areas SF-S2 through SF-S4;
- Adit 5/6 Staging Areas A5/6-S1 and A5/6-S2; and
- Adit 8/9 Staging Areas A8/9-S1, A8/9-S3, A8/9-S4, and A8/9-S5.

Following construction, these staging areas would be restored to their existing conditions, where no permanent improvements are constructed. Staging Area EI-S1 is a parking lot and trailhead and would be repaired if any damage from construction occurred.

This Decision Notice also clarifies that as a condition of the special use authorization, SFPUC shall comply with all present and future federal laws and regulations and all present and future state, county, and municipal laws, regulations, and other legal requirements that apply to the permit area, to the extent they do not conflict with federal law, regulation, or policy. This includes acquiring and complying with any additional permits required by other agencies with applicable regulatory authority. The Forest

Service assumes no responsibility for enforcing laws, regulations, and other legal requirements that fall under the jurisdiction of other governmental entities.

Reasons for the Decision

I have selected the Proposed Action for the following reasons:

- It is consistent with the Forest Plan guidance to:
  - Consider special uses of the National Forest where public needs cannot be met on private lands and where such uses conform to management direction for the area.
  - Provide transportation and facilities needed to efficiently and safely manage the National Forest.
  - Maintain or improve water quality and watershed conditions to meet applicable state and federal requirements.
- It would not result in any long-term adverse effects on the human environment but would improve safety, travel, and stormwater management along NFTS roads.
- The alternative of not authorizing use of the Forest Service lands and roads (i.e., the No Action Alternative) would result in:
  - Additional maintenance of these roads;
  - Greater potential for rockfall, slope failures, erosion, and sedimentation, which in turn could affect public access to recreational areas and use of the roadways by Forest Service administration and permittees; and
  - A substantial increase in time and cost would be required to correct the deficiencies to the tunnel.

Public Involvement

The Forest Service first listed the Mountain Tunnel Improvements Special Use Authorization project online in the Stanislaus National Forest "Virtual" Schedule of Proposed Actions (SOPA) on October 15, 2018.[1] The project first appeared in the published quarterly SOPA in January 2019. The Forest Service distributes the SOPA to about 130 parties and it is available on the internet.[2]

Designated Opportunity to Comment (30 days)

On January 28, 2019, the Forest Service sent a scoping letter, requesting public input, to 181 individuals, permittees, organizations, agencies, and Tribes who expressed specific interest in the project or whom the Forest Service believed may be directly or indirectly affected by the project. The letter requested that specific written comments be received during the 30-day designated opportunity for public comment, which began with publication of the Opportunity to Comment legal notice in the Union Democrat on February 2, 2019. The letter also included information on how to submit comments. During the designated comment period, the Forest Service received two letters of support, one of which included a request for SFPUC to be mandated to restore all staging areas at the end of the project's use and a

[1] United States Forest Service, Stanislaus National Forest "Virtual" Schedule of Proposed Actions, *http://data.ecosystem-management.org/nepaweb/current-sopa.php?forest=110516.*

[2] United States Forest Service, Forest Service Schedule of Proposed Actions for the Stanislaus National Forest, *http://www.fs.fed.us/sopa/forest-level.php?110516.*

recommendation that the Forest Service work closely with SFPUC to ensure that sediment discharge is minimized to reduce impacts on the South Fork Tuolumne River drainage. The Forest Service and the SFPUC have agreed that all construction staging areas would be restored to their existing conditions, where no permanent improvements are constructed. Project effects on the South Fork Tuolumne River, including sedimentation, were analyzed in the EA and determined to be negligible, requiring no modifications to the proposed action or mitigation measures. One additional letter, requesting that a migratory bird habitat assessment be conducted prior to implementation of the proposed actions, was received outside of the designated comment period.[3] The SFPUC will conduct preconstruction surveys for raptors and migratory birds prior to the start of construction activities and will implement protective measures if active nests are detected.

