

Appendix J:

Written Agency Scoping Comments



March 4, 2009

Mehdi Moshed
California High Speed Rail Authority
925 L Street, Suite 1425
Sacramento, CA 95814

Subject: Comments on Proposed Project

Project: NOP: Project Environmental Impact Report/Environmental Impact Statement (EIR/EIS) for a San Jose to Merced High-Speed Train System through Pacheco Pass

District Reference No: 20090145

Dear Mr. Moshed:

The San Joaquin Valley Unified Air Pollution Control District (District) has reviewed the NOP for the San Jose to Merced High-Speed Train System through Pacheco Pass project located in the areas of San Jose and Merced and along Highway 152. The proposed project would include the construction, operation, and maintenance of an 800 mile long electric-powered High Speed Rail System. The District offers the following comments:

District Comments

- 1) The District recommends that any preliminary and final environmental review of the project's potential impact on air quality include the following:
 - 1a) A description of the regulatory environment and existing air quality conditions impacting the area. Information on the District's attainment status can be found on the District's web page: <http://valleyair.org/aqinfo/attainment.htm>

Seyed Sadredin
Executive Director/Air Pollution Control Officer

Northern Region
4800 Enterprise Way
Modesto, CA 95358-8718
Tel: (209) 557-6400 FAX: (209) 557-6475

Central Region (Main Office)
1990 E. Gettysburg Avenue
Fresno, CA 93726-0244
Tel: (559) 230-6000 FAX: (559) 230-6061
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Southern Region
2700 M Street, Suite 275
Bakersfield, CA 93301-2373
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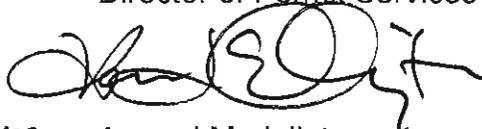
- 1b) A description of the project, including a discussion of existing and post-project emissions. The discussion should include emissions from short-term activities such as construction, and emissions from long-term activities, such as operational, and area wide emission sources.
- 1c) A discussion of the potential health impact of Toxic Air Contaminants (TACs), if any, to near-by receptors.
- 1d) A discussion of whether the project would result in a cumulatively considerable net increase of any criteria pollutant or precursor for which the San Joaquin Valley Air Basin is in non-attainment.
- 1e) A discussion of whether the project would create nuisance odors.
- 1f) A discussion of the methodology, model assumptions, inputs and results used in characterizing the project's impact on air quality.
- 1g) A discussion of all existing District regulations that apply to the project.
- 1h) A discussion of all feasible measures that will reduce air quality impacts.
- 2) At this time there are no established significance thresholds for greenhouse gas emissions, however, it is suggested that the EIR include a discussion of greenhouse gas emissions generated by the project and the effect they will have, if any, on global climate change.
- 3) Emissions from permitted (stationary sources) and non-permitted (mobile sources) sources should be analyzed separately. The project should be considered to have a significant adverse impact on air quality if emissions from either source exceed the following amounts: 10 tons per year of oxides of nitrogen (NOx), 10 tons per year of reactive organic gases (ROG), or 15 tons per year particulate matter of 10 microns or less in size (PM10).
- 4) If the project is located near residential/sensitive receptors, the proposed project should be evaluated to determine the health impact of Toxic Air Contaminants (TACs) to the near-by receptors. If the analysis indicates that TACs are a concern, the District recommends that a Health Risk Assessment (HRA) be performed. If a HRA is to be performed, it is recommended that the project proponent contact the District to review the proposed modeling approach. Please contact Mr. Leland Villalvazo, Supervising Air Quality Specialist, at hramodeler@valleyair.org. Additional information on Toxic Air Contaminants (TACs) can be found on the District's Air Quality Modeling page; http://www.valleyair.org/busind/pto/Tox_Resources/AirQualityMonitoring.htm
- 5) If an HRA is performed, all input and out put files necessary to validate the analysis should be submitted to the District in electronic format.

- 6) The proposed project would be subject to District Rule 9510 (Indirect Source Review) because upon full build-out the project exceed 9,000 square feet of space.
- 7) District Rule 9510 is intended to mitigate a project's impact on air quality through project design elements or by payment of applicable off-site mitigation fees. Any applicant subject to District Rule 9510 is required to submit an Air Impact Assessment (AIA) application to the District no later than seeking final discretionary approval, and to pay any applicable off-site mitigation fees before issuance of the first building permit.
- 8) If emissions of NOx or PM10 generated during the construction phase exceed the District thresholds of 2 tons for any one year, the proposed project would be subject to off-site mitigation fees.
- 9) The proposed project may require District permits. Prior to construction, the project proponent should submit to the District an application for an Authority to Construct (ATC). For further information or assistance, the project proponent may contact the District's Small Business Assistance Office at (559) 230-5888.

District staff is available to meet with you to further discuss the regulatory requirements that are associated with this project. The District encourages you to take advantage of our staff's knowledge and expertise in the area of emissions mitigation to assist you in the early planning stages of this project. Please call Kanya Ellington, M.S. at (559) 230-5934 to schedule an appointment.

Sincerely,

David Warner
Director of Permit Services


for Arnaud Marjollet
Permit Services Manager

DW: ke

cc: File



BUILDING INDUSTRY ASSOCIATION
OF CENTRAL CALIFORNIA
Serving Mariposa, Merced, Stanislaus and Tuolumne Counties



March 18, 2009

Dan Leavitt, Deputy Director
California High Speed Rail Authority
925 L Street, Suite 1425
Sacramento, Ca 95814

RE: San Jose to Merced HST project EIR/EIS

Dear Mr. Leavitt:

The Building Industry Association of Central California is a not-for-profit trade association representing home builders and the professional trades, subcontractors and service industries involved in the home building industry.

This letter is to provide comment for the California High Speed Rail Project. Our organization and in particular our Merced Building Industry Association chapter supports a High Speed Rail system for California. We look forward to seeing high speed rail transportation becoming a reality. We also strongly support establishing a high speed rail station in downtown Merced and the selection of the former Castle Air Base economic development zone as the location for a construction and maintenance facility hub for the high speed rail system.

Our members support having a high speed rail system to provide connectivity between Northern and Southern California and through the Central Valley to the Bay Area. Finally, because of the opportunity to improve economic development and to reduce emissions through this transportation modality, we encourage the California High Speed Rail Authority to use all diligent efforts to expedite this project.

Sincerely,

Stephen D. Madison
Executive Officer



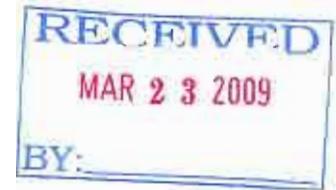
United States Department of the Interior



FISH AND WILDLIFE SERVICE

San Luis National Wildlife Refuge Complex
Post Office Box 2176
Los Banos, California 93635

18 March 2009



VIA SCOPING MEETING AND U.S. MAIL

Mr. Dan Leavitt, Deputy Director
Attn: San Jose to Merced
California High-Speed Rail Authority
925 L Street, Suite 1425
Sacramento, CA 95814

Re: San Jose to Merced HST

Dear Mr. Leavitt:

I am writing on behalf of the San Luis National Wildlife Refuge Complex, in order to reiterate our natural resource concerns regarding the high-speed rail alignments through or adjacent to the Grasslands Ecological Area (GEA). These concerns were voiced in the U. S. Department of the Interior, Fish and Wildlife Service, letter sent in fall of 2004; and again in the U. S. Fish and Wildlife Service letter sent September of 2007 (attached) – though I cannot find those comments referenced in the final EIS. Both prior letters are attached to this third one for your convenience.

Regarding your further work on this project, I have two major concerns:

“Regarding growth in the Los Banos area, the Authority took affirmative action to eliminate a potential Los Banos HST station as part of the Statewide Program EIR/EIS, stating: The Authority also has determined that the Pacheco Pass alignment HST station at Los Banos (Western Merced County) should not be pursued in subsequent environmental reviews because of ...potential impacts to water resources and threatened and endangered species. The Final Bay Area to Central Valley EIS/EIR reaffirms this position, stating that “there will be no HST station between Gilroy and Merced.”

In the decades ahead, how can this be assured, that there will never be a station in western Merced County? A statement in the EIS by the planners gives little assurance. For this to be more than an empty promise, what is needed is some sort of legal encumbrance.

“The Final Program EIR/EIS describes that, in addition to other mitigation strategies and measures, the Authority commits to the acquisition from willing sellers by the Authority, or by other entities designated and supported by the Authority, of agricultural, conservation and/or open space easements encompassing at least 10,000 ac. and generally located along or in the vicinity of the HST alignment and within or adjacent to the designated GEA. This measure would reduce impacts to and support conservation of wetlands and sensitive ecological areas, as well as limit urban encroachment in the vicinity of the HST through the GEA. The focus for these

easements would be in areas undergoing development pressures, such as the areas around Los Banos and Volta, and/or areas that would be most appropriate for ecological conservation or restoration.”

How do you expect to acquire easements from willing sellers, when large developers and land speculators have already bought large tracts of land located close to an expected station in western Merced County, and many individual landowners are already unwilling to sell easements at fair-market-value prices because they are speculating that the lands values will skyrocket once a HST is present? Three agencies currently buy conservation easements in the GEA – the U. S. Fish and Wildlife Service (about 85,000 acres), California Department of Fish and Game (less than 1,000 acres), and the USDA Natural Resource Conservation Service (about 2,000 acres). Were any of these agencies consulted when the HSRA made the sweeping decision that the damage to the GEA could be mitigated by acquiring easements? Obviously, the largest and most active agency acquiring conservation easements in the GEA is the FWS, having been acquiring these easements for over 30 years. This agency was not consulted, and we seriously doubt this project’s abilities to take appropriate and valuable conservation easements in the GEA without the power of condemnation.

The importance of the ecosystem that the GEA protects is increasingly recognized both nationally and internationally. Encompassing approximately 180,000 acres, the GEA is the largest fresh water wetland complex in California and contains the largest block of contiguous wetlands remaining in the Central Valley. Less than five percent of the original four million acres of Central Valley wetlands remain.

The GEA provides critical wintering habitat for the migratory waterfowl and shorebirds of the Pacific Flyway, including 20% of the Pacific Flyway waterfowl population. Waterfowl populations average a half-million, with peak numbers up to one million. Hundreds of thousands of shorebirds migrate through the area. The GEA provides habitat for more than 550 species of plants and animals, including 47 species that are endangered, threatened, or candidate species under state or federal law.

In recognition of the rich and critically important natural resources of the Grasslands, conservation agencies and groups have focused more attention and funding on this area than most areas of the State. There are two U. S. Fish and Wildlife Service national wildlife refuges encompassing approximately 36,500 acres, a U. S. Fish and Wildlife Service conservation easement program that encompasses 80,000 acres on 190 separate private properties, six units of the California Department of Fish and Game wildlife areas encompassing approximately 25,000 acres, and a California Department of Parks and Recreation state park. This area has garnered numerous habitat restoration and enhancement grants totaling millions of dollars, and is one of the most active areas for conservation group involvement in the country.

The GEA is a small remnant of the once vast historic Central Valley wetlands. Yet, the HSRA proposes to degrade this priceless area of the California landscape. Both the Henry Miller Avenue alignment and the Highway 140 alignment bisect the GEA through its most vulnerable middle. Bisection of -- or routes immediately adjacent to -- the GEA will interfere with critical wildlife corridors, further aggravate the isolation of wildlife populations, interfere with waterfowl/waterbird nesting and breeding, and increase wildlife mortality and disturbance. The physical description of a typical track layout – with a 50- to 100-foot right-of-way (“comparable to a six-lane highway”), 8-foot chain-link fencing on both sides of the tracks, 26-foot tall catenary supports every 30 feet, and 12-foot to 16-foot soundwalls where proposed – would create a profound barrier.

There is very little recognition of the on-going conservation efforts in the EIR/S for this project, and no mention whatsoever of the largest category of conservation protection -- USFWS conservation easements on private property. Due to the importance of the resources of the GEA -- and the amount of

public and private focus, energy, and funds that have been invested in its protection -- we strongly urge the HSRA to eliminate any high-speed train alignments that cross through or are adjacent to the GEA.

Thank you for considering these comments. Please feel free to contact me if you have any questions (209/826-3508).

Sincerely,



Kim Forrest
Wildlife Refuge Manager

Cc: Dan Walsworth, Refuge Supervisor; FWS/CNO
Susan Jones, Branch Chief; FWS/Endangered Species Program
Maryann Owens, Biologist; U. S. Fish and Wildlife Service
Julie Vance, Senior Environmental Scientist; California Department of Fish and Game
Bill Cook, Wildlife Habitat Supervisor II; California Department of Fish and Game
Malia Ortiz, District Conservationist; USDA/NRCS
Dr. Frederic Reid, Director of Conservation Planning; Ducks Unlimited, Inc.
Chris Hildebrandt, Regional Biologist; Ducks Unlimited, Inc.
Kim Delfino, California Program Director; Defenders of Wildlife
Jeremy Terhune, San Joaquin Valley Representative; Defenders of Wildlife
Sandi Matsumoto, Project Director; The Nature Conservancy
Dave Widell, General Manager; Grassland Water District
Pepper Snyder, President; Grassland Water District
Diana Westmorland Pedrozo, Executive Director; Merced County Farm Bureau
Rod Webster; Merced Sierra Club
Marsh Pitman/Ken Gosting; Transportation Involves Everyone



United States Department of the Interior



FISH AND WILDLIFE SERVICE

San Luis National Wildlife Refuge Complex
Post Office Box 2176
Los Banos, California 93635

25 September 2007

VIA FACSIMILE AND U.S. MAIL

Mr. Mehdi Morshed, Executive Director
California High-Speed Rail Authority
925 L Street, Suite 1425
Sacramento, CA 95814

Re: HSRA Should Study Only Alignments that Avoid the Grasslands Ecological Area

Dear Mr. Morshed:

I am writing on behalf of the San Luis National Wildlife Refuge Complex, in order to reiterate our natural resource concerns regarding the high-speed rail alignments through or adjacent to the Grasslands Ecological Area (GEA).

The importance of the ecosystem that the GEA protects is increasingly recognized both nationally and internationally. Encompassing approximately 180,000 acres, the GEA is the largest fresh water wetland complex in California and contains the largest block of contiguous wetlands remaining in the Central Valley. Less than five percent of the original four million acres of Central Valley wetlands remain.

The GEA provides critical wintering habitat for the migratory waterfowl and shorebirds of the Pacific Flyway, including 20% of the Pacific Flyway waterfowl population. Waterfowl populations average a half-million, with peak numbers up to one million. Hundreds of thousands of shorebirds migrate through the area. The GEA provides habitat for more than 550 species of plants and animals, including 47 species that are endangered, threatened, or candidate species under state or federal law. As one of the largest remaining vernal pool complexes, the GEA is home to many rare species associated with this disappearing habitat. San Joaquin kit fox, Aleutian Canada [cackling] geese, sandhill cranes, Swainson's hawks, and tri-colored blackbirds are also very dependent upon the area.

The GEA consists of diverse habitats, including seasonally flooded wetlands, semi-permanent marsh, woody riparian habitat, wet meadows, vernal pools, native uplands, grasslands, and native brush land. The GEA was recognized in 1991 by the Western Hemisphere Shorebird Reserve Network as one of only 15 internationally significant shorebird habitats. In addition, it was recognized in 1999 by the American Bird Conservancy as a *Globally Important Bird Area*. Most recently, it was designated a *Wetland of International Importance* under the Ramsar Convention due to its importance to a variety of wildlife, including several rare and endangered species, its critical role as wintering habitat for Pacific Flyway waterfowl, and its status as the largest remaining block of wetlands in what was once a vast Central Valley ecosystem. The Ramsar Convention is an international agreement dedicated to the worldwide protection of ecosystems that span member nation's borders. The GEA is one of only 22 sites in the United States and four in California that have received this status.

In recognition of the rich and critically important natural resources of the Grasslands, conservation agencies and groups have focused more attention and funding on this area than most areas of the State. There are two U. S. Fish and Wildlife Service national wildlife areas encompassing approximately 36,500 acres, a U. S. Fish and Wildlife Service conservation easement program that encompasses 75,000 acres on 180 separate private properties, six units of the California Department of Fish and Game wildlife areas encompassing approximately 25,000 acres, a California Department of Parks and Recreation state park, and an extremely active Natural Resources Conservation Service program. This area has garnered numerous habitat restoration and enhancement grants totaling millions of dollars, and is one of the most active areas for conservation group involvement.

The Bay Area to Central Valley Environmental Impact Report/Environmental Impact Statement (EIR/S) for the California High Speed Train System, completed by the High Speed Rail Authority (HSRA), continues to propose a Pacheco Pass alignment that bisects the GEA along Henry Miller Avenue or else runs immediately adjacent to it along its northern boundary along Highway 140 and fragments a portion of the GEA. Our prior comments have provided extensive documentation of the fragility and importance of this area and the likely harm that would result from even an elevated rail alignment through this area. Both of these Pacheco Pass alignments would cause unrecognized damage to the GEA.

The GEA is a small remnant of the once vast historic Central Valley wetlands. Yet, the HSRA proposes to further degrade this priceless area of the California landscape. The Henry Miller Avenue alignment bisects the GEA through its most vulnerable middle. A Highway 140 alignment would isolate the California Department of Fish and Game's China Island Unit of the North Grasslands Wildlife Area from the rest of the GEA. Both alignments may cross both California Department of Fish and Game wildlife areas and U. S. Fish and Wildlife Service refuges, in addition to lands protected by federal and state conservation easements; regardless, simply aligning immediately adjacent to these protected lands in this locale would be equally harmful. Bisection of -- or routes immediately adjacent to -- the GEA will interfere with critical wildlife corridors, further aggravate the isolation of wildlife populations, interfere with waterfowl/waterbird nesting and breeding, and increase wildlife mortality. The physical description of a typical track layout -- with a 50- to 100-foot right-of-way ("comparable to a six-lane highway"), 8-foot chain-link fencing on both sides of the tracks, 26-foot tall catenary supports every 30 feet, and 12-foot to 16-foot soundwalls where proposed -- would create a profound barrier.

In addition, any alignment through or adjacent to the GEA leaves open the possibility that a Los Banos/Gustine/Santa Nella area station may be added in the future. Continued population growth may create a situation where a station becomes economically viable -- particularly with added political pressure. Much land in the Santa Nella, Los Banos, and the Highway 140 area is already being purchased and/or planned for development by developers.

The EIS/R identifies a proposed site for a fleet storage/service and inspection/light maintenance facility to support the Pacheco Pass alignments immediately west of the SR-165 and Henry Miller Avenue intersection. This is *immediately* adjacent to the GEA. Development of this facility -- not to mention additional development pressures that would surely follow -- would have a profound impact on the GEA. This would increase the attractiveness of the area for sprawl and population increases adjacent to the GEA. The EIR/S recognizes the potential threats of urban sprawl; yet, I do not believe that the discrepancy in housing costs between the Central Valley and the San Francisco Bay Area is fully recognized. It has already caused massive urban growth in the Central Valley; and the potential for an extremely convenient commute would increase that growth by an order of magnitude.

Clearly, a high-speed train is growth-inducing. The impact of growth relative to the existing population, open space, lifestyles, and community type needs to be considered. For example, an increase of 50,000 people may be negligible to a community of nearly a million (San Jose), but it would be devastating to the way of life and habitat linkages of a town the size of Los Banos (less than 40,000). Social impacts

and growth-inducing impacts to small towns and urban sprawl could very well be the most damaging negative impact of this high-speed train.

Bisection of the GEA conflicts with the private-public partnership that has long protected this unique resource. There is very little recognition of these conservation protections in the EIR/S, and no mention whatsoever of the largest category of conservation protection – USFWS conservation easements on private property. Clearly, the environmental review is still inadequate, considering that there is very little mention of either the privately-owned wildlife habitat or the lands management by the State of California (both the California Department of Fish and Game and the California Department of Parks and Recreation), and the EIS/R contains such unsupported conclusions as: “The Henry Miller alignment alternatives would not impact the GEA.”

The Pacheco Pass alignment would result in an estimated 10 minute reduction in travel time between Los Angeles and San Jose or San Francisco over the Altamont Pass alignment. This surely cannot be valid justification for the great environmental damage done to this area of the Diablo Range and the GEA and its environs. And, the Altamont Pass alignment may very well better serve and provide more options for *intra*-Bay Area transportation needs (an area well-known for its traffic jams), not to mention the obvious benefits to the Sacramento/Stockton/Tracey communities.

When one looks at the travel needs and deficits of the State in a logical and economical manner, it appears that a blend of options would work best. According to the latest data, San Francisco Bay Area commuters are second only to Los Angeles commuters in time spent stuck in traffic. The HSRA needs to consider such options as improved air travel for the long distances between major metropolitan areas and high-speed rail within the metropolitan areas (San Francisco/San Jose/East Bay, Los Angeles/San Diego, and Sacramento/East Bay). Consolidation of transportation infrastructure that contains sprawl rather than inducing it has the potential to substantially benefit wildlife. Not only would this better focus transportation efforts where they are clearly needed the most, in addition it would eliminate costly and unnecessary expenses, move people off of the highway system, decrease wear and tear on the highway -- and thus operations and maintenance expenses, improve safety, and vastly reduce negative environmental and social impacts across the entire landscape of California.

There is wide agreement among agencies, environmental groups, and train-rider associations that an Altamont Pass alignment would best minimize environmental impacts and maximize ridership potential. The Altamont Pass alignment would add additional transportation options along an existing disrupted and congested corridor and encourage population growth in already established areas. This is an area of rapid growth; the HSRA should focus their efforts after the European model, which looks to “densification” of existing cities, rather than encouraging urban sprawl and damaging the character of small rural communities. We support the selection of this route as the environmentally preferable alternative over any Pacheco Pass route.

Due to the importance of the resources of the GEA -- and the amount of public and private focus, energy, and funds that have been invested in its protection -- we strongly urge the HSRA to eliminate any high-speed train alignments that cross through or adjacent to the GEA.

Thank you for considering these comments.

Sincerely,

Kim Forrest
Wildlife Refuge Manager

Cc: Dan Walsworth, Refuge Supervisor; FWS/CNO
Susan Jones, Branch Chief; FWS/Endangered Species Program
Maryann Owens, Biologist; U. S. Fish and Wildlife Service
Dave Widell, General Manager; Grassland Water District
Julie Vance, Senior Environmental Scientist; California Department of Fish and Game
Bill Cook, Wildlife Habitat Supervisor II; California Department of Fish and Game
Malia Ortiz, District Conservationist; USDA/NRCS
Dr. Frederic Reid, Director of Conservation Planning; Ducks Unlimited, Inc.
Chris Hildebrandt, Regional Biologist; Ducks Unlimited, Inc.
Diana Westmorland Pedrozo, Executive Director; Merced County Farm Bureau
Rod Webster; Merced Sierra Club
Marsh Pitman/Ken Gosting; Transportation Involves Everyone



United States Department of the Interior



FISH AND WILDLIFE SERVICE

San Luis National Wildlife Refuge Complex
Post Office Box 2176
Los Banos, California 93635

23 July 2004

MEMORANDUM

To: Biologist, San Joaquin Valley Branch; Endangered Species Division (Larry Butcher)
Sacramento, CA

From: Refuge Manager, San Luis NWR Complex
Los Banos, CA

Subject: Comments on *Draft Program EIR/EIS for the Proposed California High-Speed Train System*
for your consideration.

My comments regarding the *Draft Program EIR/EIS* are quite generic, as is the EIR/EIS. My comments focus on the Grasslands Ecological Area of the northern San Joaquin Valley. This 160,000-acre area – roughly located in a triangle with the towns of Dos Palos, Los Banos, and Gustine along the base of the triangle and Merced at the apex of the triangle – is located in Merced County. It consists of diverse habitats, and is recognized for its importance to a variety of wetland species. The Grasslands includes seasonally flooded wetlands, semi-permanent marsh, woody riparian habitat, wet meadows, vernal pools, native uplands, grasslands, and native brush land. Hundreds of thousands of shorebirds migrate through the area; it was officially recognized in 1991 by the Western Hemisphere Shorebird Reserve Network as one of only 15 internationally significant shorebird habitats. In addition, it was recognized in 1999 by the American Bird Conservancy as a *Globally Important Bird Area*. It is currently being nominated as a *Wetland of International Importance* under the Ramsar Convention due to its importance to a variety of wildlife, including several rare and endangered species, its critical role as wintering habitat for Pacific Flyway waterfowl, and its status as the largest remaining block of wetlands in what was once a vast Central Valley ecosystem.

The Grasslands is a critical area for Pacific Flyway waterfowl populations, providing wintering habitat for 20 percent of the total population. Waterfowl populations average a half-million, with peak waterfowl numbers at one million. Several federally listed or proposed threatened and endangered species are known to occur either seasonally or year-round. As one of the largest remaining vernal pool complexes, Grasslands is home to many rare species associated with this disappearing habitat. San Joaquin kit fox, Aleutian Canada geese, Swainson's hawks, and tri-colored blackbirds are also very dependent upon the area. Less than five percent of the original four million acres of Central Valley wetlands remain.

In recognition of the rich and critically important natural resources of the Grasslands, the conservation agencies have focused more attention and funding on this area than most areas of the State. There are two U. S. Fish and Wildlife Service national wildlife areas encompassing approximately 35,000 acres, a U. S. Fish and Wildlife Service conservation easement program that encompasses 70,000 acres on 170

separate private properties, six units of the California Department of Fish and Game wildlife areas encompassing approximately 25,000 acres, a California Department of Parks and Recreation state park, and an extremely active Natural Resources Conservation Service program. This area has garnered numerous habitat restoration and enhancement grants totaling millions of dollars, and is one of the most active areas for conservation group involvement. However, under “Impacts on Public Parks, Wildlife Areas, and Recreation Resources”, there is absolutely no mention of the natural resources of the Grasslands, the public and private ownership and protection of these resources, nor the internationally recognized designations of importance -- except one passing mention of San Luis NWR. There is no mention of the critically important habitat that the Grasslands provide waterfowl/waterbirds.

The proposed high-speed train system includes options for stations in Los Banos and Merced, which are located adjacent to the Grasslands. It also proposes a station in Gilroy, another fairly small, agriculturally-based community. However, the focus of the “Estimated Total Travel Times ‘Door-to-Door’ Between Cities”, as indicated in the table on page 2 of the document, is on Los Angeles, San Francisco, Fresno, San Diego, San Jose, and Sacramento; there is no mention of these smaller communities. In fact, the focus of the entire *Draft Program EIR/EIS* is on these major cities and their transportation needs. Yet, the severe growth-inducing and environmental impacts of these three proposed stations are nearly ignored in this EIR/EIS – Los Banos is not even listed under “List of cities where libraries will have document available”.

If the proposed stations in these small communities are constructed, the small communities will bear the brunt of explosive growth due to the quick and easy commute to major metropolitan areas. Any such long-distance transportation improvements result in explosive growth. This is clearly evident from recent history. When Pacheco Pass was widened from two lanes to four lanes in the late 1980’s, the population of Los Banos jumped from 12,000 to nearly 30,000; there are now an estimated 5,000 people commuting daily to the San Jose area. Further widening Highway 152, as suggested in this document, would clearly aggravate this issue. In light of this near-tripling of the population of a small town due to a single transportation system improvement, the minimal population growth attributable to the high-speed train – as projected in this EIR/EIS does not appear to be valid.

“Increased suburban sprawl” is identified as a negative environmental impact under Alternative 2, the “Modal Alternative”. However, it is highly likely that the high-speed train system will have even greater negative impacts in this regard. “Some route alternatives diverging to avoid impacting communities” is mentioned in the EIR/EIS; yet, again, no mention of environmental and growth-inducing impacts to small towns. The table on page S-14 indicates that the Modal Alternative will encourage urban sprawl throughout the Central Valley, and the high-speed train only around Merced. This does not make sense – there will be urban sprawl anywhere there is a train station and there is room to grow.

The EIR/EIS claims that the high-speed train will “result in denser development...on less land”. This would not be the case in these small communities. The table on page S-11 lists under Land Use that the train would result in “controlled growth around stations, urban in-fill; compatible with transit-first policies”. This model may fit for major metropolitan areas, but does not fit for small towns. Under Mitigation Strategies, there is discussion of sound walls, visual buffers/landscaping, etc. This is extremely narrowly-focused and misses the “big picture” negative effects.

The study results cite “improved travel options in parts of the state with limited bus, rail and air transportation service”. However, it was not identified in the EIR/EIS that certain communities desire “improved travel options”. Under Section S.4.4. Areas of Controversy, the EIR/EIS states that “the Authority would take into account potential impacts on natural resources, cost, effects on travel time and ridership, and public and agency input”. However, social impacts and growth-inducing impacts to small towns and urban sprawl could very well be the most damaging negative impact of this high-speed train.

Some of the suggested alignments ignore other well-recognized important natural areas, particularly the “Northern Mountain Crossing”. Whether via Pacheco Pass or Diablo Range, this entire section of the Coast Range has been recognized for its important natural resources. The Nature Conservancy owns fee title and easement on 61,000 acres in this area, as part of its Mount Hamilton Project. The U. S. Fish and Wildlife Service has helped fund that effort, and has identified the same area as a potential addition to the National Wildlife Refuge System.

In section S.3, the EIR/EIS states that “The system should maximize the use of existing transportation corridors and rights-of-way....” However, there are currently no tunnels through the Diablo Range. The reasoning for the elimination of the “Northern Mountain Crossing” route over Altamont Pass appears to be faulty and not fully developed. There is no explanation as to why it is projected that the Pacheco Pass alignment would have 1.1 million more intercity riders per year than the Altamont Pass alignment. Considering the large and rapidly growing population centers at Stockton and Tracy, this does not make sense. In addition, given that 1.1 million is only 2% of the estimated total ridership of 68 million and could easily be within the margin of error for this projection, this statistic should not be used to determine a critically important environmental and social-impacting decision. The Pacheco Pass alignment would result in an estimated 10 minute reduction in travel time between Los Angeles and San Jose and eight minutes faster between Los Angeles and San Francisco. This surely cannot be valid justification for the great environmental damage done to this area of the Diablo Range. And, the reason for rejection – the three-way split at Newark/Fremont – may very well better serve and provide more options for *intra*-Bay Area transportation needs (an area well-known for its traffic jams). In the reasoning for the elimination of the Altamont Pass alignment, the EIR/EIS lists “Bay crossing, wetlands, biology, hydrology”. However, wetland impacts would require mitigation under the Clean Water Act. The EIR/EIS states that “the Altamont Pass alignment would not avoid or substantially reduce potential environmental impacts, since it would require the construction of a new wetlands/water crossing over San Francisco Bay...” That assumption is incorrect, because any impacts must be mitigated. It thus appears that the main reason for eliminating this alignment was due to expense of tunneling or other construction and mitigation costs.

In the “Southern Mountain Crossing”, the EIR/EIS states that, “the Antelope Valley SR-58/Soledad Canyon could provide superior connectivity and accessibility to the Antelope Valley and *would have a higher potential for serving long-distance commuters to Los Angeles*” [emphasis added]. Is long-distance commuting – and the negative social and environmental impacts it causes, not the least of which is urban sprawl – something that this project should encourage?

The EIR/EIS states that high-speed train travel time between San Francisco and Los Angeles will be comparable to air travel. However, it must be considered that air travel is tremendously less impacting to the landscape, environment, and social structure throughout the train corridor. Unfortunately, this EIR/EIS only considers the exact footprint of the rail right-of-way, and totally disregards the impacts to surrounding areas that are obviously impacted for quite some distance – including growth-inducing impacts.

There is a great need for analysis on social impacts and quality of life issues regarding the growth-inducing impacts to small communities. This is not just a “land consumption”, “economic impacts”, “increased employment opportunities”, and “personal income growth” issue. The EIR/EIS states that “the level of difference between alternatives for urbanized area size is small compared to the overall level of growth”. This may be statistically valid for the entire population of California, but the impacts on small communities could be massive. The EIR/EIS section addressing communities states that induced growth does not create new barriers within neighborhoods and does not result in impacts on community cohesion. However, larger communities clearly have a different “community cohesion”. Additional social science work is needed on this EIR/EIS.

Clearly, an inadequate range of alternatives was considered. These three alternatives were extremely simplistic, with no consideration given to a logical mix of rail, air, and automobile transportation improvements. The EIR/EIS shows a 30 minute drive-time savings between San Francisco and Los Angeles resulting from \$82 billion needed to implement the Modal Alternative. That is nonsensical. Obviously, a vastly improved air travel option between those two metropolitan areas is needed. Expending \$82 billion to slightly shorten a seven-hour drive would not appear to be cost-effective.

When discussing “Aviation Improvements Only”, the EIR/EIS states that “air travel would not be competitive for trips less than 150 miles”. Thus, conversely, air travel *would* be competitive for trips greater than 150 miles, and rail travel for trips less than 150 miles. When one looks at the travel needs and deficits of the State in a logical and economical manner, it appears that a blend of options would work best. The Authority needs to consider such options as improved air travel for the long distances between major metropolitan areas and high-speed rail within the metropolitan areas (San Francisco – San Jose – East Bay, Los Angeles – San Diego, and Sacramento – East Bay). Not only would this better focus transportation efforts where they are clearly needed, it would eliminate costly and unnecessary expenses such as hundreds of miles of rail where it is not needed; move people off of the highway system, decreasing wear and tear on the highway -- and thus operations and maintenance expenses, as well as improving safety; and vastly reduce negative environmental and social impacts across the entire landscape of California.

Kim Forrest





United States Department of the Interior



FISH AND WILDLIFE SERVICE

San Luis National Wildlife Refuge Complex
Post Office Box 2176
Los Banos, California 93635

18 March 2009

VIA SCOPING MEETING AND U.S. MAIL

Mr. Dan Leavitt, Deputy Director
Attn: San Jose to Merced
California High-Speed Rail Authority
925 L Street, Suite 1425
Sacramento, CA 95814

Re: San Jose to Merced HST

Dear Mr. Leavitt:

I am writing on behalf of the San Luis National Wildlife Refuge Complex, in order to reiterate our natural resource concerns regarding the high-speed rail alignments through or adjacent to the Grasslands Ecological Area (GEA). These concerns were voiced in the U. S. Department of the Interior, Fish and Wildlife Service, letter sent in fall of 2004; and again in the U. S. Fish and Wildlife Service letter sent September of 2007 (attached) – though I cannot find those comments referenced in the final EIS. Both prior letters are attached to this third one for your convenience.

Regarding your further work on this project, I have two major concerns:

“Regarding growth in the Los Banos area, the Authority took affirmative action to eliminate a potential Los Banos HST station as part of the Statewide Program EIR/EIS, stating: The Authority also has determined that the Pacheco Pass alignment HST station at Los Banos (Western Merced County) should not be pursued in subsequent environmental reviews because of ...potential impacts to water resources and threatened and endangered species. The Final Bay Area to Central Valley EIS/EIR reaffirms this position, stating that “there will be no HST station between Gilroy and Merced.”

In the decades ahead, how can this be assured, that there will never be a station in western Merced County? A statement in the EIS by the planners gives little assurance. For this to be more than an empty promise, what is needed is some sort of legal encumbrance.

“The Final Program EIR/EIS describes that, in addition to other mitigation strategies and measures, the Authority commits to the acquisition from willing sellers by the Authority, or by other entities designated and supported by the Authority, of agricultural, conservation and/or open space easements encompassing at least 10,000 ac. and generally located along or in the vicinity of the HST alignment and within or adjacent to the designated GEA. This measure would reduce impacts to and support conservation of wetlands and sensitive ecological areas, as well as limit urban encroachment in the vicinity of the HST through the GEA. The focus for these

easements would be in areas undergoing development pressures, such as the areas around Los Banos and Volta, and/or areas that would be most appropriate for ecological conservation or restoration.”

How do you expect to acquire easements from willing sellers, when large developers and land speculators have already bought large tracts of land located close to an expected station in western Merced County, and many individual landowners are already unwilling to sell easements at fair-market-value prices because they are speculating that the lands values will skyrocket once a HST is present? Three agencies currently buy conservation easements in the GEA – the U. S. Fish and Wildlife Service (about 85,000 acres), California Department of Fish and Game (less than 1,000 acres), and the USDA Natural Resource Conservation Service (about 2,000 acres). Were any of these agencies consulted when the HSRA made the sweeping decision that the damage to the GEA could be mitigated by acquiring easements? Obviously, the largest and most active agency acquiring conservation easements in the GEA is the FWS, having been acquiring these easements for over 30 years. This agency was not consulted, and we seriously doubt this project’s abilities to take appropriate and valuable conservation easements in the GEA without the power of condemnation.

The importance of the ecosystem that the GEA protects is increasingly recognized both nationally and internationally. Encompassing approximately 180,000 acres, the GEA is the largest fresh water wetland complex in California and contains the largest block of contiguous wetlands remaining in the Central Valley. Less than five percent of the original four million acres of Central Valley wetlands remain.

The GEA provides critical wintering habitat for the migratory waterfowl and shorebirds of the Pacific Flyway, including 20% of the Pacific Flyway waterfowl population. Waterfowl populations average a half-million, with peak numbers up to one million. Hundreds of thousands of shorebirds migrate through the area. The GEA provides habitat for more than 550 species of plants and animals, including 47 species that are endangered, threatened, or candidate species under state or federal law.

