

10 Introduction to Responses to Comments and Standard Responses to Frequently Raised Comments

10 INTRODUCTION TO RESPONSES TO COMMENTS AND STANDARD RESPONSES TO FREQUENTLY RAISED COMMENTS

This introduction explains the organization of and how to use the Response to Comments, which includes the responses to public comments on the January 2012 Partially Revised Draft Program EIR.

10.1 STANDARD RESPONSES TO FREQUENTLY RAISED COMMENTS

As part of the public review process for the January 2012 Partially Revised Draft Program EIR, the Authority received more than 50 written comment letters/submissions and verbal comments at a public hearing containing more than 400 individual comments. These comments addressed the January 2012 Partially Revised Draft Program EIR, the prior August 2010 Revised Final Program EIR and May 2008 Final Program EIR, the proposed decision on a network alternative for connecting the HST system between the Bay Area and the Central Valley, and numerous other policy issues related to the HST system statewide and in the Bay Area. The first section of this Response to Comments section provides narrative standard responses to address the most frequently raised issues in the written and verbal comments received. The Standard Responses briefly summarize a topic raised frequently in the comment letters and then provide a response that directly addresses the comments, or that supplements the response to an individual comment. The reader can obtain an overview of the most frequently raised comments by reviewing Section 10.4 below.

10.2 INDIVIDUAL RESPONSES TO WRITTEN AND VERBAL COMMENTS

Following the standard responses, the Authority is providing responses to individual written and verbal comments. The individual letters and comments included and addressed are located in the following chapters:

- Federal Agencies – (Chapter 11)
- Tribe – (Chapter 12)
- State Agencies – (Chapter 13)
- Local Agencies – (Chapter 14)
- Businesses/Organizations – (Chapter 15)
- Individuals – (Chapter 16)
- Public Meeting – (Chapter 17)

Each written submission and oral presentation can be found under the appropriate category, by name, or if representing an organization, the name of their organization. If a commenter gave oral or written testimony at the public meeting, they will find their comments, submissions, and responses under “Public Meeting.” Each written comment letter sent to the California High-Speed Rail Authority (Authority) was assigned a numeric identifier. For example the U.S. Department of Homeland Security, FEMA letter is found in Chapter 11, “Federal Agencies,” and its comment letter has been designated as 15. Each comment letter and the public hearing transcript have brackets in the margin with unique

identification numbers for each comment. Some letters or oral statements have been treated as a single comment, whereas in others multiple comments have been identified, numbered and responded to individually. The responses to comment(s) are located at the end of each letter or transcript. Each response is labeled with the letter/testimony identifier and comment number (such as 15-1) that relates back to that particular bracketed comment.

Some comments from the same agency, organization, or individual were submitted more than once (e.g., letter was first faxed and then mailed). These duplicate comment letters are not included.

10.3 RESPONSES TO WRITTEN AND VERBAL COMMENTS ON THE AUGUST 2010 BAY AREA TO CENTRAL VALLEY HST REVISED FINAL PROGRAM EIR AND MAY 2008 BAY AREA TO CENTRAL VALLEY HST FINAL PROGRAM EIR/EIS

The Authority has recirculated portions of its 2010 Revised Final Program EIR to address the *Atherton* November 2011 court rulings, described in Chapter 1, and requested that members of the public limit their comments to the revised and recirculated materials. (CEQA Guidelines, § 150885(f)(2).) The CEQA Guidelines indicate that a lead agency need only respond to those comments received during the recirculation period that relate to the portions of the EIR that were revised and recirculated. The Authority received a very large number of comments directed to 2012 Draft Business Plan and portions of the Program EIR that had not been revised and recirculated. In some instances, identical or nearly identical comments were addressed previously in Volume 2 of the August 2010 Revised Final Program EIR, which responded to 3,700 individual comments contained in more than 500 comment letters received on the March 2010 Revised Draft Program EIR. In these current responses to comments, the Authority has provided a response to all significant environmental issues raised in comments on the Partially Revised Draft Program EIR, as well as comments on the 2010 Revised Final Program EIR and the 2008 Final Program EIR and on the project generally. The responses address comments that go well beyond the Partially Revised Draft Program EIR in the interest of increasing public information about the proposed HST system and increasing communication with those submitting comments and potentially affected communities along the proposed alignments for the HST system.

A. IMPORTANT CONSIDERATIONS IN REVIEWING THE RESPONSES TO COMMENTS

The reader should keep in mind several considerations in reviewing the responses to comments. Many responses refer to the 2010 Revised Final Program EIR and the 2008 Final EIR to provide information about previous mitigation commitments made in 2008 and 2010 by the Authority, although subsequently rescinded (2008 decisions) or planned for rescission as of the time of preparation of this document (2010 decisions). This is often the case since some comments pertained to the August 2010 Revised Final Program EIR and/or the May 2008 Final Program EIR, rather than to the Partially Revised Draft Program EIR. These references to the prior Final Program EIRs should not be construed as indicating a prejudgment of the outcome of this process. Certainly, consideration of mitigation commitments will depend upon the HST network alternative that may be ultimately selected by the Authority for further study. However the 2010 decision documents provide information concerning the types and extent of mitigation that it is expected the Authority would likely consider when it is asked to consider whether to certify the Partially Revised Final Program EIR and whether to adopt CEQA findings and other decision documents. In addition, some responses refer to study and analysis activities to be undertaken in project-level review of environmental impacts related to

the HST system. Such references are not to be construed as prejudging the outcome of this environmental process. Further project-level studies will depend on the outcome of this process and will reflect any new decisions the Authority makes concerning the Final Program EIR for the Bay Area to Central Valley portion of the HST system.

10.4 RESPONSES TO WRITTEN AND VERBAL COMMENTS ON THE JANUARY 2012 BAY AREA TO CENTRAL VALLEY HST PARTIALLY REVISED FINAL PROGRAM EIR

As part of the public review process from January 6, 2012, to February 21, 2012, for the January 2012 Partially Revised Draft Program EIR, the Authority received over 50 comment letters containing more than 400 individual comments. Some comments addressed the 2012 Partially Revised Draft Program EIR; however, some addressed the August 2010 Revised Final Program EIR and the May 2008 Final Program EIR and other Authority documents such as the Authority's 2012 Business Plan. Many comments offered opinions about the proposed project generally. The following standard responses address the most frequently raised comments. Responses referring to other documents such as the 2010 Revised Final Program EIR, the 2008 Final Program EIR, or other reviews, such as project-level environmental studies, are intended to provide information and are not to be construed as prejudging the outcome of this process.