Findings Required by Other Laws

My decision is consistent with the Forest Plan goals, strategies, and objectives, and Forestwide and Management Area standards and guidelines that would apply to the proposed action (EA, p. 4); therefore, this project complies with the National Forest Management Planning Act of 1976. In addition, implementation and effects of this decision will be consistent with the following relevant acts and executive orders:

- Archaeological Resource Protection Act of 1978
- Endangered Species Act of 1973, as amended
- Bald and Golden Eagle Protection Act of 1940, as amended
- Migratory Bird Treaty Act of 1918, as amended
- National Environmental Policy Act of 1969, as amended
- National Historic Preservation Act of 1966, as amended
- Clean Water Act of 1972, as amended
- Clean Air Act of 1963, as amended
- Wild and Scenic Rivers Act of 1968, as amended

Implementation Date

Construction of the road improvements and preparation of staging areas would occur from 2020 to 2022. SFPUC and USFS have coordinated on a road closure arrangement for this construction period to reduce interference with recreational activities and access needed by other USFS permittees. Use of staging areas could occur beyond the first 2 years of construction through 2026, although they would not be used continuously. SFPUC would also provide advance notice of construction activities so that the USFS could post notices on its website to alert recreationists of upcoming construction work in the various site-specific locations.

Administrative Review

This decision was subject to objection pursuant to 36 Code of Federal Regulations (CFR) 218, Subparts A and B. A legal notice of the availability of the draft DN and FONSI and the Opportunity to Object was published Sonora's Union Democrat November 21, 2019. No objections to the project were received during the 45-day objection period which closed January 6, 2020; therefore, I am proceeding with approval of the project, documented by this Decision Notice (DN), after the five business day waiting period initiated following the end of the objection filing period (36 CFR 218.12(c)(2).

[3] Because this letter was received outside of the designated opportunity for public comment, the entity who submitted the letter may not file an objection (36 CFR 218.5).

Contact

For additional information about this project, contact Michael Jow at the Stanislaus National Forest, Stanislaus National Forest, Forest Headquarters, 19777 Greenley Road, Sonora, CA 95370; or call (209) 532-3671.

Signature and Date

1/14/2020

Jason Kuiken
Forest Supervisor
Stanislaus National Forest

Date

Appendix A: Finding of No Significant Impact

The following information describes the context and intensity factors that provide a basis for determining whether an action would have significant effects to the human environment (40 Code of Federal Regulations [CFR] 1508.27). It provides brief yet sufficient evidence and analysis for the responsible official to determine whether to prepare an Environmental Impact Statement (EIS) or a Finding of No Significant Impact (FONSI).

Context

In general, the proposed action would affect relatively small areas and road segments that are already disturbed in the Stanislaus National Forest. The 10 staging areas on Forest Service lands are discontinuous (occupying discrete sites dispersed along the National Forest Transportation System [NFTS] roads), range in size from 0.06 to 0.86 acre, and have a cumulative size of approximately 4.2 acres. The portions of the NFTS roads that may be improved include widening the existing roads from their existing 9 to 12 feet to a consistent 12 feet, to facilitate access to the Mountain Tunnel during construction. Road widening would result in up to 0.7 acre of ground disturbance. Additional land disturbance may occur along steep slopes where slope stabilization and rockfall hazard protective measures are proposed.

The proposed staging areas are either developed (one is in an existing parking lot) or are partially developed and used for parking or temporary staging (six are graded areas along paved roads and two are in graded areas outside the adits).

Intensity

Intensity is a measure of the severity, extent, or quantity of effects, and is based on information from the effects analysis of the environmental assessment (EA) and the references in the project record. The agency used relevant scientific information and knowledge of site-specific conditions gained from field visits to analyze the environmental effects. The following ten elements of impact intensity address the potential significance of project effects (40 CFR 1508.27[b])).

1) **Impacts may be both beneficial and adverse. A significant effect may exist even if the federal agency believes that, on balance, the effects will be beneficial.**

   The proposed action would not result in substantial adverse effects to the human environment. Use of National Forest System lands and roads would be limited to short-term, temporary construction activities related to the rehabilitation of the Mountain Tunnel. For all SFPUC capital improvement projects, standard construction measures are required that include restoration and revegetation of staging areas to their general preconstruction conditions; and protective measures to avoid affecting water quality, air quality, cultural resources, biological resources, and the human environment. Standard construction measures are incorporated as part of the proposed action as management requirements.