In recognition of the rich and critically important natural resources of the Grasslands, conservation agencies and groups have focused more attention and funding on this area than most areas of the State. There are two U. S. Fish and Wildlife Service national wildlife refuges encompassing approximately 36,500 acres, a U. S. Fish and Wildlife Service conservation easement program that encompasses 80,000 acres on 190 separate private properties, six units of the California Department of Fish and Game wildlife areas encompassing approximately 25,000 acres, and a California Department of Parks and Recreation state park. This area has garnered numerous habitat restoration and enhancement grants totaling millions of dollars, and is one of the most active areas for conservation group involvement in the country.

The GEA is a small remnant of the once vast historic Central Valley wetlands. Yet, the HSRA proposes to degrade this priceless area of the California landscape. Both the Henry Miller Avenue alignment and the Highway 140 alignment bisect the GEA through its most vulnerable middle. Bisection of -- or routes immediately adjacent to -- the GEA will interfere with critical wildlife corridors, further aggravate the isolation of wildlife populations, interfere with waterfowl/waterbird nesting and breeding, and increase wildlife mortality and disturbance. The physical description of a typical track layout – with a 50- to 100-foot right-of-way (“comparable to a six-lane highway”), 8-foot chain-link fencing on both sides of the tracks, 26-foot tall catenary supports every 30 feet, and 12-foot to 16-foot soundwalls where proposed – would create a profound barrier.

There is very little recognition of the on-going conservation efforts in the EIR/S for this project, and no mention whatsoever of the largest category of conservation protection – USFWS conservation easements on private property. Due to the importance of the resources of the GEA -- and the amount of

public and private focus, energy, and funds that have been invested in its protection -- we strongly urge the HSRA to eliminate any high-speed train alignments that cross through or are adjacent to the GEA.

Thank you for considering these comments. Please feel free to contact me if you have any questions (209/826-3508).

Sincerely,



Kim Forrest
Wildlife Refuge Manager

Cc: Dan Walsworth, Refuge Supervisor; FWS/CNO
Susan Jones, Branch Chief; FWS/Endangered Species Program
Maryann Owens, Biologist; U. S. Fish and Wildlife Service
Julie Vance, Senior Environmental Scientist; California Department of Fish and Game
Bill Cook, Wildlife Habitat Supervisor II; California Department of Fish and Game
Malia Ortiz, District Conservationist; USDA/NRCS
Dr. Frederic Reid, Director of Conservation Planning; Ducks Unlimited, Inc.
Chris Hildebrandt, Regional Biologist; Ducks Unlimited, Inc.
Kim Delfino, California Program Director; Defenders of Wildlife
Jeremy Terhune, San Joaquin Valley Representative; Defenders of Wildlife
Sandi Matsumoto, Project Director; The Nature Conservancy
Dave Widell, General Manager; Grassland Water District
Pepper Snyder, President; Grassland Water District
Diana Westmorland Pedrozo, Executive Director; Merced County Farm Bureau
Rod Webster; Merced Sierra Club
Marsh Pitman/Ken Gosting; Transportation Involves Everyone



California Office

1303 J Street, Suite 270 | Sacramento, CA 95814 | tel 916.313.5800 | fax 916.313.5812
www.defenders.org

Mr. Dan Leavitt, Deputy Director
ATTN. San Jose to Merced
California High-Speed Rail Authority
925 L Street, Suite 1425
Sacramento, CA 95814

RE: Comments for San Jose to Merced Section High-Speed Train EIR/EIS Scoping Meeting

Dear Mr. Leavitt:

On behalf of Defenders of Wildlife and our 90,000 members and supporters in California, I am writing in order to provide our comments on the Project Level *Environmental Impact Report/Statement (EIR/EIS)* for the San Jose to Merced section of the proposed High-Speed Train system. We join the Fish and Wildlife Service Refuge Manager Kim Forrest in strongly urging the HSRA to eliminate any high-speed train alignments that cross through or adjacent to the GEA.

The Grasslands Ecological Area (GEA) is the largest block of contiguous wetlands remaining in California, and provides critical habitat to over 47 endangered, threatened, or candidate species under state or federal law. It also provides critical wintering habitat to over 20% of the Pacific Flyway waterfowl population.

We believe that the HSRA should eliminate any high-speed train alignments that cross through or adjacent to the GEA for the following reasons:

- The typical track layout will create a profound barrier that will further isolate wildlife populations, interfere with waterfowl/ waterbird nesting and breeding, and interrupt existing wildlife corridors.
- Noise, vibration and lighting from the high-speed rail will lead to avoidance by wildlife species and contribute to habitat fragmentation (DeSanto and Smith 1993).
- This corridor is important for Riparian brush rabbit, wood rat, W. yellow-billed cuckoo, neotropical migrants, ringtail (riparian habitat major). There is a need to maintain riparian species refugia above flood levels as part of the Recovery Plan for Upland Species of the San Joaquin Valley, USFWS 1998.
- Critical habitat is comprised of land officially designated by the USFWS to contain the primary constituent elements for a listed species. This habitat cannot be “adversely modified” in any way that would impact the survival or recovery potential of the species. Clearly running a HSR track and fencing the entirety of the alignment within critical habitat would constitute adverse modification.

National Headquarters

1130 17th Street, N.W.
Washington, D.C. 20036-4604
tel 202.682.9400 | fax 202.682.1331



California Office

1303 J Street, Suite 270 | Sacramento, CA 95814 | tel 916.313.5800 | fax 916.313.5812
www.defenders.org

While we support the concept of providing high speed rail transportation to California's growing population, the damage done to this area of the Diablo Range and the GEA does not justify the estimated 10 minute reduction in travel time resulting from the Pacheco Pass alignment.

Commuters from the San Francisco Bay Area are second only to Los Angeles regarding time spent being stuck in traffic. The HSRA should consider other options that consolidate transportation infrastructure within metropolitan areas, and alleviate traffic, such as the Altamont Pass alignment. Decreasing wear and tear on our highways and eliminating unnecessary expenses, rather than inducing sprawl by running the high-speed train through the GEA, is an option that may be mutually beneficial for HSRA and wildlife.

Defenders is in agreement with other agencies, environmental groups, and train-rider associations that an Altamont Pass alignment would maximize ridership potential while reducing negative social and environmental impacts across the San Joaquin valley.

The GEA is recognized nationally and internationally as an invaluable resource for up to 1 million waterfowl on an annual basis. Public and private constituencies have invested a tremendous amount of time, energy, and funding to protect this priceless area of California's landscape – and it is for this reason that we join the Fish and Wildlife Service Refuge Manager Kim Forrest in strongly urging the HSRA to eliminate any high-speed train alignments that cross through or adjacent to the GEA.

We appreciate the opportunity to provide comments on the EIR/EIS. Please keep me informed of any upcoming matters related to the High Speed Rail project.

Sincerely,

Jeremy Terhune
San Joaquin Valley Representative

National Headquarters

1130 17th Street, N.W.
Washington, D.C. 20036-4604
tel 202.682.9400 | fax 202.682.1331



March 19, 2009

Dan Levitt
Deputy Director
California High Speed Rail Authority
925 L Street Ste. 1425
Sacramento, CA 95814

RE: San Jose to Merced HST Project EIR/EIS

Dear Mr. Levitt:

Thank you for the opportunity to comment on the Notice of Preparation of an Environmental Impact Report/Environmental Impact Statement for the San Jose to Merced section of the proposed California High Speed Train System. The Council of San Benito County Governments has reviewed the Notice and has interest in the proposed alignment as it passes through northern San Benito County.

The alignment is in the area currently being studied by the South Santa Clara/San Benito County Mobility Partnership for improvements to State Route 152. The Mobility Partnership ad-hoc committee is composed of two San Benito COG Board members, two Valley Transportation Authority Board members and agency staff.

A map of the proposed State Route 152 Corridor Alignment Alternatives prepared by the Mobility Partnership is enclosed for your review. The Council of San Benito County Governments encourages the Authority to consider options for coordination with the Mobility Partnership to reduce right of way and environmental impacts of the two projects.

Again, thank you for the opportunity to comment. If you have any questions, please feel free to contact Mary Dinkuhn, Transportation Planning Manager at (831) 637-7665.

Sincerely,

A handwritten signature in blue ink, appearing to read "Anthony Botelho".

Anthony Botelho

Chair

Encl. 1

cc. David Murray, Caltrans, District 5

State Route 152

CORRIDOR ALIGNMENT ALTERNATIVES



Alternative Components	Length (miles)	Travel Time (minutes)	Probable Costs Range (millions)
No Build 1			
TOTAL	14.9	17	NA
Existing SR 152	11.9		
Existing US 101	3.0		
No Build 2			
TOTAL	15	16.5	NA
Existing SR 156	6.4		
Existing SR 25	8.6		
Alt A			
TOTAL	11.0	9.5	\$232 - \$284
Realigned SR 152	7.2		\$147 - \$180
Improved SR 25	3.8		\$85 - \$104
Alt D			
TOTAL	10.5	9	\$215 - \$263
Realigned SR 152	7.8		\$178 - \$218
Improved SR 25	1.9		\$37 - \$45

LEGEND

- Alternative A
- Alternative D
- Existing Roadways
- Waterway
- FEMA-Designated Floodplain Area
- Roadway Improvement with Frontage Road

Not to Scale



prepared by
HDR

MOBILITY PARTNERSHIP



Jerry Wilmoth
General Manager Network Infrastructure

February 23, 2009

California High-Speed Rail Authority
Attn: San Francisco to San Jose HST Project EIR/EIS
925 L Street, Suite 1425
Sacramento, CA 95814

Re: Union Pacific Railroad Scoping Comments For Joint EIR/EIS

Dear High-Speed Rail Authority,

Union Pacific Railroad Company submits the following comments in response to the High-Speed Rail Authority's (Authority) Notice of Preparation pursuant to CEQA dated January 8, 2009, concerning the Project Environmental Impact Report/Environmental Impact Statement for the San Francisco to San Jose segment of the high-speed train system (HSR). These comments also respond to the Notice of Intent pursuant to NEPA published by the Federal Railroad Administration in the Federal Register on December 29, 2008. Union Pacific understands that the Authority and the FRA will jointly prepare the EIR/EIS for this project.

Union Pacific Railroad Company (Union Pacific) is a Delaware corporation that owns and operates a common carrier railroad network in the western half of the United States, including the State of California. Specifically, Union Pacific owns and operates rail main lines connecting the San Francisco Bay Area to Sacramento and points east and north, and to Los Angeles and points east and southeast. Union Pacific is the largest rail carrier in California in terms of both mileage and train operations. Union Pacific's rail network in the Bay Area is vital to the economic health of California and the nation as a whole. Union Pacific's rail service to customers in the Bay Area is crucial to the future success and growth of those customers.

Union Pacific previously submitted comments on the Bay Area to Central Valley HST Program EIR/EIS by letter dated July 7, 2008, from Mr. Scott Moore to Mr. Quentin L. Kopp of the Authority's Board (copy attached). Union Pacific reaffirms these comments and hereby incorporates them within this letter. By letter dated May 13, 2008, to Mr. Mehdi Morshed, the Authority's Executive Director (copy attached), the undersigned stated that it was not in Union Pacific's best interests to permit any proposed high-speed rail alignment on our rights of way. This remains Union Pacific's position on this matter.

Union Pacific submits the following comments with reference to the scoping of the joint EIR/EIS for the San Francisco to San Jose segment of the light rail system.

- 1) Union Pacific formerly owned and operated the Caltrain (PCJFB) right of way between San Francisco and San Jose that is proposed for the HSR system. Union Pacific sold the right of way to PCJFB in 1991 and retained a permanent and exclusive easement for the operation of freight trains and for the delivery of common carrier rail service over the entire line. Union Pacific also retained all rights and obligations relating to intercity passenger service provided by Amtrak or any other operator, at Union Pacific's sole election, operating over this line (currently no Amtrak or intercity passenger service trains operate over this right of way except between San Jose and Santa Clara). Union Pacific's permanent easement for freight and Amtrak service over this line is a valuable property and operational right that must not be impaired by construction and operation of the HSR. The Authority must protect such rights and mitigate all adverse impacts to Union Pacific's satisfaction.

California High-Speed Rail Authority

February 23, 2009

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- 2) In addition to retention of the easement rights outlined above, Union Pacific entered into an operating contract with the PCJFB at the time of sale setting forth Union Pacific's rights with respect to freight services on the line. Union Pacific has notified the PCJFB that it expects the PCJFB to protect Union Pacific's rights under this contract in any arrangement that might be made with HSR. The Authority must be aware of and protect Union Pacific's rights under this contract as well. All adverse impacts must be mitigated to Union Pacific's satisfaction.
- 3) As a common carrier railroad, Union Pacific is subject to the requirements of federal law governing abandonment or discontinuance of freight operations. Specifically, the Interstate Commerce Commission Termination Act (49 USC §10501 et seq.) prohibits a railroad from abandoning or discontinuing freight services over main or branch lines of railroad without authority from the federal Surface Transportation Board (STB). In the sale of the PCJFB right of way, Union Pacific retained all common carrier freight service rights and obligations. Therefore, Union Pacific's operations over the San Francisco - San Jose line are subject to STB jurisdiction. Neither the PCJFB nor the Authority may take any action that effectively requires or causes Union Pacific to abandon or discontinue freight service unless prior authority from the STB has been obtained. Union Pacific will deem any attempt by HSR to interfere with Union Pacific's property and contract rights on the San Francisco to San Jose line as an attempt to force a de facto abandonment of freight service in violation of federal law.
- 4) Union Pacific currently operates freight trains over the PCJFB right of way from San Jose to the Quint St. lead in San Francisco. The Quint St. lead diverges from the main line immediately north of Tunnel 3, near Jerrold St. Union Pacific's right to operate freight trains over the PCJFB extends to the entire width of the right of way over all available trackage. Union Pacific freight operations must not be adversely impacted by construction or operation of the HSR. All significant impacts must be mitigated to Union Pacific's satisfaction.
- 5) Union Pacific currently serves the Port of San Francisco via the Quint St. lead track. The port has advised Union Pacific that it intends to continue existing rail freight services and to encourage future growth in rail freight to and from Piers 80-96. Union Pacific is informed and believes that the port intends to enter into arrangements with tenants and pier operators that will cause future growth in rail operations. Union Pacific has means of serving the port other than via the Quint St. lead. The Authority must not undertake any action that interferes with freight operations via the tunnels and the Quint St. lead without mitigation of all significant impacts and prior approval from Union Pacific and the port.
- 6) Union Pacific currently serves a number of customers at or near the Port of Redwood City via the Redwood Jct. lead track. These customers, including Granite Rock and the port, have advised Union Pacific that they intend to continue all existing rail freight services and likely will demand additional freight services in the future. Union Pacific has no means of serving the port and the adjacent customers except via the PCJFB main line and the Redwood Jct. lead track. The Authority must not undertake any action that interferes with operations via this lead track without prior approval from Union Pacific, the port and the customers at this location.
- 7) Union Pacific currently serves a number of customers at other locations on the PCJFB San Francisco to San Jose line, including Granite Rock at South San Francisco. The existing yard at South San Francisco is crucial to Union Pacific's ability to provide

February 23, 2009

- freight service to the Port of San Francisco and to Granite Rock and other customers adjacent to the yard. The Authority must not undertake any action that interferes with
- 8) operations at the yard and adjoining trackage without prior approval from Union Pacific, the port and the customers at this location.
 - 9) Union Pacific owns and has primary operating rights on Main Track No. 1 between Santa Clara (CP Coast) and Diridon Station (San Jose). This track currently is shared with Amtrak's Capitol Corridor and Coast Starlight services and with Altamont Commuter Express's Stockton - San Jose commuter service. Union Pacific's rights to this track are crucial to continued operation of these passenger services. Use of this track also is crucial to freight service on the line to San Francisco. Further, these rights support continued operation of freight service on the main line south of San Jose to Los Angeles. The Authority must not undertake any action that interferes with Union Pacific's ownership and operation of Main Track No. 1 without prior approval from Union Pacific and the commuter agencies identified above. All adverse impacts must be mitigated to Union Pacific's satisfaction.
 - 10) PCJPB owns the right of way south of Diridon Station to a point called Lick (approximately three miles south of the station). Union Pacific's rights with regard to Main Track No. 1 extend southward to Lick. All comments in (8) above are applicable to the Diridon - Lick portion.
 - 11) Union Pacific has complete ownership of and control over the railroad right of way from Lick to Gilroy (and southward to San Luis Obispo and Los Angeles (Moorpark)). The PCJPB and the Santa Clara Valley Transportation Authority have a contract right to operate up to ten commuter trains to and from Gilroy over Union Pacific's right of way. Neither agency has any ownership rights in this line and no contractual rights to allow third parties to use this line. Union Pacific has no intention of allowing or permitting the Authority to build or operate the HSR within Union Pacific's right of way southward of Lick. The Authority should take this into account as part of the EIR/EIS for the San Francisco - San Jose segment.
 - 12) The Authority must study the following matters as part of the EIR/EIS and all necessary mitigation measures must be implemented:
 - (i) Slow speed freight trains and high-speed trains are incompatible on the same tracks at any time, including cross-overs. Union Pacific requires overhead clearance of 23 feet 6 inches, which is higher than the Authority contemplates for its electrical system. The Authority must provide grade-separated cross-overs for freight trains at necessary locations. The Authority must not contemplate operation of freight trains on any HSR trackage at any time (and vice-versa). If necessary, completely separate freight trackage must be provided. HSR must comply with all applicable FRA regulations.
 - (ii) Mitigation measures for the HSR may include construction of new freight trackage for Union Pacific. Such trackage must meet Union Pacific's construction and operation standards, and must be compliant with FRA and California Public Utilities Commission applicable standards.
 - 13) The construction and operation of HSR in the San Francisco to San Jose right of way must not cause increased operating costs or operating inefficiencies for Union Pacific. The Authority must assume Union Pacific's liability exposure and risk arising from current and future freight operations in the same corridor as the HSR. The Authority should fully study means to indemnify and insure Union Pacific against all such liability or risk, including liability to HSR patrons.

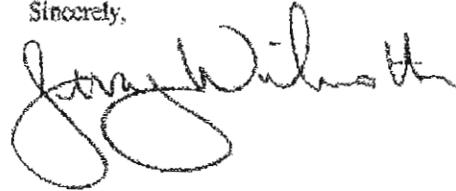
California High-Speed Rail Authority
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February 23, 2009

Union Pacific is confident that its concerns listed herein will be fully addressed and mitigated by the Authority and FRA during the EIR/EIS process. Union Pacific is willing to meet with the Authority and FRA to discuss its concerns about high-speed rail operation and to better understand the Authority's intentions regarding use of Union Pacific rights of way. Following such meeting, Union Pacific will be glad to consider all future requests by the Authority for information, construction standards and mapping data.

Please direct all requests and correspondence to the undersigned.

Sincerely,



Enclosures (2)



Scott D. Moore
Vice President Public Affairs

July 7, 2008

Mr. Quentin L. Kopp
Chairperson
California High-Speed Rail Authority Board
925 L Street, Suite 1425
Sacramento, CA 95814

Re: Firval Bay Area to Central Valley HST Program EIR/EIS

Dear Chairperson Kopp:

Union Pacific Railroad Company (UPRR) appreciates the opportunity to provide the following comments to the High-Speed Rail Board with respect to the above-referenced EIR/EIS.

UPRR wishes to emphasize that we are not opposed to the concept of high-speed rail nor would we oppose implementation of the project should the voters approve the bond issue in November. Our concern is that the project should not be designed to utilize or occupy any of our rights of way. Our rights of way are limited in width and are fully dedicated to freight service, and, in some instances, to commuter passenger trains. UPRR simply cannot meet the future freight transportation needs of California if our right of way is taken away for high-speed rail.

To respond to the specific corridors proposals for high-speed rail, UPRR points out that our San Jose to Gilroy right of way is very narrow by railroad standards – primarily 60-feet or less – and is bounded on one side by a major arterial highway. We could not give up a 50-foot exclusive width right of way to high-speed rail and remain in business.

Even though our right of way is wider (primarily 100-feet) along most of the Central Valley line, a loss of 50 feet would render future freight rail expansion impossible. As fuel prices rise and the nation becomes more concerned with the environmental effects of transportation, we need the ability to expand our infrastructure, perhaps substantially. In addition, we serve numerous industries on both sides of our track. High-speed rail would cut off, forever, our ability to expand capacity in the Central Valley, leaving California with only highway alternatives. It also would disrupt existing rail-served businesses and prevent new rail-served industries from locating on one or both sides of our rail line. This is not a wise transportation decision for the State.

Regarding Caltrain's San Francisco - San Jose corridor, UPRR does not own the right of way but has a freight easement over Caltrain's tracks. Our freight operations already are restricted to avoid delaying Caltrain's commuter trains. Imposing two exclusive high-speed rail tracks on a 50-foot right of way effectively will end our ability to provide freight service to customers on this corridor, including the Port of San Francisco. We will have the same concerns between Sylmar and Los Angeles, where Metrolink's commuter line right of way is designated for high-speed rail service.

An effective and efficient freight rail network is vital to California's economic future. Policy makers such as the high-speed rail board should not jeopardize UPRR's ability to provide such freight service by assuming that high-speed rail will have no impact. UPRR urges the board to carefully consider corridor routes that do not utilize our rights of way.

Sincerely,



Scott D. Moore

cc: Mehdi Morshed, California High-Speed Rail Authority
Jerry Wilmoth, Union Pacific Railroad
Wesley Lujan, Union Pacific Railroad



May 13, 2008

Mr. Mehdi Morshed
Executive Director
California High Speed Rail Authority
925 L Street, Suite 1425
Sacramento, California 95814

Re: California High Speed Rail Route

Dear Mr. Morshed:

Reference is made to our meeting of May 9, 2008, to discuss the current status of the California high-speed rail initiative and its possible impacts on Union Pacific Railroad.

It was a very informative meeting to hear the efforts you are undertaking as the high-speed train bond measure is being prepared for the November, 2008 ballot.

After hearing your plans regarding the proposed routing for this service, Union Pacific feels it is important for the California High Speed Rail Authority (CHSA) to once again understand Union Pacific's position as related to potential alignments along Union Pacific corridors. Union Pacific has carefully evaluated CHSA's project and for the variety of reasons we discussed during our meeting, does not feel it is Union Pacific's best interest to have any proposed alignment located on Union Pacific rights-of way. Therefore, as your project moves forward with its final design, it is our request you do so in such a way as to not require the use of Union Pacific operating rights-of-way or interfere with Union Pacific operations. The State of California and the nation need railroads to retain their future ability to meet growing demand for rail cargo transportation, or that cargo will be in trucks on the highways.

Should you have any questions or comments, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Perry Wilmoth".

Cc: Scott Moore - UP
Wesley Lujan - UP

Perry Wilmoth
General Manager Network Infrastructure

UNION PACIFIC RAILROAD
10031 Foothills Blvd., Roseville, CA 95747
ph (916) 709-6360 fx (916) 789-6171



March 13, 2009

California High-Speed Rail Authority
Attn: San Francisco to San Jose HST Project EIR/EIS
925 L Street, Suite 1425
Sacramento, CA 95814

Re: Amendment to Union Pacific Railroad Scoping Comments for San Francisco to San Jose Joint EIR/EIS

Dear High-Speed Rail Authority:

Union Pacific Railroad Company submitted its written comments in response to the High-Speed Rail Authority's Notice of Preparation and Notice of Intent by letter dated February 20, 2009. We have become aware that one of our comments reads incorrectly due to a dropped word. The purpose of this amendment letter is to correct that inadvertent mistake.

Accordingly, the third sentence of section (5) on page two is corrected to read:

"Union Pacific has no means of serving the port other than the Quint St. lead"

Union Pacific presently serves the Port of San Francisco via the Quint Street lead off the PCJPB main line. This is the only track serving the port. There is no alternate route available.

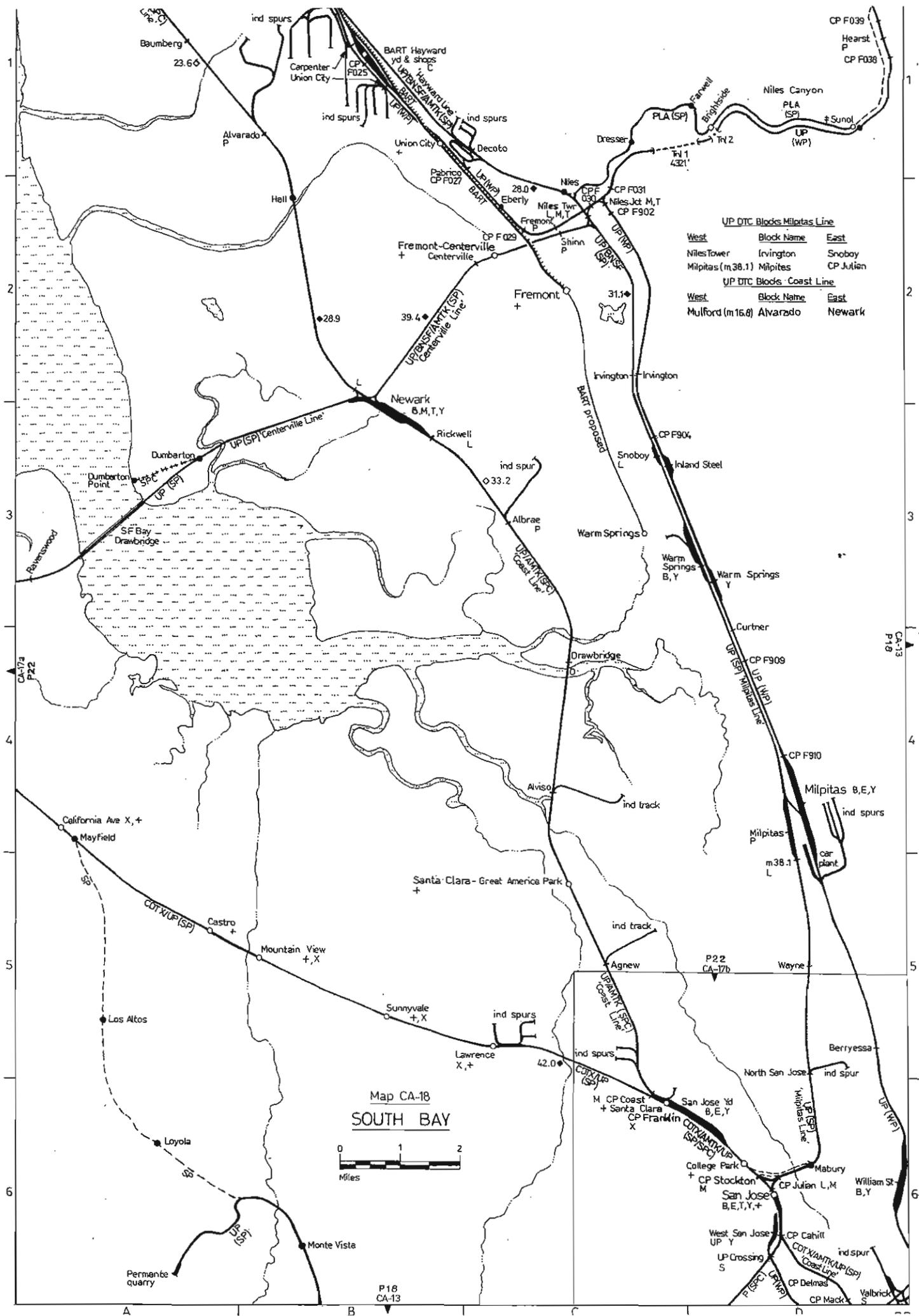
Please incorporate this letter into the scoping comments for the above-referenced EIR/EIS.

Sincerely,

A handwritten signature in black ink, appearing to read "Jerry Wilmoth".

Jerry Wilmoth
General Manager Network Infrastructure

UNION PACIFIC RAILROAD
10751 Foothills Blvd., Roseville, CA 95747
ph. (916) 755-8260 Ex. 910 789-617



UP DTC Blocks Milpitas Line

West	Block Name	East
Niles Tower	Irvington	Snoboy
Milpitas (m.38.1)	Milpites	CP Julian

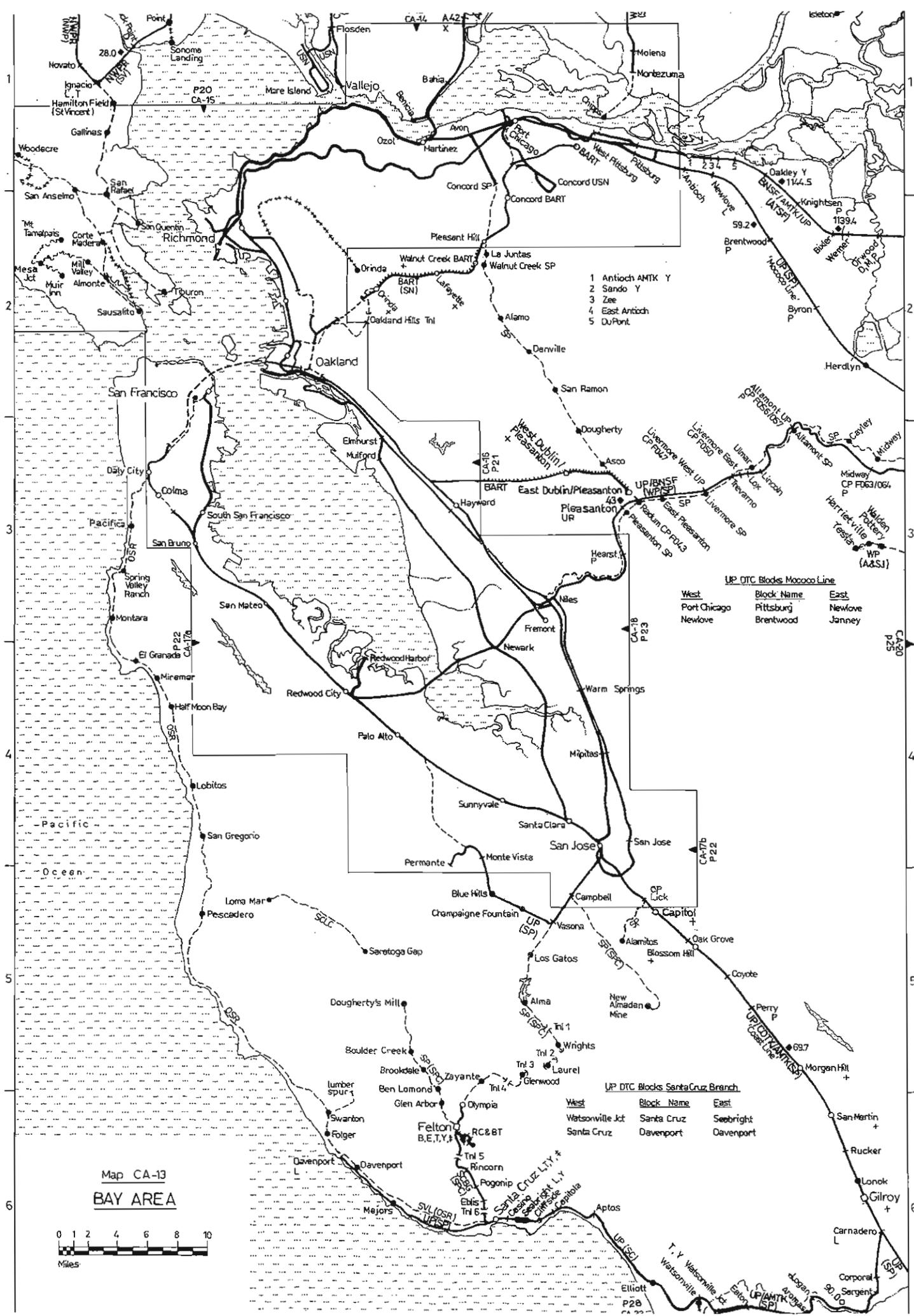
UP DTC Blocks Coast Line

West	Block Name	East
Mulford (m.16.8)	Alvarado	Newark

Map CA-18
SOUTH BAY



P.18
CA-13



- 1 Antioch AMTK Y
- 2 Sando Y
- 3 Zeo
- 4 East Antioch
- 5 DuPont

UP DTC Blocks Moroco Line

West	Block Name	East
Port Chicago	Pittsburg	Newlove
Newlove	Brentwood	Janney

UP DTC Blocks Santa Cruz Branch

West	Block Name	East
Watsonville Jct	Santa Cruz	Seabright
Santa Cruz	Davenport	Davenport

Map CA-13
BAY AREA





Reason

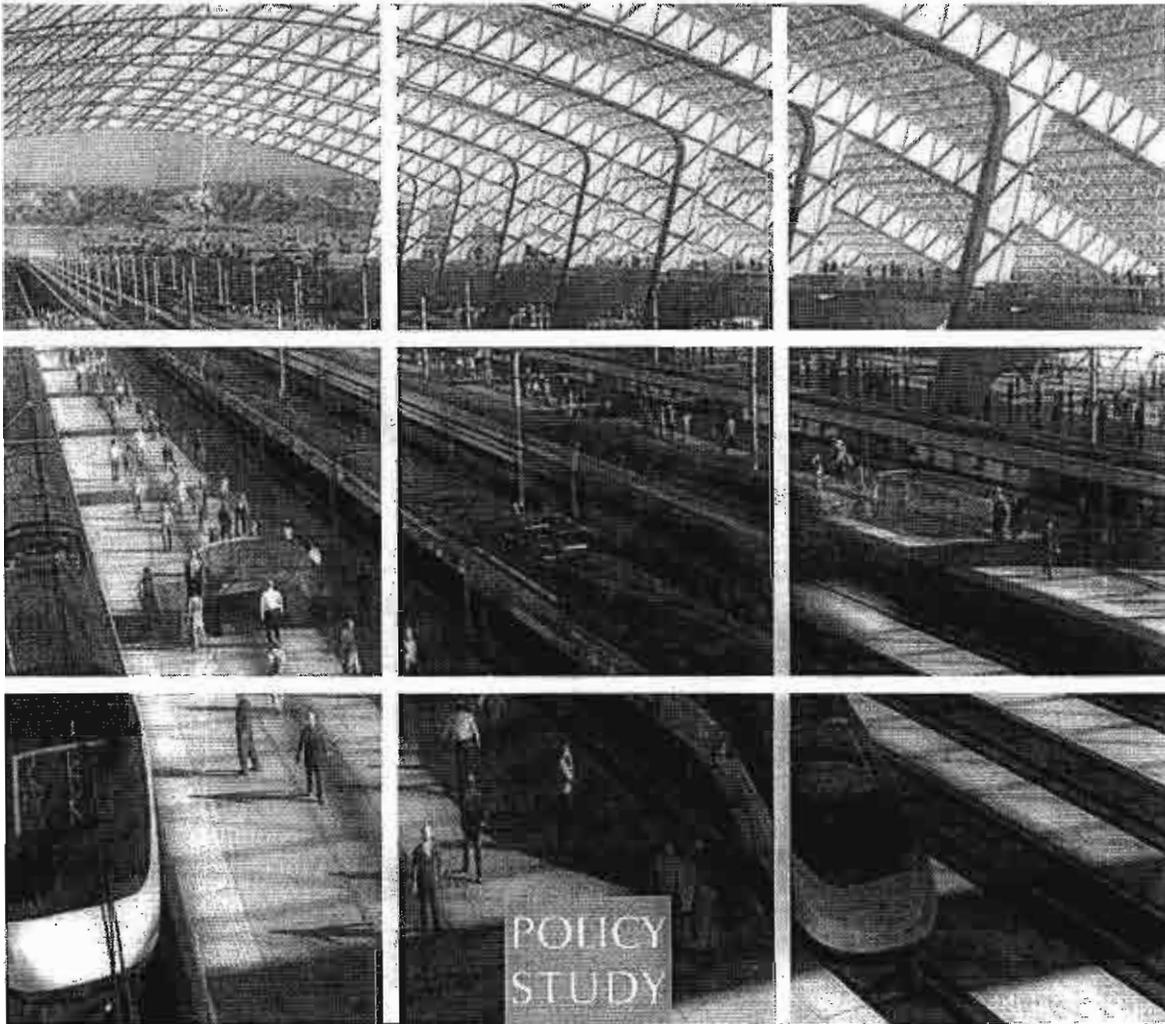


20 YEARS
1970-2008
Howard Jarvis
Taxpayers Association
www.hjta.org

September 2008

THE CALIFORNIA HIGH SPEED RAIL PROPOSAL: A DUE DILIGENCE REPORT

By Wendell Cox and Joseph Vranich
Project Director: Adrian T. Moore, Ph.D.