The following standard responses are intended to provide general responses to the most frequently raised comments. Topics include:

- Standard Response 1 The Blended System Approach
- Standard Response 2 California High-Speed Rail Authority Procedures and Process
- Standard Response 3 Level of Detail for Impacts Analysis and Mitigation

As noted, some responses refer to the 2010 Revised Final Program EIR and/or the 2008 Final Program EIR. These two documents are part of the overall 2012 Partially Revised Final Program EIR and are being made available as one set of documents. Some responses refer to prior standard responses in the 2010 document. These are being included as Chapter 18 of this document.

STANDARD RESPONSE 1**The Blended System Approach**

The Authority received numerous comments related to the "blended system" approach for the San Francisco Peninsula that was described in the Draft 2012 Business Plan, released by the Authority in November 2011. Some of these comments indicated confusion about the relationship between the Business Plan, the Partially Revised Draft Program EIR, and the first-tier project.

Several comments suggested the Partially Revised Program EIR is inadequate and requires revision and recirculation because the first-tier project has changed based on information in the Draft 2012 Business Plan, including information on project phasing and the potential for a blended, 2-track alignment along the San Francisco to San Jose Corridor.

Several comments suggested that the Authority should remove from study the four-track, shared use alignment for San Francisco to San Jose.

Other comments suggested that the blended system concept should be treated as a separate alternative for full study in the program EIR.

Numerous comments endorsed a blended system approach for the San Francisco to San Jose second-tier project.

The Authority's 2012 Business Plan is an Implementation Strategy for the Statewide High-Speed Train Project (HST)

Chapter 5 of the Partially Revised Draft Program EIR discussed the Authority's Draft 2012 Business Plan, which was released in November 2011. The purpose of the Draft Business Plan is to comply with the requirements of Public Utilities Code section 185033, which requires the Authority to develop a plan with the content specified in the statute, and offer it for public review and comment. This content addresses, among other issues:

- the type of service the authority anticipates it will develop, such as local, express, commuter, regional, or interregional;
- a description of the primary benefits the system will provide;
- a forecast of the anticipated patronage, operating and maintenance costs, and capital costs for the system;
- an estimate and description of the total anticipated federal, state, local, and other funds the authority intends to access to fund the construction and operation of the system;
- and the proposed chronology for the construction of the eligible corridors of the statewide HST system; and
- all reasonably foreseeable risks the project may encounter, such as risks associated with the project's finances, patronage, right-of-way acquisition, environmental clearances, construction, equipment, and technology, and the authority's strategies, processes, or other actions it intends to utilize to manage those risks.

In early April, the Authority released a Revised 2012 Business Plan, which it will consider adopting at an upcoming publicly noticed meeting of the Authority Board. (California High-Speed Rail Authority, Draft Revised 2012 Business Plan (April 2012).)

The Business Plan is not a CEQA "project" in and of itself. Rather, the Business Plan is a planning document with an implementation strategy for the timing and funding of the second-tier HST projects that comprise the statewide HST system, the overall project or endeavor that the Authority has been evaluating under CEQA using a tiered environmental review approach. The implementation strategy in the Business Plan describes a phased approach for construction of the statewide HST system, consistent with how HST projects are built around the world and how other major infrastructure in California has been developed, including the California State Water

Project and State highway system. It depicts the general routes of the statewide system as selected at the first-tier of CEQA compliance (2005, 2008, 2010), acknowledges the litigation over the Bay Area to Central Valley route and that it is subject to change, and then indicates the order of priority for construction of each second-tier project, which will be accompanied by its own, separate, second-tier EIR/EIS.

The Business Plan is a dynamic, living document. By statute, the Authority must adopt an updated business plan every two years.

The 2012 Business Plan Phasing Strategy Does Not Change the Statewide High-Speed Train System.

The Draft 2012 Business Plan, including its discussion of phasing, does not change the statewide HST system. The Revised 2012 Business Plan does not change the statewide HST system either. The Authority is planning for an HST system that reflects the design characteristics in the 2005 Statewide Program EIR, the current 2012 Bay Area to Central Valley Partially Revised Final Program EIR, and its governing statutes. (Pub. Utilities Code, §§ 185012(c), 185030; Sts & Hwy Code, § 2704.09; 2005 Final Program EIR, pp. 2-27 & 2-28; 2008 Final Program EIR, p. 2-8.) Consistent with its statutory mission, the Authority has continued to plan for the long-term implementation of the entire 800+ mile statewide HST system, but with a phasing plan that would prioritize implementation of Phase 1 between San Francisco and Los Angeles and Anaheim. (Phasing Report [May 2007]; 2008 Final Program EIR, pp. 2-18 to 2-19.)

The Draft 2012 Business Plan described in more detail how Phase 1 of the HST system would unfold, starting with implementation of the second-tier HST projects in the Central Valley [Merced to Fresno and Fresno to Bakersfield] and then building incrementally toward the San Francisco Bay [Merced to San Jose, San Jose to San Francisco] and the Los Angeles Basin [Bakersfield to Palmdale, Palmdale to Los Angeles]. In other words, the Draft Business Plan described an order and process for how the seven second-tier HST projects that comprise Phase 1 will be implemented, with construction occurring first in the middle of the HST system, and last at the end points.

The Revised 2012 Business Plan refines the implementation strategy significantly, to deliver earlier transportation benefits at a lower cost. The first component of implementation continues to be starting construction in the Central Valley to create the spine of the HST system, based on second-tier EIRs for the Merced to Fresno and Fresno to Bakersfield second-tier HST projects. Rather than building out from the center, however, and reaching the urban areas of the Los Angeles Basin and the San Francisco Bay last, the Revised 2012 Business Plan prioritizes these urbanized end sections, called the “bookends” of the HST system, for incremental improvements at the same time that construction in the Central Valley is underway. Construction from the Central Valley will proceed south from Bakersfield to the San Fernando Valley to form an initial operating section (IOS), then expand to the north to reach the Bay with a “Bay to Basin” system that can then blend with existing commuter rail.

The Business Plan’s more detailed discussion of phased implementation for the second-tier projects recognizes current budgetary and funding realities, which will result in both Phase 1 and Phase 2 of the statewide HST system being constructed over a longer period of time than originally anticipated. The HST project as a whole, however, remains the same. The train technology, the train speeds, and design characteristics of the infrastructure continue to be as set forth in the 2005 Statewide Program EIR, the current Bay Area to Central Valley Partially Revised Final Program EIR, and the Authority’s governing laws.

The 2012 Business Plan Phasing Strategy Does Not Change the Authority’s First-Tier Planning Project to Select a Preferred HST Alignment from the Central Valley to the Bay Area.