   Potentially adverse construction effects were identified for special-status wildlife species and as-yet undiscovered archeological resources, human remains, or traditional cultural properties. Management requirements have been proposed as part of the project to reduce these potential effects. The management requirements include preconstruction surveys for raptors, migratory nesting birds, and roosting bats; and worker awareness training to inform construction personnel of sensitive biological or cultural resources that may be encountered. These requirements include specific steps and procedures to follow if a resource is found. With the implementation of these requirements, there

would be no adverse effect to special-status species or archeological resources, human remains, or traditional cultural properties.

The improvements to NFTS roads 1S28B, 1S01, and 1N10 would have long-term benefits because they would allow safer travel along the roadways (proposed widening and turnouts would facilitate passage of vehicles in both directions), reduce slope instability and rockfall hazards (proposed slope protection measures include netting, spot bolting/dowels, gabion embankments, and shotcrete facing), and reduce erosion and sedimentation (proposed drainage features include culverts and water bars).

2) The degree to which the proposed action affects public health or safety.

The proposed action would involve short-term construction air quality and noise impacts related to ground disturbance and use of construction equipment at the proposed staging areas and along the NFTS roads. The proposed action would not include any permanent, air pollutant- or noise-emitting facilities. However, the proposed staging areas and road improvements would involve hazardous materials that could be accidentally released and create a public health and safety risk.

Air Emissions. Construction air emissions would be below the daily and annual thresholds of the Tuolumne County Air Pollution Control District and the Mariposa County Air Pollution Control District, which are established to attain the California Ambient Air Quality Standards. Because these state standards are more stringent than the National Ambient Air Quality Standards, the proposed action would not result in an exceedance of national standards, and effects would not be adverse.

Noise Emissions. Daytime and nighttime construction noise and construction traffic along the NFTS roads or Highway 120 would not adversely affect any nearby residences. Construction activities would be noticeable at the Lost Claim campground during the estimated 14 months of improvements to NFTS road 1S01. However, other campgrounds (such as Sweetwater and The Pines) are available for public use in the project area. The SFPUC would provide advance notice of construction activities so that USFS could post notices on its website to alert recreationists of upcoming construction work in the various site-specific locations. Given the relatively short duration of the impact and the availability of other campgrounds, this effect would not be considered adverse.

Hazardous Materials Releases. Limited amounts of hazardous materials, such as fuels, lubricants, and solvents for construction equipment and vehicles, would be used during construction and stored at staging areas. The SFPUC has adopted and implements standard construction measures for all of its capital improvement projects. Standard Construction Measure 6 (see EA Appendix B) requires that measures be implemented to prevent the release of hazardous materials, including storing such materials pursuant to manufacturer recommendations; maintaining spill kits onsite; and containing any spills that occur to the extent safe and feasible, followed by collection and disposal in accordance with applicable laws. Because of the limited amounts of hazardous materials that would be used, the few locations where hazardous materials would be used and/or stored (none of which are near residences or waterways that could be affected if a spill were to occur), and the SFPUC's standard construction measure, the effect on public health and safety from release of hazardous materials would not be adverse.

3) Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.

Cultural Resources. Cultural resources have been recorded in the project vicinity and are discussed below under Factor #8. The proposed action would have no direct or indirect effects on built environment resources. In addition, the EA identifies Management Requirements CUL 1, CUL 2, and

CUL 3, which would minimize effects from inadvertent discovery of archeological resources, human remains, and traditional cultural properties during construction.

Wetlands. Minor direct permanent impacts (approximately 25 square feet) and direct temporary impacts (approximately 65 square feet) to a seasonal wetland along NFTS road 1S01 would occur as a result of a culvert replacement and related drainage improvements. Indirect effects to wetlands in the vicinity of the project sites from erosion caused by stormwater runoff or accidental spills of hazardous materials would be avoided and minimized through implementation of SFPUC Standard Construction Measures 3 and 6 (EA Appendix B), which include measures to prevent erosion and sedimentation controls and the release of hazardous materials, respectively.

There are identified jurisdictional waters of the United States, consisting of ephemeral and intermittent drainages that cross NFTS roads 1S28B, 1S01, and 1N10 and the entrances to Adits 5/6 and 8/9. The proposed action would permanently affect approximately 380 square feet and temporarily affect approximately 115 square feet of these jurisdictional waters. Accordingly, the SFPUC would obtain a United States Army Corps of Engineers Clean Water Act Section 404 Nationwide Permit, a Central Valley Regional Water Quality Control Board Clean Water Act section 401 Water Quality Certification, and a California Department of Fish and Wildlife Lake or Streambed Alteration Agreement. With compliance with these permits, the proposed action would have no adverse effects on jurisdictional waters.