POLICY
STUDY
370

* Entire 194 page Reason
Report follows on
original. Did not
scan - km



March 17, 2009

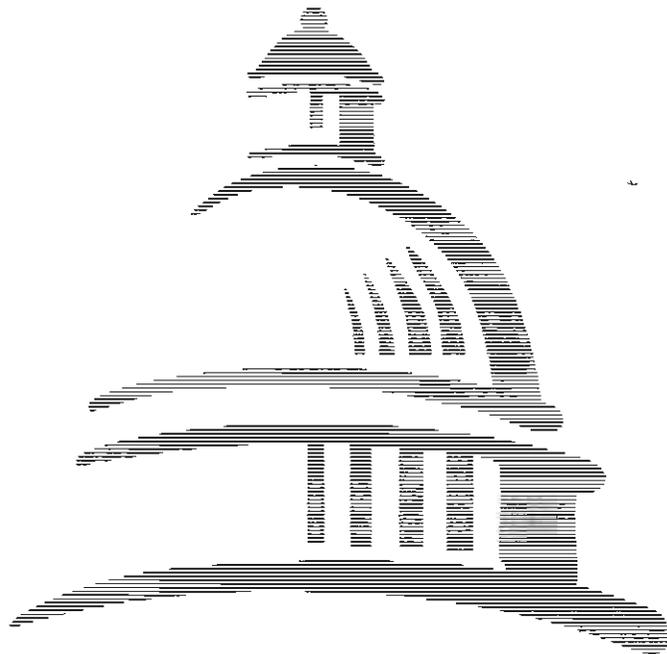
The High-Speed Rail Authority

LEGISLATIVE ANALYST'S OFFICE

Presented to:

Senate Transportation and Housing Committee

Hon. Alan Lowenthal, Chair





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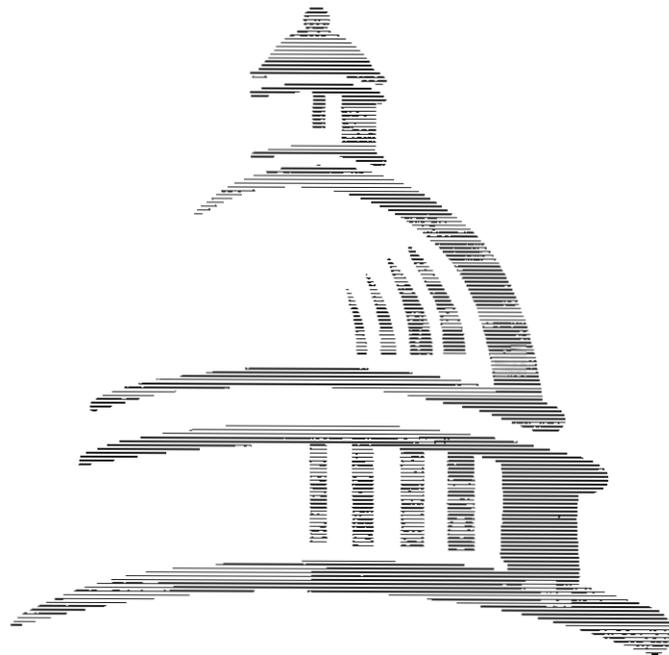
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CALIFORNIA STATE LANDS COMMISSION

100 Howe Avenue, Suite 100-South
Sacramento, CA 95825-8202



PAUL D. THAYER, *Executive Officer*
(916) 574-1800 FAX (916) 574-1810
Relay Service From TDD Phone 1-800-735-2929
from Voice Phone 1-800-735-2922



March 25, 2009

Contact Phone: (916) 574-1900
Contact FAX: (916) 574-1885

File Ref: SCH# 2009022083

Mehdi Morshe
Executive Director
California High-Speed Rail Authority
925 L Street, Suite 1425
Sacramento, CA 95814

Subject: San Jose to Merced High Speed Rail Environmental Impact Report (EIR)/Environmental Impact Statement (EIS) Notice of Preparation (NOP)

Dear Mr. Morshe:

Staff of the California State Lands Commission (CSLC) has reviewed the above referenced document and offers the following comments on the San Jose to Merced High Speed Rail EIR/EIS NOP. Under the California Environmental Quality Act (CEQA), the California High-Speed Rail Authority is the lead agency and the CSLC is a possible Trustee Agency and/or Responsible Agency for this project.

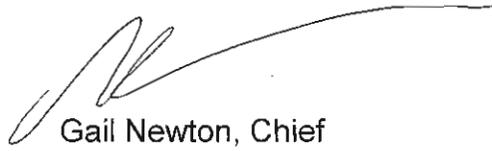
The State of California acquired sovereign ownership of all tidelands and submerged lands and beds of navigable waterways upon its admission to the United States in 1850. The State holds these lands for the benefit of all people of the State for statewide Public Trust purposes, which include waterborne commerce, navigation, fisheries, water-related recreation, habitat preservation and open space. The boundaries of these State-owned lands generally are based upon the last naturally occurring location of the ordinary high or low water marks prior to artificial influences. On tidal waterways, the State's sovereign fee ownership extends landward to the Ordinary High Water Mark as it last naturally existed. On navigable non-tidal waterways, the State holds fee ownership of the bed landward to the ordinary low water mark and a Public Trust easement landward to the ordinary high water mark, as they last naturally existed. Such boundaries may not be readily apparent from present day site inspections. The State's sovereign interests are under the jurisdiction of the CSLC.

There may be numerous locations on the proposed high speed train corridor between San Jose and Merced where the project may encroach onto or over state sovereign lands. A lease will be required for the use of sovereign lands for any portion of the project that encroaches onto State sovereign lands. As the project Draft EIR/EIS is prepared and released, CSLC staff requests that the project proponent submit a copy

of the draft for our comments so that we may identify the areas in the proposed corridor and alternatives that may be under the jurisdiction of the CSLC.

If you have any jurisdictional questions, please contact Mary Hays, at (916) 574-1812 or by e-mail at haysm@slc.ca.gov. If you have any questions on the environmental review, please contact Mary Ann Hadden at (916) 574-2274 or by e-mail at haddenm@slc.ca.gov.

Sincerely,

A handwritten signature in black ink, appearing to read 'Gail Newton', with a long horizontal flourish extending to the right.

Gail Newton, Chief
Division of Environmental Planning and
Management

cc: Office of Planning and Research - State Clearinghouse
Mary Hays, CSLC
Mary Ann Hadden, CSLC



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Morgan Hill, CA 95037-4128
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FAX: 408-779-3117
www.morganhill.ca.gov

STEVE TATE
Mayor

March 25, 2009



Mr. Dan Leavitt, Deputy Director
California High Speed Rail Authority
925 L Street, Suite 1425
Sacramento, CA 95814

Subject: Notice of Preparation for the San Jose to Merced Section High-Speed Train Project
EIR/EIS

Dear Mr. Leavitt,

Thank you for the opportunity to comment on the California High-Speed Rail Authority's Notice of Preparation (NOP) and the Federal Railroad Administration's Notice of Intent for a Project EIR/EIS for the San Jose to Merced section of the HST system. Our City Council reviewed the document at its meeting of March 18, 2008. According to the NOP, the selected alignment for the San Jose to Merced section generally follows the Caltrain/Union Pacific Railroad corridor from San Jose to Gilroy. The NOP indicates that further engineering studies will be undertaken as part of this EIR/EIS process that will examine design options along the Caltrain/UPRR corridor and possible use of portions of parallel transportation corridors. The City recommends the EIR/EIS process include design options for an alignment through Morgan Hill along US Highway 101. The City believes this should be the preferred alignment in the EIR/EIS document. The existing UPRR rail corridor is constrained in several areas by existing development and the elevated/graded separated HST tracks and parallel security fencing will have an adverse effect by creating a barrier or divide within our community.

In addition to the environmental impact areas identified in the NOP, the EIR/EIS should evaluate the visual and aesthetic impact of the elevated HST tracks and the potential of flood inundation due to the failure of nearby Anderson Reservoir Dam. The reservoir, located east of Morgan Hill, is owned and maintained by the Santa Clara Valley Water District. The District is currently conducting a seismic safety evaluation of Anderson Dam.

Sincerely,

Steve Tate
Mayor

c: Morgan Hill Council Members
Ed Tewes, City Manager



April 1, 2009

Mr. Dan Leavitt
Deputy Director
ATTN: San Jose to Merced HST Project EIR/EIS
California High Speed Rail Authority
925 L Street, Suite 1425
Sacramento, CA 95814

Subject: Scoping Comments on San Jose to Merced EIS/EIR

Dear Mr. Leavitt:

VTA welcomes the opportunity to provide input on the EIS/EIR scoping process for the San Jose Diridon Station to San Francisco portion of the High-Speed Rail (HSR) project. We will be submitting a second set of comments for the portion of the project between San Jose Diridon Station and San Francisco.

VTA has long supported the HSR project and has advocated for the Pacheco Pass alignment, which was selected through the program level EIS/EIR. We are pleased that Proposition 1A was passed by California voters in November 2008, which allows work to begin on this next phase of the project. As a member of the Peninsula Corridor Joint Powers Board, we look forward to working collaboratively with your agency through the joint work effort recently defined in the Memorandum of Understanding (MOU) negotiated with Samtrans staff. The specific comments we would like the EIS/EIR to address are in several different topical areas:

Scope of the EIS/EIR Effort

As part of the scoping effort currently underway for the HSR project, there is a need to establish project assumptions regarding how the HSR project relates to other efforts taking place in the Caltrain corridor. Further, it would be helpful to define project objectives for an interim period of operations when HSR service will exist in the Caltrain corridor but not be connected to a larger statewide network. Given the phased nature of the project, it may be necessary to define an "opening day" project and a "horizon year" project that have very different service profiles and thus different environmental impacts.

If Caltrain electrification and modernization improvements (delineated in the Caltrain 2015 Plan) are constructed as a part of the same project effort, is this all one engineering and environmental scope that covers all HSR and Caltrain improvements in the Peninsula Corridor, or are there separate engineering and environmental efforts in the Corridor that will occur simultaneously? How are the two separate projects (or individual project elements) phased? For example, Caltrain is close to completing a federal environmental document for Caltrain electrification that is being reviewed by the Federal Transit Administration (FTA). How will this environmental work be integrated with the HSR process being reviewed at the federal level by Federal Railroad Administration (FRA)? Is the modernized Caltrain assumed in the “No Build” condition, or is it a component of a unified project? Will the impacts of increased ridership at the Diridon Station be attributed to a unified project, or will they be distributed between the two project elements? How will the HSR project address the impacts of a storage yard if equipment is shared with Caltrain? Will a separate storage yard be needed?

Process to Select a Preferred Alternative

The EIS/EIR is analyzing two “major” alternatives, No-Build and HSR in the Corridor, but within the HSR Alternatives there are a host of decisions that will be made on Corridor operations, the profile throughout the Corridor and the level of mitigation in the Corridor. How will decisions on these issues be made? For example, will mitigations be strictly to satisfy environmental requirements, or will there be opportunities to provide enhancements or modifications beyond the environmental impacts? Several communities in Santa Clara County have expressed concern regarding the urban design impacts of the project, and a process engaging local communities and transportation agencies should be established to make these decisions before the formal process of submitting comments to a Draft EIS/EIR begins. An intermediary series of steps would go a long way to allaying community concerns on local design issues. VTA is prepared to offer our own resources and pre-existing citizen and policy advisory committee structure as a means of communicating with Santa Clara County as a whole.

Impacts on VTA Facilities

VTA has facilities that are in proximity and may be impacted by the HSR project. These include:

- a. Gilroy Transit Center and Park and Ride Lot
- b. San Martin Caltrain Station and Park and Ride Lot
- c. Morgan Hill Caltrain Station and Park and Ride Lot
- d. Blossom Hill Caltrain Station and Park and Ride Lot
- e. Capitol Caltrain station and Park and Ride Lot
- f. Tamien Station, VTA-owned childcare facility, and VTA-owned developable land.

The EIS/EIR should address any impacts to these facilities.

Impacts on VTA Projects in Development Phase

VTA has two projects in development that may be impacted by the HSR project:

- a. Blossom Hill Pedestrian Crossing – Project in final engineering will span the Caltrain/UPRR tracks and Monterey Highway, south of the Blossom Hill Road overpass.
- b. Route 152 Realignment – Project in planning phase that is assessing new alignments of State Route 152 in close proximity to the proposed HSR alignment through the Pacheco Pass area.

The EIS/EIR should acknowledge these projects and the engineering efforts of these projects and HSR should be coordinated.

Gilroy Station

The Gilroy Station will serve as a transfer point for express and local bus service, Caltrain commuter service and potentially a commuter rail extension to Salinas. The station design should take this into account.

HSR passenger projections imply the need for a great deal of access needs for passengers boarding and deboarding at HSR stations. The EIS/EIR needs to detail the assumed background level of local transit services and automobile access requirements and assess the impact of these assumptions on local transit providers and the street and roadway system.

Impacts to Local Road Network from Grade Separations

As the countywide transportation planning agency VTA has a role working with local cities and Caltrans, in planning and funding the local road network. The HSR project will be totally grade separated from streets and roads that now cross the corridor at-grade. The EIS/EIR should address changes to traffic operations that may occur.

Urban Design Element

The HSR project will change the profile of large portions of the entire corridor and potentially increase the width of the Corridor in various locations. The EIS/EIR effort should include an urban design element that will look at options of how the Corridor will fit into developed areas in southern Santa Clara County and southern San Jose.

Mr. Dan Leavitt
April 1, 2009
Page 4 of 4

Construction Impacts

The EIS/EIR, in addition to looking at the physical impacts of construction, should consider how transit will operate in the Corridor during construction. If Caltrain service is limited for a period of time, other operators may be called upon to provide bus bridge services and existing shuttle and transfer arrangements may be disrupted. The EIS/EIR will need to consider transit alternatives during the construction period.

Sincerely,

A handwritten signature in blue ink, appearing to read "Michael T. Burns", is placed over a light yellow rectangular background.

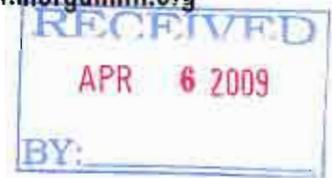
Michael T. Burns
General Manager



MORGAN HILL CHAMBER OF COMMERCE

90 E. Second St., Morgan Hill, CA 95037 • P.O. Box 786 Morgan Hill, CA 95038 • www.morganhill.org

Mr. Dan Leavitt
Deputy Director
California High Speed Rail Authority
925 L Street, Suite 1425
Sacramento, CA 95814



March 26, 2009

Subject: Notice of preparation for the San Jose to Merced Section High-Speed Train Project.

Dear Mr. Leavitt

Thank you for the opportunity to comment on the California High Speed Train, project EIR/EIS. While acknowledging the High Speed Train will be a large economic benefit to our community and region, and supporting the expansion of mass transit opportunities; The Morgan Hill Chamber of Commerce considers the location along side the Union Pacific tracks to be divisive to our city.

The Union Pacific tracks go through the center of our town, very close to businesses and homes. We believe because of the necessary security fencing and or sound walls this proposed High Speed train requires, it will create a divide in our community that will be destructive to both our visual aesthetics and the practicality of the city layout. Significant efforts and funds have recently been expended to develop a vital downtown for Morgan Hill. Some projects are just being completed with many more planned in the next few years. Current plans call for over 800 homes in the down town area with many of these being very close to your proposed route. The City is already struggling with long range plans to eliminate the two remaining downtown at-grade train crossings which would be made even more difficult when having to deal with potential disruptions to your lines during construction of underpasses.

Having the track run along the 101 corridor would make so much more sense, since the train will not be stopping in Morgan Hill. We support the recommendation of the Morgan Hill City Council in the placement of the route on or about the 101 corridor.

Sincerely,



Christine Giusiana, President/CEO



Christopher Bryant, Chair of EDC
Immediate Past Board Chair

Law Offices of
Stuart M. Flashman
5626 Ocean View Drive
Oakland, CA 94618-1533
(510) 652-5373 (voice & FAX)
e-mail: stufash@aol.com

April 3, 2009

Mr. Dan Leavitt, Deputy Executive
Director
California High-Speed Rail Authority
925 L Street, Suite 1425.
Sacramento, CA 95814

RE: Scoping Comments of Project-level EIR and EIS for San Francisco to San Jose
and San Jose to Merced segments of California High Speed Train Project.

Dear Mr. Leavitt,

I am writing on behalf of the Planning and Conservation League, the California Rail Foundation, the Bay Rail Alliance and the Transportation Solutions Defense and Education Fund to comment on the scoping for the project-level Environmental Impact Report/Environmental Impact Studies ("EIR/Ss") for the two segments of the Bay Area to Central Valley High Speed Train Project, running from San Francisco to San Jose and from San Jose to Merced.

Obviously, to begin with, both these environmental studies are premised on the sufficiency of the environmental analysis contained in the previously-certified program-level EIR/EIS for this project. That certification is currently being challenged in litigation against the California High-Speed Rail Authority in Sacramento County Superior Court. If the court finds that the programmatic EIR/EIS (PEIR/S) was inadequate, the pending project-level analyses will need to either be suspended, or combined and expanded to address all of the issues that the programmatic level analysis purported to address. Specifically, consideration of alternative alignments, and particularly the Altamont Pass alignment, will need to be reconsidered, including an adequate analysis of any impacts which the court found were not adequately and accurately considered in the programmatic EIR/EIS.

Even assuming that the programmatic EIR/EIS survives the court challenge, there are issues that will need to be readdressed under Public Resources Code §21166 due to changes circumstances and new information arising since the certification of the programmatic EIR/EIS. A primary one among these is the issue of Union Pacific Railroad's (UP) right and need to use the Caltrain right-of-way between San Jose and San Francisco and its contractual right to control and/or restrict other uses of the right-of-way for intercity rail passenger service. Any plans for joint Caltrain/CHSRA use of the Caltrain right-of-way must address how this will be reconciled with UP's rights, and any impacts that would result from attempting to reconcile these potentially conflicting interests. In addition, the EIR/Ss need to address the expected need to purchase additional right-of way in the corridor if an accommodation with UP cannot be reached, including the impacts of property taking, displacing existing residents and businesses in the corridor, and destruction of mature trees along the right-of-way. If an accommodation with UP is reached allowing for joint use of right-of-way, the EIR/Ss must address the compatibility and public safety impacts that would be posed by such joint use of the right-of-way, and specifically the potential impacts to public safety that would be posed in the event of a freight train derailment. Most specifically, how would the Project protect against the potential of a high-speed train impacting upon a just-derailed freight train that obstructed or damaged the high-speed train track?

While the PEIR/S indicated that impacts on farmland and sensitive wetlands and wildlife habitat would be addressed in part through the purchase of replacement land or of restrictive covenants protecting land, it did not identify where such land would be located. At the project level, the EIR/Ss need to specify what replacement land will be

protected to mitigate the farmlands, wetlands, and wildlife habitat impacts of the project. The EIR/Ss also needs to analyze the relative values of the land that would be used in the project against the replacement land proposed for protection. Obviously, in order to avoid significant impacts, the values of the replacement land must be at least equal to those of the lands being lost. In particular, the land must be evaluated based on its geographic location and associated values, including value as recovery habitat for protected species and value as habitat in wildlife corridors.

Each EIR/S must also address in detail the project's potential impacts on nearby residents and businesses, including specifically visual, aesthetic, noise and vibration impacts. If mitigation measures such as sound barriers are proposed, the secondary impacts associated with those measures also need to be assessed, and specifically their visual and aesthetic impacts and impacts on community character and cohesion. Given that the proposed right-of-way runs through the hearts of many of the communities being traversed, the visual and community-dividing impacts of having an embankment-mounted trackway plus associated soundwalls must be considered significant and, in all likelihood, unavoidable. From that standpoint, alternatives that would avoid these impacts, including reopening the Altamont Pass alignment alternative, must be considered, especially because the PEIR/S failed to assess these impacts, leaving them for the project-level analysis.

Beyond this, if the DEIR/Ss identify any significant and unavoidable impacts not already disclosed by the prior PEIR/S, the alternatives analysis should be reopened to determine whether any of the previously-rejected alternatives, and most notably an alternative using the Altamont Pass alignment, could avoid the project's significant impacts. If so, the consideration of such alternatives needs to be reopened.

The PEIR/S indicated that it expected traffic and air quality impacts associated with station locations could be fully mitigated at the project level. Each of the current project EIR/Ss should therefore include identification of the specific proposed station locations and characteristics and analysis of the potential impacts, including noise, traffic, air quality, and land use impacts, that would be associated. Obviously, all impacts found to be potentially significant must be mitigated. Among the mitigation measures that should be considered in mitigating station location impacts are measures that would provide incentives for using public transit to reach the stations and disincentives to the use of private automobiles for station access. There obviously should be no free parking at the station, and parking should be priced to discourage the use of private autos to access the station. In addition, the Authority should strongly consider requiring the local jurisdiction to put in place parking restrictions in the area surrounding each station to reduce the potential for passengers leaving their cars parked on local streets near the station while they take the train. This is commonly done, for example, in the areas surrounding BART stations in the San Francisco Bay area.

The Authority has indicated it intends the entire high speed rail system to be "carbon neutral." Assuming the association is serious about this, it should consider in the system's carbon balance not only direct CO₂ production in powering the high-speed trains, but also CO₂ production by passengers and employees accessing stations. In that regard, the Authority should consider providing incentives to encourage transit providers to use carbon-neutral transit (e.g., electric-powered buses) for the additional public transit that will be required to serve the high-speed train stations.

A related consideration is that the high-speed train stations should be located to maximize the interactivity of the high-speed train system with local and regional transit providers. A prime example of this is using the Transbay Terminal in San Francisco. If, as has been suggested by Chairperson Quentin Kopp, the Authority is considering using the 4th Street Caltrain station as the San Francisco terminus for the high-speed train system, the Authority must consider the additional "carbon-cost" of using this site, rather than the more centrally located and transit-accessible Transbay Terminal as the terminus. In addition, the SF-SJ segment Project EIR/S must consider the legislative mandate for service to the Transbay Terminal contained in AB 3034 and whether a

project ending at the 4th Street station fails to meet the project's purpose and need, as expressed by the legislature.

While the prior PEIR/EIS did a program-level analysis of the project's growth-inducing impacts, that analysis needs to be revisited based on the more detailed information that will be available about the precise location of station sites. Again, if potentially significant adverse growth-inducing impacts are identified, appropriate mitigation should be proposed, including incentives to encourage higher-density development within walking distance of the stations and strongly discouraging additional low-density sprawl development within their commute-sheds. In addition, appropriate zoning controls, including minimum densities for areas near stations and open space protection for property susceptible to project-induced sprawl, should also be considered as a potential mitigation measure that would be need to be required of the local jurisdiction as a prior condition for the Authority's agreeing to locate and operate a station in that jurisdiction.

CONCLUSION

My clients continue to believe that the prior PEIR/EIS suffered from significant flaws that make it inappropriate to be used as a basis for project-level environmental review. The current litigation will determine whether the Authority will be allowed to continue to rely on that document. Even if the litigation does not invalidate that document, however, many of the issues involved still need to be revisited at the project level. We would hope that the Authority would take these comments seriously and address the concerns raised, so that further litigation and associated delay and expense are not necessary.

Most sincerely,



Stuart M. Flashman

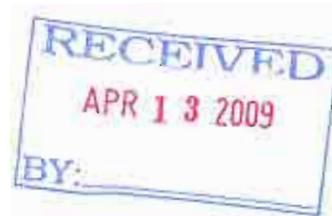
cc: David Valenstein (FRA)



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www.ci.chowchilla.ca.us

April 6, 2009

California High Speed Rail Authority
Honorable Chairman Judge Quentin L. Kopp
925 L Street, Suite 1425
Sacramento CA 95814



Dan Leavitt, Deputy Director
San Jose-Merced, California High Speed Rail Authority
925 L Street, Suite 1425
Sacramento CA 95814

Carrie Pourvahidi, Deputy Director
Merced to Bakersfield, California High Speed Rail Authority
925 L Street, Suite 1425
Sacramento CA 95814

**COMMENTS TO THE NOTICES OF PREPARATION FOR THE
CALIFORNIA HIGH SPEED RAIL PROJECT ENVIRONMENTAL
IMPACT REPORT, MERCED-BAKERSFIELD AND SAN JOSE-MERCED
HIGH SPEED TRAIN SYSTEM**

Dear Gentlepersons:

On behalf of the City Council and the staff of the City of Chowchilla we present the following comments on both Notices of Preparation for the Project Environmental Impact Report. We express our appreciation for the consideration that your staff provided us on March 19, 2009 by meeting with City of Chowchilla elected officials, planning commissioners, and staff. We departed from that meeting with a renewed sense of cooperation and the ability to make suggestions regarding less environmentally sensitive alternatives from our perspective having superior local knowledge of potential impacts. **We were further encouraged with the Authority consultant staff comments that the route shown in the NOP maps were "corridors" as opposed to specifically identified routes which were listed in the NOP as the "project description".**

The City of Chowchilla is particularly concerned with the initial alternatives adopted by the Authority as they physically isolate Chowchilla. Chowchilla is in the unique position of planning for the connection of the east-west and north-south fast train system within our Sphere of Influence. As such we will be potentially impacted by not just one route, but two routes traversing our City. Because of this unique design feature of your system we are concerned, as are the County of Madera and the Madera County Transportation Commission, about the impacts on our transportation system connectivity, existing and future land use patterns, and economic impacts to residential, industrial, commercial, and public facilities in our existing City and in this City's immediate growth areas.

We are vitally interested in the alternative recently circulated by CH2MHill in early April 2009 and the attention paid to the "Metro loop" concept also proposed as a regional solution to traffic congestion in the San Joaquin Valley. This alternative provides an opportunity for Chowchilla and the County to assist the Authority and its consultants in defining more precise routes with fewer potential impacts, in particular south of Highway 152 and using the BNSF right-of-way or CH2MHill's most recent alternative of a "western" alignment route.

It is equally encouraging that the Authority's staff is offering a continuing dialogue through the preparation of the environmental document with the local agencies to afford them an opportunity to add clarifications and refinements to their comments on the NOP past the close of the comment period. **The City of Chowchilla is supportive of the Authority's action to rapidly create and implement a "Coordination Plan" which allows communities with substantial interest in the proposed project to be at the table and have a continuing voice in the planning and implementation of the Fast Train.**

The specific issues that Chowchilla has with the NOP and feels needs further study in the Project Level EIR for the Fast Train are:

1. The alignment for the Gilroy to Merced segment that follows the Henry Miller Road, which becomes Avenue 24 through the Chowchilla area, has not considered the City of Chowchilla's General Plan nor the City's Infrastructure Master Plans and extends through lands that are developed or planned for urban development.
2. The proposed alignments compromise the community whereas alternate alignments can be considered which will have less impact on existing uses and still achieve the target travel time for the San Francisco to Los Angeles run. One such alignment may be south of Highway 152 in the Chowchilla area.

3. The proposed alignments create the Chowchilla Triangle encompassing the City and its General Plan Area and would become a barrier around the City with the fences required to protect the train rights-of-way.
4. The east-west alignment along Avenue 24 would split the two State Correctional Facilities that lie east of Highway 99. These prison sites are within the Chowchilla City Limits. An alignment to the south of Highway 152 would avoid the facilities.
5. Using the right-of-way or adjacent right-of-way to be acquired of the UPRR would decimate the Chowchilla Downtown and waste the resources the Chowchilla Redevelopment Agency has put into Downtown Revitalization.

Superior alternative alignments are available for consideration. The BNSF right-of-way alignment or an alignment south of Highway 152 is suggested on the attached map. This alternative alignment is south of Highway 152, misses Fairmead, crosses Highway 99 near the new interchange, misses the prisons, and provides an opportunity for a maintenance facility in several locations, one west of Highway 99 and another in the "triangle" formed by the northbound-southbound split.

A second alternative is a refinement of the CH2MHill alternative, except it moves the north-south alignment a little farther to the west to avoid substantial isolation of Chowchilla. This alignment also provides for additional maintenance facility locations west of Highway 99 and one north of Highway 152.

As surface rail access is important to the maintenance facility, both of these alternatives could be easily served from BNSF or UPRR. A common interest may be found between Chowchilla and the Authority in the maintenance facility north of Highway 152, west of Highway 99 in that Chowchilla is already planning to construct a railroad spur to serve its industrial area north of Highway 152 and west of Highway 99. Extending that spur along Highway 152 to the west is highly feasible. Proximity of the maintenance facility to an expanding industrial area can provide a highly accessible location for suppliers of the maintenance facility benefiting both Chowchilla and the City of Madera. Water and sewer service is readily available at this site within the timeframe that the maintenance facility would be constructed.

Both of these alternatives are superior to the proposed route in the NOP for a number of reasons. Growth in Chowchilla would not be overly impacted; planned regional and local circulation systems would not be compromised; it would be consistent with the San Joaquin Valley Blueprint; minimize the potential for encountering endangered species; generally consistent with the grasslands issues to the west; and avoids potential conflict with the Chowchilla Airport. These alternatives also promote the objectives of the Authority in that more surface alignments can be implemented reducing elevated and depressed construction; greater acceptance and cooperation by

affected local governments and stakeholders; sharing of cost by local governments (Chowchilla would share in the cost of surface rail access to the maintenance facility).

Given the limited time to prepare sufficient and comprehensive responses to the Notice of Preparation on such a significant project for the this City and the State of California, the City of Chowchilla is in the process of developing additional information regarding the positive impacts and minimizing potentially adverse impacts for consideration of these alternatives that we desire to share with the Authority and its environmental consultants. **We were pleased when the Authority's consulting staff informed us that they would gladly accept additional environmental information from Chowchilla after the closing of the NOP comment period. The City intends to take advantage of that offer to provide additional information.**

The City of Chowchilla stands ready to continue the dialogue with the Authority and its consultants on the preparation of the environmental documents at the project level as well as more thoroughly investigate alignment alternatives. Please feel free to contact me, or Nancy Red, City Administrator to schedule any meetings or obtain additional information regarding this very important project.

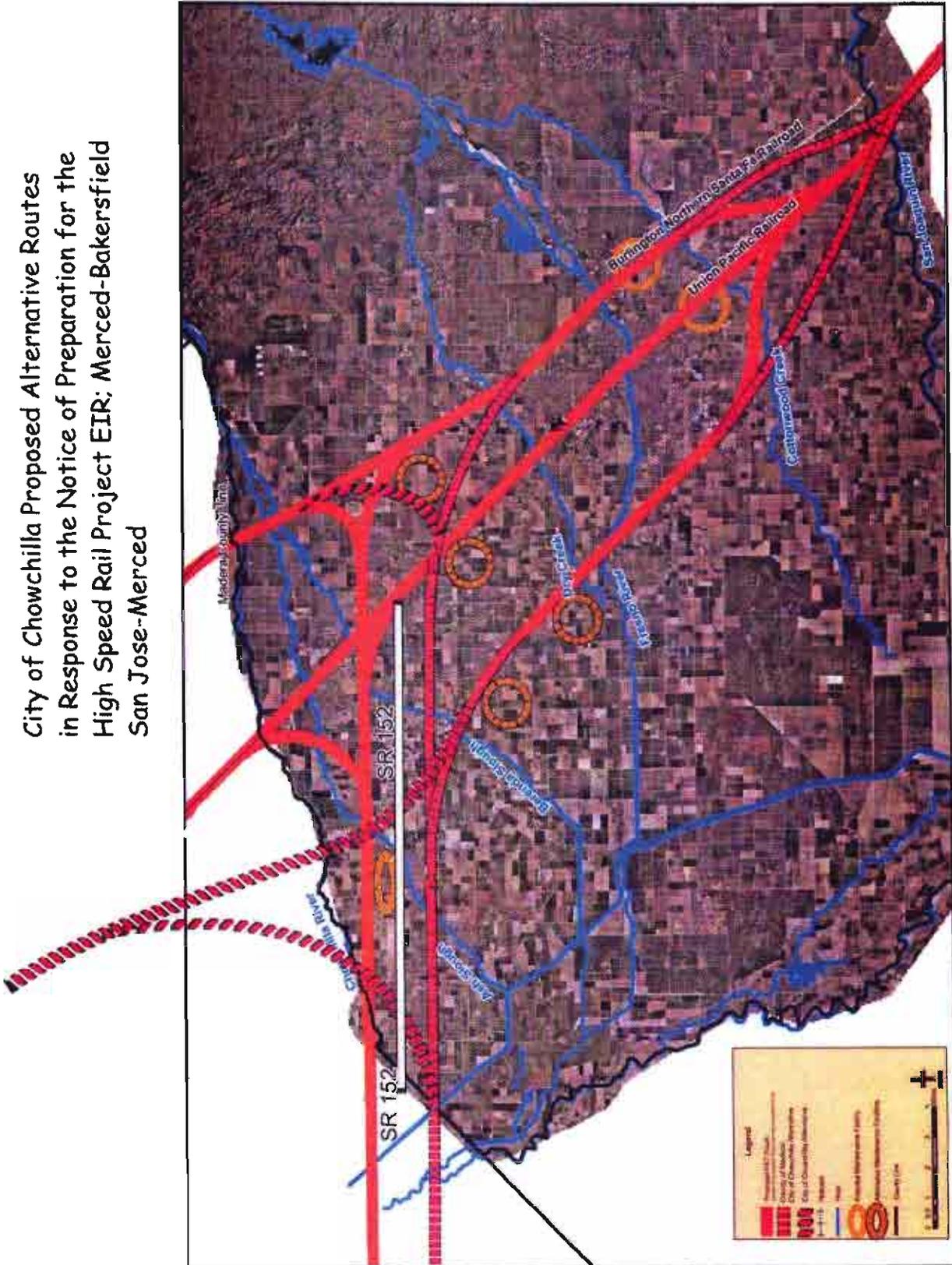
Sincerely,



Justin White, Mayor

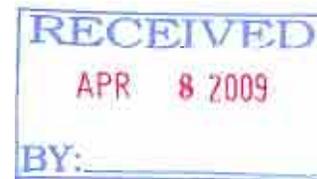
CC: City Council
City Administrator
City Attorney
City of Madera, Dave Merchen
County of Madera, Ray Beach
Assembly Tom Berryhill
Senator Jeff Denham
Senator Dave Cogdill

City of Chowchilla Proposed Alternative Routes
in Response to the Notice of Preparation for the
High Speed Rail Project EIR; Merced-Bakersfield
San Jose-Merced





City of Gilroy



COMMUNITY DEVELOPMENT DEPARTMENT

Planning Division (408) 846-0440; fax (408) 846-0429
Engineering Division (408) 846-0450; fax (408) 846-0429
Building, Life & Environmental Safety (408) 846-0430; fax (408) 846-0429
Housing & Community Development (408) 846-0290; fax (408) 846-0429

April 7, 2009

Dan Leavitt, Deputy Director
ATTN. San Jose to Merced
California High-Speed Rail Authority
925 L Street, Suite 1425
Sacramento, CA 95814

SUBJECT: California High-Speed Train – San Jose to Merced - Notice of Preparation

Dear Mr. Leavitt:

Thank you for including the City of Gilroy in the environmental review process for the High-Speed Train (HST) project. The Gilroy City Council has recommended that comments be forwarded to the California High Speed Rail Authority for review in the preparation of the Project Level EIR/EIS study for the California High-Speed Train (HST) system from San Jose to Merced

One of the main comments provided by the Gilroy City Council is that they favor an HST alignment through the City of Gilroy that follows the Union Pacific Railroad tracks and has an HST station at the Caltrain Station. We understand that there are many challenges and mitigations to meet this goal and the City would like to work with the Authority to make it happen.

We attended the San Jose to Merced Section High-Speed Train Project Level Environmental Impact Report/Statement Scoping meeting in Gilroy on March 26, 2009 and would like to present the following comments on the project scope.

Transportation Impacts (contact Don Dey at 408-846-0451)

The City of Gilroy has a concern about the potentially significant impact the project may have to traffic volume and congestion. In order to adequately address our concerns regarding the High Speed Train Project we recommend a specific project traffic impact analysis be prepared. The traffic impact analysis should include, but not be limited to the following:

- a. Information on the project's traffic impacts in terms of trip generation, distribution, and assignment for the train station in Gilroy. The assumptions and methodologies used in compiling this information needs to be documented.

- b. Current Average Daily Traffic (ADT) and AM and PM peak hour volumes on all significantly affected streets and intersections, highway segments and freeway ramps, for the Gilroy train station and all Gilroy train station alternatives analyzed.
- c. Schematic illustrations of traffic conditions for: 1) existing, 2) existing plus background traffic, 3) existing plus background traffic plus train station project, and cumulative impact for intersections in the train station and elevated grade crossing locations. The City of Gilroy has a documented traffic study procedure, development data base and traffic volume database for approved and proposed development and suggests that the Project utilize this information for the traffic analysis.
- d. Calculation of cumulative traffic volumes should consider all traffic-generating developments, both existing and future, that would affect the roadways being evaluated. The City of Gilroy General Plan generally identifies the Level of Service standard for intersections west of US 101 at LOS "C" and east of US 101 at LOS "D." City staff can provide clarifying information for the LOS standard requirement for the traffic study.

The Transportation Impact Analysis (TIA) for the EIR/EIS should include relevant segments of freeways, interchanges, State Highways, city roadways and intersections in the City of Gilroy. The freeway segments and intersections to be analyzed should be determined according to the VTA TIA guidelines and would include those meeting the following thresholds.

- Freeways: If the project is expected to add traffic equal to at least one percent of the freeway segments' capacity.
- Intersections: If the project is expected to add 10 or more peak hour vehicles per lane to any intersection movement. (It must be pointed out that due to high weekend retail traffic in Gilroy east of US 101, the weekend is the highest peak period and this is part of our regular studies)
- The traffic study must clearly identify the method of estimating the number of trips and the method of distributing project trips.

The EIR analysis should refer to recent efforts in Santa Clara County's South County area to study and address future roadway issues due to growth. The studies include the VTA South County Circulation Study and the VTA Southern Gateway Study. In addition, there is a project in design and environmental review for the US 101/SR 25/Santa Theresa interchange.

It is very important that the EIR completely study the existing, background, project and cumulative traffic conditions for the area and particularly their impacts on the City of Gilroy's Circulation system including freeway circulation.