Just as the Business Plan does not change the HST system as a whole, it does not change the Authority’s first-tier planning project being studied in this Partially Revised Final Program EIR. The Authority is proposing a first-tier, general planning project to select a preferred HST alignment to connect the Bay Area and Central Valley, along with preferred station locations. The planning approval at hand involves the fundamental choice of a preferred alignment

within the broad corridor between and including the Altamont Pass and the Pacheco Pass for the HST segment connecting the San Francisco Bay Area to the Central Valley. (2008 Final Program EIR, p. 1-2, p. 2-5; 2010 Revised Final Program EIR, p. 1-6 to 1-7; Partially Revised Final Program EIR, p. 1-3 to 1-4.) Once selected, the preferred alignment would be developed into one or more second-tier projects, to be studied in detail in one or more second-tier EIRs. (2008 Final Program EIR, p. 1-2; Resolution 10-12; Resolution 11-11.)

As a first-tier planning project, the selection of the HST alignment into the Bay Area is necessarily a general endeavor lacking many site-specific details. The first-tier project makes the fundamental choice by selecting a broad alignment and general station locations, but does not go further to select specific alignment footprints, vertical track profiles, or station footprints. The first-tier project also does not select or in any way commit the Authority to any particular operational details or service patterns, because operational decisions are not part of the first-tier project. The Partially Revised Final Program EIR therefore examines the impacts of the alignment alternatives and station location options at a commensurately broad and general level of detail sufficient to support the overall choice of the preferred route, and also looks at a conservative, worst-case. Approval of the first-tier project will not authorize any construction or implementation of the HST project in the Bay Area to Central Valley study area. Rather, a decision on the first-tier project establishes the general route for the HST system from the Central Valley to the Bay Area, which must be defined in far greater detail as a second-tier project, and studied in greater detail in a second-tier EIR/EIS.

Chapter 5 of the Partially Revised Draft Program EIR considered at a programmatic level of detail the environmental implications of the phasing approach discussed in the Draft 2012 Business Plan, which describes the planned implementation order and process for the second-tier projects. That analysis described the potential for differences in impacts with a phased approach that would result in a temporary northern terminus for either a Pacheco Pass or Altamont Pass network alternative, as compared with a non-phased approach.

The phasing of the second-tier projects does not change the first-tier project, however, it simply changes the anticipated timing and construction phasing in which the second-tier projects will be implemented.

The 2012 Business Plan Discussion of a Blended System for the San Francisco to San Jose Section Does Not Change the First-Tier Planning Project, But Represents Details About How a San Francisco to San Jose HST Second-Tier Project Could Be Implemented

The discussion of a blended system approach for the San Francisco to San Jose second-tier project in the Draft 2012 Business Plan and Revised 2012 Business Plan likewise does not change the Authority's first-tier planning project to choose the preferred alignment from the Central Valley into the Bay Area and preferred station locations. As indicated in Chapter 5 of this document, the blended system approach is an additional increment of phased implementation for a second-tier HST project between San Francisco and San Jose. The blended approach would provide initially for blended *systems* prior to construction of any alignment on the Caltrain Corridor between San Francisco and San Jose. (Draft 2012 Business Plan, pp. 2-1 and 2-2.) The blended systems would allow for an HST passenger to arrive at a temporary northern terminus in San Jose and transfer to a connecting Caltrain train, allowing for the type of interconnectivity anticipated in Proposition 1A, even before funding may become available for construction in the San Francisco to San Jose section for HST specific infrastructure (such as a HST station at Millbrae). As funding becomes available, incremental improvements to the Caltrain corridor may provide for HSTs to continue on from San Jose to San Francisco, allowing for passengers to reach San Francisco without changing trains, providing for blended operations.

The Authority is not proposing and will not approve a blended system approach as part of its decisions on the first-tier project. It is therefore not necessary for the Authority to change its first-tier project to incorporate the blended system approach into its decision-making as part of the first-tier project selecting a broad alignment and general station locations. The first-tier project is focused on

selecting the general alignment location for the HST, not specific operations. The Partially Revised Final Program EIR discussion of a full four track section for the San Francisco to San Jose section with a generous operational plan fulfills the function of a first-tier EIR by analyzing the maximum impacts of construction and operation in this section. This information, along with the additional first-tier discussion of the blended system approach below, is sufficient for the Board to intelligently consider the environmental consequences of the first-tier project.

The details about a blended system approach to implementation for this section of the HST system would be part of the description of the second-tier project for San Francisco to San Jose, which is appropriately addressed through a second-tier EIR. These details include, for example, train operation simulations to identify how HST might interface with Caltrain commuter rail for a period of time on the existing track infrastructure, what grade separation enhancements would be implemented, and where passing tracks would be planned. This level of detail can appropriately be developed as part of the planning for the second-tier project, when the complexities of the project are more fully described and ready for detailed analysis. (Peninsula Corridor Joint Powers Board, Caltrain/California HSR Blended Operations Analysis (March 2012); Peninsula Corridor Joint Powers Board, Caltrain/High-Speed Rail Blended System Planning Process (March 2012).)

This approach is consistent with CEQA and the statute's recognition that EIRs should be prepared at the earliest possible time, so that environmental considerations can influence the project, but that very early environmental analysis may not have all details available. Where a lead agency is proposing a complex or phased project, it can utilize tiering "to postpone to later planning stage the evaluation of those project details that are not reasonably foreseeable when the agency first approves the project." (*Save Tara v. City of West Hollywood* (2008) 45 Cal.4th 116, 139; see also Pub. Resources Code, § 21093.) The details of the blended system approach to implementation in a particular place are precisely the types of second-tier project details that belong in a second-tier EIR.

The Environmental Implications of a Sample Blended System/Operations Approach Can Be Described Generally At the First Tier.

Although the blended system/operations approach is an aspect of the second-tier project for whatever northern "bookend" of the HST system the Authority selects, there are several broad points about environmental impacts that can be identified about a generic blended system as it relates to the first-tier decision on an alignment from the Central Valley into the Bay Area. This information was included in the Partially Revised Draft Program EIR and is expanded upon in this Partially Revised Final Program EIR in light of CEQA's tiering requirements to adequately analyze the environmental implications of the planning approval at hand, but at a level of detail commensurate with the planning proposal. (CEQA Guidelines, § 15152.)

As explained in Chapter 5 of the Partially Revised Draft Program EIR:

For the highly urbanized sections between San Francisco and San Jose, San Fernando Valley and Los Angeles, as well as Los Angeles to Anaheim, a concept called a "blended system approach" is also described in the Draft 2012 Business Plan. The blended system would provide an additional phasing option for the urbanized sections that have existing commuter rail corridors, which would allow for integrating HST service into an existing commuter rail system with certain, limited upgrades, in advance of construction of the currently planned shared or dedicated HST facilities. For example, a passenger traveling from Los Angeles could potentially travel on dedicated, fully constructed HST facilities to a particular station, such as San Jose, and then continue with a "one-seat ride" that would have the HST complete its journey to San Francisco on an upgraded and electrified commuter rail line at slower speeds. The blended system concept has the potential to provide earlier travel benefits by

allowing some level of HST service to reach San Francisco, Los Angeles, and Anaheim with a smaller investment than would be required for the fully constructed HST facilities. This approach is highly conceptual at this time. (Partially Revised Draft Program EIR, p. 5-4.)