Wild and Scenic Rivers. The proposed action would not occur in the 0.25-mile wild and scenic river corridor along the mainstem Tuolumne River; therefore, direct effects on the scenic or recreation values of the corridor would not occur. Indirect effects would be minor, because construction activities at staging areas along the mainstem Tuolumne River canyon as viewed from the wild and scenic river corridor would be visible only in the distance (the river and recreationists would be 1,100 feet below and 1,000 feet away from the closest project construction activity along NFTS road 1N10), those activities would generally be screened by topography and vegetation, and views would be of construction staging and activities that would be short term and temporary.

4) **The degree to which the effects on the quality of the human environment are likely to be highly controversial.**

The proposed action would not result in effects on the quality of the human environment that are likely to be highly controversial. Public outreach during the scoping period did not identify any areas of controversy or raise any significant concerns regarding the nature of the proposed action.

5) **The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.**

The proposed action could result in the inadvertent discovery of archeological resources during construction, because of the proximity of known resources in the vicinity of some of the project sites. The EA includes three management requirements (CUL 1, CUL 2, and CUL 3) to address such resources and defines procedures to be followed under the direction of the USFS Heritage Program Manager in the event that archeological resources, human remains, or traditional cultural properties are uncovered during construction. With implementation of these requirements, the potential effects to these resources, if encountered, would not be adverse.

6) The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.

The proposed action would not establish a precedent for future actions with significant effects, because the proposed use of USFS lands for staging would be temporary, and these lands would be restored and/or revegetated to their existing conditions after construction is completed. The permanent, long-term modifications to the three NFTS roads would result in long-term beneficial effects and be consistent with the Recreation Opportunity Spectrum and the 2017 Forest Plan Direction guidance on access for the project area.

7) Whether the action is related to other actions with individually insignificant but cumulatively significant impacts.

The EA evaluates the proposed action for its cumulative effects in combination with 25 other related projects, including those undertaken by USFS and SFPUC (EA Appendix C). As discussed in the EA, adverse cumulative effects would not occur; there could be minor cumulative impacts on special-status plant and wildlife species because the related projects have the potential to alter natural habitats, affect wildlife behaviors, or contribute to loss or mortality of special-status species.

Other foreseeable USFS projects or projects in the Stanislaus National Forest, such as the Rim Fire Reforestation Project and others identified in Appendix C, must comply with the Forest Plan Direction. This guidance document includes provisions to protect plant, wildlife, and management indicator species/habitat resources. Several of the USFS projects are specifically aimed at enhancing habitat and implementing management strategies to control invasive nonnative species that could compete with sensitive plant species. These related projects, many of which cover large areas of the Stanislaus National Forest, would have an overall beneficial effect on biological resources. Other related SFPUC projects (including the larger Mountain Tunnel Improvements Project, vegetation management programs, and improvements at Early Intake and Kirkwood Penstock) would implement the SFPUC Standard Construction Measures (described in Appendix B), which would avoid and minimize biological impacts resulting from these projects. Additionally, the proposed action and other related projects are required to comply with state and federal regulations that require preservation and management of sensitive biological species and communities and, if necessary, to obtain permits that would include review and approval by regulatory agencies (e.g., United States Army Corps of Engineers and United States Fish and Wildlife Service [USFWS]). Therefore, the cumulative effects on biological resources would be minor.

8) The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in the National Register of Historic Places or may cause loss or destruction of significant cultural or historical resources.

There are National Register of Historic Places-eligible built environment resources (the Mountain Tunnel) and archeological resources (remnant work camps associated with construction of the Hetch Hetchy water and power system and sparse prehistoric lithic deposits) in the vicinity of the project sites. The rehabilitation and improvements to the Mountain Tunnel would not adversely affect any of the character-defining features of these historic resources or the integrity of location, setting, design, workmanship, materials, feeling, or association of the Mountain Tunnel as a whole. The SFPUC designed the road improvements to avoid all recorded archeological features and artifact deposits, as well as areas where archival evidence indicates that features have been located. As a result, the USFS has determined that there would be no direct or indirect adverse effects on identified historic resources in accordance with 36 CFR 800.5(a)(3)(b). The State Historic Preservation Officer has concurred with this determination of no adverse effect to historic properties (EA, p. 22).