Parking

- a. Provide clarification on how the parking analysis will be performed and how the parking needs generated by the project will be supplied.
- b. A detailed parking analysis must be prepared that identifies the existing parking conditions around the proposed HST train station and the project level demand for parking for the HST station and the location(s) where parking for the HST station will be

constructed. Reasonable walking distances must be assumed for the construction of new parking facilities so that residential neighborhoods are not impacted.

- c. A detailed pick-up / drop-off analysis must be performed for the HST station that identifies the traffic circulation in the station area and the project level demand for pick-up and drop-off for the HST station.
- d. Are there Taxi waiting areas at the HST station? How does Taxi service impact parking space needs and the pick-up drop-off area. Are there rental car facilities planned for the HST station? How does rental car service impact parking space needs and pick-up drop-off area.

High-Speed Train Alignment

The City of Gilroy favors the Authority's High-Speed Train alignment along the Union Pacific Railroad right-of-way which is an existing transportation corridor. This is the alignment proposed in the High-Speed Train statewide program environmental impact report/environmental impact statement (EIR/EIS).

- a. Analyze an HST alignment that assumes utilization of the current Union Pacific Railroad right of way through Gilroy to San Jose.
- b. Analyze an HST alignment that assumes utilization above the current Union Pacific Railroad right of way through Gilroy to San Jose (aerial alignment).
- c. Analyze an HST alignment that assumes utilization below the current Union Pacific Railroad right of way through Gilroy to San Jose (trench alignment).
- d. Analyze a trenched vertical alignment alternative through Gilroy for all railroad tracks – HST, Caltrain, Union Pacific. This is Gilroy's preferred design to keep the pedestrian integrity of the City's revitalized pedestrian orient downtown (see the attached illustrations).
- e. Analyze an HST alternative rail alignment through Pacheco Pass that follows the proposed (preferred) SR 152/SR 156 freeway alignment towards US 101.
- f. The preferred HST station in Gilroy is the Caltrain Station area. Analyze alternative station locations including 1) the east side of the UP tracks adjacent to the Caltrain Station, and 2) a HST station south of Tenth Street.

Construction Impacts

The City has a concern about the potentially significant impact the project may have during construction of the HST train station and elevated or trenched train tracks.

- a. The construction of a train station and trenched or elevated train tracks will cause traffic circulation problems during the construction phase. The construction phase needs to be reviewed in the environmental document and mitigation measures for handling traffic disruption identified.

- b. Noise and vibration issues are also a major concern for the Downtown area during construction. The construction impacts must be reviewed and mitigated.

Noise and Vibration Impacts

The City has a concern about the potentially significant impact the project may have to noise and vibration issues.

- a. The project-level EIR will have to address the impacts of noise and vibrations to existing buildings and residences in Gilroy, and will have to mitigate noise levels to meet Gilroy's noise standards. In addition, special studies may be required to determine that impact of the trains' vibrations on unreinforced masonry structures downtown.

Planning Impacts (contact Melissa Durkin at 408-846-0440)

The NOP identifies several potential environmental impacts that the EIR will analyze. Gilroy Planning staff is particularly concerned about impacts related to the parking demands created by the HST station; vibration impacts on existing and future buildings; noise generation; impacts to historic structures; and neighborhood compatibility. Therefore, the Planning Division recommends that the High-Speed Rail EIR address the following issues. The EIR needs to analyze the potential for impacts in these areas to occur, and develop mitigation measures that reduce impacts to a level of insignificance.

- a. A detailed parking analysis must be prepared that identifies the existing parking conditions around the proposed train station and the project demand for parking for the station. Reasonable walking distances must be assumed for the construction of new parking facilities so that residential neighborhoods are not impacted.
- b. The project-level EIR will have to address the impacts of noise and vibrations to existing buildings and residences, and will have to mitigate noise levels to meet Gilroy's noise standards. In addition, special studies may be required to determine that impact of the trains' vibrations on unreinforced masonry structures downtown.
- c. Noise and vibration issues are also a major concern for the Downtown area during construction. The construction impacts must be reviewed and mitigated.
- d. Gilroy has targeted much of the downtown area for historic preservation. The HST's impact to historic structures must be analyzed, particularly any potential for the loss of historic buildings.
- e. Gilroy has targeted much of the area surrounding the train station for neighborhood revitalization, and staff has concerns that the HST tracks could divide neighborhoods, making cross town access and neighborhood integration difficult.

If you have any questions concerning information in this letter, please contact me at (408) 846-0451.

Sincerely,



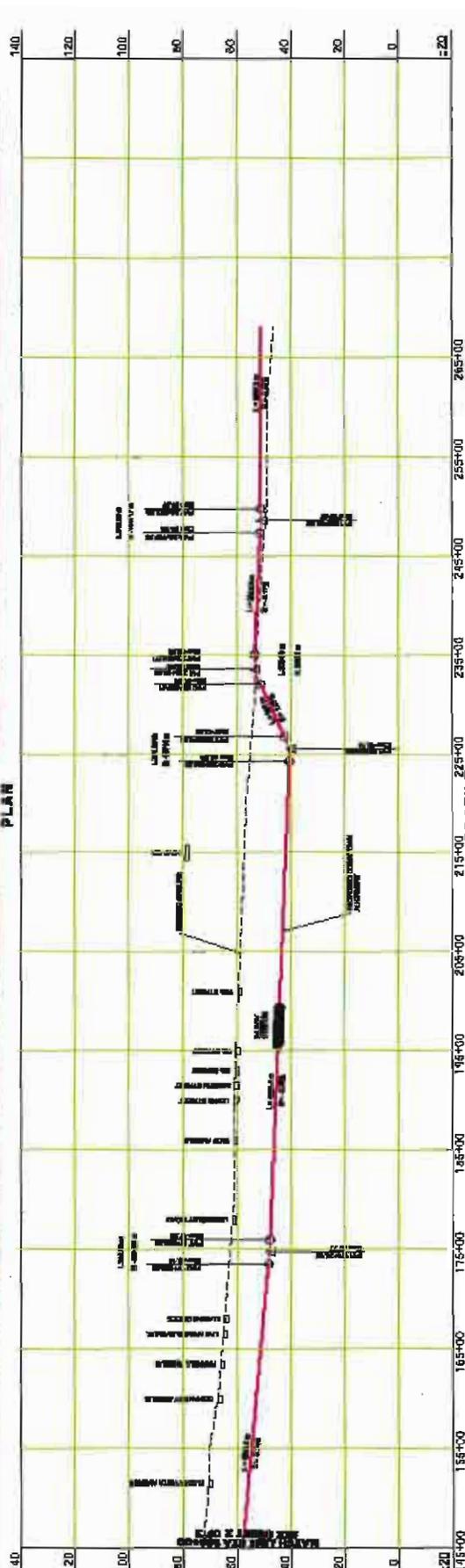
Don Dey
City Transportation Engineer

Attachments

C: Tom Haglund, City Administrator
Rick Smelser, City Engineer
Melissa Durkin, Planner



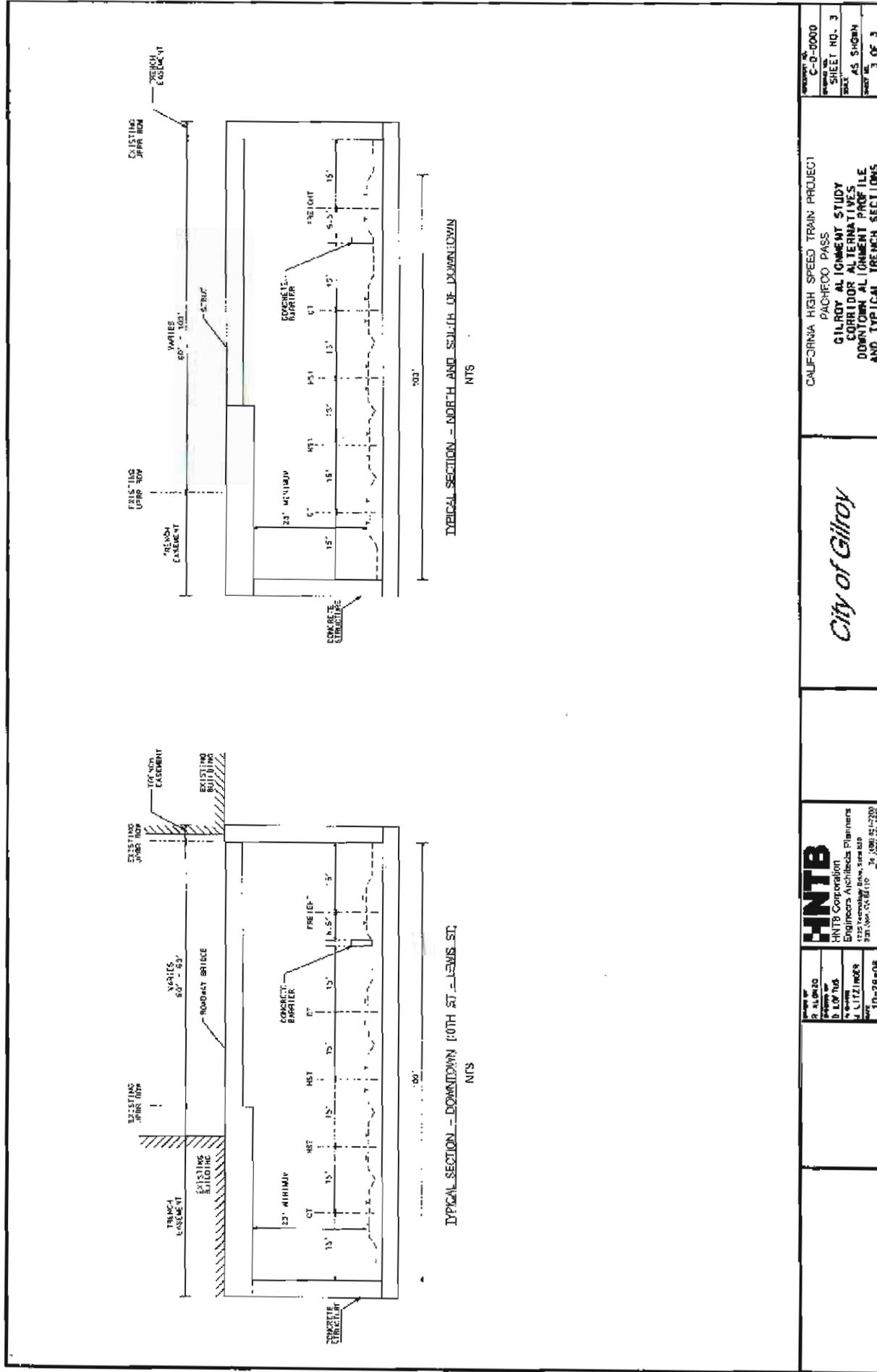
PLAN



PROFILE

<p>HNTB HNTB Corporation Engineers Architects Planners 1000 California Street, Suite 200 San Jose, CA 95128 Tel: (408) 434-2200 Fax: (408) 434-2202</p>		<p>City of Gilroy</p>	
<p>DESIGNED BY R. ALERED CHECKED BY D. LOFTIS IN CHARGE J. LITZINGER DATE 10-29-08</p>		<p>CALIFORNIA HIGH SPEED TRAIN PROJECT C-D-0000 PACHECO PASS GILROY ALIGNMENT STUDY DOWNTOWN ALIGNMENT PLAN AND PROFILE AND TYPICAL TRENCH SECTIONS</p>	
<p>SCALE AS SHOWN</p>		<p>SHEET NO. 1 OF 3</p>	

FIGURE 2



<p>HNTB HNTB Corporation Engineers, Architects, Planners 1225 Broadway, Suite 400 San Jose, CA 95110 Tel: (408) 941-7200 Fax: (408) 941-7201</p>	<p>Project No. 10-28-08</p>	<p>City of Gilroy</p>		<p>California High Speed Train Project Pacheco Pass Corridor Alignment Downtown Alignment Package and Typical Trench Sections</p>	<p>Contract No. C-D-0000</p>
		<p>Drawn by J. LITZINGER</p>	<p>Checked by AS SHOWN</p>		

State Route 152

CORRIDOR ALIGNMENT ALTERNATIVES

Alternative Components	Length (miles)	Travel Time (minutes)	Probable Costs (Range) (Millions)
TOTAL	14.9	17	NA
Alternative A SR 152a US 101	11.9		
Alternative D SR 152 SR 25	3.0		
TOTAL	15	16.5	NA
Alternative A SR 152a SR 25	6.1		
Alternative D SR 25	8.9		
TOTAL	11.0	9.5	\$232 - \$204
Alternative A SR 152a SR 25	7.2		\$147 - \$190
Alternative D SR 25	3.8		\$85 - \$104
TOTAL	10.5	9	\$215 - \$209
Alternative A SR 152a SR 25	7.8		\$178 - \$228
Alternative D SR 25	1.9		\$37 - \$45



LEGEND

- Alternative A
- Alternative D
- Existing Roadways
- Waterway
- FEMA-Designated Floodplain Area
- Roadway Improvement with Frontage Road

Not to Scale



Santa Clara County



VTA



MOBILITY PARTNERSHIP

April 7, 2009

Mr. Dan Leavitt, Deputy Director
California High-Speed Rail Authority
925 L Street, Suite #1425
Sacramento, CA 95814



SUBJECT: San José to Merced HST Project EIR/EIS Scoping

Dear Mr. Leavitt:

The City of San José is pleased to provide input into the scoping of the Environmental Impact Report (EIR) and Environmental Impact Statement (EIS) for the San Francisco to San José segment of the California High-Speed Train (HST) project. The City is a strong supporter of the project and its goals to improve mobility, protect the environment, enhance the economy, and responsibly plan for the future. We commend the California High Speed Rail Authority Board and staff for their leadership in developing this important project, and we commend the voters of California for approving Proposition 1A (in November 2008) to help finance the project.

As you are aware, San José is actively engaged in helping to develop the project in a manner that supports the timely delivery of HST service for San José and the Bay Area, and also in a manner that effectively manages and minimizes the environmental impacts of the project for the communities adjacent to the nearly 20-mile HST route through San José.

We appreciate the strong collaboration that the HST team has had with San José staff and the community thus far. On December 18, 2008, HST staff and consultants participated in an all-day workshop at San José City Hall to discuss issues and interests with over thirty City staff members representing the City Manager's Office, Transportation, Public Works, Planning, Parks, Cultural Affairs, Redevelopment, and the Strong Neighborhood Initiative program. In addition, HST staff has held or participated in six community meetings in the San José area over the past three months. Based on these recent communications, we believe the HST team has a good understanding of project issues within San José. We look forward to continuing an ongoing collaboration in the development of the project.

With regards to the scoping of the Project EIR/EIS, we understand the HST project will conduct the environmental analysis required by the California Environmental Quality Act (CEQA) and the National Environmental Protection Act (NEPA). This includes addressing project issues and impacts related to transportation; safety and security; land use and zoning; land acquisition, displacement and relocations; historic and archaeological resources; park and recreation areas; neighborhood compatibility and environmental justice; visual quality and aesthetics; noise and

Mr. Dan Leavitt

Subject: San José to Merced HST Project EIR/EIS Scoping

April 7, 2009

Page 2 of 3

vibration; wildlife and ecosystems; air and water quality; public and private utilities; flooding; hazardous materials; energy; and construction operations.

We advise that the HST team to continue to consult with City staff during the initial development of the environmental studies to obtain information on existing conditions and current planning, with a particular focus on the topics of historic resources, land use, parks, trails, utilities, floodplains, transportation, and energy. Note that we have a particular interest in developing opportunities for renewable energy generation along the HST corridor. We also encourage an ongoing public participation process with communities affected by the project to assure issues are addressed and reasonable mitigation measures are identified.

In addition, the following comments are provided on special topics of interest to San José related to the scope of the EIS/EIR.

▪ *Study Profile and Alignment Options in the Greater Downtown San José Area*

For the greater Downtown San José area (including the Delmas Park, Gardner, and North Willow Glen neighborhoods), the preliminary design concept is for the HST to follow the Caltrain right-of-way and be elevated or at-grade. At the Diridon Station the HST train is proposed to be elevated as high as 70 feet. The visual and noise impacts of the HST for Downtown and adjacent neighborhoods is of significant concern to San José. Therefore, we request that the project prepare and analyze the following profile and alignment options.

1. Current Project Plan with Elevated Profile Having an Attractive Visual Design and Noise Mitigation Appropriate for the Community Context
2. Below Grade Profile between Julian Street and Tamien Station Area to Avoid Noise and Visual Impacts in the Greater Downtown San José Area
3. Align HST along Route 280 and Route 87 to Reduce Impacts to Gardner and North Willow Glen Neighborhoods
4. Provide 3-Tracks (Instead of 4-Tracks for HST, Caltrain, and UPRR) to Lessen or Avoid Physical Impacts in the Gardner and North Willow Glen Neighborhoods

The analysis should provide for a full comparison of the options based on visual impacts, aesthetics, noise, property impacts, constructability, cost, and community acceptance. It is noted that the HST profile and alignment issue for the Downtown San José area will need to be addressed and coordinated between the environmental documents for both the "San Francisco to San José" and the "San José to Merced" segments of the HST project, since the issue overlaps both segments.

▪ *Confirm and Refine HST Design Concept in Monterey Highway Corridor from Capitol Expressway to Morgan Hill*

The preliminary design concept for the HST project through the southern part of San José (from Capitol Expressway to Morgan Hill) is based on the assumption of having the HST tracks located on right-of-way currently used by the Union Pacific Railroad and Monterey Highway. A compact design allowing four tracks (for HST, Caltrain, and UPRR) and four-lanes on Monterey Highway (reduced from six-lanes) has the benefits of avoiding private property acquisition along the corridor.

Also, along this corridor are many existing grade crossings, some existing grade separations, and plans for new grade separations. Some of the crossings may warrant closure and some of the existing grade separations may need to be replaced. The design assumptions and concepts for this corridor need to be confirmed in order to appropriately assess the environmental impacts of the project in the corridor. We request the HST team work closely with San Jose and Morgan Hill and their affected communities along the corridor to refine the project scope and/or identify design alternatives for further study.

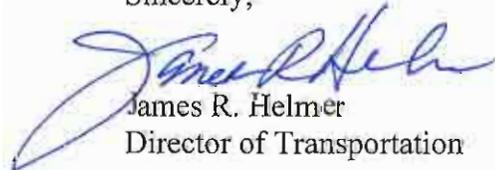
▪ *Consider "Starter Segment" HST Service Between San Francisco, San José and Gilroy*

The City of San José supports early implementation of "usable segments" of the HST system as funding is obtained to complete the planned initial service between San Francisco, San José, Fresno, Los Angeles and Anaheim. San José requests that the San Francisco/ San José/ Gilroy segment be evaluated as a "starter segment" for HST service. We prefer this to having a shorter "starter segment" between San Francisco and San José.

The advantages of the San Francisco/ San José/ Gilroy segment are: 1) it avoids temporary "end of the line" traffic and construction impacts in Downtown San José; 2) it fully integrates the HST with existing Caltrain service (currently between San Francisco and Gilroy) with respect to service, electrification, grade separations and agency coordination; and, 3) it provides service proximity to the Salinas, Monterey and Santa Cruz areas that demonstrated strong support for the HST project.

Again, we appreciate the opportunity to participate in the development of the High Speed Train project. We look forward to continued progress towards project implementation.

Sincerely,



James R. Helmer
Director of Transportation

c: Michael Burns, VTA
Michael Scanlon, Caltrain/JPB
Joe Horwedel, CSJ/PBCE

DEPARTMENT OF WATER RESOURCES

1416 NINTH STREET, P.O. BOX 942836
SACRAMENTO, CA 94236-0001
(916) 653-5791



APR 07 2009

California High Speed Rail Authority
Attn: Dan Leavitt, Deputy Director
925 L Street, Suite 1425
Sacramento, California 95814

Notice of Preparation of Environmental Impact Report for the Proposed San Jose to Merced High-Speed Train Project, Various Cities, Santa Clara County and Merced County, San Luis Field Division, SCH2009022083

Dear Mr. Leavitt:

Thank you for the opportunity to review and comment on the Notice of Preparation (NOP) of Environmental Impact Report for the Proposed San Jose to Merced High-Speed Train Project. The document describes a proposal by California High Speed Rail Authority to develop a High-Speed Train (HST) rail alignment between the San Francisco Bay Area and the Central Valley, utilizing Caltrain right-of-way where possible and then obtaining new right-of-way from Gilroy to Merced over Pacheco Pass. The proposed HST alignment would cross over the California Aqueduct, part of the State Water Project (SWP), north of O'Neill forebay in the City of Los Banos.

The Department of Water Resources (DWR) has reviewed the NOP and has the following comments:

1. Any new bridge over the California Aqueduct, or construction work within DWR right of way, will require an Encroachment Permit issued by DWR.
2. Early coordination with DWR staff is recommended concerning new bridge design and placement.

Information regarding forms and guidelines for submitting an application for an Encroachment Permit can be found at DWR web address:

http://www.doe.water.ca.gov/Services/Real_Estate/Encroach_Rel/index.cfm

Please provide DWR with a copy of any subsequent environmental documentation when it becomes available for public review.

Mr. Dan Leavitt
APR 07 2009

Page 2

If you have any questions, please contact Scott Williams at (916) 653-5746, or Leroy Ellinghouse of my staff at (916) 653-7168.

Sincerely,

A handwritten signature in cursive script that reads "David M. Samson". The signature is written in black ink on a white background.

David M. Samson, Chief
State Water Project Operations Support Office
Division of Operations and Maintenance



RESOURCE MANAGEMENT AGENCY
ADMINISTRATION
Ray Beach, Director

2037 W. Cleveland Avenue
Madera, CA 93637-8720
(559) 661-6333
FAX (559) 675-7639
rbeach@madera-county.com

April 8, 2009

California High Speed Rail Authority
Honorable Chairman Judge Quentin L. Kopp
925 L Street, Suite 1425
Sacramento CA 95814



RE: California High Speed Rail

Madera County would like to take this opportunity to thank you and your staff for the numerous meetings and workshops you have recently put on in the Central Valley specifically Madera County. As you are aware Madera County plays an integral role into the success of the High Speed Rail. We have prepared this letter addressing those impacts that the High Speed Rail poses to Madera County, and have included a detailed discussion of potential alternative routes to those previously identified by the CH2M Hill project team at your public outreach meeting on March 19, 2009 in the City of Madera. First we have outlined the potential impacts associated with the current alignments, followed up with alternative routes and their benefits. In addition we have attached a map showing those alternative routes along with maintenance stations Madera County would like analyzed in the projects EIR/EIS.

The proposed alignments are shown along the existing lines of the Burlington Northern Santa Fe (BNSF) or the Union Pacific (UP) tracks that run through Madera County. It is our understanding that a new alignment west of Highway 99 has been identified as a proposed alignment. Madera County has reviewed both the Burlington Northern Santa Fe and the Union Pacific route proposals and identified several debilitating impacts outlined below:

- These routes could result in massive degradation of our existing small farming communities of Fairmead, Trigo, and Berenda. The proposed route would essentially destroy these communities by eliminating their ability for growth and prosperity resulting in a potential environmental justice issue.
- We have yet to see any provision or plan for how to access the identified rail stations served by the High Speed Rail system (i.e. shuttle, transit bus, van). Please clearly describe and map how the existing outlying communities will access the proposed rail stations.
- It is our understanding that the High Speed Rail System will hold Madera County harmless when constructed, however there has been no discussion regarding the enormous costs associated with post rail development through the downtown communities that will be most impacted by the proposed alignments. It will eliminate any feasible development associated with the other side of the tracks due to the high infrastructure costs associated with crossing the High Speed Rail.
- What will be the considerations given to the impacts of the small community airports and the larger regional Fresno Air Terminal?

- How will the High Speed Rail adversely impact economic development throughout the Central Valley?
- Is there the potential for the Central Valley to become a service economy with jobs being restricted to the existing large urban centers connected by the High Speed Rail such as Los Angeles, and the City of San Francisco.
- Will the proposed route shown through the downtown corridor of Chowchilla and Madera permanently divide and isolate the minority communities from the rest of the City? Will the rail alignment foster an environment of good side vs. bad side of the tracks?
- The proposed routes will promote the loss of agricultural lands by restricting growth to the east because of the increased infrastructure costs to cross the High Speed Rail system. If development is forced to move west it will result in substantial loss of prime agricultural lands impacted by development.
- The High Speed Rail will result in a loss of substantial transportation funding to address continued automobile demand on the States freeway system.
- Madera County does not feel that the High Speed Rail will carry enough traffic to offset the tremendous cost to the State of California.
- The land use densities being served by the High Speed Rail are far below the minimum required to provide the necessary ridership to be successful. This will result in the need to increase land use densities in an area that cannot provide the adequate water resources or basic infrastructure to allow for the type of development to support a High Speed Rail system. Increased development within the Central Valley will further denigrate our local air quality.
- Can a new alignment be studied in combination with a Highway 99 western truck route by-pass?

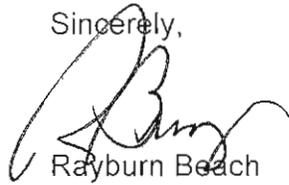
As a result of the impacts identified by the proposed alignments, Madera County would like to offer our support for the proposed alignment located west of Highway 99 for the following reasons:

- A north-south alignment that traverses along the west side of both the City of Madera, Fairmead, and the City of Chowchilla. The advantages of this include:
 - Preserves historical sites and avoids destroying downtown areas.
 - Avoids physically dividing existing communities or facilities which would lead to environmental justice issues. Avoids dividing the community of Fairmead and separating the Central California Women's Facility (CCWF) and the Valley State Prison for Women (VSPW).
 - This alignment would create an urban boundary preserving prime agricultural lands along the west side. This would also provide a semi-permanent buffer for agriculture along the west side.
 - Cheaper lands would result in cheaper construction costs.

- Avoidance of the issue of a merger between the two currently proposed alignments.
- Would facilitate construction of a Caltrans Highway 99 truck by-pass route.
- Ease of access to proposed rail stations.
- An east-west alignment located south of Highway 152 offers similar advantages to that above including:
 - The avoidance of impacts on the growth patterns and service needs of the City of Chowchilla.
 - Possible avoidance of wetlands located west of Chowchilla.

Again, I would like to thank you and your staff for meeting with us. Please contact me to discuss these proposed alternatives in greater detail. We look forward to the continuing cooperation on the High Speed Rail and reserve the opportunity to comment on any documents prepared by the High Speed Rail Authority.

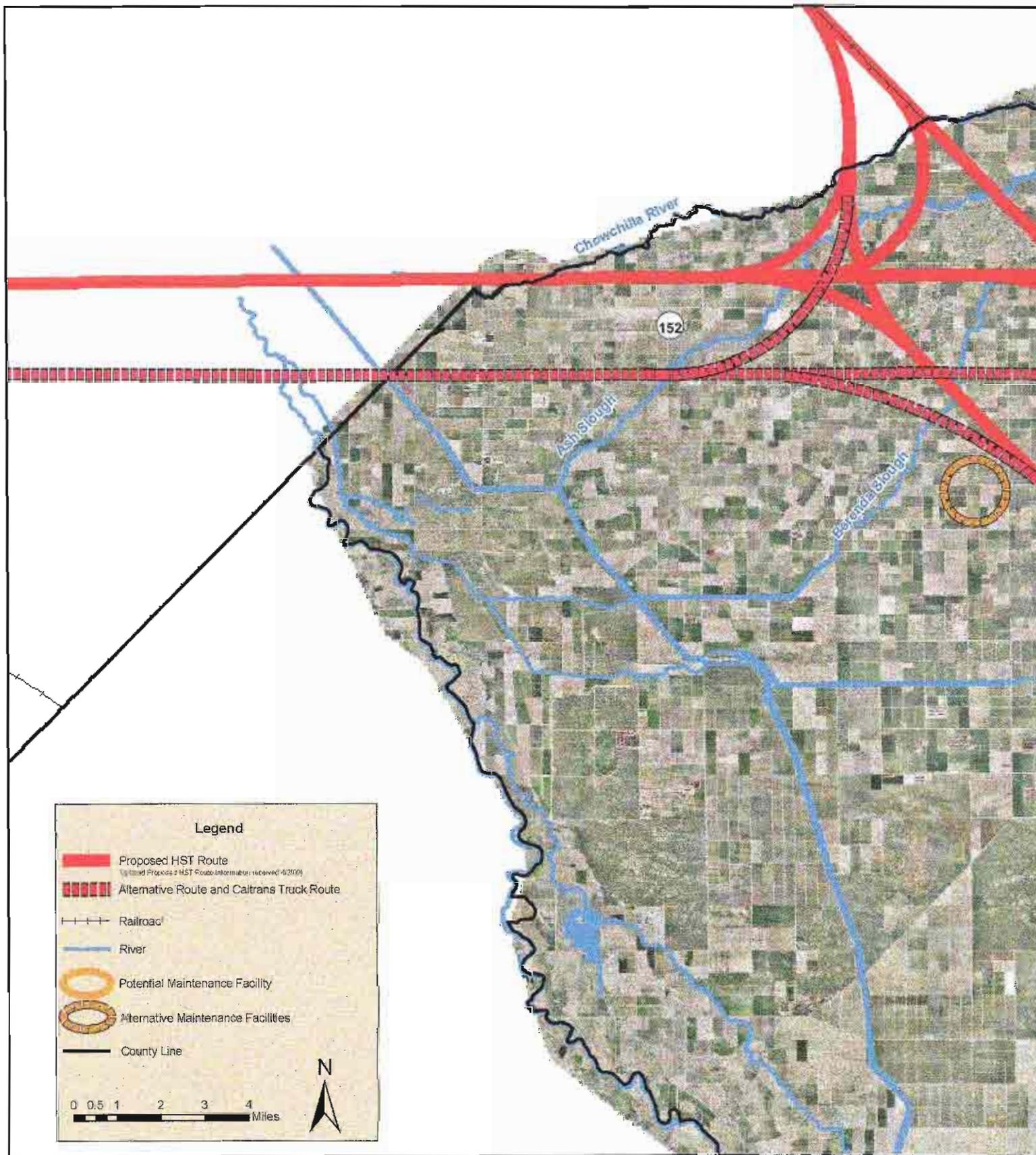
Sincerely,



Rayburn Beach
RMA Director
Madera County

cc: Madera County Board of Supervisors
Madera City Council
Chowchilla City Council

CALIFORNIA HIGH SPEED RAIL ALTERNATE A





California Natural Resources Agency
DEPARTMENT OF FISH AND GAME
<http://www.dfg.ca.gov>
Habitat Conservation Planning Branch
1416 9th Street, Room 1260
Sacramento, CA 95814

ARNOLD SCHWARZENEGGER, Governor
DONALD KOCH, Director



April 8, 2009

Dan Leavitt
Deputy Director
California High-Speed Rail Authority
925 L Street, Suite 1425
Sacramento, CA 95814



Subject: Department Response to the Notice of Preparation (NOP) of a Project Environmental Impact Report /Environmental Impact Statement (EIR/EIS) for a San Jose to Merced High-Speed Train System through Pacheco Pass.

Dear Mr. Leavitt:

The Department of Fish and Game (Department), acting as a responsible and trustee agency pursuant to the California Environmental Quality Act (CEQA), has reviewed the NOP submitted by the California High Speed Rail Authority (Authority) for the San Jose to Merced section of the high-speed train (HST) system. The proposed HST system is an electrified steel-wheel-on-steel-rail system capable of speeds up to 220 mph on a fully grade-separated, access controlled track with state-of-the-art safety, signaling and automated control systems. The NOP indicates that the Project EIR/EIS prepared by the Authority will address the San Jose to Merced alignment along the Caltrain/UPRR corridor, through the Pacheco Pass and via Henry Miller Road.

The Department has previously commented on both the Proposed California High-Speed Train System EIR/EIS on August 31, 2004, and the Bay Area to Central Valley Program EIR/EIS on September 25, 2007 (Draft EIR/EIS) and July 7, 2008 (Final EIR/EIS) and incorporates those comments by reference here.

The purpose of this letter is to provide the Authority with specific detail about the scope and content of environmental information related to the Department's areas of statutory responsibility that must be included in the EIR/EIS. This letter also highlights significant environmental issues and reasonable alternatives and mitigation measures that should be explored in the EIR/EIS to allow the Department to make informed findings with regards to permitting the proposed project.

Department Authority

The Department has jurisdiction by law over natural resources affected by a project that are held in trust for the people of the state of California. The Department is a trustee agency with regard to the fish and wildlife of the state, to designated rare or endangered native plants, and to game refuges, ecological reserves, and other areas administered

by the Department. As a trustee agency, the Department consults with lead and responsible agencies and provides the requisite biological expertise to review and comment upon environmental documents and impacts arising from project activities.

The Department has regulatory authority over projects that could result in the "take" of any species listed by the State as threatened or endangered pursuant to Fish and Game Code Section 2081. If a project could result in the "take" of any species listed as threatened or endangered pursuant to the California Endangered Species Act (CESA), an incidental take permit issued by the Department should be obtained by the Authority. Based upon review of program-level EIRs for the HST, the Department anticipates the proposed project will necessitate an incidental take permit addressing several species. The Department should be contacted as early as possible to begin the Incidental Take Permitting process to reduce any project or permitting delays.

The Department also has regulatory authority with regard to activities occurring in streams and/or lakes that could adversely affect any fish or wildlife resource. For any activity that will divert or obstruct the natural flow, or change the bed, channel, or bank (which may include associated riparian resources) of a river or stream, or use material from a streambed, a Lake and Streambed Alteration (LSA) Agreement will be required from the Department pursuant to Section 1600 et seq. of the Fish and Game Code. Due to the size and linear alignment of the HST, the Department anticipates a LSA Agreement will be required for the proposed project. The Department should be contacted when enough information is available to begin the LSA process.

As a responsible agency, the Department will rely on the EIR/EIS as prepared by the Authority to prepare and issue its own findings regarding the proposed project (CEQA Guidelines, Sections 15096 and 15381). The Department will use the Authority's environmental document if it adequately addresses the effects of those activities involved in the project which the Department is required by law to carry out or approve. The document should summarize technical data, maps, plans, diagrams and similar information to permit a full assessment of all significant environmental impacts (CEQA Guidelines, Section 15147).

Potential Impacts and Department Recommendations

The Department is concerned that the proposed project may result in several impacts to fish and wildlife of the state of California. Construction and operation of the proposed HST will create barriers to wildlife movement, which may result in potentially significant impacts to San Joaquin kit fox (*Vulpes macrotis mutica*) (SJKF), hunting and public use, and wildlife habitat linkages. Additionally, the proposed project may significantly impact Department owned and managed lands, specially-designated species, and sensitive habitat. These concerns are discussed in more detail below.

Potential Impacts to Wildlife Movement

The construction of the proposed HST has the potential to adversely impact fish and wildlife movement and connection between habitats in the region. This is the single biggest biological impact potentially arising from construction of the proposed HST. These impacts to fish and wildlife should therefore be addressed with a correspondingly appropriate degree of scientific analysis in the EIR/EIR to provide sufficient information for meaningful review. The proposed HST has the potential to disrupt already beleaguered wildlife passages, threatening the continued viability of many species. Construction of access controlled rail lines will create barriers to the movement of wildlife, thereby cutting them off from important food, shelter, and breeding areas. Isolation of sub-populations limits the exchange of genetic material and puts populations at risk of local extinction through genetic and environmental factors. Barriers can prevent the re-colonization of suitable habitat following local extirpations, ultimately putting species at risk of extinction.

Potential Impacts to San Joaquin Kit Fox Movement

The proposed HST alignment along Pacheco Pass and Henry Miller road would result in significant and irreversible impacts to the State threatened San Joaquin kit fox by impacting the entire northern range of the species. The preferred alignment would create a significant movement barrier between the southern and northern kit fox populations. The Santa Nella area has been identified by the Department and the United States Fish and Wildlife Service (USFWS) as a "pinch point" in the connectivity between the north and south populations of SJKF. There is a very narrow area remaining in the Santa Nella vicinity that is usable for SJKF north-south movement, and the preferred alignment would sever this remaining movement area. The proposed HST also has the potential to isolate the Los Banos Valley core SJKF population from the northern population of SJKF. The ability of individuals from the Los Banos Valley to breed with members of more northern SJKF populations is thought to be critical to the continued existence and genetic diversity of the northern SJKF population. As a result, the proposed HST would at a minimum, impact the entire 420,000 acres of SJKF range north of the project area in addition to areas within the project footprint. Sufficient SJKF movement corridors will be required to permit the proposed project pursuant to CESA. Incidental take permit requirements allowing for effective SJKF (and other wildlife) passage could require major structural component changes in the early design phases in consultation with the Department and the USFWS. Specific recommendations are discussed in the *Measures to Reduce Potential Impacts Wildlife Movement* section below.

In addition, there are several movement corridors and habitat lands protected in perpetuity as mitigation for impacts to SJKF movement and habitat resultant of other projects in the Santa Nella area. The proposed HST alignment would sever one or more of these SJKF mitigation areas and render them completely ineffective.

The SJKF movement and potential population-level project level impacts posed by the proposed HST are significant and should be evaluated in light of Fish and Game Code Section 2055 (conservation of threatened and endangered species by State Agencies, Boards, and Commissions).

Potential Impacts to Hunting and Public Use

The presence of an access controlled railway north of SR 152 could also negatively impact deer and elk herd movement within and around the Upper Cottonwood Creek Wildlife Area (UCCWA), Lower Cottonwood Creek Wildlife Area (LCCWA), O'Neill Forebay Wildlife Area, California State Parks' San Luis Reservoir, and private lands in the area. Any impacts to the deer herd could reduce public hunting opportunities throughout the Department-managed lands and reduce the public-use values of these lands. SR 152 already poses a significant movement barrier to the elk herd in the area and severely limits the movement of elk into and out of the lands on the north side of the highway. The presence of the proposed HST would add an additional movement barrier and further restrict the movement of elk in the region.