Chapter 5 then went on to explain how the blended system approach would result in differences in environmental impacts from that described in the earlier Program EIRs from 2008 and 2010:

The blended system discussed in the Draft 2012 Business Plan would provide for a HST to reach its end-point destination by traveling a portion of the trip on upgraded commuter rail lines. This approach is highly conceptual at this time. The blended system is an additional potential method of phasing that could have differences in environmental impact from those discussed above. In general, if a blended system approach were to be implemented along the Caltrain Corridor between San Jose and San Francisco, it would delay the environmental impacts associated with expanding the right-of-way for a four-track, shared alignment. For example, local land use and property adverse impacts would be delayed. The benefits of grade separations that would occur with the full HST project, including the traffic circulation and noise reduction benefits, would also be delayed.

This discussion is consistent with the 2008 Final Program EIR discussion of shared track operations, which it identified as a possibility for second-tier projects.

The proposed HST system selected in the statewide program EIR/EIS (California High-Speed Rail Authority and Federal Railroad Administration 2005) and further analyzed in this Program EIR/EIS is electrified steel-wheel-on-steel-rail dedicated

service, with a maximum speed of 220 mph (350 kph). A fully grade-separated, access-controlled right-of-way would be constructed, except where the system would be able to share tracks at lower speeds with other compatible passenger rail services. Shared track operations would use existing rail infrastructure in areas where construction of new separate HST facilities would not be feasible. Although shared service would reduce the flexibility and capacity of HST service because of the need to coordinate schedules, it would also result in fewer environmental impacts and a lower construction cost. (2008 Final Program EIR, p. 2-2.)

Using the alignment between San Francisco and San Jose for further illustration, and based on additional examination and evaluation of the blended system approach for the Revised 2012 Business Plan, a blended system approach could be primarily two tracks, rather than the four track system described in the Program EIR [except where four tracks currently exist], and could potentially run two to four trains per hour during the peak period per direction and one to two trains per hour per direction during the off peak period, in contrast the conceptual full build train frequency of ten trains per hour per direction during the peak period and six trains per hour per direction during the off peak period. A blended system would involve electrification, advanced signal systems, and infrastructure upgrade such as key grade separations, but would not be fully grade separated as described in the Program EIR. (Revised 2012 Business Plan, p. 2-22.)

Considering this sample blended system scenario, the environmental impact differences from the four-track alignment can be described as follows:

- fewer traffic, air quality, noise & vibration, energy, aesthetic, water quality, property, hazardous materials/wastes, cultural, and biological resources impacts from construction due to the lesser amount of civil construction involved than for the full four-track alignment. Rather than expanding the existing right-of-

way, the right-of-way would remain predominantly the same width and construction would occur mainly in this already disturbed, active rail corridor.

- fewer localized traffic impacts at stations, elimination of adverse traffic effects from potential lane loss along Peninsula streets, less noise and vibration from operating trains, elimination of potential impact of moving freight trains incrementally closer to existing residences and businesses, less operational energy used, and fewer aesthetics impacts from operations due to the comparatively fewer high-speed trains per hour and per day. The fewer high-speed trains per hour would result in a great reduction in impacts from operations.
- Lower project benefits in the areas of vehicle miles travelled reduction, air quality benefits and GHG emissions reductions, and less total energy savings relative to other transportation energy needs due to fewer high-speed trains per hour in operation. The benefits of eliminating all at-grade crossings, and therefore eliminating the noise associated with train horns and crossing gates, would also be reduced.

In the areas of safety and localized traffic, the implications of a blended system approach are very speculative until a more refined proposal is put forward. The safety impacts of introducing additional trains onto the Caltrain corridor may result in some safety improvements relative to the existing condition if the blended system approach includes key grade separations. Without full grade separation, as proposed and evaluated in the Program EIR as part of the four-track system, the safety implications will depend on currently unknown factors, such as the number and location of key grade separations, and the type of safety enhancements at remaining at-grade crossings, if any. In general, the lack of complete grade separation would appear to result in reduced safety benefits as compared to the four-track, fully grade separated alignment.

Local traffic effects of introducing additional trains onto the Caltrain corridor with a blended system approach are also highly speculative. In general, the grade separation proposed as part of the four-track

alignment analyzed in the Program EIR provides traffic circulation benefits by eliminating the congestion of traffic having to stop for passing commuter trains. This local traffic benefit would be eliminated in those areas that do not have grade separation as part of blended system. The local traffic effects of potential lane reductions adjacent to a four-track alignment would also be eliminated, or largely eliminated with a blended system, because the blended system would operate predominantly within the existing right-of-way. The one area of potential, adverse local traffic impact is in the area of localized congestion from additional trains, resulting in additional periods of traffic being stopped at the at-grade crossings.

The Implications of the Blended System Approach For the Alternatives Can Be Described Generally At the First-Tier.

Although a detailed, blended system proposal is not yet available, and must await further second-tier planning and environmental review, it is possible to discuss generally how the blended system concept affects the ability of the different network alternatives to meet the project objectives.

At the outset, the Business Plan describes a blended system approach for San Francisco to San Jose. The alignment between San Francisco and San Jose would provide for an effective blended system for either a Pacheco Pass network or an Altamont Pass network alternative. The way these network alternatives would implement a blended system would be slightly different if comparing the Pacheco Pass network alternative serving San Francisco via San Jose and the Altamont Pass network alternative serving San Francisco and San Jose. This is the case because the Altamont alternative would cross the Bay at Dumbarton, and some trains would go north to San Francisco and other south to San Jose, whereas for the Pacheco alternative all trains would travel north to San Jose and on to San Francisco. Either way, a blended system could be implemented for any network alternative involving the Caltrain corridor between San Francisco and San Jose, in whole or in part. Several such alternatives for Altamont Pass were included in the 2008 Final Program EIR.

Chapter 6 of the Partially Revised Draft Program explained that for those network alternatives that would involve a branch of the HST line (Pacheco Pass serving San Jose, San Francisco, and Oakland; Altamont Pass serving San Jose, San Francisco, and Oakland; Altamont pass serving San Jose and San Francisco with a Bay crossing at Dumbarton), service would be split among the endpoint cities. This characteristic made these alternatives somewhat less desirable than the preferred Pacheco Pass network alternative serving San Francisco via San Jose. This is the case because the preferred alternative can service two major Bay Area cities in a single line, thereby providing the same frequency of service to both cities. With a blended system, however, the HST would have less frequency as a product of relying on a more modest level of infrastructure. Assuming a blended system concept for San Francisco to San Jose, the branch for the Altamont Pass network alternative that would cross the Bay at Dumbarton would have less of a frequency disadvantage while the blended system was in place, because the number of HST trains per hour is already constrained.