9) The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act.

The area around the proposed action has known occurrences of Stanislaus National Forest sensitive plant species, a Stanislaus National Forest sensitive amphibian, protected birds, and special-status bat species. In addition, riparian scrub/forest is found along the Tuolumne River and the South Fork Tuolumne River, and is a sensitive natural community.

Plants. Mariposa clarkia has been identified in the proposed staging areas and along the NFTS roads proposed for improvements. However, the EA (pp. 11-14) reports that this species is found on more than 600 acres of the national forest and is relatively abundant, based on the number of occurrences across 20 United States Geological Survey quadrangles encompassing the Stanislaus National Forest and Tuolumne and Mariposa Counties. When compared to the maximum acreage of area disturbed by the proposed action (less than 6 acres for staging areas and road widening), the direct effects on Mariposa clarkia would be minimal. Based on site surveys, Small's southern clarkia was not detected at any of proposed action project sites. Therefore, there would be no direct effect on Small's southern clarkia.

Indirect effects could result from the introduction of noxious weeds; however, these two sensitive plant species are known, and were observed, to successfully coexist with a thriving and diverse noxious weed population. The proposed action includes control measures to limit the introduction and spread of these invasive nonnative species (EA Appendix B). Therefore, the proposed action would not have an adverse indirect effect from introduction of weed seed that would put additional stress on the local populations and prevent successful recolonization of disturbed sites.

Based on the assessment in the EA (pp. 11-14), the Forest Service has concluded that the proposed action may affect individuals but would not likely contribute to the need for federal listing or result in the loss of viability of Mariposa clarkia in the Forest Plan area. The Forest Service also concluded that the proposed action would have no adverse effect on Small's southern clarkia.

Amphibians. The foothill yellow-legged frog is currently under review for federal listing under the Endangered Species Act. This amphibian is also on the United States Department of Agriculture Forest Service Pacific Southwest Region (Region 5) Sensitive Species List. Although there is suitable habitat in the Tuolumne River (EA, p. 14), the foothill yellow-legged frogs are rarely encountered more than a few yards from permanent water and have a low potential to occur out of the water. The proposed action would not involve in-water work. Furthermore, the proposed staging areas in the vicinity of potential habitat (EI-S1 and SF-S2) are in existing disturbed upland areas where this sensitive species would not be expected. Therefore, the proposed action would have no potential to adversely affect this species.

Based on the assessment in the EA (p. 14), the Forest Service has concluded that the proposed action would have no adverse effect on this sensitive species.

Protected Bird Species. The golden eagle, American peregrine falcon, California spotted owl, and migratory birds are protected under state and federal laws and are known to occur in the project vicinity. These special-status bird species are addressed in the EA, pp. 14-16. With respect to the golden eagle, the SFPUC prepared an impact assessment memorandum and consulted with the USFWS. Based on the analyses and the consultations, the USFWS concurred that the construction activities of the proposed action (including potential visual and noise disturbance) would not disturb a known golden eagle near the proposed action project sites, and a golden eagle take permit was

unnecessary.[4] For the other protected bird species, the EA includes two management requirements: BIO 1, which would provide worker awareness training to recognize and implement avoidance and reporting measures for protected species that may be encountered; and BIO 2, which would require pre-construction surveys for nesting raptors and migratory birds and protective measures (including no disturbance buffers) if active nests are identified. With implementation of these requirements, the proposed action would not adversely affect protected bird species.

Based on the assessment in the EA (p. 14-16), the Forest Service has concluded that the proposed action would have no adverse effect on protected bird species. In addition to the management requirements (EA, Appendix B), the 2008 Memorandum of Understanding between the Forest Service and the USFWS was signed to strengthen migratory bird conservation. In National Forests, the Forest Service provides a diversity of habitat conditions at multiple spatial scales and ensures that bird conservation is addressed when planning for land management activities.