Potential Impacts to Wildlife Habitat Linkages

The proposed route west of Pacheco Pass has the potential to impact the three most important wildlife habitat linkages in the area as recognized in the Santa Clara HCP/NCCP which is currently under development. The first habitat linkage occurs in the area of Metcalf Road south of San Jose to just north of Morgan Hill. It is the northernmost habitat linkage area south of San Francisco Bay and is one of a very limited number of areas currently providing connectivity between Santa Clara and points west and the San Francisco Peninsula. Additionally, it is the only connection between the southern end of the San Francisco Bay and the Pajaro River. There is ample evidence that this area remains a viable but highly impacted connection area. It is critical that connectivity through this area not be further reduced. The second habitat linkage occurs from Gilroy to Pacheco Pass and is essentially unblocked with the exception of SR 152. The EIR/EIS should clearly articulate the type of construction in this area to allow for meaningful Department review of impacts. In general, significantly sized crossing opportunities should exist at least every half mile, allowing connectivity for large mammals, smaller animals, plants, and habitats. The third habitat linkage occurs in the area from the Diablo foothills to Gilroy which traverses the valley floor north of the Pajaro River. The area is crucial for steelhead passage and connectivity between watersheds in the Diablo Range, the Gabilan Range, and the Santa Cruz Mountains. These important connectivity areas identified in the Santa Clara HCP/NCCP are planned for study, enhancement and possible protection over the next 50 years. The EIR/EIS needs to contain a detailed discussion of these wildlife habitat linkages. The EIR/EIS also needs to provide enough information for the Department to evaluate potential impacts to the area and evaluate potential conflicts between the proposed project and the goals of the Santa Clara HCP/NCCP.

Measures to Reduce Potential Impacts Wildlife Movement

The EIR/EIS should include measures to reduce SJKF and other wildlife movement impacts due to the permanent wildlife barriers that would result from at-grade, access-controlled railways. The Department recommends that all segments of the railway that are not using existing rails be elevated. Elevation of the rails could reduce the impacts the proposed HST system would have on wildlife movement and migration by allowing wildlife to pass freely underneath the entire length of the railway while providing the access controlled tracks that are required for proposed HST. Elevated railways would be more effective in facilitating wildlife movement than the proposed wildlife underpasses and overpasses, which are not always effective for various reasons. Because animals would be able to see through the underside of the tracks to the other side, they would be more likely to walk underneath the tracks than to use a tunnel or vegetated overpass where the view of the other side would be visually obstructed. Elevated railways are critical in areas where the movement of wildlife is already reduced due to existing and proposed geographic, transportation and structural barriers such as in western Merced County near the intersections of SR 152, SR 33 and Interstate 5.

If wildlife movement passage structures will be used instead of elevated tracks, we recommend site specific research to determine the locations, numbers and types of structures. Specific alignments and wildlife passage structures, such as underpasses, overpasses, elevation of the alignment, and tunnels, may not be suitable for all species and locations and will need to be evaluated carefully before subsequent analysis of alignment sections. Methods to determine the best locations for wildlife movement structures or avoidance should at a minimum include: 1) track count surveys, 2) ditch crossing surveys, 3) monitoring trails with infrared or remote cameras, and 4) GIS habitat modeling to identify likely wildlife travel corridors and anthropogenic barriers (such as highways, canals, and reservoirs) at the landscape level. In addition, wildlife habitat linkages will need to be identified using habitat models, information from the movement studies, GIS analyses, and Department expertise.

Potential Impacts to Department Owned and Managed Lands

Department Wildlife Areas are acquired for the protection and enhancement of habitat for a wide variety of species and are open to the public for wildlife viewing, hiking, hunting, fishing, and nature tours. The construction and operation of the proposed HST within or near Department lands could significantly limit the wildlife and public use values of these lands as well as alter the way these lands are managed by the Department. Some Wildlife Areas depend on visitor's fees for operation, maintenance and management. The proposed HST may negatively impact the number of visitor's to Wildlife Areas resulting in reduced revenues; thereby reducing or eliminating the public recreational opportunities and wildlife habitat provided by the lands. The EIR/EIS should identify all Department owned and managed lands that may be impacted by the

proposed project and provide sufficient mitigation measures to reduce any potential impacts to less than significant levels.

Specific Department lands that are adjacent to, bisected by, or occur within one mile of the San Jose to Merced alignment include Cottonwood Creek Wildlife Area (Upper and Lower), San Luis Reservoir Wildlife Area, O'Neill Forebay Wildlife Area, Volta Wildlife Area, Los Banos Wildlife Area and Cañada de los Osos Ecological Reserve.

The Los Banos Wildlife Area is adjacent to the north side of Henry Miller Road. The proposed HST route would directly impact the Wildlife Area and the wildlife that use it. In addition to direct and indirect impacts to wildlife, the route could also impact public hunting and fishing opportunities in the area by affecting wildlife distribution and public access. Similar impacts to public use of wildlife resources could also occur on private lands near the proposed route. The proximity of the train tracks to areas used by the public for waterfowl (and upland) hunting should also be addressed in the EIS/EIS.

The proposed HST route bisects the western half of the Upper Cottonwood Creek Wildlife Area (UCCWA) north of State Route (SR) 152. The programmatic EIR/EIS states that tunnels will be used to cross a portion of UCCWA. While the use of tunnels to cross a portion of UCCWA may reduce biological impacts, they will not be as effective as crossing the entire area using tunnels. Wildlife movement and vehicle strike impacts will need to be determined prior to the placement of the tracks if above ground tracks are used. The Department recommends that the entire area of UCCWA be crossed using tunnels to limit the wildlife impacts and reduce public use impacts. The presence of the proposed HST above ground on the western half of UCCWA could severely limit public hunting opportunities on the property and could effectively reduce the hunted area on UCCWA by at least half. An above ground train at UCCWA is not compatible with wildlife hunting in much the same way as SR 152 is not compatible. The public could not discharge firearms across (or under if elevated) the tracks. It is likely that hunting would not be allowed to continue at its current level, if at all, on the western half of the property if the proposed HST tracks are above ground due to public safety and liability issues.

The NOP states that the feasibility of locating the proposed HST line and tunnels closer to SR 152 will be "reviewed to determine practicality and their ability to reduce environmental impacts." Depending on the alignment along SR 152, this could actually cause more impacts to lands owned by the Department than the currently proposed route. UCCWA and Lower Cottonwood Creek Wildlife Area (LCCWA) are adjacent to SR 152 to the north and the San Luis Wildlife Area is adjacent to SR 152 to the south. The Authority should consult with the Department early in the planning process to reduce potential operational impacts to Department facilities and activities. Early consultation will allow for informed decision-making which can avoid costly alternatives later.

Potential Impacts to Species and Habitat

The EIR/EIS will need to analyze the potential impacts to specially-designated species and habitat resulting from construction and operation of the HST rail alignment. The EIR/EIS should contain an accurate and complete description of the existing biological conditions in and around the proposed HST project site, including all specially-designated species and habitats that may occur in the vicinity. An extensive list of species will need to be addressed due to the size of the proposed HST project. The Authority should assemble a list of sensitive species and habitats known to occur within at least 5 miles of proposed HST alignment. The authority should generate the list of potentially occurring specially-designated species and habitats through consultation with the Department, the California Natural Diversity Data Base (CNDDDB), state and federal resource agency lists, California Wildlife Habitat Relationship System (CWHR), California Native Plant Society (CNPS) Inventory, agency contacts, environmental documents for other projects in the vicinity, academic, professional and scientific organizations, and other sources. A preliminary list of species which may be impacted by the proposed project has been generated using the CNDDDB (Attachment). This list should not be considered exhaustive and additional species should be added to the list through utilization of the information sources listed above. The Authority should briefly address each species and habitat on the generated list to determine which species and habitats will need to be addressed in more detail in the EIR/EIS. If a species is not addressed in more detail in the EIR/EIS, a brief explanation why should be provided.

In order for the Department to make informed findings with regards to the proposed project, extensive surveys should be conducted. Survey protocols for listed species and/or sensitive habitats should be approved by the Department, USFWS, and other relevant regulatory agencies prior to implementation. This will reduce the need for additional surveys prior to Department approval. Federal and state survey protocol for many species may be found at

http://www.dfg.ca.gov/wildlife/nongame/survey_monitor.html

Animal surveys should follow protocols adopted by the Department, USFWS and the United States Geological Survey (USGS), where they exist. Where they do not, the Department and USFWS should be consulted for concurrence on a particular methodology before use.

Plant surveys should follow the adopted Guidelines developed and maintained by the Department at <http://www.dfg.ca.gov/biogeodata/cnddb/pdfs/guideplt.pdf>. The Guidelines are currently under revision, so the Authority should contact Department Botanist Mary Ann Showers at (916) 651-6594 for the most up-to-date information prior to proceeding with plant surveys.

Comprehensive survey work should be carried out in time to inform the analysis of the EIR/EIS, and not deferred to the pre-construction period. It is unlikely that the Department will be able to provide helpful comments for a project of this scale, unless appropriate surveys have been conducted early in the CEQA process and results are included in the draft EIR/EIS. Deferral of appropriate surveys can lead to costly delays as time sensitive surveys may only be conducted during specific times of the year.

The Pacheco segment of the proposed HST is constrained primarily by the presence of Pacheco Creek. The creek supports one of the few extant populations of sycamore alluvial woodland, a very rare habitat type designated as G1 and S1.1 (Critically Imperiled) under the Natureserve ranking system used in the California Natural Diversity Data Base (CNDDB). This natural community is currently experiencing a die back as a result of unknown factors; highlighting the need to avoid additional stressors from new impacts.

In addition, during normal and wet years, Pacheco Creek can support a run of South-Central California Coast (S-CCC) Evolutionarily Significant Unit (ESU) steelhead (*Oncorhynchus mykiss irideus*), currently a State Species of Special Concern (SSC) and listed as 'Threatened' under the Federal Endangered Species Act. This ESU extends from the Pajaro River south to (but not including) the Santa Maria River.

In the S-CCC ESU, steelhead inhabit the largest river basins such as the Pajaro and Salinas Rivers and very small coastal tributaries such as those on the Big Sur Coast (Monterey County). Both the inland and coastal runs as units are necessary for sustaining the ESU and of the inland runs, only Uvas and Pacheco Creeks support fish in the Pajaro drainage. The last formal estimate of inland S-CCC ESU steelhead was in 1991 and at that time there were thought to be only 200 spawners in the entire system. The Science Advisor's Report for the Santa Clara HCP/NCCP (available at <http://www.dfg.ca.gov/habcon/nccp/pubs/santaclarasciadvrpt.pdf>) recognized the need to establish redundancy for the ESU and the importance of Pacheco Creek in doing so.

The Pacheco run is very tenuous due to historic conditions (the run was likely episodic rather than yearly) and current water operations from Pacheco Reservoir. Due to the current condition of the run and its significance it is critical that care be taken to avoid impacts entirely to Pacheco Creek, either from construction or continuing operations.

The route section between the Diablo foothills and Gilroy, traverses the valley floor north of the Pajaro River. The underlying soil in this area historically supported alkaline wetlands and grasslands, two of the rarest habitats in the state (<http://www.sfei.org/HEP/reports/southsantaclaravalley.html>). While much of the area is currently farmed or grazed, the underlying soil and much of the hydrology remain essentially unchanged and some of the original seed bank appears to remain intact. At the southern edge of the area, in San Benito County, a plant thought extinct was rediscovered recently (saline clover (*Trifolium depauperatum* var. *hydrophilum*)). When left to go fallow, the underlying influences reassert themselves, making this area a good candidate for restoration. These areas may be significantly impacted by the proposed project.

Potential Impacts Resulting from Noise and Vibration

The potential for significant noise and vibration impacts to wildlife should be presented in detail in the EIR/EIS and should include impacts such as nest abandonment by birds

nesting near train tracks. In the case of the State threatened Swainson's hawk (*Buteo swainsoni*), which is known to nest in trees along the proposed Henry Miller route, nest abandonment caused by train travel could be a significant impact and should be fully addressed in the EIR/EIS. Noise and vibration will likely have impacts to "sensitive land uses" including the Department's Wildlife Areas, and other conservation lands. These areas should be considered "sensitive land uses" to be evaluated within a minimum 1,000-foot study area. The Department recommends that a noise and vibration impact study be developed that includes noise and vibration ranges expected to impact wildlife. A noise and vibration impact study is necessary to provide sufficient information for meaningful review of the proposed project by the Department. The study should examine noise, below surface vibration, and surface vibration impacts on wildlife. The study design should be approved by the Department and USFWS.

Additional Considerations

In order for the Department to adequately evaluate impacts of the proposed project, the Department requests the EIR/EIS contain enough information to determine precisely where the route or route options will be located. Routes should be locatable on the ground to allow accurate surveys and evaluation of impacts.

The type of construction in each area must be clearly identified to allow an accurate evaluation of the potential impacts. Each section should be identified as subterranean, above ground but on soil, elevated, etc. The transition points from one type to another should also be identified. Projected heights under or below ground, typical cross sections and materials proposed for use should be called out.

Construction methodologies should be clearly identified including the type of equipment to be used, when and where equipments will be operated, where spoils and lay-down areas will be located, daily hours of operation, and seasonal restrictions should all be specified. Maintenance activities that will occur in perpetuity should be identified with the same level of detail as original construction.

Conclusion

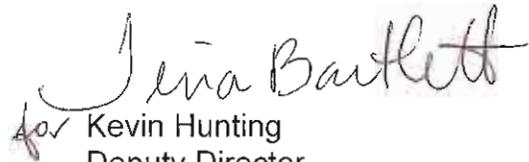
In summary, the San Jose to Merced section of the high-speed train (HST) system has the potential to result in several significant impacts to the fish and wildlife of California. Construction and operation of the proposed HST will create barriers to wildlife movement, which may result in potentially significant impacts to San Joaquin kit fox (SJKF), hunting and public use, and wildlife habitat linkages. Additionally, the proposed project may significantly impact Department owned and managed lands, specially-designated species, and sensitive habitat.

The preparation of the project-level EIR/EIS for the San Jose to Merced section of the proposed HST will require close coordination between the Department and the Authority to ensure that construction and operation the proposed HST will have a minimal impact to the public resources and fish and wildlife of the State of California.

Mr. Dan Leavitt
April 7, 2009
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If you have any questions regarding these comments, or would like the Department to assist in identification of sensitive habitat areas within the Project area, please contact Justin Sloan, Environmental Scientist, at (559) 243-4014 extension 216 for input pertaining to Merced and Madera County portions of the project, or Dave Johnston, Environmental Scientist, at (831) 466-0234 for input pertaining to the Alameda, San Francisco, San Mateo, and Santa Clara County portions of the project.

Sincerely,



for Kevin Hunting
Deputy Director
Ecosystem Conservation Division

cc: Department of Fish and Game
Bay Delta Region
Chuck Armor, Regional Manager
Dave Johnston
PO Box 47
Yountville, CA 94599

Department of Fish and Game
Central Region
Jeffrey Single, Regional Manager
Justin Sloan
1234 East Shaw Avenue
Napa, CA 93710

Department of Fish and Game
Habitat Conservation Planning Branch
Tina Bartlett, Branch Chief
Kathleen Perry
1416 Ninth Street, Room 1260
Sacramento, CA 05814



April 8, 2009

California High-Speed Rail Authority
Dan Leavitt, Deputy Director
Attn: San Jose to Merced HST Project EIR/EIS
925 L Street, Suite 1425
Sacramento, CA 95814

Re: Union Pacific Railroad Scoping Comments
For San Jose to Merced Joint EIR/EIS

Dear High-Speed Rail Authority:

Union Pacific Railroad Company submits the following comments in response to the High-Speed Rail Authority's (Authority) Notice of Preparation pursuant to CEQA dated February 23, 2009, concerning the Project Environmental Impact Report/Environmental Impact Statement for the San Jose to Merced segment of the high-speed train system (HSR). These comments also should be considered as responding to the Notice of Intent pursuant to NEPA as published by the Federal Railroad Administration in the Federal Register. Union Pacific understands that the Authority and the FRA will jointly prepare the EIR/EIS for this project.

Union Pacific Railroad Company (Union Pacific) is a Delaware corporation that owns and operates a common carrier railroad network in the western half of the United States, including the State of California. Specifically, Union Pacific owns and operates rail main lines connecting the San Francisco Bay Area to Sacramento and points east and north, and to Los Angeles and points east and southeast. Union Pacific is the largest rail carrier in California in terms of both mileage and train operations. Union Pacific's rail network in the Bay Area and the Central Valley is vital to the economic health of California and the nation as a whole. Union Pacific's rail service to customers in the Bay Area and Central Valley is crucial to the future success and growth of those customers.

Union Pacific previously submitted comments on the Bay Area to Central Valley HST Program EIR/EIS by letter dated July 7, 2008, from Mr. Scott Moore to Mr. Quentin L. Kopp of the Authority's Board (copy attached). Union Pacific reaffirms these comments and hereby incorporates them within this letter. By letter dated May 13, 2008, to Mr. Mehdi Morshed, the Authority's Executive Director (copy attached), the undersigned stated that it was not in Union Pacific's best interests to permit any proposed high-speed rail alignment on our rights of way. Union Pacific's position on this matter remains the same.

Union Pacific submits the following comments with reference to the scoping of the joint EIR/EIS for the San Jose to Merced segment of the high-speed rail system.

Comments Applicable to San Jose to Gilroy Segment

- 1) Union Pacific formerly owned and controlled operations on the Caltrain (PCJPB) right of way between San Jose and a station named Lick (approximately 4.5 miles south of San Jose Diridon Station), which right of way is proposed for use by the HSR system. Union Pacific sold this right of way (and the right of way north of San Jose to San Francisco) to PCJPB in 1991 and retained a permanent and exclusive easement for the operation of freight trains and intercity passenger trains over the entire line. Union Pacific owns and has primary operating rights on Main Track No. 1 between Santa Clara (CP Coast) and Lick station. Between San Jose and Santa Clara, this track currently is shared with Amtrak's Capitol Corridor service and with Altamont Commuter Express's Stockton – San Jose commuter service. Between Lick and Santa Clara, this track also is shared with Amtrak's Coast Starlight, a long distance passenger train running between Los Angeles and Seattle, and with the PCJPB-VTA commuter trains to and from Gilroy (see section (3) below). Union Pacific's rights to Main Track No. 1 are crucial to effective operation of these passenger services. Such rights also are crucial to freight service on the line between Los Angeles and Oakland and to San Francisco. The Authority must not undertake any action that interferes with Union Pacific's ownership and operation of Main Track No. 1 without prior approval from Union Pacific, Amtrak and the commuter agencies identified above. All adverse impacts must be mitigated to Union Pacific's satisfaction.
- 2) The comments submitted by Union Pacific in its San Francisco to San Jose scoping letter dated February 20, 2009, and in the amendment letter dated March 13, 2009, copies attached hereto, are relevant with respect to the San Jose to Lick segment of the HSR project, and are incorporated herein.
- 3) Union Pacific owns outright in fee simple the entire width of the railroad right of way from Lick to Gilroy (and southward to San Luis Obispo and Los Angeles (Moorpark)). Amtrak's Coast Starlight operates over this line, and the PCJPB and the Santa Clara Valley Transportation Authority (VTA) have certain limited contract rights to operate up to ten round-trip commuter trains to and from Gilroy over Union Pacific's right of way. Neither agency has any ownership rights in this line and neither has any right or authority to allow third parties such as HSR to use or occupy this line. Union Pacific alone has such right. As previously advised, Union Pacific has no intention of allowing or permitting the Authority to build or operate the HSR within Union Pacific's right of way between Lick and Gilroy.
- 4) The Lick – Gilroy right of way (31 miles) owned by Union Pacific is, with few exceptions, only 60-foot wide. For much of this distance, the right of way is directly bordered by Monterey Road or other public highways. There are two main tracks from Lick to Coyote (12 miles), and the Santa Clara Valley

Transportation Authority (VTA) currently is adding 8.4 miles of second main track south of Coyote. With over twenty miles of the right of way occupied by two main tracks, there is no space available for any additional rail operations, including HSR. Union Pacific intends to preserve the remaining non-double track portions for future freight service expansion. Union Pacific will take all legal action required to protect its property and operations against threats to such future capacity, including attempts to take the property by eminent domain.

- 5) The Authority must be aware of the following matters as it prepares the EIR/EIS:
 - a. Slow speed freight trains and high-speed trains are incompatible on the same tracks at any time and at any location, including at-grade cross-overs. Union Pacific requires overhead clearance of 23 feet 6 inches, which is higher than the Authority contemplates for its electrical system. The Authority must provide grade-separated cross-overs for freight trains at necessary locations. The Authority must not contemplate operation of freight trains on any HSR trackage at any time (and vice-versa). If necessary, completely separate freight trackage must be provided. HSR must comply with all applicable FRA regulations with regard to freight trackage.
 - b. Given the constraints of the right of way between Lick and Gilroy, it is not possible or practical to share that right of way with HSR. There are no mitigation measures which will make this possible. Union Pacific will not voluntarily make this right of way available to HSR under any circumstances.
- 6) As a common carrier railroad, Union Pacific is subject to the requirements of federal law governing abandonment or discontinuance of freight operations. Specifically, the Interstate Commerce Commission Termination Act (49 USC §10501 et seq.) prohibits a railroad from abandoning or discontinuing freight services over main or branch lines of railroad without authority from the federal Surface Transportation Board (STB). In the sale of the PCJPB right of way, Union Pacific retained all common carrier freight service rights and obligations. Therefore, Union Pacific's operations over the San Jose – Lick – Gilroy line are subject to STB jurisdiction. Neither the PCJPB nor the Authority may take any action that effectively requires or causes Union Pacific to abandon or discontinue freight service on or over such line without prior authority from the STB. Union Pacific will deem any attempt by HSR to interfere with Union Pacific's property and contract rights on the San Jose to Gilroy line, including attempts to seize the line by the exercise of eminent domain, as an attempt to force a de facto abandonment of freight service in violation of federal law.

Comments Applicable to Gilroy – Chowchilla Segment

Union Pacific has no scoping comments with reference to this segment as no Union Pacific right of way or operations are involved.

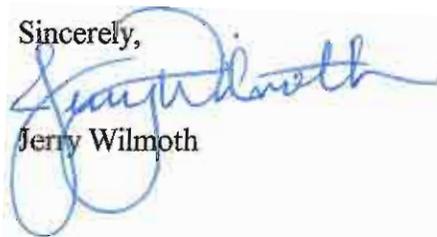
Comments Applicable to Chowchilla – Merced Segment

The map attached to the Notice of Preparation (Figure 1) indicates that Union Pacific's main line right of way would be utilized by HSR northward from Chowchilla (Henry Miller Road) to Merced, and possibly southward to Fresno. Union Pacific's scoping comments with reference to the Notice of Preparation for the Bakersfield – Merced segment, filed simultaneously with the Authority, are applicable to the Chowchilla – Merced – Fresno segment here. Both segments may occupy portions of Union Pacific's Fresno Subdivision main line. Therefore, Union Pacific's scoping comments for the Bakersfield – Merced segment are applicable hereto and are incorporated herein by reference.

Union Pacific is confident that its concerns listed herein will be fully addressed by the Authority and FRA during the EIR/EIS process. Union Pacific is willing to meet with the Authority and FRA to discuss its concerns about high-speed rail operation and to better understand the Authority's intentions regarding use of Union Pacific rights of way. Following such meeting, Union Pacific will be glad to consider all future requests by the Authority for information concerning operations, construction standards and mapping data.

Please direct all requests and correspondence to the undersigned.

Sincerely,



Jerry Wilmoth

DEPARTMENT OF TRANSPORTATION

111 GRAND AVENUE
P. O. BOX 23660
OAKLAND, CA 94623-0660
PHONE (510) 622-5491
FAX (510) 286-5559
TTY 711



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April 9, 2009

BAG0035
SCH#200902283

Mr. Dan Leavitt
California High Speed Rail Authority
925 L Street, Suite 1425
Sacramento, CA 95814

Dear Mr. Leavitt:

San José to Merced High-Speed Train (HST) Project – Notice of Preparation (NOP)

Thank you for including the California Department of Transportation (Department) in the environmental review process for the San José HST Project. The following comments are based on the NOP.

As lead agency, the California High Speed Rail Authority is responsible for all project mitigation, including any needed improvements to State highways. The project's fair share contribution, financing, scheduling, and implementation responsibilities as well as lead agency monitoring should be fully discussed for all proposed mitigation measures and the project's traffic mitigation fees should be specifically identified in the Environmental Impact Report/Environmental Impact Statement (EIR/EIS). This information should also be presented in the Mitigation Monitoring and Reporting Plan of the EIR/EIS.

Any required roadway improvements should be completed prior to issuance of project occupancy permits. An encroachment permit is required when the project involves work in the State's right of way (ROW). The Department will not issue an encroachment permit until our concerns are adequately addressed. Therefore, we strongly recommend that the lead agency ensure resolution of the Department's California Environmental Quality Act (CEQA) concerns prior to submittal of the encroachment permit application; see the end of this letter for more information regarding the encroachment permit process.

Traffic & Highway Operations

- Safety is improved by the implementation of track grade separation at all cross traffic intersections.
- Figure 1 shows the San José to Central Valley HST would run parallel to State Route (SR) 152 and US 101. Figure 1 also shows that the proposed HST stations are to be located adjacent to

"Caltrans improves mobility across California"

these State highways. Since the HST stations will induce additional demand on the State highway system (SHS), particularly on the mainline segments, intersections, and ramps in the vicinity of the HST stations, the EIR/EIS needs to evaluate the traffic impacts that this demand will cause.

- The EIR/EIS needs to evaluate the traffic impacts to the SHS caused by construction work to build the HST tracks and the stations.
- Increased traffic congestion on local roads and State highways near the HST stations should be evaluated.
- Projections for rail riderships, increased traffic near rail stations, and decreased traffic on parallel highways should all be consistent with each other and be the product of the same travel demand model. This model should be subject to local area validation to ensure that it is producing realistic results for the facilities evaluated.
- The effects and utility of the San José to Merced section of the HST project should be examined without the construction of the rest of the proposed system.

We recommend using the Department's "*Guide for the Preparation of Traffic Impact Studies*" for determining which scenarios and methodologies to use in the analysis. It is available at the following website address:

<http://www.dot.ca.gov/hq/traffops/developserv/operationalsystems/reports/tisguide.pdf>

We propose meeting with the lead agency before studies are initiated to discuss potential study scope and traffic analyses requirements.

Transportation Planning

The project sponsor may wish to examine the market potential for HST feeder service to interstate and international air travel, utilizing San Francisco International Airport and Mineta San José International Airport. Issues that are associated with this type of service would include the following:

- Whether or not to provide an HST station stop in Santa Clara, where a planned airport people-mover will connect Mineta San José International Airport to the Caltrain and (future) BART stations.
- How should luggage be accommodated? Should off-site terminals with luggage check-in and transfer be implemented?

Some of the goals of HST are to diminish car use, combat pollution and support the desired housing densification in metropolitan areas. HST can reach these goals if it attracts the maximum number of passengers. To do this, the largest population centers should receive the highest priority and the stations should connect using the straightest possible alignment. Care should be taken not to duplicate existing transit services. Additionally routes should be developed with the fewest number of stops to maximize speed. Reductions in HST efficiency diminish all forms of transit connecting to the HST. This in turn renders any benefits of the system less effective in reducing vehicular volume on the SHS.

Cultural Resources

If construction activities are proposed within the State's ROW, the Department requires documented results of a current archaeological record search from the Northwest Information Center (NIC) of the California Historical Resources Information System before an encroachment permit can be issued. Current record searches must be no more than five years old.

The Department requires the records search, and if warranted, a cultural resource study by a qualified, professional archaeologist, to ensure compliance with the National Environmental Policy Act (NEPA) (if there is federal action on the project), CEQA, Section 5024.5 of the California Public Resources Code (for state-owned historic resources) and Volume 2 of the Department's "*Standard Environmental Reference*", available at <http://www.dot.ca.gov/hq/env/index.htm>). Work subject to these requirements includes, but is not limited to: lane widening, channelization, auxiliary lanes, and/or modification of existing features such as slopes, drainage features, curbs, sidewalks and driveways within or adjacent to State ROW.

Permits

Transportation Permit - Project work that requires movement of oversized or excessive load vehicles on State roadways, such as those identified in the NOP require a transportation permit that is issued by the Department. To apply, a completed transportation permit application with the determined specific route(s) for the shipper to follow from origin to destination must be submitted to the address below.

Office of Transportation Permits
California DOT Headquarters
P.O. Box 942874
Sacramento, CA 94274-0001

See the following website link for more information: <http://www.dot.ca.gov/hq/traffops/permits/>.

Encroachment Permit - Any work or traffic control within the State ROW requires an encroachment permit that is issued by the Department. Traffic-related mitigation measures will be incorporated into the construction plans during the encroachment permit process. See the following website link for more information:
<http://www.dot.ca.gov/hq/traffops/developserv/permits/>

To apply for an encroachment permit in District 4, submit a completed encroachment permit application, environmental documentation, and five (5) sets of plans which clearly indicate State ROW to the address at the top of this letterhead, marked ATTN: Michael Condie, Mail Stop #5E.

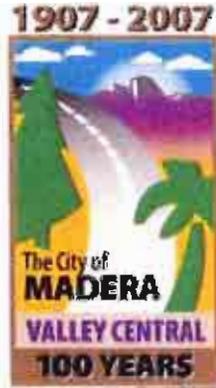
Mr. Dan Leavitt /California High Speed Rail Authority
April 9, 2009
Page 4

Should you have any questions regarding this letter, please contact Lisa Courington of my staff via email at lisa.ann.courington@dot.ca.gov or by phone at (510) 286-5505.

Sincerely,


for LISA CARBONI
District Branch Chief
Local Development - Intergovernmental Review

c: State Clearinghouse

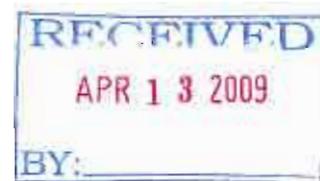


COMMUNITY DEVELOPMENT

April 9, 2009

California High Speed Rail Authority
Honorable Chairman Judge Quentin L. Kopp
925 L Street, Suite 1425
Sacramento CA 95814

Dan Leavitt, Deputy Director
San Jose-Merced, California High Speed Rail Authority
925 L Street, Suite 1425
Sacramento CA 95814



Ms. Carrie Pourvahidi,
Deputy Director, Merced-to-Bakersfield
California High Speed Rail Authority
925 L Street, Suite 1425
Sacramento, CA 95814

RE: California High Speed Rail – EIR/EIS Scoping Process

This letter is provided in response to the EIR/EIS public scoping process for the California High Speed Rail (HSR) project. The City appreciates the willingness of the HSR Authority's Project Team to conduct a scoping meeting in Madera, as well as to meet informally with the staff from our Community Development Department. The section of the HSR corridor passing through Madera County, including in and around the City of Madera, is a critical component of the system not only for the San Joaquin Valley, but for the State as a whole. We look forward to working cooperatively with the Team to evaluate and design this section to ensure that it contributes positively to the Madera community, while retaining its function as a key segment in the overall system. The points outlined below summarize the issues the City of Madera believes should be further analyzed as part of the project-level evaluation.

Alternative North-South Alignment West of Madera

The proposed alignments in the vicinity of the City of Madera have been shown along the existing lines of the Burlington Northern Santa Fe (BNSF) and the Union Pacific (UP) tracks that run through Madera County. Staff from the City of Madera, as well as representatives from our partnering agencies (City of Chowchilla and Madera County) have previously called out the need to evaluate a potential alignment west of Highway 99. While we have recently seen a similar alignment circulated by CH2MHill, we are somewhat uncertain the degree to which the Project Team is committed to evaluating this alternative as part of the project-level environmental document.

City of Madera Response to Notice of Preparation
For the California High Speed Rail Project EIR
Merced to Bakersfield and San Jose-Merced High Speed Train System
April 9, 2009

While not devoid of its own complications, a corridor west of the City of Madera has the potential to avoid several debilitating impacts that would otherwise be created by establishing HSR tracks on either the BNSF or UP alignments. We believe that failure to earnestly consider this alternative as a “buildable” alignment at the project level would constitute a significant flaw in the planning process and in any related environmental documents. The EIR/EIS should consider a westerly alignment, and its ability to address and avoid impacts including, but not limited to, those outlined below.

- The existing UP tracks bisect the City of Madera, presenting not only a physical obstacle, but also a cultural barrier in the City. The establishment of HSR facilities adjacent to the UP alignment within the City of Madera would exacerbate these conditions to a degree where there would be virtually no hope of bridging the divide. Significant impacts associated with environmental justice would be certain.
- The establishment of HSR tracks adjacent to the UP alignment would disrupt the functionality of Madera’s historic downtown, including its central business district. This would create the potential for significant economic impacts and the opportunity for physical blight.
- The existing BNSF tracks run through and along established rural neighborhoods on the east side of the City’s Planning Area. Establishing HSR facilities along the BNSF corridor would physically divide existing neighborhoods. Some of these neighborhoods serve what is primarily an environmental justice community, creating the potential for significant impacts associated with environmental justice.
- The BNSF tracks run along the east side of the City’s Planning Area, which will interfere with the primary, long-term growth pattern of the City. The easterly growth pattern has largely been set by the presence of prime agricultural land west of the City. The establishment of HSR lines along the BNSF corridor has the potential to create a permanent barrier or constraint to this easterly pattern of development. Such a constraint has the potential to contribute to the loss of prime agricultural lands by forcing growth to the west. Alternatively, the placement of the HSR corridor west of the City has the potential to serve as part of a functional edge to urban development, thereby enhancing the conservation of agricultural lands.

Alternative East-West Alignment South of Highway 152

The east-west HSR corridor displayed in conjunction with the public scoping process traverses Madera County north of Highway 152. While the east-west alignment primarily affects the City of Chowchilla, the City of Madera is concerned with its regional implications. This alignment has not considered the City of Chowchilla’s General Plan nor in the City’s Infrastructure Master Plans and extends through lands that are developed or planned for urban development. An alternative alignment south of Highway 152 needs to be evaluated, in order to determine its potential to avoid unnecessary conflicts which could be detrimental to the region, including:

City of Madera Response to Notice of Preparation
For the California High Speed Rail Project EIR
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April 9, 2009

- The proposed alignments create the Chowchilla Triangle encompassing the City and its General Plan Area and would become a barrier around the City with the fences required to protect the train rights-of-way.

- The east-west alignment along Avenue 24 would split the two State Correctional Facilities that lie east of Highway 99. These prison sites are within the Chowchilla City Limits. An alignment to the south of Highway 152 would avoid the facilities.

- Using the right-of-way or adjacent right-of-way to be acquired of the UPRR would decimate the Chowchilla Downtown and waste the funds the Chowchilla Redevelopment Agency has put into Downtown Revitalization.

Avoidance of Circulation System and Public Service Conflicts

It is our understanding that the construction of the High Speed Rail System is intended to incorporate such features as necessary to allow local agencies to be "held harmless." However, we are not aware of any discussions regarding the specific features that would need to be incorporated. It is our observation that the alternative alignments would create significantly different impacts on features such as surface transportation routes, utility and infrastructure systems (sewer, water, storm drain, etc.), fire department response times, etc.

The potential impacts and mitigation measures on circulation systems and public services need to be evaluated. The City of Madera strongly believes that specific features necessary to accommodate the needs of affected agencies along the HSR route need to be identified in direct consultation with those agencies. To that end, we encourage the Project Team to work with the City to identify and evaluate these features, and we appreciate the opportunity to be able to provide additional information to the Project Team as the process continues. The early identification of local features, and their costs, will help to ensure that they are factored into the final alignment selection and to allay local concerns regarding potential fiscal impacts.

Additionally, we have yet to see any provision or plan for how to access the identified rail stations served by the High Speed Rail system (i.e. shuttle, transit bus, van). Please clearly describe how the existing outlying communities will access the proposed rail stations.

Design Characteristics and Adjacent Land Uses

The project-level analysis should evaluate the impact of the alternative alignments on the existing and planned land uses for each alignment. Alternative design characteristics (grade changes, sound walls, etc.) for the HSR Project which have the potential to reduce or eliminate impacts should be prioritized over measures which would be implemented "off-site". To the extent that future development is expected to provide physical setbacks or to incorporate noise attenuation or other design features to mitigate

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For the California High Speed Rail Project EIR
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April 9, 2009

impacts, we would look for these measures to be called out in detail and include the cost of implementation.

HSR Maintenance Facility

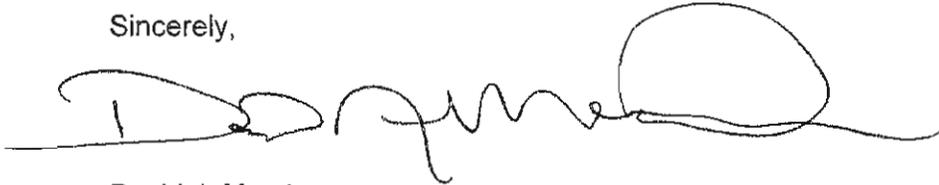
In combination with the County of Madera and the City of Chowchilla, the City offers its support for placement of the HSR maintenance facility in one of several alternate locations within Madera County. We believe that certain benefits to the HSR system are available by placing a maintenance facility in the County, stemming from the area's central location, the availability of freeway and rail access, and the ability to place the maintenance facility at or near the point where the east-west and north-south lines meet.