Chapter 6 of the Partially Revised Final Program EIR reflects that the blended system would work for both an Altamont and a Pacheco network alternative that uses some or the entire Caltrain corridor between San Francisco and San Jose.

Continued First-Tier Evaluation of the Full, Four-Track Alignment in the Caltrain Corridor in the Revised Program EIR is Consistent With CEQA and Does Not Preclude a Focus on a Blended System Approach as Part of the Second-Tier Project.

The Authority has not redefined its tier 1 project. The Partially Revised Draft Program EIR, all notices, and the Partially Revised Final Program EIR consistently describe the first-tier project as selection of a preferred network alternative and station location options for connecting the HST system between the Bay Area and Central Valley. Maintaining the evaluation of the four-track alignment for San Francisco to San Jose in the Program EIR is consistent with CEQA, because an EIR must evaluate the “whole of an action.” Moreover, CEQA requires that all phases of a project,

from planning to implementation to operation, must be considered in an EIR. Reasonably foreseeable future phases of a project must be examined.

In the context of the first-tier, planning project examined in this Program EIR, analysis of the full, four track alignment represents early examination of the environmental consequences of the HST project in this corridor, which fulfills the purpose of a program or first-tier EIR. (*Rio Vista Farm Bureau Center v. County of Solano* (1992) 5 Cal.App.4th 351, 370-71.) In addition, examination of the full four-track alignment provides the broadest possible assessment of impacts at the first-tier level, by examining what may be a worst-case in terms of physical impacts (real property acquisition, displacement of homes and businesses, traffic, air quality, noise & vibration, and other environmental impacts). The blended system, however it is eventually defined, is part of the second-tier HST project for whatever section may be selected as the northern “bookend” for the HST system, and will be the subject of its own, more detailed second-tier EIR.

Moreover, the Authority’s approval of the first-tier project would not constrain its ability to define, propose, and examine a blended system approach as part of a second tier EIR. A lead agency has the flexibility and discretion to examine phasing options like a blended system approach at the second-tier, and can exercise its discretion to define precisely what such an approach might be, as long as the environmental consequences of those choices are analyzed in a second-tier EIR prior to any decisions being made at the second-tier. The general decision on the location for an alignment into the Bay Area based on the Program EIR does not lock the Authority in to a particular operational approach, preclude a blended system approach to implementation, or commit the Authority to adopt one set of design options over another.

If the Authority certifies this Partially Revised Final Program EIR, and makes a new first-tier decision of an alignment for the HST into the Bay Area, it can then evaluate whether and how to incorporate a blended system approach into the northern “bookend” of the HST system, whether that be a Pacheco Pass alignment or an Altamont

Pass alignment. The outcome of the revised Program EIR process, and the new programmatic decision, will influence the level and shape of activity for the San Francisco to San Jose section, or other northern bookend section, and how a blended system might be designed.

The Authority suspended its work on a second-tier EIR/EIS for the San Francisco to San Jose section in May 2011. The Authority intends to complete the Program EIR process before deciding whether to re-start the second-tier EIR/EIS work for the San Francisco to San Jose section.

The Blended System Approach to Implementation for San Francisco to San Jose In the Draft 2012 Business Plan and Revised 2012 Business Plan Does Not Require Further Examination of Alternatives.

The blended system approach for a second-tier project does not require further examination of the current alternatives, or additional alternatives, in the first-tier, Program EIR. A first-tier EIR can properly tailor its alternatives to the first-tier project, rather than future, second-tier projects. (*Al Larson Boat Shop v. Board of Harbor Commissioners* (1993) 18 Cal.App.4th 729, 744.) Moreover, the blended system approach could be utilized for any of the network alternatives considered in the Program EIR that would include an alignment along the Caltrain Corridor between San Francisco and San Jose, either in whole or in part. Blending high-speed trains on existing infrastructure is possible in this area because it contains an existing two track and in some areas four track commuter rail line. Other alignments in the study area are not amenable to a blended approach because they do not include rail lines that would be compatible with HST trains (e.g. BART lines) or they involve highly congested freight rail lines with operators that have already expressed an unwillingness to share their right-of-way.

While it may be theoretically possible to create a potential HST network alternative by combining attributes of the slower speed, regionally focused Altamont Corridor Rail Project with a blended system from San Jose to San Francisco, this approach has a number

of significant disadvantages that result in it not being a reasonable alternative for consideration in the Program EIR. This approach would be similar, but not identical to, the Altamont Pass network alternative that reaches San Francisco without a Bay crossing (refer to Figure 7.2-9 in chapter 7 of the 2008 Final Program EIR). This network alternative would have approximately 217 route miles to reach San Francisco (calculated based on Figure 7.2-9, minus mileage to Oakland).

One disadvantage of this hypothetical approach, for example, is that it would result in around 40-50 more route miles to reach San Francisco than the preferred Pacheco Pass network alternative serving San Francisco via San Jose (Refer to Pacheco Pass Network Alternative with San Francisco and San Jose Termini [Figure 7.2-12 in 2008 Final program EIR]. This calculation is based on the Pacheco Base Case minus the route miles from the Wye to Stockton, or approximately 170 total route miles.

This hypothetical approach would result in nearly 25 more route miles to reach San Francisco than the Altamont Pass network alternatives studied in the Program EIR that would serve San Francisco with a Bay crossing at Dumbarton. (Refer to Altamont Pass Network Alternative: San Francisco Terminus [Figure 7.2-5 in 2008 Final Program EIR]; Altamont Pass Network Alternative: San Francisco and San Jose Termini [Figure 7.2-1 in 2008 Final Program EIR]; Altamont Pass Network Alternative, San Francisco and San Jose via San Francisco Peninsula [Figure 7.2-8 in 2008 Final Program EIR].) Each of these network alternatives have approximately 192 route miles in length to reach San Francisco.

A second major disadvantage is that the alignment of the entire route for an Altamont Corridor Rail Project plus San Francisco/San Jose would restrict travel to substantially slower speeds from the Central Valley to the outskirts of the Bay Area than all network alternatives studied in the Program EIR, due to the design characteristics specific to the Altamont Corridor Rail Project. To illustrate, the Altamont Pass network alternative that reaches San Francisco without a Bay crossing (Figure 7.2-9 in chapter 7 of the

2008 Final Program EIR) would have a travel time between San Francisco and Los Angeles of 3 hours and 17 minutes. The Altamont Corridor Rail Project plus a blended San Francisco/San Jose would be substantially slower due to the greater route mileage and relatively slower train speeds. Even considering that a blended system between San Francisco and San Jose at the second tier may involve somewhat slower speeds than the 125 mph anticipated in the Program EIR for that roughly 50 mile alignment, and potentially longer travel times depending on the design at the second tier, the Altamont Corridor Rail Project alignment is sufficiently inferior in terms of route length and travel times, that it does not merit consideration as a first-tier alternative in combination with a San Francisco to San Jose blended component. (Parsons Brinckerhoff, Technical Memorandum on Alternatives Suggested in Comments on Partially Revised Draft Program EIR, April 2012.)