Special-Status Bat Species. Pallid Bat, Townsend's Big-Eared Bat, Spotted Bat, Western Mastiff Bat, Western Red Bat, Long-Eared Myotis, Fringed Myotis, and Yuma Myotis are designated sensitive species by the Stanislaus National Forest and Bureau of Land Management Mother Lode Field Office. As described in the EA (p. 16-17), tree removal, rock scaling, and slope stabilization improvements could potentially affect special-status day-roosting bats or maternity roosting colonies, if roosts are present in these areas. Construction of the proposed action could result in the direct mortality of individual bats in day roosts, and in the loss of bat day roosts, night roosts, and maternity colonies. The EA includes a management requirement, BIO 3, that would involve pre-construction surveys for roosting bats and protective measures if day roosts or maternity roosts are found. These requirements include the establishment of avoidance buffers or eviction, if necessary, under the direction of a qualified bat biologist. With implementation of this management requirement, the proposed action would not adversely affect special-status bat species.

Based on the assessment in the EA (p. 16-17), the Forest Service has concluded that the proposed action may affect sensitive bat individuals but would not likely contribute to the need for federal listing or result in the loss of viability of these species in the Forest Plan area.

Riparian Scrub/Forest. This sensitive natural community is found along the Tuolumne River and South Fork Tuolumne River (at Early Intake) but is outside the project sites of the proposed action; therefore, no direct effects would occur (EA, pp. 8-9). Indirect effects to riparian scrub/forest could occur through introduction of nonnative invasive plant species and/or accidental spills of hazardous materials, which could result in habitat degradation. However, SFPUC would implement management requirements (EA, Appendix B) included as part of the proposed action to avoid or minimize the introduction and spread of invasive nonnative plant species pursuant to USFS guidance and policies on invasive species management in the Forest Plan.

Based on the assessment in the EA (p. 8-9), the Forest Service has concluded that the proposed action may affect indirectly the sensitive riparian scrub/forest but would not likely result in the loss of its viability in the Forest Plan area.

10) Whether the action threatens a violation of federal, state, or local law or requirements imposed for the protection of the environment.

The proposed action would not threaten a violation of federal, state, or local laws or requirements imposed for protection of the environment. Applicable federal laws and requirements are identified

[4] United States Fish and Wildlife Service (USFWS), Personal communication to Deborah Craven-Green, SFPUC, from Rob Doster, USFWS Migratory Bird Program, regarding construction impacts of the Mountain Tunnel Improvements Project on golden eagle nest, June 25, 2019.

earlier in this FONSI under "Findings Required by Other Laws." The EA provides documentation that the proposed action would comply with these federal statutes and regulations.

The proposed action would help the rehabilitation of the Mountain Tunnel. The rehabilitation of the tunnel; construction of other water delivery/water quality facilities; and the improvements to shafts, adits, and portals along the entire length of the Mountain Tunnel on nonfederal lands comprise a "larger" Mountain Tunnel Improvements Project by the SFPUC. The majority of SFPUC's Mountain Tunnel Improvements Project would occur in the City and County of San Francisco's fee-owned lands and Raker Act rights-of-way and are generally authorized by the terms of the Raker Act, subject to limited federal approvals expressed in the terms of the Act, right-of-way stipulations, and other federal laws, where applicable.[5] This larger project was environmentally reviewed pursuant to the California Environmental Quality Act, which requires assessment of whether the project would conflict with plans, policies, or regulations adopted for the purpose of avoiding or mitigating an environmental effect. The Mountain Tunnel Improvements Project Final Initial Study/Mitigated Negative Declaration[6] concluded that there would be no violation of local or state laws or regulations imposed for the protection of the environment.

Conclusion

After considering the environmental effects described in the EA and specialist reports, and considering the context of the project in conjunction with the ten intensity factors addressed above, I have determined that the Mountain Tunnel Improvements Special Use Authorization project will not significantly affect the quality of the human environment (40 CFR 1508.27). Therefore, an EIS will not be prepared.

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[5] The Raker Act (38 Stat. 242) granted rights-of-way to the City and County of San Francisco over National Park, National Forest, and unclassified public lands for Hetch Hetchy project facilities, including the Mountain Tunnel.

[6] San Francisco Planning Department, Environmental Planning Division, Mountain Tunnel Improvements Project Initial Study/Preliminary Mitigated Negative Declaration, prepared by AECOM, 2019, *https://sfplanning.org/environmental-review-documents*, accessed July 18, 2019.