Coordination Plan

The City of Madera is supportive of the HSR Authority's action to rapidly create and implement a "Coordination Plan" which allows communities with substantial interest in the proposed project to be at the table and have a continuing voice in the planning and implementation of the Project.

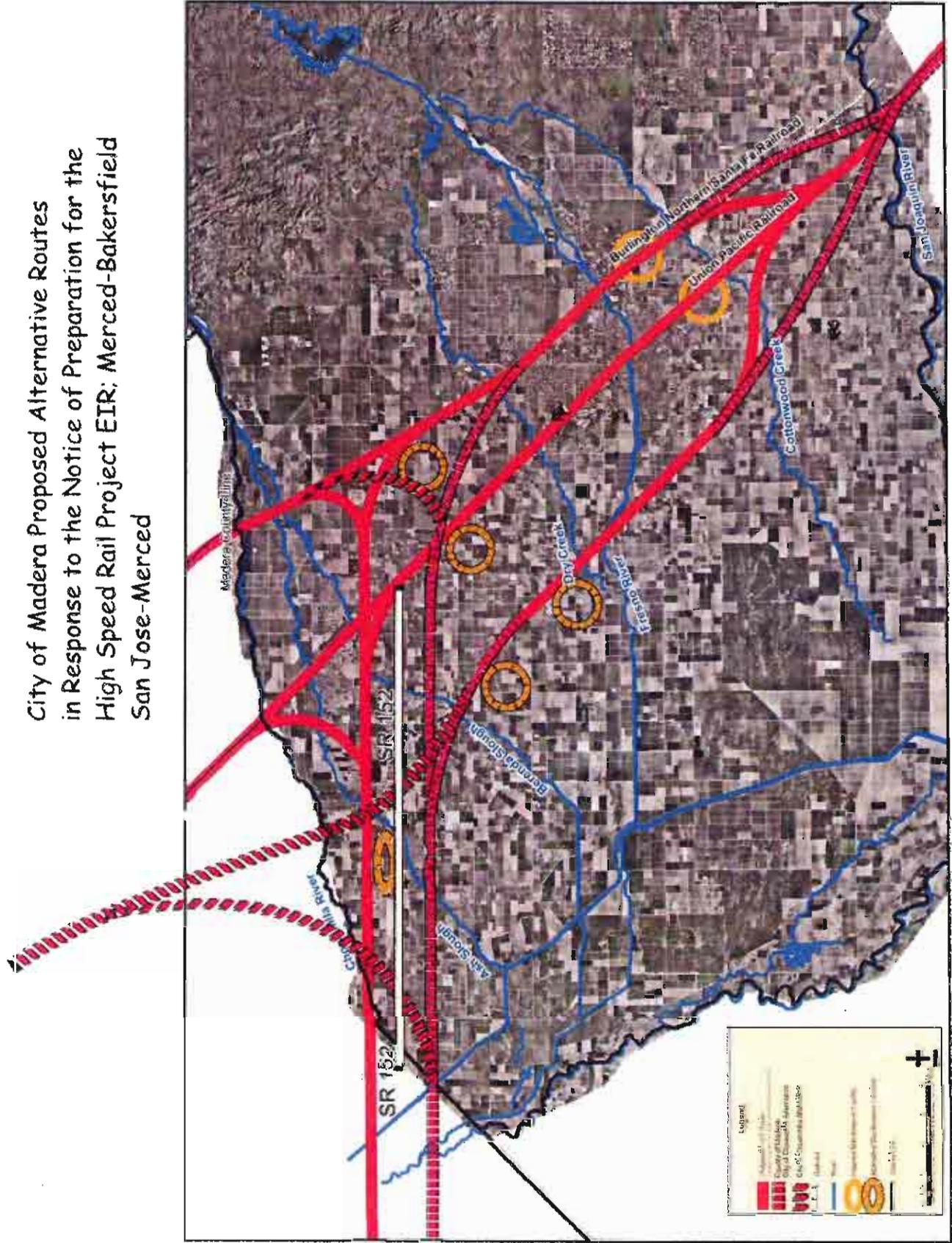
A diagram outlining the alternative alignments and alternative maintenance facility locations described above is attached for review. Your consideration of these materials and the issues described in this letter is appreciated. Please feel free to contact me if you have any questions regarding this matter or wish to discuss any item in greater detail. We look forward to the continuing cooperation with the HSR Authority's Project Team.

Sincerely,

A handwritten signature in black ink, appearing to read 'David J. Merchen', with a large, stylized loop at the end.

David J. Merchen
Community Development Director

**City of Madera Proposed Alternative Routes
in Response to the Notice of Preparation for the
High Speed Rail Project EIR; Merced-Bakersfield
San Jose-Merced**





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April 9, 2009

Honorable Chairman Judge Quentin L. Kopp
California High Speed Rail Authority
925 L Street, Suite 1425
Sacramento CA 95814



Dan Leavitt, Deputy Director
California High Speed Rail Authority
925 L Street, Suite 1425
Sacramento CA 95814

Carrie Pourvahidi, Deputy Director
California High Speed Rail Authority
925 L Street, Suite 1425
Sacramento CA 95814

RE: Comments on the scope of San Jose to Merced and Merced to Bakersfield High Speed Train Project-Level EIR/EIS

Dear Chairman Kopp:

The Madera County Transportation Commission is taking this opportunity to comment on the scope of both the San Jose to Merced and Merced to Bakersfield High Speed Train Project-Level Environmental Impact Report/Environmental Impact Statement. As the Federally-designated Metropolitan Planning Organization (MPO) and Regional Transportation Planning Agency for the Madera County region, we have worked with our member agencies to produce a regional response to the Notice of Preparation for both the north-south and east-west proposed High Speed Train alignments that intersect the County.

Madera County occupies a unique position in the proposed route of the High Speed Train system, serving as a hub not only for connections between the Bay Area and Southern California in the initial phase of HST construction, but also north to the Sacramento metropolitan area once full build-out of the system has been completed. Consequently, we believe that potential impacts to the Madera County region, particularly in the areas of transportation network connectivity, existing and future land use patterns, economic development, and natural resource preservation, require close scrutiny as the EIR/EIS process moves forward.

MCTC has been working together with the other seven San Joaquin Valley MPOs in the development of a Regional Blueprint for the Valley, which will help to inform local land use planning over the next 40 years. We urge the California High Speed Rail Authority to consider the regional land use and transportation planning efforts conducted locally in support of the Regional Blueprint when developing the EIR/EIS for both HST segments. Integration of the High Speed Train system with the Metro-Rural

Chairman Kopp
April 9, 2009
Page 2

Loop concept currently being explored by the Mid-Valley Multi Modal partnership, which includes Madera, Fresno, Kings and Tulare Counties, is also a priority.

The Cities of Madera and Chowchilla and the County of Madera have individually prepared letters addressing potential impacts to their jurisdictions. We ask that you consider the concerns outlined in these letters and carefully weigh proposed alternatives offered by the professionals responsible for planning throughout the County.

Thank you for all of your efforts in providing a forum for dialogue between the High Speed Rail Authority and the local and regional agencies of Madera County. We look forward to continued cooperation between the Authority and MCTC as we work to make High Speed Rail a reality in California.

Sincerely,

A handwritten signature in black ink, appearing to read 'Patricia Taylor', with a long horizontal flourish extending to the right.

Patricia Taylor, Executive Director
Madera County Transportation Commission

Enclosures



April 9, 2009

Mr. Dan Leavitt
Deputy Director
California High Speed Rail Authority
925 L Street, Suite 1425
Sacramento, CA 95814



RE: Notice of Preparation/Notice of Intent
San Jose to Merced HST Project EIR/EIS

Dear Mr. Leavitt:

On March 18, 2009, Merced County representatives attended the Public Scoping Session held in Merced. County representatives have also reviewed the Notice of Preparation (NOP) and Notice of Intent (NOI) for the San Jose to Merced High-Speed Train Project (Project) EIR/EIS released by the California High Speed Rail Authority (Authority) and offer the following comments on the NOP/NOI for this Project. The County has also reviewed the NOP/NOI for the Merced to Bakersfield HST Project and will submit comments on that project in a separate letter.

The County would like to begin by noting its support for the High Speed Rail Project. The County believes that the High Speed Rail Project, as a whole, will have substantial benefits for the County of Merced and the State. The County looks forward to continuing to work with the Authority to achieve a High Speed Rail system that both generates the promised benefits to the State and minimizes the impacts to the localities, such as the County, where the system will be located. The County also recognizes that its role as a regional leader may be of value to the Authority. The processing and approval of the HST will be more effective and efficient if local agencies cooperate. To that end, the County offers to assist the California High Speed Rail Authority in organizing regional public agencies on critical topics of shared interest relating to HST, such as the Castle Maintenance Facility.

The County does have a number of specific areas the County would like the Authority to address in the EIR/EIS. Pub. Res. Code, § 21080.4; CEQA Guidelines, § 15082.

Relationship of the Project to the Merced County General Plan

The implementation of this Project will require amendments to the Merced County General Plan and possibly the County's Redevelopment Plan. The County is, therefore, a Responsible Agency for this project. Specifically, the County requests that this EIR/EIS address the following subjects.

Land Use

The proposed Project will affect areas in the County that are designated for both rural and urban land uses. Rural land uses are designated either "Agricultural" or "Foothill Pasture."

Board of Supervisors

John Pedrozo
Supervisor, District One

Hubert "Hub" Walsh, Jr.
Supervisor, District Two

Michael G. Nelson
Supervisor, District Three

Deldre F. Kelsey
Supervisor, District Four

Jerry O'Banion
Supervisor, District Five

Demitrios O. Tatum
County Executive Officer

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The Agricultural designation generally is applied to intensely farmed irrigated areas on the valley floor the Foothill Pasture designation is generally applied to non-irrigated grasslands. Urban land uses are typically accommodated within designated urban areas. These are designated either Specific Urban Development Plan (SUDP) areas, Rural Residential Centers (RRC'S), or Highway Interchange Centers (HIC's). Development within SUDP's are typically guided through community plans which contain goals, objectives, and policies unique to that particular plan.

It is very important that the EIR/EIS include a comprehensive analysis of the Project's consistency with the County General Plan. For Rural designated areas, impacts to agricultural and open space resources will, to a large degree, determine General Plan consistency. For urban designated areas, the Project's consistency with the goals, objectives, and policies of the particular community plan is critical.

It appears that construction of the tracks and operation of the trains may have land use conflicts with existing uses in the unincorporated communities of Santa Nella and Volta and to designated Highway Interchange Centers along the Interstate 5 corridor. The EIR/EIS should analyze these impacts.

Circulation

The County General Plan circulation chapter contains goals, objectives, and policies to ensure that the land uses designated in the General Plan are adequately supported by a comprehensive circulation network. This Project has the potential to greatly enhance the County's circulation system by reducing overall traffic in the County. However, interruption of traffic flow at local intersections has the potential to add significant delays to local traffic circulation. The EIR/EIS should study these impacts and the Authority should ensure that the Project is designed, by fully grade-separated crossings, routing and other design and mitigation measures to minimize the disruption of the HST to the County's existing circulation system.

Air Quality

Similarly, the County is concerned that interruptions to the local circulation network may also increase local air pollution, including, but not limited to, the increase in carbon monoxide "hot spots" that may be created if cars are required to idle for extended periods of time at at-grade crossings or other facilities of the HST. The County's General Plan contains a number of policies designed to reduce air pollution. The EIR/EIS should fully evaluate the Project's potential to increase local air pollution and the potential conflicts with the County's General Plan policies designed to reduce air pollution.

Noise

The County's General Plan noise chapter contains noise exposure standards for both rural and urban land use designations. As with the traffic impacts, the Project has the potential to add significant noise impacts, especially to the extent that the Project will involve any at-grade crossings in established communities. Noise generated by this Project should be evaluated in the context of the County's noise exposure standards.

Open Space & Conservation

The County General Plan open space and conservation chapter contains goals, objectives, and policies which recognize the importance of the County's open space, habitat, wetland, and aesthetic resources. The proposed Project, as generally routed, has the potential to affect all of these resources. This EIR/EIS needs to carefully study this potential effect and minimize any adverse impact to these resources.

To properly evaluate the proposed Project's relationship and consistency with the wide array of County General Plan policies, the County recommends that the study corridor for the Project be expanded from 100 to 500 feet. A study corridor of 500 feet is advisable to adequately analyze potentially significant impacts such as noise, air quality and other impacts.

Water Supply

The County's General Plan recognizes that water supply in the County is largely dependent on groundwater and groundwater recharge. The General Plan also recognizes that the increase in impervious surfaces can decrease groundwater recharge, thereby reducing overall water supply. To the extent that the Project proposes to increase impervious surfaces in the County, the EIR/EIS should evaluate the impacts to groundwater supply.

The County's General Plan also recognizes that water supply is currently impacted by groundwater quality issues in several localities. The EIR/EIS should examine the potential for the Project to cause further degradation to groundwater quality in the County.

General Plan Update

The County is in the midst of a General Plan Update, and as such, will require close coordination with the Authority to ensure that the Project is evaluated against current General Plan policy.

Relationship of the Project to the UC Merced University Community Plan

In 1995, the Regents of the University of California selected Merced as the site for the 10th UC Campus.

In 2004, following a multi-year planning process, the County adopted the University Community Plan (UCP) and certified an EIR for that Plan (SCH # 2001021056).

The UCP is designed to capture all the growth generated by UC Merced, integrate that growth with the Campus Long Range Development Plan, and organizes and plans for this growth in a manner that is sustainable and consistent with the County's General Plan.

An efficient multi-modal transportation network is key to achieving the environmental sustainability goals of the UCP. It is critical that the EIR/EIS examine the relationship of the Project to the UCP and ensure that the Project is integrated with and supports the circulation element of the UCP.

Relationship of the Project to the County's Regional Transportation Program

The County participates in a Regional Transportation Program (RTP) administered by the Merced County Association of Governments (MCAG). There are several important regional transportation projects that could be affected by these projects. These may include, but are not necessarily limited to: the Campus Parkway, the Merced-Atwater Expressway, and the Los Banos By-Pass. The County requests that the EIRs/EISs fully evaluate the Projects' relationship and conformity with the county-wide RTP and the above listed projects.

Project Alternatives

In addition to the topics identified previously in this letter, the County believes it is very important for the EIR/EIS to carefully and completely analyze alternatives to the proposed Project. While it is understood that the general alignment of the High Speed Rail system has been selected and evaluated through the previous programmatic EIRs/EISs, it will be important for this project-level EIR/EIS to evaluate alternative alignments that minimize conflicts with the County's General Plan and RTP.

Environmental Justice Analysis

Finally, the County requests that the EIR/EIS include an Environmental Justice analysis required by NEPA. The County requests that the Authority examine the potential environmental justice issues in the final siting of the tracks for this leg of the HST.

Thank you for the opportunity to provide these comments to guide the scope of this EIR/EIS. The County of Merced knows that a high speed rail system that runs through our San Joaquin Valley connecting Northern California and the Bay Area to Southern California will offer many benefits to our Valley and California. The County looks forward to working with the Authority as it moves forward on this important and historic project.

Sincerely,



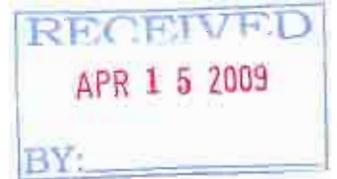
Deidre F. Kelsey
Chairman, Merced County Board of Supervisors

cc: The Honorable Dianne Feinstein, United States Senate
The Honorable Barbara Boxer, United States Senate
The Honorable Dianne Feinstein, United States House of Representatives
The Honorable Jeff Denham, California State Senate
The Honorable Cathleen Galgiani, California State Assembly



File: 30077
Various

April 9, 2009



Mr. Dan Leavitt, Deputy Director
Attention: San Jose to Merced HST Project EIR/EIS
California High-Speed Rail Authority
925 L Street, Suite 1425
Sacramento, CA 95814

Subject: San Jose to Merced High-Speed Train

Dear Mr. Leavitt:

The Santa Clara Valley Water District (District) has reviewed the Notice of Preparation (NOP) of a Project Environmental Impact Report (EIR) for the subject project. The District has the following comments on the NOP for your consideration during the preparation of the EIR:

The District provides comprehensive water management for all beneficial uses and protection from flooding within Santa Clara County as described in the Santa Clara Valley Water District Act. In support of its mission, the District operates and maintains several water resource facilities in Santa Clara County, including flood protection facilities and water supply facilities which may be above ground or underground, several of which cross the right of way which will be affected by the high-speed train project. The District's Water Resources Protection Ordinance requires that a District permit be obtained prior to any modification of or encroachment onto a District facility. The District may be a Responsible Agency under the California Environmental Quality Act if the project requires permitting under the Water Resources Protection Ordinance, which appears to be a likely scenario, depending on the actual improvements or modifications to the proposed right of way needed to accommodate the high-speed train.

The EIR should identify and discuss the potential for any needed modifications to existing bridges or other crossings of existing creeks, culverts, or other flood protection facilities and include details of any proposed mitigation measures to address adverse impacts to those facilities.

The EIR should identify and discuss any potential to alter existing flood flows or flood patterns from construction of rail improvements or stations and provide mitigations accordingly. Additionally, if a large amount of impervious surface area will be introduced from new parking structures or other facilities related to operation or maintenance of the high-speed train, then the EIR should discuss mitigation for increased runoff which may exacerbate existing flooding conditions or increase the frequency of flooding. Other general flooding concerns and concerns related to the Upper Pajaro River watershed that should be addressed were identified in our May 14, 2004 letter (enclosed) of response to the Draft Program EIR.



Mr. Dan Leavitt
Page 2
April 6, 2009

The EIR should discuss any potential for the project to degrade water quality in adjacent surface waters directly or indirectly via storm drainage and any potential to adversely impact groundwater supplies or groundwater quality from any tunneling or other underground work (see enclosed May 14, 2004 letter).

The EIR should identify and discuss any potential to modify or disturb any of the District's water supply facilities which include several large diameter pipelines. The District supplies Santa Clara County with a majority of its wholesale water. As a result, careful consideration must be taken when designing the high-speed train facilities to ensure that the District's water supply facilities are not adversely impacted during construction or in the long term whereby our maintenance costs are increased or our maintenance access is compromised. Of particular concern is any potential crossing of or potential adverse impact to the Santa Clara Conduit, the Pacheco Conduit, and any related facilities which are owned by the United States Bureau of Reclamation and maintained and operated by the District. These two pipelines are of particular concern due to their extremely large size and because they supply the District with nearly half of its surface water supply.

The NOP did not contain a detailed description of exactly how the project will be constructed along the proposed right of way or exactly what right of way will be affected; therefore, the District is unable to provide specific details on how the project may or may not impact our facilities. The EIR should contain sufficient detail of the project to determine the extent of potential impacts and area of influence of the project. The EIR should provide better clarity on whether the high-speed rail facilities will be above ground, below ground or utilize existing tracks at existing grade and define the limits where these modifications will occur such that the District can provide more detail on how the project may impact our facilities.

The District appreciates the opportunity to provide comments on the NOP and looks forward to reviewing the EIR when it is available. Please notify the District at the earliest possible time as to the availability of the EIR. If you have questions, please contact me at (408) 265-2607, extension 2319.

Sincerely,



Yvonne Arroyo
Associate Engineer
Community Projects Review Unit

Enclosure: Copy of May 14, 2004 letter

Cc: S. Tippets, M. Klemencic, K. Whitman, R. Yep, B. Ahmadi, C. Elias, L. Lee, J. Christie,
A. Gurevich, S. Katric, Y. Arroyo, File



ENCLOSURE

File: 30077
Various

May 14, 2004

California High-Speed Rail Authority
Attn: California High-Speed Train
Draft Program EIR/EIS Comments
925 L Street, Suite 1425
Sacramento, CA 95814

Subject: Proposed California High-Speed Train System

Ladies and Gentlemen:

The Santa Clara Valley Water District (District) has reviewed the Draft Program Environmental Impact Report/Environmental Impact Statement (DEIR/DEIS) for the subject project. The District has the following comments:

Section 3.10.1, Item B—Public Utilities, Regulatory Requirements and Methods of Evaluation

This section of the DEIR/DEIS did not analyze impacts to major water supply pipelines. Major water supply pipelines provide critical services, can create hazards if damaged, as well as pose construction challenges in the same manner as electric, natural gas, and wastewater treatment facilities. The District recommends that major water supply pipelines be included in the analysis for impacts to public utilities.

Section 3.14.4, Item A—Comparison of Alternatives by Region, High-Speed Train Alignment Option Comparison

Both the Diablo Range Alignment and the southern Pacheco alignment present significant concerns to various water resources. The report describes how the Diablo Range alternative would cross tributaries that could potentially contribute to siltation in Anderson and Coyote reservoirs. Mitigation for these impacts could potentially involve construction of pre-reservoir desilting facilities. The District is concerned about the adequacy of further analysis in determining the extent of such impacts. There may also be concerns regarding the disturbance of serpentine areas in this region, which is extremely difficult to mitigate.

The southern Pacheco alignment poses even more concerns as it would impact more floodplains in Santa Clara County, cross mountain streams that tribute to Pajaro River, and potentially increase flood

ENCLOSURE



risk in this sensitive floodplain region. The complexities of the greater Pajaro Watershed in terms of stormwater detention and attenuation of downstream flooding cannot be underestimated. Work currently undertaken by the Pajaro River Watershed Flood Prevention Authority demonstrates the critical role of the upper Pajaro River system in regional hydrology. Any work performed within the Pajaro Watershed would require close coordination with concurrent investigations, studies and efforts to preserve the existing function of this watershed, specifically of the Soap Lake Floodplain Region. In addition to the floodplain issues associated with Upper Pajaro River, there are significant surface water quality issues in the Pajaro Basin. Specifically, there are presently two Total Maximum Daily Load (TMDL) efforts, one for sediment and one for nutrients. The TMDL activities were prompted by the listing of the Pajaro River under Clean Water Act 303 (d) classification as impaired for these contaminants. The EIR for a specific project will need to adequately address both water quality and flooding impacts associated specifically to the Upper Pajaro River.

Section 3.14.5, Item A—Mitigation Strategies, Floodplains

The DEIR/DEIS indicates that future project-level analysis will analyze floodplain hydrology/hydraulics for impacts of specific designs on water surface elevations and flood conveyance for low frequency floods to evaluate potential flooding risk. The District recommends that flood events of greater frequency will need to be analyzed as well. The project may have the potential to exacerbate or increase the frequency of existing frequent flood events such as 2-year or 10-year events.

Section 3.14.5, Item C—Mitigation Strategies, Groundwater

In addition to the issues and mitigations identified in the DEIR/DEIS for groundwater, the District recommends that the following items be addressed and mitigated for:

- The project may have the potential for the diversion of groundwater flow. Groundwater flow directions and pathways could be affected by tunneling and dewatering associated with the Modal and High Speed Rail alternatives in segments where tunneling or extensive earthwork would be undertaken.
- The project may cause a rise in the groundwater table in areas with soil contamination. This may cause an absorption of contaminants by groundwater or possibly spread groundwater contamination.
- The project may have the potential to induce land subsidence caused by construction /operation dewatering.
- Tunneling or drilling operations also has the potential to contaminate groundwater.

Section 3.14.6 Subsequent Analysis

As an information item, the District enacted Ordinance 83-2 which requires issuance of a District permit

for work within 50 feet of the top of bank of a creek within District jurisdiction and work located adjacent to a District facility, including pipelines. Creeks within the District’s jurisdiction are those creeks located within Santa Clara County and whose tributary area is a minimum of one-half square mile. The District’s Ordinance and other information items regarding watersheds within Santa Clara County may be found at our website, www.valleywater.org.

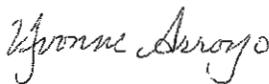
Section 3.15.4, Item A—Comparison of Alternatives by Region, Bay Area to Merced

The High-Speed Train alternative analysis should include a statement similar to the one presented under the Modal Alternative, that is: “...providing sufficient mitigation for compliance with Clean Water Act requirements for wetlands and waters would likely be difficult and challenging.” This is an important fact that would apply to almost any project under consideration where wetlands and functioning floodplains exist.

General Comments

All of the proposed alignments within the Santa Clara County will affect groundwater quality, surface water quality, water supply pipelines, and existing flood conditions to some extent. The District would like to receive a copy of the final EIR/EIS when it is available and any future California Environmental Quality Act documents which may be prepared if a project-level analysis is performed. If a more definitive alignment is chosen to be analyzed, the District may have more detailed comments at that time. Any questions regarding these comments may be directed to me at (408) 265-2607, extension 2319.

Sincerely,



Yvonne Arroyo
Associate Engineer
Community Projects Review Unit

cc: S. Tippetts, Y. Arroyo, B. Ahmadi, Y. Ping, C. Presley, M. Klemencic, File (2)



Regional Transportation Planning Agency • Congestion Management Planning
Local Transportation Commission • Monterey County Service Authority for Freeways & Expressways

April 9, 2009

Mr. Dan Leavitt
Deputy Director
California High-Speed Rail Authority
925 L Street, Suite 1425
Sacramento, CA 95814



SUBJECT: San Jose to Merced HST

Dear ~~Mr. Leavitt~~:

The Transportation Agency for Monterey County has been working with Caltrain, Union Pacific, the California Department of Transportation Division of Rail, Santa Clara Valley Transportation Authority, and other stakeholders on a project to extend Caltrain commuter rail service to Monterey County.

The Caltrain Commuter Rail Extension to Monterey County project extends the existing San Francisco to San Jose to Gilroy Caltrain commuter rail service to Pajaro, Castroville and Salinas. It will begin with two weekday roundtrips, increasing to four round trips as demand warrants. The project provides access to jobs, health care and interregional transportation, including the future High-Speed Rail train, offering an alternative to the highly congested US 101 corridor. This project includes intermodal facilities in three locations in Monterey County and a train layover facility in Salinas, which will serve to alleviate some of the congestion of trains that currently overnight in Gilroy. This project is nearing completion of the Project Approval and Environmental Documents phase. You can find the planning and environmental documents for this project on our website, <http://www.tamcmonterey.org/programs/rail/caltrain.html>.

Regarding the High-Speed Rail route between San Jose and Merced, the Transportation Agency for Monterey County supports the High-Speed Train stopping at the Gilroy station rather than bypassing it entirely or stopping somewhere far away from the existing station building. Current Caltrain and bus service at the station, as well as the planned extension from Gilroy to Monterey County, would make for easy transfers to connecting local service from the High Speed Train.

I would like to thank you and your staff for meeting with us about our project. We appreciate your efforts to keep us in the loop on developments for the High-Speed Rail train. Please continue to keep the Caltrain Extension to Monterey County project included in your improvement plans for the San Jose to Merced corridor. Please feel free to contact me with any questions.

Sincerely,


Debra L. Hale
Executive Director

PUBLIC UTILITIES COMMISSION

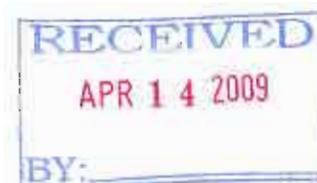
320 West 4th Street, Suite 500
Los Angeles, CA 90013



April 10, 2009

SCH# 2009022083
San Jose to Merced High Speed Train System

Dan Leavitt
Deputy Director
California High-Speed Rail Authority
925 L Street Suite 1425
Sacramento, CA 95814



Re: SCH# 2009022083 – Response to Notice of Preparation (NOP) of Project Environmental Impact Report / Environmental Impact Statement (EIR/EIS) for the San Jose to Merced High-Speed Train (HST) system

Dear Mr. Leavitt:

The California Public Utilities Commission's (Commission) Rail Crossing Engineering Section (RCES) is taking this opportunity to address the California High-Speed Rail Authority's (Authority) NOP of an EIR/EIS for the San Jose to Merced HST project. RCES staff offers the following comments.

Commission Requirements and Policy

The Commission has jurisdiction over the safety of highway-rail crossings (crossings) in California. The Commission has exclusive power over the design, alteration, and closure of crossings, pursuant to Public Utilities Code Section 1201 et al.. Application to the Commission is required for construction of railroad across a public road (Commission Rule 3.9). The HST project is subject to a number of other rules and regulations involving the Commission. The design criteria of the proposed project will need to comply with Commission General Orders (GO's). The following GO's, among others, may be applicable:

GO 26-D (regulations governing clearances on railroads and street railroads with reference to side and overhead structures, parallel tracks, crossing of public roads, highways and streets)

GO 72-B (rules governing the construction and maintenance of crossings at grade of railroads with public streets, roads and highways)

GO 75-D (regulations governing standards for warning devices for at-grade highway-rail crossings)

GO 88-B (rules for altering public highway-rail crossings)

GO 95 (rules for overhead electric line construction)

Background on Currently Proposed High-Speed Train Alignment

The Peninsula Corridor Joint Powers Board (JPB) and Union Pacific (UP) Railway alignment currently proposed for the San Jose to Merced HST project impacts approximately 52 existing at-grade crossings and 24 existing grade-separated crossings. JPB operates four passenger trains per day between San Jose and Gilroy, Amtrak operates 2 trains per day on the UP Coast line, and UP operate freight trains on these lines.

The NOP states that all crossings along the proposed corridor will be grade-separated. The feasibility and impacts of grade-separation or elimination of these crossings will require a great amount of analysis. Construction of roadway grade separation structures is likely to involve massive changes to public infrastructure and private property in the vicinity of railroad crossings due to constrained geometry and the large footprint required by typical railroad grade separation structures. The local entities need to amend their general plans to reflect this project and the need for future right-of-way preservation for the footprint of new grade separations in required areas.

Specific Project Comments

1. It appears that many railroad crossings would have freight and high-speed passenger track side by side. At such locations, it can be more expensive and problematic to grade separate all tracks, but the overall benefits are much greater. Building a new grade separation structure adjacent to an at-grade railroad crossing can negatively impact the safety of the existing crossing due to limiting the configuration of warning devices, limiting the geometry of the roadway and sidewalk (potentially precluding medians or ADA compliant improvements), and obstructing visibility of the warning devices or an approaching train. Rather than degrading the safety of the existing at-grade crossings, the project should provide overall improvement by constructing a grade separation of all the tracks at each crossing.
2. The majority of cities along the proposed corridor have built their downtowns around the tracks. The high density commercial, residential and industrial areas near the tracks lead to a high amount of pedestrians around the tracks. Leaving the tracks at the current elevation is likely to result in trespassing issues similar to those currently experienced along the rail corridor. Elevating or lowering the tracks, particularly in the downtown areas, would mitigate this concern. Vandal resistant fencing or barriers along any remaining at-grade portions of the alignment should be a requirement of the project.
3. Electrified train operations are generally incompatible with current technology for Constant Warning Time Detection systems implemented at at-grade crossings. If there were a proposal to operate electrified trains at any speed through an at-grade crossing,

the warning devices and train detection equipment would require careful design to ensure safe operation.

4. There are several grade-separated structures along the proposed alignment that may be significantly impacted as such structures have the roadway elevated above or below the railroad tracks. Any modification of these grade separated crossings will require the structures meet GO 26-D clearances.
5. The analysis should consider whether electrified lines would be able to meet minimum required clearances from tunnel walls and other utility lines. Any existing lines over the tracks need to be relocated (trenched underground) if the tracks remain at their current elevation.
6. Existing passenger station designs may need to be significantly modified in order to construct the necessary roadway and pedestrian grade-separated crossings.
7. As construction of roadway grade separation structures is likely to involve massive changes to public infrastructure and private property in the vicinity of the railroad crossings, local entities must be allowed to amend their general plans and incorporate this HST project into existing footprints to allow for future right-of-way preservation.
8. The Commission's RCES requests a more detailed proposal of the San Jose to Merced HST project. The comments offered by the Commission's RCES staff are based on limited and generic information of the proposed HST project. In preparation for the EIR study, all proposed grade-separated structure locations must be identified. Moreover, identification of all existing at-grade crossings along any adopted alignment is required, so that potential impact and mitigation measures can be fully addressed.

The Commission is the responsible agency under CEQA section 15381 with regard to this project. As such, we greatly appreciate the opportunity to work with the Authority to improve public safety as it relates to crossings in the San Jose to Merced segment of the HST system in California. We request that RCES be kept informed of all developments associated with the HST project. Meetings should be arranged with the Commission's RCES staff to discuss relevant safety issues and to conduct diagnostic reviews of any proposed and impacted crossing locations along the proposed alignment in the San Jose to Merced HST project. As more information related to the HST system becomes available, RCES staff will subsequently forward the Authority its comments and recommendations to prevent any delays in the project.

Lastly we request that an administrative draft of the Draft Environmental Impact Report be sent to the Commission's RCES so that all parties are able to address any issues before they are made public in the final EIR. Hopefully, this collaborative process will assist in meeting General Order requirements as they apply to the HST project, the review of the environmental documents and the final CEQA approval of the project.

Dan Leavitt
April 10, 2009
Page 4 of 3

Attached is a listing of railroad crossings along the proposed alignment that may be impacted by the San Jose to segment of the HST system.

If you have any questions related to the Environmental Impact Report and/or CEQA review, please contact Moses Stites at (415) 713-0092 or via email at ms2@cpuc.ca.gov. For questions regarding specific Commission oversight and crossings design, please contact me at (415) 703-3722 or by email at fko@cpuc.ca.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Felix Ko', is written over a light blue rectangular background.

Felix Ko
Utilities Engineer
Public Utilities Commission
Consumer Protection and Safety Division
Rail Transit and Crossing Branch

Enclosures

ENCLOSURES

City	CPUC#	DOT#	Street Name	Comments
San Jose	001E-56.10-A 001E-56.80 001E-57.30 001E-58.15 001E-58.65-A	755134K 755135S 755136Y 755137F 755138M	Capitol Expressway Skyway Dr Branham Ln Chynoweth Ave Blossom Hill Rd	<ul style="list-style-type: none"> • There is a trespassing problem along this corridor. The corridor must be properly sealed from pedestrian access. • These impacted crossings run parallel to Monterey Highway. The at-grade crossings on this corridor have little storage distance. Leaving these crossings at-grade with a grade separated high speed rail structure may impact visibility of the existing warning devices. These impacts are likely to reduce safety at the existing crossings. The CPUC highly recommends grade separating all railroad tracks at each crossing.

ENCLOSURES

City	CPUC#	DOT#	Street Name	Comments
<p>San Jose</p> <p>Morgan Hill</p> <p>Unincorporated</p> <p>Gilroy</p>	<p>001E-66.00</p> <p>001E-67.40</p> <p>001E-68.50</p> <p>001E-74.60</p> <p>001E-76.00</p> <p>001E-76.90</p> <p>001E-77.30</p> <p>001E-78.00</p> <p>001E-78.50</p> <p>001E-78.80</p> <p>001E-79.60</p>	<p>755153P</p> <p>755154W</p> <p>755155D</p> <p>755173B</p> <p>755166R</p> <p>755168E</p> <p>755174H</p> <p>755175P</p> <p>755176W</p> <p>755177D</p> <p>755179S</p>	<p>Palm Ave</p> <p>Live Oak Ave</p> <p>Tilton Ave San Martin Ave</p> <p>Church Ave</p> <p>Masten Ave</p> <p>Rucker Ave</p> <p>Buena Vista Ave</p> <p>Cohansey Ave</p> <p>Las Animas Ave</p> <p>Leavesley Rd</p>	<ul style="list-style-type: none"> These impacted crossings run parallel to Monterey Highway and have little storage distance. Leaving these crossings at-grade with a grade separated high speed rail structure may impact visibility of the existing warning devices. These impacts are likely to reduce safety at the existing crossings. The CPUC highly recommends grade separating all railroad tracks at each crossing. Most of these crossings are humped with Monterey Hwy being located at a lower elevation than the existing railroad tracks.
<p>Gilroy</p>	<p>001E-80.10</p> <p>001E-80.40</p> <p>001E-80.50</p> <p>001E-80.60</p>	<p>755181T</p> <p>755182A</p> <p>755183G</p> <p>755184N</p>	<p>IOOF Ave</p> <p>Lewis St</p> <p>Martin St</p> <p>6th St</p>	<ul style="list-style-type: none"> These crossings are located in downtown Gilroy. Commercial shops are located adjacent to the current railroad alignment west of the tracks. Residential zones are located east of the tracks, leading to pedestrian and vehicular use.



COUNTY EXECUTIVE OFFICE

Katie Albertson
Director of Governmental Affairs

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To: Mr. Dan Leavitt

From: Katie Albertson

Fax: 916-322-0827

Date: April 10, 2009

Phone:

Pages: 5 (Including Cover Sheet)

Re: San Jose to Merced HST
Project EIR/EIS

CC:

If you encounter any problems receiving this fax; please contact us @ 209-385-7637.

STRIVING FOR EXCELLENCE



April 9, 2009

Mr. Dan Leavitt
Deputy Director
California High Speed Rail Authority
925 L Street, Suite 1425
Sacramento, CA 95814

RE: Notice of Preparation/Notice of Intent
San Jose to Merced HST Project EIR/EIS

Dear Mr. Leavitt:

On March 18, 2009, Merced County representatives attended the Public Scoping Session held in Merced. County representatives have also reviewed the Notice of Preparation (NOP) and Notice of Intent (NOI) for the San Jose to Merced High-Speed Train Project (Project) EIR/EIS released by the California High Speed Rail Authority (Authority) and offer the following comments on the NOP/NOI for this Project. The County has also reviewed the NOP/NOI for the Merced to Bakersfield HST Project and will submit comments on that project in a separate letter.