The Program EIR process has considered a reasonable range of alternatives for the first-tier project that has been upheld on two

occasions in litigation by the Superior Court. The range of alternatives examined in the Program EIR has included a total of twenty-one network alternatives to connect the Bay Area and Central Valley (eleven for the Altamont Pass, six for the Pacheco Pass, and four for Pacheco Pass plus Altamont Pass (local service). Numerous other alternatives were preliminary considered and eliminated from detailed study, as discussed at length in the prior Program EIR documents. Additional alternative suggestions from commenters have been, and continue to be, carefully considered. (See Standard Response 10, Alternatives, in the 2010 Revised Final Program EIR.) The Business Plan information about phasing and implementation of a blended system at the second-tier does not undermine the range of alternatives. The range of alternatives continues to be reasonable and compliant with CEQA.

STANDARD RESPONSE 2**California High-Speed Rail Authority Procedures and Process**

The Authority received multiple comments on the timing of the issuance of the Partially Revised Draft Program EIR on January 6, 2012, relative to formal action by the Authority Board to rescind its decisions certifying the 2010 Revised Final Program EIR and approving the Pacheco Pass Network Alternative.

A few comments suggested rescission of the Board's 2010 decisions must precede circulation of a Program EIR responding to the Court's November, 2011 rulings, and that the Partially Revised Draft Program EIR was thus "premature".

Several comments suggested that aspects of the Authority's process, including its tiered planning approach, demonstrate that the Authority has pre-determined the outcome of the Program EIR process before it is complete.

Other comments reflect confusion over whether issuance of an EIR is an agency staff decision, or the decision of an agency's decision-making body.

Although rulings were issued by the Sacramento Superior Court on November 10, 2011 in *Atherton 1* (Case No. 34-2008-8000022) and *Atherton 2* (Case No. 34-2010-8000679), service of final court papers on the Authority is required before the Authority is specifically obligated to comply with what the court has ordered. (Cal. Civil Procedure Code, §§ 1096, 1097.) Those final papers were signed by the Court on February 1, 2011, and then served on the Authority on February 13, 2012. Specifically, the Authority was served with an Order Denying Motion for Discharge of Writ of Mandate and Ordering Issuance of Supplemental Writ of Mandate, and a Supplemental Writ of Mandate in *Atherton 1*, and was served with a Final Judgment Granting in Part and Denying in Part Petitioners' Verified Petition and a Peremptory Writ of Mandate in *Atherton 2* (collectively, the "Final Papers").

The Court's direction to the Authority to rescind and set aside Authority Resolution No. 11-11 certifying the 2010 Revised Final

Program EIR and approving of the Pacheco Pass Network Alternative took effect when the Final Papers were served on the Authority on February 13, 2012. After the Authority was under instruction from the Court to act, the Authority timely agendaized a closed session item on the pending litigation for its next regularly scheduled Board meeting, on March 1, 2012. The March 1, 2012 meeting was the Authority's first opportunity to convene in closed session and be advised by counsel following issuance of the Final Papers. The Authority has agendaized as an action item on this topic for the next meeting following its March 1 meeting, which was originally scheduled for April 5, 2012, and then moved to April 12, 2012. Specifically, at its April 12, 2012 meeting, the Board will consider a resolution rescinding and setting aside Resolution No. 11-11. CEQA's procedures for correcting an EIR following a court judgment/order do not include specifications that a lead agency wait until a final notice of entry of judgment/order is served before proceeding with CEQA compliance.

The purpose of the Partially Revised Program EIR is to provide the necessary analysis to support the selection of a network alternative to connect the Bay Area and Central Valley, via the Altamont Pass, via the Pacheco Pass, or via both passes. Authority staff responded to the November, 2011 rulings identifying specific topics requiring further work by the Authority by immediately undertaking further analysis to correct the deficiencies identified by the Court, a process that resulted in the Partially Revised Draft Program EIR. Where a lead agency wants to comply with CEQA and correct an EIR, nothing requires it to wait before doing so.

Moreover, issuing the Partially Revised Draft Program EIR for public comment was an action within the Authority staff's discretion. CEQA Guidelines section 15050, subdivision (c) provides that determination of whether to prepare an EIR is an independent process and may be initiated by staff; by contrast, subdivision (b) provides that

consideration of the EIR prior to acting upon or approving the project is reserved for the agency's decision-making body.

The Partially Revised Draft Program EIR explained that the Authority is required to rescind its 2010 Revised Final Program EIR certification and rescind its approval of the Pacheco Pass Network Alternative (by means of rescinding Resolution No. 11-11), and make a new decision based on a corrected Program EIR. Further, Chapter 1.4 discussed the process that was anticipated to unfold: specifically, that the Board would act to rescind its 2010 decisions "at a future publicly noticed meeting, once final court papers for the Town of Atherton rulings are in place." (Partially Revised Draft Program EIR, p. 1-3.) The Authority committed in Chapter 1.4 to determining whether to make the following new decisions after it rescinded its prior decisions:

- Certify the Partially Revised Final Program EIR for compliance with CEQA
- Approve findings of fact, a statement of overriding considerations, and a mitigation monitoring and reporting program in compliance with CEQA
- Approve a network alternative, preferred alignments, and preferred station locations for further study in project-level EIRs.

At the March 1, 2012 Board meeting, in a presentation updating the Board on the status of the Partially Revised Program EIR, the Authority took due care to describe that rescission of its 2010 decisions, and consideration of a new decision for 2012, were anticipated to be agendaized for action at upcoming Board meetings.

The Authority will not consider making a new first-tier decision in a vacuum. The Authority is required to make its new first-tier decision for the Bay Area to Central Valley portion of the high-speed train system, based on fair consideration of all of the information in the 2008 Final Program EIR, the 2010 Revised Final Program EIR, the 2012 Partially Revised Program Draft and Final EIRs, and the entire record before it. The Authority Board's prior actions, including

certification of both the 2010 Revised Final Program EIR selecting the Pacheco Pass Network Alternative and the 2008 Final Program EIR also selecting the Pacheco Pass Network Alternative, are among the many factors relevant to the Board's decision. Factors that may have been important to prior Boards in making their decisions, including as summarized in Chapter 6 of the Partially Revised Draft Program EIR, may or may not be important to the current Authority Board, and new factors not previously considered may also be important to this Board. In other words, while the Board will take a fresh look at the fundamental decision of Altamont versus Pacheco, its decision will not be based upon a blank slate.