The County would like to begin by noting its support for the High Speed Rail Project. The County believes that the High Speed Rail Project, as a whole, will have substantial benefits for the County of Merced and the State. The County looks forward to continuing to work with the Authority to achieve a High Speed Rail system that both generates the promised benefits to the State and minimizes the impacts to the localities, such as the County, where the system will be located. The County also recognizes that its role as a regional leader may be of value to the Authority. The processing and approval of the HST will be more effective and efficient if local agencies cooperate. To that end, the County offers to assist the California High Speed Rail Authority in organizing regional public agencies on critical topics of shared interest relating to HST, such as the Castle Maintenance Facility.

The County does have a number of specific areas the County would like the Authority to address in the EIR/EIS. Pub. Res. Code, § 21080.4; CEQA Guidelines, § 15082.

Relationship of the Project to the Merced County General Plan

The implementation of this Project will require amendments to the Merced County General Plan and possibly the County's Redevelopment Plan. The County is, therefore, a Responsible Agency for this project. Specifically, the County requests that this EIR/EIS address the following subjects.

Land Use

The proposed Project will affect areas in the County that are designated for both rural and urban land uses. Rural land uses are designated either "Agricultural" or "Foothill Pasture."

Board of Supervisors

John Podrozo
Supervisor, District One

Hubert "Hub" Walsh, Jr.
Supervisor, District Two

Michael G. Nelson
Supervisor, District Three

Deidre F. Kelsey
Supervisor, District Four

Jerry O'Banion
Supervisor, District Five

Dimitrios O. Tatum
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The Agricultural designation generally is applied to intensely farmed irrigated areas on the valley floor the Foothill Pasture designation is generally applied to non-irrigated grasslands. Urban land uses are typically accommodated within designated urban areas. These are designated either Specific Urban Development Plan (SUDP) areas, Rural Residential Centers (RRC'S), or Highway Interchange Centers (HIC's). Development within SUDP's are typically guided through community plans which contain goals, objectives, and policies unique to that particular plan.

It is very important that the EIR/EIS include a comprehensive analysis of the Project's consistency with the County General Plan. For Rural designated areas, impacts to agricultural and open space resources will, to a large degree, determine General Plan consistency. For urban designated areas, the Project's consistency with the goals, objectives, and policies of the particular community plan is critical.

It appears that construction of the tracks and operation of the trains may have land use conflicts with existing uses in the unincorporated communities of Santa Nella and Volta and to designated Highway Interchange Centers along the Interstate 5 corridor. The EIR/EIS should analyze these impacts.

Circulation

The County General Plan circulation chapter contains goals, objectives, and policies to ensure that the land uses designated in the General Plan are adequately supported by a comprehensive circulation network. This Project has the potential to greatly enhance the County's circulation system by reducing overall traffic in the County. However, interruption of traffic flow at local intersections has the potential to add significant delays to local traffic circulation. The EIR/EIS should study these impacts and the Authority should ensure that the Project is designed, by fully grade-separated crossings, routing and other design and mitigation measures to minimize the disruption of the HST to the County's existing circulation system.

Air Quality

Similarly, the County is concerned that interruptions to the local circulation network may also increase local air pollution, including, but not limited to, the increase in carbon monoxide "hot spots" that may be created if cars are required to idle for extended periods of time at at-grade crossings or other facilities of the HST. The County's General Plan contains a number of policies designed to reduce air pollution. The EIR/EIS should fully evaluate the Project's potential to increase local air pollution and the potential conflicts with the County's General Plan policies designed to reduce air pollution.

Noise

The County's General Plan noise chapter contains noise exposure standards for both rural and urban land use designations. As with the traffic impacts, the Project has the potential to add significant noise impacts, especially to the extent that the Project will involve any at-grade crossings in established communities. Noise generated by this Project should be evaluated in the context of the County's noise exposure standards.

Open Space & Conservation

The County General Plan open space and conservation chapter contains goals, objectives, and policies which recognize the importance of the County's open space, habitat, wetland, and aesthetic resources. The proposed Project, as generally routed, has the potential to affect all of these resources. This EIR/EIS needs to carefully study this potential effect and minimize any adverse impact to these resources.

To properly evaluate the proposed Project's relationship and consistency with the wide array of County General Plan policies, the County recommends that the study corridor for the Project be expanded from 100 to 500 feet. A study corridor of 500 feet is advisable to adequately analyze potentially significant impacts such as noise, air quality and other impacts.

Water Supply

The County's General Plan recognizes that water supply in the County is largely dependent on groundwater and groundwater recharge. The General Plan also recognizes that the increase in impervious surfaces can decrease groundwater recharge, thereby reducing overall water supply. To the extent that the Project proposes to increase impervious surfaces in the County, the EIR/EIS should evaluate the impacts to groundwater supply.

The County's General Plan also recognizes that water supply is currently impacted by groundwater quality issues in several localities. The EIR/EIS should examine the potential for the Project to cause further degradation to groundwater quality in the County.

General Plan Update

The County is in the midst of a General Plan Update, and as such, will require close coordination with the Authority to ensure that the Project is evaluated against current General Plan policy.

Relationship of the Project to the UC Merced University Community Plan

In 1995, the Regents of the University of California selected Merced as the site for the 10th UC Campus.

In 2004, following a multi-year planning process, the County adopted the University Community Plan (UCP) and certified an EIR for that Plan (SCH # 2001021056).

The UCP is designed to capture all the growth generated by UC Merced, integrate that growth with the Campus Long Range Development Plan, and organizes and plans for this growth in a manner that is sustainable and consistent with the County's General Plan.

An efficient multi-modal transportation network is key to achieving the environmental sustainability goals of the UCP. It is critical that the EIR/EIS examine the relationship of the Project to the UCP and ensure that the Project is integrated with and supports the circulation element of the UCP.

Relationship of the Project to the County's Regional Transportation Program

The County participates in a Regional Transportation Program (RTP) administered by the Merced County Association of Governments (MCAG). There are several important regional transportation projects that could be affected by these projects. These may include, but are not necessarily limited to: the Campus Parkway, the Merced-Atwater Expressway, and the Los Banos By-Pass. The County requests that the EIRs/EISs fully evaluate the Projects' relationship and conformity with the county-wide RTP and the above listed projects.

Project Alternatives

In addition to the topics identified previously in this letter, the County believes it is very important for the EIR/EIS to carefully and completely analyze alternatives to the proposed Project. While it is understood that the general alignment of the High Speed Rail system has been selected and evaluated through the previous programmatic EIRs/EISs, it will be important for this project-level EIR/EIS to evaluate alternative alignments that minimize conflicts with the County's General Plan and RTP.

Environmental Justice Analysis

Finally, the County requests that the EIR/EIS include an Environmental Justice analysis required by NEPA. The County requests that the Authority examine the potential environmental justice issues in the final siting of the tracks for this leg of the HST.

Thank you for the opportunity to provide these comments to guide the scope of this EIR/EIS. The County of Merced knows that a high speed rail system that runs through our San Joaquin Valley connecting Northern California and the Bay Area to Southern California will offer many benefits to our Valley and California. The County looks forward to working with the Authority as it moves forward on this important and historic project.

Sincerely,



Deidre F. Kelsey
Chairman, Merced County Board of Supervisors

cc: The Honorable Dianne Feinstein, United States Senate
The Honorable Barbara Boxer, United States Senate
The Honorable Dianne Feinstein, United States House of Representatives
The Honorable Jeff Denham, California State Senate
The Honorable Cathleen Galgiani, California State Assembly



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
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COMMUNITIES AND ECOSYSTEMS DIVISION

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FROM

Number of Pages (Including Fax Cover Sheet): 17

DATE: 4/10/09

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DEPARTMENT / OFFICE: CEA-2

TO

NAME: Don Leavitt

TELEPHONE NO: 916 - 324 - 1541

FAX NO: 916 - 322 - 0827

DEPARTMENT / OFFICE: CA High Speed Rail Authority

SUBJECT: Scoping Comments for San Jose
to Merced Proposed HST EIR/EIS (w/enclosure)
Enclosure sent via mail



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street
San Francisco, CA 94105-3901

April 10, 2009

David Valenstein
Federal Railroad Administration
1120 Vermont Avenue, NW, MS 20
Washington, D.C. 20590

Subject: Scoping Comments for San Jose to Merced Section of the Proposed High-Speed Train System Environmental Impact Statement/Environmental Impact Report

Dear Mr. Valenstein:

The United States Environmental Protection Agency (EPA) has reviewed the Federal Register Notice published March 16, 2009, requesting comments on the Federal Railroad Administration (FRA) and California High Speed Rail Authority (CHSRA) proposal to prepare a joint project Draft Environmental Impact Statement (Draft EIS) and Draft Environmental Impact Report (Draft EIR) for the San Jose to Merced section of the Proposed High-Speed Train (HST) System (Project). Our attached comments are provided pursuant to the National Environmental Policy Act (NEPA), Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500-1508) and Section 309 of the Clean Air Act.

We appreciate the close working relationship we have had with FRA and CHSRA as a cooperating agency on the previously completed statewide, programmatic, "Tier 1" EIS completed for an HST system for California. We understand that project-level, "Tier 2" EISs have been initiated as a follow-up to the statewide analysis. If properly planned, EPA supports the concept of an HST system in California that can provide an alternative to increasing vehicle miles traveled and lead to reduced environmental impacts. We look forward to continuing our coordination with you on the Tier 2 EISs and other Tier 2 project-level environmental analyses.

Through our previous comments on the statewide, programmatic EIS, EPA provided multiple recommendations and concerns to be addressed at the Tier 2 level. EPA also provided detailed comments on the HST Project Environmental Analyses Methodologies on May 14, 2008. Our detailed comments below include these, and other recommendations, related to continued interagency and community coordination, relationship of this Project to other regional transportation projects, land use and transportation linkages, and analysis of impacts to (1) water resources, (2) biological resources and wildlife, (3) noise, (4) energy resources, (5) air quality, (6) environmental justice communities, and (7) invasive species. In addition, we have provided recommendations for the analyses of cumulative impacts, growth inducement and impacts due to tunneling. We also recommend that FRA and CHSRA follow through with the mitigation measure commitments made in the statewide Tier 1 Final Programmatic EIS (see enclosure).

Interagency and Community Coordination

EPA commends the previous efforts of FRA and CHSRA in coordinating with our agency to highlight the potential environmental impacts of an HST system for all of California as outlined in our April 2003 Interagency Memorandum of Understanding (MOU). The MOU outlined a process for integrating the requirements of NEPA and Clean Water Act (CWA) Section 404 to streamline the environmental review process for the statewide "Tier 1" Programmatic Environmental Impact Statement (PEIS), which is now completed.

We understand that the proposed Project, connecting San Jose to Merced via HST, is the fourth project-level, "Tier 2" EIS to be initiated as a follow-up to the statewide analysis. For this, and all upcoming project-level EISs that tier off of the statewide programmatic document, EPA is available for continued coordination with FRA/CHSRA and other resource agencies to discuss potential environmental concerns and solutions at the earliest possible opportunity.

Furthermore, methods to incorporate effective public participation into the NEPA process should be fully described and implemented early to better address public concerns during the planning process. Where potential acquisition of property is proposed, an open, participatory process involving affected residents should be implemented.

Relationship to Regional Transportation Projects

The Draft EIS for the San Jose to Merced HST segment should specifically identify how the multiple proposed rail projects in the greater Bay Area and Central Valley relate to this Project. It is our understanding that the Metropolitan Transportation Commission (MTC), Bay Area Rapid Transit (BART), and Caltrain, along with a coalition of rail passenger and freight operators, have prepared a comprehensive Regional Rail Plan for the greater Bay Area, as required by the voters in the Regional Measure 2 (RM2) Traffic Congestion Relief Program (Final Report on September 26, 2007). EPA is supportive of FRA and CHSRA coordination with local transportation agencies to ensure that the Regional Rail Plan is integrated with the Bay Area to Central Valley HST system.

Coordination with local transportation agencies provides an opportunity to integrate high speed rail with plans for local service. EPA recommends FRA and CHSRA involvement in regional projects in order to minimize duplication of efforts and conflicting transit goals so that potential design, construction, permitting, and mitigation in the area can be streamlined to minimize environmental impacts.

Recommendations:

- Address how the proposed Project will insure that potential duplication of efforts and incompatibilities with other rail and/or transit systems will not occur.
- Identify integration and/or incompatibility of the proposed Project with other existing and proposed projects.

- Identify the specific features of the Project that are being designed to “link up” with the other transportation, commuting and transit proposals in the region.
- Clarify whether the facilities constructed for the Caltrain Electrification Program were designed to accommodate power distribution requirements for a future HST system.

Land Use and Transportation Linkage

The Draft EIS should identify all transportation improvements proposed to provide access to the proposed Project from anticipated key rider groups in the Bay Area, Merced and surrounding population centers, including transit connections, new methods to move people while reducing congestion, and increased bus service (express service, increase in service on existing routes, and new routes). The Draft EIS should analyze and disclose the temporary and permanent environmental impacts of constructing stations, parking facilities, maintenance and storage facilities, power propagation infrastructure, and required road developments and modifications. Because the project system is planned, in part, along the existing Caltrain corridor, the Draft EIS should describe, in detail, the specific modifications to the existing rail network and rail crossings required to be compatible with an HST system.

The Draft EIS should also demonstrate avoidance and minimization measures to reduce environmental impacts associated with the construction of passenger stations and maintenance facilities, such as multi-level parking structures as opposed to large expansive parking lots. The Draft EIS should identify where proposed stations, parking facilities, and additional required infrastructure will be located in the project corridor, and should disclose the associated impacts from station development on planned and unplanned growth.

Recommendations:

- Describe the expected land use changes associated with station locations, including new transit services and other methods for riders to access the stations.
- Describe the associated environmental impacts of those land use changes, including indirect and cumulative impacts.
- Identify how access to the HST system will be integrated with the existing Caltrain system and describe, in detail, the specific modifications to the existing rail network and rail crossings required to be compatible with an HST system.
- Identify parties responsible for mitigating the environmental impacts associated with the indirect and cumulative impacts of the projected land use changes.
- Identify the timeline for improvements and maintenance.
- As applicable, the Draft EIS should include a comparison of potential impacts from (1) an alternative that would provide for concurrent construction of one project allowing for high speed train technology in addition to commuter train technology,

and (2) construction of a proposed commuter rail project followed by a second, separate project of construction of a future high speed train corridor. This "scenario planning" provided with anticipated impacts from each build-out possibility provides critical information to decision makers regarding potential impacts to resources and potential benefits of coordinating major transportation development.

A substantial benefit of a proposed high speed rail corridor connecting San Jose to Merced is the opportunity to provide improved transit services and to reduce vehicle miles traveled (VMT). EPA strongly supports including project elements that will further reduce VMT.

Recommendations:

- Minimize the number of parking spaces to the greatest extent possible at the station in order to facilitate the use of transit;
- Coordinate with other transit providers to maximize station access by transit;
- Design the new facilities to be pedestrian and bicycle-friendly, in addition to linking with other modes of transit; and
- Support policies that will increase density and mixed-uses in the station areas.

Water Resources

The Clean Water Act Section 404(b)(1) Guidelines (Guidelines) at 40 CFR Part 230.10(a) state that ". . .no discharge of dredged or fill material shall be permitted if there is a practicable alternative to the proposed discharge which would have less adverse impact on the aquatic ecosystem, so long as the alternative does not have other significant adverse environmental consequences." While EPA has concurred that the HST alternative alignments identified in the Final Bay Area to Central Valley Programmatic EIS are "most likely to contain" the least environmentally damaging practicable alternative (LEDPA), FRA and CHSRA will have to demonstrate in the Draft EIS for this Project that potential impacts to waters of the United States have been avoided and minimized to the maximum extent practicable prior to obtaining a CWA Section 404 permit (40 CFR 230.10(a) and 230.10(d)).

As disclosed in the Draft Programmatic Bay Area to Central Valley EIS, and as identified in the previously completed statewide High Speed Rail Programmatic Draft EIS, the Pacheco Pass alignment may result in substantial impacts to wetlands and other waters and may result in substantial impacts to jurisdictional waters. The significant loss of aquatic resources associated with the Pacheco Pass alignment, as well as the impacts to wildlife corridors and habitat fragmentation, are not consistent with the substantive binding requirements of the Guidelines to avoid and minimize impacts to the maximum extent practicable (40 CFR 230.10 (a) and (d)). Specifically, the magnitude of impacts to special aquatic sites may cause or contribute to significant degradation of waters of the United States (40 CFR 230.10(c)) and design modifications and commitments are needed to reduce impacts to resources.

Recommendations:

- In the Draft EIS for the San Jose to Merced HST Project, follow through with commitments made in the statewide Tier 1 Final Programmatic EIS (Final PEIS), specifically "Avoidance and minimization measures would be incorporated into the development, design, and implementation phases at project-level environmental analysis. In addition, close coordination will occur with the regulatory agencies to develop specific design and construction standards for stream crossings, infrastructure setbacks, monitoring during construction, and other best management practices" (Final PEIS, Page 3.17-25).
- Ensure the mitigation measures as listed in the table starting on page 3.17-28 of the Final PEIS are incorporated in the Draft EIS (see enclosure).
- Demonstrate that all potential impacts to waters of the United States have been avoided and minimized. If these resources cannot be avoided, the Draft EIS analyses should clearly demonstrate how cost, logistical, or technological constraints preclude avoidance and minimization of impacts.
- Identify design measures and modifications to avoid and minimize impacts to water resources. Quantify the benefits achieved for each alternative studied, for example, number of stream crossings avoided, acres of waters of the United States avoided, etc.
- Identify all protected resources with special designations and all special aquatic sites and waters within state, local, and federal protected lands. Additional steps should be taken to avoid and minimize impacts to these areas.
- Include a compensation proposal for unavoidable impacts to CWA regulated waters that complies with new regulations for compensatory mitigation promulgated in April 2007 (40 CFR 230 Subpart J).

Waters Assessment

The waters assessment should be of an appropriate scope and detail to identify sensitive areas or aquatic systems with functions highly susceptible to change. EPA also recommends the following in the Draft EIS for the assessment of existing conditions and environmental consequences of each proposed alternative:

Recommendations:

- Estimate waters of the United States within the project area using CWA jurisdictional determinations, which should be submitted to the Army Corps of Engineers for verification.
- Provide maps of the estimated or verified CWA jurisdictional determinations.

- Provide specific descriptions of proposed activities in CWA regulated waters including grading plans and cross sections.
- Include the classification of waters and the geographic extent of waters and adjacent riparian areas.
- Characterize the functional condition of waters and adjacent riparian areas.
- Describe the extent and nature of stream channel alteration, riverine corridor continuity, and buffered tributaries.
- Include wildlife species affected that could reasonably be expected to use waters or associated riparian habitat and sensitive plant taxa that are associated with waters or associated riparian habitat.
- Analyze the potential flood flow alteration.
- Characterize the hydrologic linkage to any impaired water body.
- Analyze the potential water quality impact and potential effects to designated uses.
- Address techniques proposed for minimizing surface water contamination due to increased runoff from additional impervious surfaces.

Avoidance and Minimization Measures

To demonstrate compliance with CWA Guidelines, FRA/CHSRA must explore on-site alternatives to avoid or minimize impacts to specific waters. Typically, transportation projects can accomplish this by using spanned crossings, arched crossings, or oversized buried box culverts over drainages to encourage continuity of sediment transport and hydrological processes and wildlife passage.

The Draft EIS should include a complete systematic analysis for drainage crossings which identifies and prioritizes the potential for improvements to the aquatic system and for wildlife use at each crossing, as applicable. Additionally, the Draft EIS should identify measures and modifications to avoid and minimize impacts to water resources. Temporary and permanent impacts to waters of the U.S. for each alternative studied should be quantified; for example, acres of waters impacted, etc. For each alternative, the Draft EIS should report these numbers in table form for each impacted water and wetland feature.

Biological Resources and Impacts to Wildlife

EPA is supportive of FRA and CHSRA previous commitments in the statewide Tier 1 Final PEIS that “project-level studies will identify areas where it is important to maintain connectivity and will ensure that sufficient mitigation is included to maintain movement corridors,” and “wildlife underpasses or overpasses will be added to the (HST) at-grade

alignments, where appropriate, to reduce the overall effects on wildlife corridors and movements” (Final PEIS Appendix 2, Chapter 9, Standard Response 3.15.9). If the proposal includes fencing of the HST system, the proposal may affect wildlife movement corridors where (1) the HST alignment is not in an existing rail or highway corridor and would traverse natural areas, and (2) habitat use in existing rights-of-way occurs across roads and rail lines currently unobstructed by fences. The Draft EIS should address wildlife movement impacts associated with the proposal and present mitigating measures, if appropriate. Proposed stream and wash crossings should be designed to maintain or improve existing wildlife passages.

EPA provides the following recommendations to be implemented by FRA and CHSRA for the Draft EIS. Much of the information identified below is now available for FRA and CHSRA to use in landscape-level analyses, and up-front data compilation and coordination with species experts prior to initiation of project-level planning will contribute to a better understanding of the measures needed to reduce impacts to biological resources.

Recommendations:

- Incorporate information developed for the California Missing Linkages Report and identify how Project alternatives have been designed to allow for continued wildlife movement:
http://scwildlands.org/missinglinks/reports/download_missinglinkages.htm
- Use data developed for the statewide California Wildlife Action Plan (CWAP) to inform the siting of Project alternatives and mitigation. Identify in the Draft EIS the specific design changes proposed to avoid resources. The CWAP addresses 800 at-risk species and provides range maps. The range maps for these species are available from the California Department of Fish and Game:
<http://www.dfg.ca.gov/habitats/WDP/>
- In addition to reviewing the available data indicating where species ranges may be bisected by the HST system, EPA recommends that FRA and CHSRA facilitate a meeting of scientists and local experts to explore specific locations and design features for wildlife crossings that are needed.
- Identify the connections that would likely remain after construction of the HST system and highlight these areas as "connectivity zones" for protection and preservation. In the Draft EIS, identify specific commitments for preservation of these corridors through mitigation measures and cooperative agreements.
- As applicable, disclose how fencing the train route will affect wildlife movement and discuss how fencing for safety purposes will be integrated with proposed wildlife passages, such as culverts, bridges, viaducts, underpasses, and overpasses.

The Draft EIS should also describe efforts to avoid and/or minimize impacts to threatened and endangered species and associated habitats, as well as preserves, parks, and restoration and habitat management areas. The Draft EIS should describe the extent and nature of the protected species and their primary habitat(s) and the extent and nature of potential

impacts to proposed and designated critical habitat. The Draft EIS should also provide a description of narrow endemics, unique habitat elements, and suitable habitat for native fauna and flora in the project area and the extent each proposed alternative may affect each resource. Efforts to minimize or avoid impacts to resources should be presented with a quantification of specific resources avoided.

Noise Impacts

The Draft EIS should address the potential noise and vibration impact to residents, businesses, and wildlife related to the construction and operation of the proposed Project. Potential impacts to human health and welfare and wildlife activity are important with a project of this magnitude, particularly in light of the densely populated area and maximum speed and resulting noise and vibration that the HST will produce throughout the train route.

Recommendations:

- All noise impacts to should be fully analyzed and presented in the Draft EIS. In addition, the Draft EIS should include commitments to implement measures to adequately mitigate noise impacts associated with the Project. The Draft EIS should assess noise and vibration exposure to determine the severity of impacts near the proposed HST route.
- The Draft EIS should address nocturnal and diurnal impacts to wildlife activities such as foraging, predator avoidance, and nesting that may be affected by new noise and vibration introduced to natural habitats.

Energy Resources

It is our expectation that the HST project will increase annual electricity use and decrease use of diesel fuel and gasoline. Successful implementation of the proposed project depends on the availability of sufficient sources of energy. The Draft EIS should identify the number and capacity of energy facilities that were either operational or under construction as of 2008 and discuss whether the future supply is expected to be adequate to meet growth in demand, given the number of power plants planned. The energy analysis should take into consideration the cumulative impact of other planned projects that will also increase demand on the existing energy supply.

Recommendations:

- Identify the number and capacity of energy facilities that were either operational or under construction as of 2008 and discuss whether the future supply is expected to be adequate to meet growth in demand, given the number of power plants planned.
- Discuss the cumulative impact of other planned projects that will also increase demand on the existing energy supply. Reasonably foreseeable projects include: (1) the extension of Bay Area Rapid Transit to Warm Springs, San Jose and Santa Clara, (2) the extension of light rail projects in San Jose, and (3) Dumbarton Rail Corridor.

Air Quality

The Draft EIS should provide a detailed discussion of ambient air conditions (baseline or existing conditions), National Ambient Air Quality Standards (NAAQS), criteria pollutant nonattainment areas, and potential air quality impacts of the project (including cumulative and indirect impacts) for each fully evaluated alternative.

The San Francisco Bay Area is federally designated marginal nonattainment for the 8-hour ozone standard and the San Joaquin Valley Air Basin has some of the worst 8-hour ozone and PM_{2.5} problems in the nation. Because of the air pollution challenges facing both these areas, it is important to reduce emissions of ozone precursors and particulate matter from this Project to the maximum extent.

Recommendations:

- Provide a detailed discussion of ambient air conditions (baseline or existing conditions), National Ambient Air Quality Standards (NAAQS), criteria pollutant nonattainment areas, and potential air quality impacts of the project (including cumulative and indirect impacts) for each alternative.
- Include a thorough analysis of impacts from the construction and operation of the proposed alternatives. Include monitoring data, any anticipated exceedances of NAAQS, and estimates of all criteria pollutant emissions, including the federal 8-hour ozone standard and the PM_{2.5} standard.
- Disclose the available information about the health risks associated with vehicle emissions, sensitive receptors in the vicinity of the project area, and how the proposed project will affect current emission levels.
- Work with the Bay Area Air Quality Management District (BAAQMD), San Joaquin Valley Air Pollution Control District (SJVAPCD), Caltrans, and MTC to ensure that methods to estimate emissions and anticipated emissions values from the proposed project are consistent with Air Quality Management Plan and Regional Transportation Plan (RTP) conformity determinations.
- Use the most current EPA-approved model to estimate emissions, including re-entrained PM-10 emissions and present all methods and assumptions for analyses with pertinent air quality analyses and conclusions.
- Include an identification of potential hotspot impacts, especially where parking lots, idling locomotives, idling buses, and road modifications are proposed.

General Conformity and Transportation Conformity

The proposed Project may require a general conformity determination by FRA. If required, the Draft EIS should include the general conformity determination with related

mitigation commitments. FRA and CHSRA should work with BAAQMD and SJVAPCD to ensure that anticipated emissions from the proposed project are consistent with the regions' Air Quality Management Plans.

To the extent that the proposed train system will require modification of the existing grade crossings, road network and construction of parking lots and transit facilities, the Draft EIS should identify what elements of this project will require funding or approval by the Federal Highway Administration (FHWA) or Federal Transit Administration (FTA). In addition, the Draft EIS should demonstrate that FHWA or FTA -funded or -approved project elements are included in a conforming transportation plan and a transportation improvement program. FRA and CHSRA should work with BAAQMD, SJVAPCD, and the MTC to ensure that applicable elements of the proposed project are consistent with future revisions of the RTP. The identification of sensitive receptors, and carbon monoxide and particulate matter hotspot analyses should be included in the Draft EIS, especially where parking lots and road modifications are proposed.

Construction Mitigation Measures

The proposed Project will involve construction and staging along heavily populated sections of the corridor. Because of the multiple receptors along the corridor, FRA and CHSRA should identify and commit to specific requirements to reduce emissions.

The Draft EIS should include BAAQMD and SJVAPCD requirements to reduce emissions. In addition to these measures, EPA recommends the following additional measures to reduce the impacts resulting from future construction associated with this Project.

Recommendations:

In light of the serious health impacts associated with PM_{2.5} (fine particulate matter) and diesel exhaust exposure, we recommend that the best available control measures for these pollutants be implemented at all times and recommend that a Construction Emissions Mitigation Plan is incorporated into the Draft EIS. We recommend that all BAAQMD and SJVAPCD requirements, and the following additional measures be incorporated into a Construction Emissions Mitigation Plan, where feasible and appropriate, in order to reduce impacts associated with fugitive dust and emissions of PM_{2.5}, diesel exhaust, and mobile source air toxics from construction-related activities:

Fugitive Dust Source Controls:

- Install wind fencing and phase grading operations where appropriate, and operate water trucks for stabilization of surfaces under windy conditions.
- When hauling material and operating non-earthmoving equipment, prevent spillage and limit speeds to 15 miles per hour (mph). Limit speed of earth-moving equipment to 10 mph.

Mobile and Stationary Source Controls:

- Minimize use, trips, and unnecessary idling of heavy equipment.

- Maintain and tune engines per manufacturer's specifications to perform at EPA certification levels, where applicable, and to perform at verified standards applicable to retrofit technologies. Employ periodic, unscheduled inspections to limit unnecessary idling and to ensure that construction equipment is properly maintained, tuned, and modified consistent with established specifications. The California Air Resources Board has a number of mobile source anti-idling requirements which could be employed. See their website at: <http://www.arb.ca.gov/msprog/truck-idling/truck-idling.htm>
- Prohibit any tampering with engines and require continuing adherence to manufacturer's recommendations.
- If practicable, lease new, clean equipment meeting the most stringent of applicable Federal or State Standards. In general, commit to the best available emissions control technology. Tier 4 engines will be available in the 2009-model year and should be used for project construction equipment to the maximum extent feasible. Lacking availability of non-road construction equipment that meets Tier 4 engine standards, FRA/CHSRA should commit to using the best available emissions control technologies on all equipment.
- Utilize EPA-registered particulate traps and other appropriate controls where suitable to reduce emissions of diesel particulate matter and other pollutants at the construction site.

Administrative controls:

- Specify the means by which impacts to sensitive receptors, such as children, elderly, infirm and others identified in the Draft EIS, will be minimized. For example, locate construction equipment and staging zones away from sensitive receptors and fresh air intakes to buildings and air conditioners.
- Identify where implementation of mitigation measures is rejected based on economic infeasibility. Provide the justification behind not committing to all mitigation measures. Should FRA and CHSRA determine that potential mitigation measures are not economically feasible, the Draft EIS should provide the context behind this decision.
- Prepare an inventory of all equipment prior to construction and identify the suitability of add-on emission controls for each piece of equipment before groundbreaking. (Suitability of control devices is based on: whether there is reduced normal availability of the construction equipment due to increased downtime and/or power output, whether there may be significant damage caused to the construction equipment engine, or whether there may be a significant risk to nearby workers or the public.) Meet EPA diesel fuel requirements for off-road and on-highway, and, where appropriate, use alternative fuels such as natural gas and electric.

Greenhouse Gases

Due to the nature of this Project and the potential greenhouse gases (GHG) benefits that could result, we believe the Project proponents have an opportunity to demonstrate the potential overall GHG benefits of such a project. There are many guidance documents available or expected to be available in the near future to assist with this analysis. EPA is also available to coordinate regarding analysis of GHGs. Please refer to our detailed comments on the HST Project Environmental Analyses Methodologies for further recommendations on the analysis of GHG emissions in the project level EISs.

Additionally, EPA recommends the Draft EIS should ultimately identify the cumulative contributions and reductions to GHG emissions that will result from implementation of the Project. We also recommend that the Draft EIS discuss the potential impacts of climate change on the Project. Finally, the Draft EIS should identify if there are specific mitigation measures needed to 1) protect the Project from the effects of climate change, 2) reduce the Project's adverse air quality effects, and/or 3) promote pollution prevention or environmental stewardship. Any design and operation measures that can be identified as reducing GHGs should be identified in the EIS with an estimate of the GHG emissions reductions that would result if measures were ultimately implemented.

Tunneling Methodology and Impacts

As applicable, the Draft EIS should identify the amount of material to be removed per mile of tunnel and where material will be disposed or stored. Any impacts associated with the transport and storage of fill should be described and mitigated. Discuss the tunneling methodology to be utilized and the corresponding environmental impacts. Identify specific design measures and options to insure that the full scope of environmental impacts associated with tunneling are considered in project design.

Recommendations:

- Discuss the methodology proposed for any alternative design that involves tunneling, including equipment and planned locations for staging tunnel operations and methods for transportation of tunnel equipment.
- Quantify the environmental impacts associated with the tunneling and required connected actions, for example, amount of material removed per mile tunnel, impacts associated with storage of removed material, road access required, impacts associated with the transport of removed material, etc.
- Discuss the potential impacts of tunneling on the existing transportation network.
- Address the potential for tunneling to affect stream flows, riparian habitat, the direction of lateral movement of water through the soil profile, and the recharge of shallow, unconfined aquifers.
- Estimate the miles of roads required for operation and access for emergency personnel in tunneled areas and the number of temporary roads required for each mile

of tunnel construction. Include proposed methods for removal and revegetation of these roads.

Cumulative Impact Analysis

Cumulative impacts are defined in the Council on Environmental Quality's (CEQ) NEPA regulations as the impact on the environment that results from the incremental impact of the action when added to the other past, present, and reasonably foreseeable future actions, regardless of what agency (Federal or non-Federal) or person undertakes such actions (40 CFR 1508.7). The cumulative impacts analysis should provide the context for understanding the magnitude of the impacts of the alternatives by analyzing the impacts of other past, present, and reasonably foreseeable projects or actions and then considering those cumulative impacts in their entirety. These actions include both transportation and non-transportation activities. Where adverse cumulative impacts are identified, the Draft EIS should disclose the parties that would be responsible for avoiding, minimizing, and mitigating those adverse impacts (CEQ's Forty Most Frequently Asked Questions #19).

Recommendations:

- The cumulative impact analysis should consider transportation and non-transportation projects such as large-scale developments and approved urban planning projects that are reasonably foreseeable and are identified within city and county planning documents.
- The cumulative impact analysis should describe the "identifiable present effects" to various resources attributed to past actions. The purpose of considering past actions is to determine the current health of resources. This information forms the baseline for assessing potential cumulative impacts and can be used to develop cooperative strategies for resources protection (CEQ's Forty Most Frequently Asked Questions #19). Identify the current condition of the resource as a measure of past impacts. For example, the percentage of wetlands lost to date.
- Identify the future condition of the resource based on an analysis of the cumulative impacts of reasonably foreseeable projects or actions added to existing conditions and current trends. Identify the trend in the condition of the resource as a measure of present impacts. For example, the health of the resource is improving, declining, or stasis.
- The cumulative impact analysis should identify potential large, landscape-level statewide and regional impacts, as well as potential large-scale mitigation measures. The analysis should examine landscape-level impacts to the human and natural environment on a statewide and regional scale. The cumulative impact analysis should guide minimization measures and mitigation efforts. Disclose the parties that will be responsible for avoiding, minimizing, and mitigating impacts, as well as a timeline for implementing mitigation measures.

- EPA recommends that FRA and CHSRA use the Caltrans cumulative impacts guidance, which is applicable to cumulative impact analyses for non-road projects. This guidance can be found at [http://www.dot.ca.gov/ser/cumulative_guidance/purpose.htm].

Growth Inducement Analysis

EPA recommends that FRA and CHSRA make both the methodology and the assumptions in the growth inducement analysis as transparent as possible to the public and decision makers.

Recommendations:

- Identify which land use model will be used, discuss its strengths and weaknesses, and describe why it was selected.
- Identify the assumptions used in the model, the strengths and weaknesses of the assumptions, and why those assumptions were selected. For example, describe which method will be used to allocate growth to analysis zones, its strengths and weaknesses, and why that method was selected.
- Ground truth the results of the land use model by enlisting local expertise involved in land use issues, such as local government officials, land use and transportation planners, home loan officers, and real estate representatives. Use their collective knowledge to validate or modify the results of the land use model.
- Use the results of the growth inducement analysis to inform station locations, and parking lot size and locations, as well as mitigation measures to reduce environmental impacts.
- Use the results of the growth inducement analysis to estimate growth inducement impacts to CWA regulated waters and inform LEDPA identification.
- Identify station locations that are currently zoned for high density development and those that are not. Address potential growth-related mitigation efforts, including incentives and other mechanisms to encourage transit-oriented development, and measures to increase the capacity of city/county high density planning efforts.
- Use FHWA and Caltrans growth-related impacts guidance, which is applicable to growth-related impact analyses for non-road projects. This guidance can be found at [http://www.dot.ca.gov/ser/Growth-related_IndirectImpactAnalysis/gri_guidance.htm].

Environmental Justice

Executive Order 12898 addresses Environmental Justice in minority and low income populations, and the Council on Environmental Quality has developed guidance concerning how

to address Environmental Justice in the environmental review process (<http://ceq.eh.doe.gov/nepa/regs/ej/justice.pdf>).

Recommendations:

- Identify how the proposed alternatives may affect the mobility of low-income or minority populations in the surrounding area.
- Provide specific, appropriate mitigation measures for any anticipated adverse impacts to community members.
- Include opportunities for incorporating public input to promote context sensitive design, especially in Environmental Justice communities.

Invasive Species

The proposed Project may include impacts to vegetation within the existing right-of-way and mitigation is proposed as a result of ground disturbance and tree removal. Executive Order 13112 on Invasive Species calls for the restoration of native plant and tree species.