Contrary to the suggestion of some commenters, the simple fact that Resolution No. 11-11 remains "on the books" does not mean that the Board pre-committed to making the same decision that a prior Board made in 2010 to approve a Pacheco Pass Network Alternative. As described above, the Board will take a fresh look at the fundamental decision that must be made through the Program EIR process: whether to connect the Bay Area to the Central Valley via the Altamont Pass, the Pacheco Pass, or both. The actions taken thus far by the Authority, and the action anticipated to be taken by the Board of considering whether to certify the Partially Revised Final Program EIR, are consistent with CEQA's requirement (as articulated in the *Save Tara* line of cases) to complete EIR processes prior to making a final decision.

Save Tara v. City of West Hollywood (2008) 45 Cal.4th 116 requires that environmental review (1) be conducted sufficiently early so as to allow for meaningful evaluation by decision makers, and (2) practically speaking, serve its function of informing and guiding the decision makers. (Id. at 130.) In the context of revised and recirculated environmental documents where decision makers are being asked to make a new decision (whether to approve a particular project) when they have previously approved the same project, greater importance attaches to the latter requirement: at a practical level, decision makers must be truly informed and guided by environmental review specific to the decision at hand, prior to making that particular decision. The risk, of course, as articulated by the Supreme Court in *Laurel Heights I*, is that the project is

effectively approved before environmental review and an EIR becomes “nothing more than [a] post hoc rationalization[] to support action already taken.” (*Laurel Heights Improvement Assn v. Regents of University of California* (1988) 47 Cal.3d 376, 394.)

As the Authority disclosed in the Partially Revised Draft Program EIR, and has disclosed in public meetings since November 2011, certain aspects of the Authority’s second-tier process would need to change if the Authority Board makes a new decision selecting an Altamont Pass Network Alternative. When discussing project-level environmental studies, the Authority has acknowledged the aspects of the Authority’s planning process would have to change if the Board were to make its new decision and select an Altamont alignment instead of a Pacheco alignment. (See December 13 Board Meeting item #4, Board Presentation PowerPoint, page 22.)

The Authority’s 2012 Business Plan is discussed in Standard Response 1. The Authority’s 2012 Business Plan explains that if the Board were to make a different program-level decision than it did in 2010 and 2008, certain aspects of the 2012 Business Plan would need to be revised. (Draft Revised 2012 Business Plan, page 2-35.)

Comments that the Partially Revised Program EIR process has been “rush[ed],” and that the issuance of the Partially Revised Draft Program EIR was “premature” suggest that the Authority has committed to approve the project prior to achieving CEQA compliance. This is not the case. The Authority has been studying the Bay Area to Central Valley connection for more than a decade. The entirety of the Bay Area to Central Valley Program EIR process evidences the Authority’s careful consideration of alternatives and mitigation measures as required by CEQA. In sum, in no way has

the Authority acted as if Pacheco Pass, the network alternative selected in 2008 and again in 2010, is a foregone conclusion of its Program EIR process. Nothing about the Authority’s process has caused it to irreversibly pre-commit to a particular outcome of this Partially Revised Program EIR process, or has prejudiced the Authority’s consideration of project alternatives or mitigation measures. (*Save Tara v. City of West Hollywood* (2008) 45 Cal.4th 116).

STANDARD RESPONSE 3**Level of Detail for Impacts Analysis and Mitigation**

The Authority received fewer comments on the Partially Revised Draft Program EIR than on the 2007 Draft Program EIR or the 2010 Revised Draft Program EIR. Fewer comments raised issues related to the level of detail in the Program EIR impacts analysis and mitigation measures. Because a few comments continued to express dissatisfaction with the Program EIR's level of detail, the prior standard response on level of detail is reproduced and updated here.

Program EIRs and Level of Detail

The timing of EIR preparation involves a balance of competing factors. The CEQA Guidelines recognize that a lead agency should prepare an EIR "as early as feasible" in the planning process so that environmental considerations can influence the project design, "yet late enough to provide meaningful information for environmental assessment." (CEQA Guidelines, § 15004, subd. (b).) Tiering of EIRs allows an agency the discretion to strike an appropriate balance between CEQA's mandate for conducting environmental review as early as feasible and the need to take complex decision making processes one step at a time.

The Authority and its federal partner, the Federal Railroad Administration (FRA), are intentionally using a tiered environmental review process to make decisions about the HST system in California. The HST system consists of logical linear sections in a chain of contemplated actions that would be carried out under the same authorizing statutory and regulatory authority, each section with similar environmental effects that can be mitigated in similar ways or using similar methods applied at specific sites along the system. The 2005 Statewide Program EIR/EIS, the 2008 Program EIR/EIS, the 2010 Revised Program EIR, and the 2012 Partially Revised Program EIR are all part of the first-tier, program-level environmental analysis to support the Authority's consideration of broad policy and program alternatives and program-wide mitigation strategies at an early stage of decision making. For the Bay Area to

Central Valley portion of the HST system, the Authority will consider whether to certify the Partially Revised Final Program EIR, and if it does certify the document, then it will consider making the following decisions:

- Choice of a network alternative to connect the San Francisco Bay Area to the Central Valley, i.e., Pacheco Pass, Altamont Pass, or Pacheco Pass with Altamont Pass (local service);
- Choice of alignment alternatives within the selected network alternative; and
- Choice of station location options.

The programmatic level of detail in the Partially Revised Draft Program EIR, the 2010 Revised Final Program EIR, and the 2008 Final Program EIR/EIS is intended to be commensurate with the programmatic nature of the decisions under consideration. More detailed analysis of site-specific environmental impacts and mitigation measures for a more detailed project (selection of specific HST track placement alternative, selection of specific station locations) will be considered in subsequent project-level EIRs/EISs.

Court Consideration of Level of Detail in Town of Atherton Litigation

The issue of the appropriate level of detail for the Authority's program EIR has been raised twice in the *Town of Atherton* litigation. In 2009, the Superior Court held that the 2008 Final Program EIR was adequately detailed for a program EIR with respect to the analysis of biological resources, noise, visual effects, and impacts on mature and heritage trees. (Ruling on Submitted Matter, pp. 10, 13, 14, 16.) The issue for which the Court held additional detail was required involved the description of the project between San Jose and Gilroy, related land use impacts, Monterey Highway construction, and impacts of UPRR and its freight operations. (*Id.*, pp. 6, 21.) In 2011, the Superior Court held that the Authority had

improperly deferred analysis of noise, vibration, and traffic impacts associated with shifting Monterey Highway south of San Jose, and with freight noise and vibration and traffic impacts from implementing a four track alignment on the Peninsula. The Superior Court further held that the 2010 Revised Final Program EIR was adequately detailed for a program EIR with respect to its project description and its analysis of safety issues pertaining to Monterey Highway and noise and vibration impacts on the Peninsula (exclusive of freight impacts), and held that the Authority appropriately reserved analysis regarding the vertical profile of the high-speed train alignment for the second-tier.

Tiering may be used to provide for a more general level of analysis, but may not be used to defer analysis of the impacts of the planning approval at hand. (*In re Bay-Delta Programmatic Environmental Impact Report Coordinated Proceedings* (2008) 43 Cal.4th 1143, 1170.) As required by the 2011 court rulings, this Partially Revised Final Program EIR provides additional analysis to ensure that all impacts of the Authority's fundamental choice for the HST connection between the Bay Area and Central Valley have been identified. The May 2008 Final Program EIR, as revised by the 2010 Revised Final Program EIR and the 2012 Partially Revised Final Program EIR, therefore provides a sufficient level of information for first-tier, programmatic decision making.

Sufficiency of EIR Information for Programmatic Decision and Need for Further Revision and Recirculation

The general level of detail in the Program EIR's impacts analysis and the general nature of the mitigation strategies are appropriate for the broad decisions to be made. The Program EIR, including the 2008 Final Program EIR, the 2010 Revised Final Program EIR, and the 2012 Partially Revised Final Program EIR, identifies the environmental impacts of the Altamont Pass, Pacheco Pass, and Pacheco Pass with Altamont Pass (local service) alternatives for connecting the Bay Area with the Central Valley. The document identifies differences in the types and levels of impact among alternatives, and also reveals differences related to the ability of

each option to meet the project purpose, need, and objectives and to be feasibly implemented. These differences are precisely the type of information that is needed for the decision makers to make the overall choice of a network alternative and station locations. The May 2008 Final Program EIR, Chapter 3, "Affected Environment, Environmental Consequences, and Mitigation Strategies," Section 3.0.1, "Purpose and Content of This Chapter," states:

... The analysis presented in this chapter addresses the general effects of a program of actions that would make up the proposed HST system in the Bay Area to Central Valley study region. This chapter describes the general differences in potential environmental consequences between the No Project and the HST Alignment Alternatives identified in Chapter 2. The analysis also identifies key differences among the potential impacts associated with the various HST Alignment Alternatives and station location options, to support the selection of preferred alignments and station location options in the Bay Area to Central Valley study region.

None of the prior Program EIR documents or the 2012 Partially Revised Program EIR purport to provide a second-tier, or project-level of detail for impacts of each alignment or station location option. The additional analysis in the 2012 Partially Revised Final Program EIR, however, provides for identification of impacts that the Superior Court found was lacking from the prior Program EIR documents. The level of detail remains general, and more detailed analyses will be provided in future project-level environmental documents, but all impacts associated with the fundamental choice of the network alternative connecting the Bay Area and Central Valley are identified.

The general level of detail in a program EIR can be frustrating for those who wish to have much more detail up front at the program level; however, the Authority continues to believe its use of CEQA's tiering provisions, with additional CEQA analysis as required by the Superior Court, is appropriate. The purpose of tiering and program EIRs is to allow a lead agency to focus on decisions that are ripe for

review at the first tier. In this case, that decision includes the selection of an overall network alternative for the HST system to connect the Bay Area to the Central Valley based on the information gathered and assessed at a program-level of detail. While second-tier, project-level information has been and continues to be generated in the program EIR study area, the existence of that information does not convert the Authority's program-level decision into a project-level one. Rather, under CEQA's tiering rules, a detailed analysis of impacts and mitigation based on detailed project design is appropriately deferred to second-tier EIRs, when a much higher level of design detail (15% engineering) will become available allowing for more precise identification of impacts. This project-level information does not trigger another round of revision and recirculation but rather is appropriately addressed in project-level EIRs.

Role of Mitigation Strategies

This Partially Revised Program EIR and the prior Program EIRs identify general mitigation *strategies* that the Authority and the FRA will consider and refine into specific mitigation *measures* in future project-level environmental documents needed to implement the HST system. This approach is consistent with the concept of tiering. Where, as here, a lead agency is analyzing the environmental impacts of a broad decision at a landscape level, it would be premature to develop precise mitigation *measures*, which will need to be tailored to the type of "on the ground" impacts anticipated for constructing or operating specific portions of the HST system.

The mitigation strategies, along with project design practices lay out actions that will be taken to avoid or reduce identified impacts. These strategies were identified to avoid or minimize significant adverse environmental effects. The mitigation strategies identified have been applied to projects throughout the State, country, Europe, and Japan and have been shown to be effective, which is in fact the reason they are included in the Authority's Program EIRs. The adopted strategies will be enforceable and capable of being accomplished in a successful manner within a reasonable period of time.

As part of the approval of the project and certification of the Program EIR, these strategies will be included in a mitigation monitoring and reporting plan (MMRP) to be adopted by the Authority Board. Once adopted, this MMRP will be enforceable under CEQA, committing the Authority to these strategies.

Detailed site-specific mitigation measures can and will be defined during the project-level EIR/EIS phase, following more detailed preliminary engineering and field reviews focused on the alternative selected at the program level. The mitigation strategies will be used to develop appropriate mitigation measures to address site-specific impacts identified at the project level.

For instance, use of noise walls is a mitigation strategy for noise impacts. The appropriate locations, lengths, height, and design of these walls will be defined during the preliminary engineering and project-level environmental review, when detailed field studies are performed. For the program-level review, it is not practical, given the time and costs, to define specific noise wall locations, heights, or design, nor would such information be meaningful since the location of the alignment is likely to shift vertically and horizontally during preliminary engineering and project level environmental review.

This example applies to all of the mitigation strategies in Program EIRs prepared for this project, and is fully consistent with typical project planning and the environmental review requirements.

Mitigation measures are refined as the planning and engineering progress from the conceptual to preliminary to final project design phases. For example, the exact location, length, and materials used for noise walls may change even between preliminary and final design.

As this planning and engineering process progresses, and as project elements are more precisely defined, further review of project impacts occurs to assure that impacts are still being mitigated to the extent feasible and that no new significant impacts are introduced. Environmental laws and implementing requirements prescribe the procedures to be followed should new significant impacts be revealed.

Some comments suggest that this approach amounts to deferral of mitigation. The Program EIR does not defer mitigation but rather provides an extensive list of mitigation strategies that will be further reviewed, refined and applied at the project-level.

This approach is fully consistent with CEQA and NEPA. FRA and the Authority have, as part of the statewide program EIR/EIS process, committed to applying design practices and mitigation strategies in examining subsequent project activities, and intend to make similar commitments at the conclusion of this Partially Revised Program EIR.