Recommendation:

- To the extent that this project will entail new landscaping and tree replacement, the mitigation measures should describe how the project will meet the requirements of Executive Order 13112 by using native species. Replacement of trees and revegetation should be coordinated with appropriate city and county urban foresters and native species should be utilized where feasible.

We look forward to maintaining our working relationship with FRA and CHSRA as we continue to coordinate on a proposed HST system for California. If you have any questions, please feel free to contact Connell Dunning, Transportation Team Leader, at 415-947-4161, or Tom Plenys, the lead reviewer for this project. Tom can be reached at 415-972-3238 or plenys.thomas@epa.gov.

Sincerely,



Tom Plenys
Environmental Review Office

Enclosure: Mitigation Strategies, Bay Area to Central Valley HST Final Program EIR/EIS

CC: Dan Leavitt, California High Speed Rail Authority
Mehdi Morshed, California High Speed Rail Authority
Jane Hicks, Army Corps of Engineers
Robert Smith, Army Corps of Engineers

Mark Littlefield, U.S. Fish and Wildlife Service
Susan K. Moore, U.S. Fish and Wildlife Service
Ray Sukys, Federal Transit Administration
Gary Sweeten, Federal Highway Administration
Marie Pang, Peninsula Corridor Joint Powers Board
Lindy Lowe, San Francisco Bay Conservation and Development Commission
Scott Wilson, California Department of Fish and Game
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Trais Norris, Caltrans



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street
San Francisco, CA 94105-3901

April 10, 2009



David Valenstein
Federal Railroad Administration
1120 Vermont Avenue, NW, MS 20
Washington, D.C. 20590

Subject: Scoping Comments for San Jose to Merced Section of the Proposed High-Speed Train System Environmental Impact Statement/Environmental Impact Report

Dear Mr. Valenstein:

The United States Environmental Protection Agency (EPA) has reviewed the Federal Register Notice published March 16, 2009, requesting comments on the Federal Railroad Administration (FRA) and California High Speed Rail Authority (CHSRA) proposal to prepare a joint project Draft Environmental Impact Statement (Draft EIS) and Draft Environmental Impact Report (Draft EIR) for the San Jose to Merced section of the Proposed High-Speed Train (HST) System (Project). Our attached comments are provided pursuant to the National Environmental Policy Act (NEPA), Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500-1508) and Section 309 of the Clean Air Act.

We appreciate the close working relationship we have had with FRA and CHSRA as a cooperating agency on the previously completed statewide, programmatic, "Tier 1" EIS completed for an HST system for California. We understand that project-level, "Tier 2" EISs have been initiated as a follow-up to the statewide analysis. If properly planned, EPA supports the concept of an HST system in California that can provide an alternative to increasing vehicle miles traveled and lead to reduced environmental impacts. We look forward to continuing our coordination with you on the Tier 2 EISs and other Tier 2 project-level environmental analyses.

Through our previous comments on the statewide, programmatic EIS, EPA provided multiple recommendations and concerns to be addressed at the Tier 2 level. EPA also provided detailed comments on the HST Project Environmental Analyses Methodologies on May 14, 2008. Our detailed comments below include these, and other recommendations, related to continued interagency and community coordination, relationship of this Project to other regional transportation projects, land use and transportation linkages, and analysis of impacts to (1) water resources, (2) biological resources and wildlife, (3) noise, (4) energy resources, (5) air quality, (6) environmental justice communities, and (7) invasive species. In addition, we have provided recommendations for the analyses of cumulative impacts, growth inducement and impacts due to tunneling. We also recommend that FRA and CHSRA follow through with the mitigation measure commitments made in the statewide Tier 1 Final Programmatic EIS (see enclosure).

Interagency and Community Coordination

EPA commends the previous efforts of FRA and CHSRA in coordinating with our agency to highlight the potential environmental impacts of an HST system for all of California as outlined in our April 2003 Interagency Memorandum of Understanding (MOU). The MOU outlined a process for integrating the requirements of NEPA and Clean Water Act (CWA) Section 404 to streamline the environmental review process for the statewide "Tier 1" Programmatic Environmental Impact Statement (PEIS), which is now completed.

We understand that the proposed Project, connecting San Jose to Merced via HST, is the fourth project-level, "Tier 2" EIS to be initiated as a follow-up to the statewide analysis. For this, and all upcoming project-level EISs that tier off of the statewide programmatic document, EPA is available for continued coordination with FRA/CHSRA and other resource agencies to discuss potential environmental concerns and solutions at the earliest possible opportunity.

Furthermore, methods to incorporate effective public participation into the NEPA process should be fully described and implemented early to better address public concerns during the planning process. Where potential acquisition of property is proposed, an open, participatory process involving affected residents should be implemented.

Relationship to Regional Transportation Projects

The Draft EIS for the San Jose to Merced HST segment should specifically identify how the multiple proposed rail projects in the greater Bay Area and Central Valley relate to this Project. It is our understanding that the Metropolitan Transportation Commission (MTC), Bay Area Rapid Transit (BART), and Caltrain, along with a coalition of rail passenger and freight operators, have prepared a comprehensive Regional Rail Plan for the greater Bay Area, as required by the voters in the Regional Measure 2 (RM2) Traffic Congestion Relief Program (Final Report on September 26, 2007). EPA is supportive of FRA and CHSRA coordination with local transportation agencies to ensure that the Regional Rail Plan is integrated with the Bay Area to Central Valley HST system.

Coordination with local transportation agencies provides an opportunity to integrate high speed rail with plans for local service. EPA recommends FRA and CHSRA involvement in regional projects in order to minimize duplication of efforts and conflicting transit goals so that potential design, construction, permitting, and mitigation in the area can be streamlined to minimize environmental impacts.

Recommendations:

- Address how the proposed Project will insure that potential duplication of efforts and incompatibilities with other rail and/or transit systems will not occur.
- Identify integration and/or incompatibility of the proposed Project with other existing and proposed projects.

- Identify the specific features of the Project that are being designed to “link up” with the other transportation, commuting and transit proposals in the region.
- Clarify whether the facilities constructed for the Caltrain Electrification Program were designed to accommodate power distribution requirements for a future HST system.

Land Use and Transportation Linkage

The Draft EIS should identify all transportation improvements proposed to provide access to the proposed Project from anticipated key rider groups in the Bay Area, Merced and surrounding population centers, including transit connections, new methods to move people while reducing congestion, and increased bus service (express service, increase in service on existing routes, and new routes). The Draft EIS should analyze and disclose the temporary and permanent environmental impacts of constructing stations, parking facilities, maintenance and storage facilities, power propagation infrastructure, and required road developments and modifications. Because the project system is planned, in part, along the existing Caltrain corridor, the Draft EIS should describe, in detail, the specific modifications to the existing rail network and rail crossings required to be compatible with an HST system.

The Draft EIS should also demonstrate avoidance and minimization measures to reduce environmental impacts associated with the construction of passenger stations and maintenance facilities, such as multi-level parking structures as opposed to large expansive parking lots. The Draft EIS should identify where proposed stations, parking facilities, and additional required infrastructure will be located in the project corridor, and should disclose the associated impacts from station development on planned and unplanned growth.

Recommendations:

- Describe the expected land use changes associated with station locations, including new transit services and other methods for riders to access the stations.
- Describe the associated environmental impacts of those land use changes, including indirect and cumulative impacts.
- Identify how access to the HST system will be integrated with the existing Caltrain system and describe, in detail, the specific modifications to the existing rail network and rail crossings required to be compatible with an HST system.
- Identify parties responsible for mitigating the environmental impacts associated with the indirect and cumulative impacts of the projected land use changes.
- Identify the timeline for improvements and maintenance.
- As applicable, the Draft EIS should include a comparison of potential impacts from (1) an alternative that would provide for concurrent construction of one project allowing for high speed train technology in addition to commuter train technology,

and (2) construction of a proposed commuter rail project followed by a second, separate project of construction of a future high speed train corridor. This “scenario planning” provided with anticipated impacts from each build-out possibility provides critical information to decision makers regarding potential impacts to resources and potential benefits of coordinating major transportation development.

A substantial benefit of a proposed high speed rail corridor connecting San Jose to Merced is the opportunity to provide improved transit services and to reduce vehicle miles traveled (VMT). EPA strongly supports including project elements that will further reduce VMT.

Recommendations:

- Minimize the number of parking spaces to the greatest extent possible at the station in order to facilitate the use of transit;
- Coordinate with other transit providers to maximize station access by transit;
- Design the new facilities to be pedestrian and bicycle-friendly, in addition to linking with other modes of transit; and
- Support policies that will increase density and mixed-uses in the station areas.

Water Resources

The Clean Water Act Section 404(b)(1) Guidelines (Guidelines) at 40 CFR Part 230.10(a) state that “. . .no discharge of dredged or fill material shall be permitted if there is a practicable alternative to the proposed discharge which would have less adverse impact on the aquatic ecosystem, so long as the alternative does not have other significant adverse environmental consequences.” While EPA has concurred that the HST alternative alignments identified in the Final Bay Area to Central Valley Programmatic EIS are “most likely to contain” the least environmentally damaging practicable alternative (LEDPA), FRA and CHSRA will have to demonstrate in the Draft EIS for this Project that potential impacts to waters of the United States have been avoided and minimized to the maximum extent practicable prior to obtaining a CWA Section 404 permit (40 CFR 230.10(a) and 230.10(d)).

As disclosed in the Draft Programmatic Bay Area to Central Valley EIS, and as identified in the previously completed statewide High Speed Rail Programmatic Draft EIS, the Pacheco Pass alignment may result in substantial impacts to wetlands and other waters and may result in substantial impacts to jurisdictional waters. The significant loss of aquatic resources associated with the Pacheco Pass alignment, as well as the impacts to wildlife corridors and habitat fragmentation, are not consistent with the substantive binding requirements of the Guidelines to avoid and minimize impacts to the maximum extent practicable (40 CFR 230.10 (a) and (d)). Specifically, the magnitude of impacts to special aquatic sites may cause or contribute to significant degradation of waters of the United States (40 CFR 230.10(c)) and design modifications and commitments are needed to reduce impacts to resources.

Recommendations:

- In the Draft EIS for the San Jose to Merced HST Project, follow through with commitments made in the statewide Tier 1 Final Programmatic EIS (Final PEIS), specifically “Avoidance and minimization measures would be incorporated into the development, design, and implementation phases at project-level environmental analysis. In addition, close coordination will occur with the regulatory agencies to develop specific design and construction standards for stream crossings, infrastructure setbacks, monitoring during construction, and other best management practices” (Final PEIS, Page 3.17-25).
- Ensure the mitigation measures as listed in the table starting on page 3.17-28 of the Final PEIS are incorporated in the Draft EIS (see enclosure).
- Demonstrate that all potential impacts to waters of the United States have been avoided and minimized. If these resources cannot be avoided, the Draft EIS analyses should clearly demonstrate how cost, logistical, or technological constraints preclude avoidance and minimization of impacts.
- Identify design measures and modifications to avoid and minimize impacts to water resources. Quantify the benefits achieved for each alternative studied, for example, number of stream crossings avoided, acres of waters of the United States avoided, etc.
- Identify all protected resources with special designations and all special aquatic sites and waters within state, local, and federal protected lands. Additional steps should be taken to avoid and minimize impacts to these areas.
- Include a compensation proposal for unavoidable impacts to CWA regulated waters that complies with new regulations for compensatory mitigation promulgated in April 2007 (40 CFR 230 Subpart J).

Waters Assessment

The waters assessment should be of an appropriate scope and detail to identify sensitive areas or aquatic systems with functions highly susceptible to change. EPA also recommends the following in the Draft EIS for the assessment of existing conditions and environmental consequences of each proposed alternative:

Recommendations:

- Estimate waters of the United States within the project area using CWA jurisdictional determinations, which should be submitted to the Army Corps of Engineers for verification.
- Provide maps of the estimated or verified CWA jurisdictional determinations.

- Provide specific descriptions of proposed activities in CWA regulated waters including grading plans and cross sections.
- Include the classification of waters and the geographic extent of waters and adjacent riparian areas.
- Characterize the functional condition of waters and adjacent riparian areas.
- Describe the extent and nature of stream channel alteration, riverine corridor continuity, and buffered tributaries.
- Include wildlife species affected that could reasonably be expected to use waters or associated riparian habitat and sensitive plant taxa that are associated with waters or associated riparian habitat.
- Analyze the potential flood flow alteration.
- Characterize the hydrologic linkage to any impaired water body.
- Analyze the potential water quality impact and potential effects to designated uses.
- Address techniques proposed for minimizing surface water contamination due to increased runoff from additional impervious surfaces.

Avoidance and Minimization Measures

To demonstrate compliance with CWA Guidelines, FRA/CHSRA must explore on-site alternatives to avoid or minimize impacts to specific waters. Typically, transportation projects can accomplish this by using spanned crossings, arched crossings, or oversized buried box culverts over drainages to encourage continuity of sediment transport and hydrological processes and wildlife passage.

The Draft EIS should include a complete systematic analysis for drainage crossings which identifies and prioritizes the potential for improvements to the aquatic system and for wildlife use at each crossing, as applicable. Additionally, the Draft EIS should identify measures and modifications to avoid and minimize impacts to water resources. Temporary and permanent impacts to waters of the U.S. for each alternative studied should be quantified; for example, acres of waters impacted, etc. For each alternative, the Draft EIS should report these numbers in table form for each impacted water and wetland feature.

Biological Resources and Impacts to Wildlife

EPA is supportive of FRA and CHSRA previous commitments in the statewide Tier 1 Final PEIS that “project-level studies will identify areas where it is important to maintain connectivity and will ensure that sufficient mitigation is included to maintain movement corridors,” and “wildlife underpasses or overpasses will be added to the (HST) at-grade

alignments, where appropriate, to reduce the overall effects on wildlife corridors and movements” (Final PEIS Appendix 2, Chapter 9, Standard Response 3.15.9). If the proposal includes fencing of the HST system, the proposal may affect wildlife movement corridors where (1) the HST alignment is not in an existing rail or highway corridor and would traverse natural areas, and (2) habitat use in existing rights-of-way occurs across roads and rail lines currently unobstructed by fences. The Draft EIS should address wildlife movement impacts associated with the proposal and present mitigating measures, if appropriate. Proposed stream and wash crossings should be designed to maintain or improve existing wildlife passages.

EPA provides the following recommendations to be implemented by FRA and CHSRA for the Draft EIS. Much of the information identified below is now available for FRA and CHSRA to use in landscape-level analyses, and up-front data compilation and coordination with species experts prior to initiation of project-level planning will contribute to a better understanding of the measures needed to reduce impacts to biological resources.

Recommendations:

- Incorporate information developed for the California Missing Linkages Report and identify how Project alternatives have been designed to allow for continued wildlife movement:
http://scwildlands.org/missinglinks/reports/download_missinglinkages.htm
- Use data developed for the statewide California Wildlife Action Plan (CWAP) to inform the siting of Project alternatives and mitigation. Identify in the Draft EIS the specific design changes proposed to avoid resources. The CWAP addresses 800 at-risk species and provides range maps. The range maps for these species are available from the California Department of Fish and Game:
<http://www.dfg.ca.gov/habitats/WDP/>
- In addition to reviewing the available data indicating where species ranges may be bisected by the HST system, EPA recommends that FRA and CHSRA facilitate a meeting of scientists and local experts to explore specific locations and design features for wildlife crossings that are needed.
- Identify the connections that would likely remain after construction of the HST system and highlight these areas as "connectivity zones" for protection and preservation. In the Draft EIS, identify specific commitments for preservation of these corridors through mitigation measures and cooperative agreements.
- As applicable, disclose how fencing the train route will affect wildlife movement and discuss how fencing for safety purposes will be integrated with proposed wildlife passages, such as culverts, bridges, viaducts, underpasses, and overpasses.

The Draft EIS should also describe efforts to avoid and/or minimize impacts to threatened and endangered species and associated habitats, as well as preserves, parks, and restoration and habitat management areas. The Draft EIS should describe the extent and nature of the protected species and their primary habitat(s) and the extent and nature of potential

impacts to proposed and designated critical habitat. The Draft EIS should also provide a description of narrow endemics, unique habitat elements, and suitable habitat for native fauna and flora in the project area and the extent each proposed alternative may affect each resource. Efforts to minimize or avoid impacts to resources should be presented with a quantification of specific resources avoided.

Noise Impacts

The Draft EIS should address the potential noise and vibration impact to residents, businesses, and wildlife related to the construction and operation of the proposed Project. Potential impacts to human health and welfare and wildlife activity are important with a project of this magnitude, particularly in light of the densely populated area and maximum speed and resulting noise and vibration that the HST will produce throughout the train route.

Recommendations:

- All noise impacts to should be fully analyzed and presented in the Draft EIS. In addition, the Draft EIS should include commitments to implement measures to adequately mitigate noise impacts associated with the Project. The Draft EIS should assess noise and vibration exposure to determine the severity of impacts near the proposed HST route.
- The Draft EIS should address nocturnal and diurnal impacts to wildlife activities such as foraging, predator avoidance, and nesting that may be affected by new noise and vibration introduced to natural habitats.

Energy Resources

It is our expectation that the HST project will increase annual electricity use and decrease use of diesel fuel and gasoline. Successful implementation of the proposed project depends on the availability of sufficient sources of energy. The Draft EIS should identify the number and capacity of energy facilities that were either operational or under construction as of 2008 and discuss whether the future supply is expected to be adequate to meet growth in demand, given the number of power plants planned. The energy analysis should take into consideration the cumulative impact of other planned projects that will also increase demand on the existing energy supply.

Recommendations:

- Identify the number and capacity of energy facilities that were either operational or under construction as of 2008 and discuss whether the future supply is expected to be adequate to meet growth in demand, given the number of power plants planned.
- Discuss the cumulative impact of other planned projects that will also increase demand on the existing energy supply. Reasonably foreseeable projects include: (1) the extension of Bay Area Rapid Transit to Warm Springs, San Jose and Santa Clara, (2) the extension of light rail projects in San Jose, and (3) Dumbarton Rail Corridor.

Air Quality

The Draft EIS should provide a detailed discussion of ambient air conditions (baseline or existing conditions), National Ambient Air Quality Standards (NAAQS), criteria pollutant nonattainment areas, and potential air quality impacts of the project (including cumulative and indirect impacts) for each fully evaluated alternative.

The San Francisco Bay Area is federally designated marginal nonattainment for the 8-hour ozone standard and the San Joaquin Valley Air Basin has some of the worst 8-hour ozone and PM_{2.5} problems in the nation. Because of the air pollution challenges facing both these areas, it is important to reduce emissions of ozone precursors and particulate matter from this Project to the maximum extent.

Recommendations:

- Provide a detailed discussion of ambient air conditions (baseline or existing conditions), National Ambient Air Quality Standards (NAAQS), criteria pollutant nonattainment areas, and potential air quality impacts of the project (including cumulative and indirect impacts) for each alternative.
- Include a thorough analysis of impacts from the construction and operation of the proposed alternatives. Include monitoring data, any anticipated exceedances of NAAQS, and estimates of all criteria pollutant emissions, including the federal 8-hour ozone standard and the PM_{2.5} standard.
- Disclose the available information about the health risks associated with vehicle emissions, sensitive receptors in the vicinity of the project area, and how the proposed project will affect current emission levels.
- Work with the Bay Area Air Quality Management District (BAAQMD), San Joaquin Valley Air Pollution Control District (SJVAPCD), Caltrans, and MTC to ensure that methods to estimate emissions and anticipated emissions values from the proposed project are consistent with Air Quality Management Plan and Regional Transportation Plan (RTP) conformity determinations.
- Use the most current EPA-approved model to estimate emissions, including re-entrained PM-10 emissions and present all methods and assumptions for analyses with pertinent air quality analyses and conclusions.
- Include an identification of potential hotspot impacts, especially where parking lots, idling locomotives, idling buses, and road modifications are proposed.

General Conformity and Transportation Conformity

The proposed Project may require a general conformity determination by FRA. If required, the Draft EIS should include the general conformity determination with related

mitigation commitments. FRA and CHSRA should work with BAAQMD and SJVAPCD to ensure that anticipated emissions from the proposed project are consistent with the regions' Air Quality Management Plans.

To the extent that the proposed train system will require modification of the existing grade crossings, road network and construction of parking lots and transit facilities, the Draft EIS should identify what elements of this project will require funding or approval by the Federal Highway Administration (FHWA) or Federal Transit Administration (FTA). In addition, the Draft EIS should demonstrate that FHWA or FTA -funded or -approved project elements are included in a conforming transportation plan and a transportation improvement program. FRA and CHSRA should work with BAAQMD, SJVAPCD, and the MTC to ensure that applicable elements of the proposed project are consistent with future revisions of the RTP. The identification of sensitive receptors, and carbon monoxide and particulate matter hotspot analyses should be included in the Draft EIS, especially where parking lots and road modifications are proposed.

Construction Mitigation Measures

The proposed Project will involve construction and staging along heavily populated sections of the corridor. Because of the multiple receptors along the corridor, FRA and CHSRA should identify and commit to specific requirements to reduce emissions.

The Draft EIS should include BAAQMD and SJVAPCD requirements to reduce emissions. In addition to these measures, EPA recommends the following additional measures to reduce the impacts resulting from future construction associated with this Project.

Recommendations:

In light of the serious health impacts associated with PM_{2.5} (fine particulate matter) and diesel exhaust exposure, we recommend that the best available control measures for these pollutants be implemented at all times and recommend that a Construction Emissions Mitigation Plan is incorporated into the Draft EIS. We recommend that all BAAQMD and SJVAPCD requirements, and the following additional measures be incorporated into a Construction Emissions Mitigation Plan, where feasible and appropriate, in order to reduce impacts associated with fugitive dust and emissions of PM_{2.5}, diesel exhaust, and mobile source air toxics from construction-related activities:

Fugitive Dust Source Controls:

- Install wind fencing and phase grading operations where appropriate, and operate water trucks for stabilization of surfaces under windy conditions.
- When hauling material and operating non-earthmoving equipment, prevent spillage and limit speeds to 15 miles per hour (mph). Limit speed of earth-moving equipment to 10 mph.

Mobile and Stationary Source Controls:

- Minimize use, trips, and unnecessary idling of heavy equipment.

- Maintain and tune engines per manufacturer's specifications to perform at EPA certification levels, where applicable, and to perform at verified standards applicable to retrofit technologies. Employ periodic, unscheduled inspections to limit unnecessary idling and to ensure that construction equipment is properly maintained, tuned, and modified consistent with established specifications. The California Air Resources Board has a number of mobile source anti-idling requirements which could be employed. See their website at: <http://www.arb.ca.gov/msprog/truck-idling/truck-idling.htm>
- Prohibit any tampering with engines and require continuing adherence to manufacturer's recommendations.
- If practicable, lease new, clean equipment meeting the most stringent of applicable Federal or State Standards. In general, commit to the best available emissions control technology. Tier 4 engines will be available in the 2009-model year and should be used for project construction equipment to the maximum extent feasible. Lacking availability of non-road construction equipment that meets Tier 4 engine standards, FRA/CHSRA should commit to using the best available emissions control technologies on all equipment.
- Utilize EPA-registered particulate traps and other appropriate controls where suitable to reduce emissions of diesel particulate matter and other pollutants at the construction site.

Administrative controls:

- Specify the means by which impacts to sensitive receptors, such as children, elderly, infirm and others identified in the Draft EIS, will be minimized. For example, locate construction equipment and staging zones away from sensitive receptors and fresh air intakes to buildings and air conditioners.
- Identify where implementation of mitigation measures is rejected based on economic infeasibility. Provide the justification behind not committing to all mitigation measures. Should FRA and CHSRA determine that potential mitigation measures are not economically feasible, the Draft EIS should provide the context behind this decision.
- Prepare an inventory of all equipment prior to construction and identify the suitability of add-on emission controls for each piece of equipment before groundbreaking. (Suitability of control devices is based on: whether there is reduced normal availability of the construction equipment due to increased downtime and/or power output, whether there may be significant damage caused to the construction equipment engine, or whether there may be a significant risk to nearby workers or the public.) Meet EPA diesel fuel requirements for off-road and on-highway, and, where appropriate, use alternative fuels such as natural gas and electric.

Greenhouse Gases

Due to the nature of this Project and the potential greenhouse gases (GHG) benefits that could result, we believe the Project proponents have an opportunity to demonstrate the potential overall GHG benefits of such a project. There are many guidance documents available or expected to be available in the near future to assist with this analysis. EPA is also available to coordinate regarding analysis of GHGs. Please refer to our detailed comments on the HST Project Environmental Analyses Methodologies for further recommendations on the analysis of GHG emissions in the project level EISs.

Additionally, EPA recommends the Draft EIS should ultimately identify the cumulative contributions and reductions to GHG emissions that will result from implementation of the Project. We also recommend that the Draft EIS discuss the potential impacts of climate change on the Project. Finally, the Draft EIS should identify if there are specific mitigation measures needed to 1) protect the Project from the effects of climate change, 2) reduce the Project's adverse air quality effects, and/or 3) promote pollution prevention or environmental stewardship. Any design and operation measures that can be identified as reducing GHGs should be identified in the EIS with an estimate of the GHG emissions reductions that would result if measures were ultimately implemented.

Tunneling Methodology and Impacts

As applicable, the Draft EIS should identify the amount of material to be removed per mile of tunnel and where material will be disposed or stored. Any impacts associated with the transport and storage of fill should be described and mitigated. Discuss the tunneling methodology to be utilized and the corresponding environmental impacts. Identify specific design measures and options to insure that the full scope of environmental impacts associated with tunneling are considered in project design.

Recommendations:

- Discuss the methodology proposed for any alternative design that involves tunneling, including equipment and planned locations for staging tunnel operations and methods for transportation of tunnel equipment.
- Quantify the environmental impacts associated with the tunneling and required connected actions, for example, amount of material removed per mile tunnel, impacts associated with storage of removed material, road access required, impacts associated with the transport of removed material, etc.
- Discuss the potential impacts of tunneling on the existing transportation network.
- Address the potential for tunneling to affect stream flows, riparian habitat, the direction of lateral movement of water through the soil profile, and the recharge of shallow, unconfined aquifers.
- Estimate the miles of roads required for operation and access for emergency personnel in tunneled areas and the number of temporary roads required for each mile

of tunnel construction. Include proposed methods for removal and revegetation of these roads.

Cumulative Impact Analysis

Cumulative impacts are defined in the Council on Environmental Quality's (CEQ) NEPA regulations as the impact on the environment that results from the incremental impact of the action when added to the other past, present, and reasonably foreseeable future actions, regardless of what agency (Federal or non-Federal) or person undertakes such actions (40 CFR 1508.7). The cumulative impacts analysis should provide the context for understanding the magnitude of the impacts of the alternatives by analyzing the impacts of other past, present, and reasonably foreseeable projects or actions and then considering those cumulative impacts in their entirety. These actions include both transportation and non-transportation activities. Where adverse cumulative impacts are identified, the Draft EIS should disclose the parties that would be responsible for avoiding, minimizing, and mitigating those adverse impacts (CEQ's Forty Most Frequently Asked Questions #19).

Recommendations:

- The cumulative impact analysis should consider transportation and non-transportation projects such as large-scale developments and approved urban planning projects that are reasonably foreseeable and are identified within city and county planning documents.
- The cumulative impact analysis should describe the "identifiable present effects" to various resources attributed to past actions. The purpose of considering past actions is to determine the current health of resources. This information forms the baseline for assessing potential cumulative impacts and can be used to develop cooperative strategies for resources protection (CEQ's Forty Most Frequently Asked Questions #19). Identify the current condition of the resource as a measure of past impacts. For example, the percentage of wetlands lost to date.
- Identify the future condition of the resource based on an analysis of the cumulative impacts of reasonably foreseeable projects or actions added to existing conditions and current trends. Identify the trend in the condition of the resource as a measure of present impacts. For example, the health of the resource is improving, declining, or stasis.
- The cumulative impact analysis should identify potential large, landscape-level statewide and regional impacts, as well as potential large-scale mitigation measures. The analysis should examine landscape-level impacts to the human and natural environment on a statewide and regional scale. The cumulative impact analysis should guide minimization measures and mitigation efforts. Disclose the parties that will be responsible for avoiding, minimizing, and mitigating impacts, as well as a timeline for implementing mitigation measures.

- EPA recommends that FRA and CHSRA use the Caltrans cumulative impacts guidance, which is applicable to cumulative impact analyses for non-road projects. This guidance can be found at [http://www.dot.ca.gov/ser/cumulative_guidance/purpose.htm].

Growth Inducement Analysis

EPA recommends that FRA and CHSRA make both the methodology and the assumptions in the growth inducement analysis as transparent as possible to the public and decision makers.

Recommendations:

- Identify which land use model will be used, discuss its strengths and weaknesses, and describe why it was selected.
- Identify the assumptions used in the model, the strengths and weaknesses of the assumptions, and why those assumptions were selected. For example, describe which method will be used to allocate growth to analysis zones, its strengths and weaknesses, and why that method was selected.
- Ground truth the results of the land use model by enlisting local expertise involved in land use issues, such as local government officials, land use and transportation planners, home loan officers, and real estate representatives. Use their collective knowledge to validate or modify the results of the land use model.
- Use the results of the growth inducement analysis to inform station locations, and parking lot size and locations, as well as mitigation measures to reduce environmental impacts.
- Use the results of the growth inducement analysis to estimate growth inducement impacts to CWA regulated waters and inform LEDPA identification.
- Identify station locations that are currently zoned for high density development and those that are not. Address potential growth-related mitigation efforts, including incentives and other mechanisms to encourage transit-oriented development, and measures to increase the capacity of city/county high density planning efforts.
- Use FHWA and Caltrans growth-related impacts guidance, which is applicable to growth-related impact analyses for non-road projects. This guidance can be found at [http://www.dot.ca.gov/ser/Growth-related_IndirectImpactAnalysis/gri_guidance.htm].

Environmental Justice

Executive Order 12898 addresses Environmental Justice in minority and low income populations, and the Council on Environmental Quality has developed guidance concerning how

to address Environmental Justice in the environmental review process (<http://ceq.eh.doe.gov/nepa/regs/ej/justice.pdf>).

Recommendations:

- Identify how the proposed alternatives may affect the mobility of low-income or minority populations in the surrounding area.
- Provide specific, appropriate mitigation measures for any anticipated adverse impacts to community members.
- Include opportunities for incorporating public input to promote context sensitive design, especially in Environmental Justice communities.

Invasive Species

The proposed Project may include impacts to vegetation within the existing right-of-way and mitigation is proposed as a result of ground disturbance and tree removal. Executive Order 13112 on Invasive Species calls for the restoration of native plant and tree species.

Recommendation:

- To the extent that this project will entail new landscaping and tree replacement, the mitigation measures should describe how the project will meet the requirements of Executive Order 13112 by using native species. Replacement of trees and revegetation should be coordinated with appropriate city and county urban foresters and native species should be utilized where feasible.

We look forward to maintaining our working relationship with FRA and CHSRA as we continue to coordinate on a proposed HST system for California. If you have any questions, please feel free to contact Connell Dunning, Transportation Team Leader, at 415-947-4161, or Tom Plenys, the lead reviewer for this project. Tom can be reached at 415-972-3238 or plenys.thomas@epa.gov.

Sincerely,



Tom Plenys
Environmental Review Office

Enclosure: Mitigation Strategies, Bay Area to Central Valley HST Final Program EIR/EIS

CC: Dan Leavitt, California High Speed Rail Authority
Mehdi Morshed, California High Speed Rail Authority
Jane Hicks, Army Corps of Engineers
Robert Smith, Army Corps of Engineers

Mark Littlefield, U.S. Fish and Wildlife Service
Susan K. Moore, U.S. Fish and Wildlife Service
Ray Sukys, Federal Transit Administration
Gary Sweeten, Federal Highway Administration
Marie Pang, Peninsula Corridor Joint Powers Board
Lindy Lowe, San Francisco Bay Conservation and Development Commission
Scott Wilson, California Department of Fish and Game
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Trais Norris, Caltrans



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street
San Francisco, CA 94105-3901

April 10, 2009



David Valenstein
Federal Railroad Administration
1120 Vermont Avenue, NW, MS 20
Washington, D.C. 20590

Subject: Scoping Comments for San Jose to Merced Section of the Proposed High-Speed Train System Environmental Impact Statement/Environmental Impact Report

Dear Mr. Valenstein:

The United States Environmental Protection Agency (EPA) has reviewed the Federal Register Notice published March 16, 2009, requesting comments on the Federal Railroad Administration (FRA) and California High Speed Rail Authority (CHSRA) proposal to prepare a joint project Draft Environmental Impact Statement (Draft EIS) and Draft Environmental Impact Report (Draft EIR) for the San Jose to Merced section of the Proposed High-Speed Train (HST) System (Project). Our attached comments are provided pursuant to the National Environmental Policy Act (NEPA), Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500-1508) and Section 309 of the Clean Air Act.

We appreciate the close working relationship we have had with FRA and CHSRA as a cooperating agency on the previously completed statewide, programmatic, "Tier 1" EIS completed for an HST system for California. We understand that project-level, "Tier 2" EISs have been initiated as a follow-up to the statewide analysis. If properly planned, EPA supports the concept of an HST system in California that can provide an alternative to increasing vehicle miles traveled and lead to reduced environmental impacts. We look forward to continuing our coordination with you on the Tier 2 EISs and other Tier 2 project-level environmental analyses.

Through our previous comments on the statewide, programmatic EIS, EPA provided multiple recommendations and concerns to be addressed at the Tier 2 level. EPA also provided detailed comments on the HST Project Environmental Analyses Methodologies on May 14, 2008. Our detailed comments below include these, and other recommendations, related to continued interagency and community coordination, relationship of this Project to other regional transportation projects, land use and transportation linkages, and analysis of impacts to (1) water resources, (2) biological resources and wildlife, (3) noise, (4) energy resources, (5) air quality, (6) environmental justice communities, and (7) invasive species. In addition, we have provided recommendations for the analyses of cumulative impacts, growth inducement and impacts due to tunneling. We also recommend that FRA and CHSRA follow through with the mitigation measure commitments made in the statewide Tier 1 Final Programmatic EIS (see enclosure).

Interagency and Community Coordination

EPA commends the previous efforts of FRA and CHSRA in coordinating with our agency to highlight the potential environmental impacts of an HST system for all of California as outlined in our April 2003 Interagency Memorandum of Understanding (MOU). The MOU outlined a process for integrating the requirements of NEPA and Clean Water Act (CWA) Section 404 to streamline the environmental review process for the statewide "Tier 1" Programmatic Environmental Impact Statement (PEIS), which is now completed.

We understand that the proposed Project, connecting San Jose to Merced via HST, is the fourth project-level, "Tier 2" EIS to be initiated as a follow-up to the statewide analysis. For this, and all upcoming project-level EISs that tier off of the statewide programmatic document, EPA is available for continued coordination with FRA/CHSRA and other resource agencies to discuss potential environmental concerns and solutions at the earliest possible opportunity.

Furthermore, methods to incorporate effective public participation into the NEPA process should be fully described and implemented early to better address public concerns during the planning process. Where potential acquisition of property is proposed, an open, participatory process involving affected residents should be implemented.

Relationship to Regional Transportation Projects

The Draft EIS for the San Jose to Merced HST segment should specifically identify how the multiple proposed rail projects in the greater Bay Area and Central Valley relate to this Project. It is our understanding that the Metropolitan Transportation Commission (MTC), Bay Area Rapid Transit (BART), and Caltrain, along with a coalition of rail passenger and freight operators, have prepared a comprehensive Regional Rail Plan for the greater Bay Area, as required by the voters in the Regional Measure 2 (RM2) Traffic Congestion Relief Program (Final Report on September 26, 2007). EPA is supportive of FRA and CHSRA coordination with local transportation agencies to ensure that the Regional Rail Plan is integrated with the Bay Area to Central Valley HST system.

Coordination with local transportation agencies provides an opportunity to integrate high speed rail with plans for local service. EPA recommends FRA and CHSRA involvement in regional projects in order to minimize duplication of efforts and conflicting transit goals so that potential design, construction, permitting, and mitigation in the area can be streamlined to minimize environmental impacts.

Recommendations:

- Address how the proposed Project will insure that potential duplication of efforts and incompatibilities with other rail and/or transit systems will not occur.
- Identify integration and/or incompatibility of the proposed Project with other existing and proposed projects.

- Identify the specific features of the Project that are being designed to “link up” with the other transportation, commuting and transit proposals in the region.
- Clarify whether the facilities constructed for the Caltrain Electrification Program were designed to accommodate power distribution requirements for a future HST system.

Land Use and Transportation Linkage

The Draft EIS should identify all transportation improvements proposed to provide access to the proposed Project from anticipated key rider groups in the Bay Area, Merced and surrounding population centers, including transit connections, new methods to move people while reducing congestion, and increased bus service (express service, increase in service on existing routes, and new routes). The Draft EIS should analyze and disclose the temporary and permanent environmental impacts of constructing stations, parking facilities, maintenance and storage facilities, power propagation infrastructure, and required road developments and modifications. Because the project system is planned, in part, along the existing Caltrain corridor, the Draft EIS should describe, in detail, the specific modifications to the existing rail network and rail crossings required to be compatible with an HST system.

The Draft EIS should also demonstrate avoidance and minimization measures to reduce environmental impacts associated with the construction of passenger stations and maintenance facilities, such as multi-level parking structures as opposed to large expansive parking lots. The Draft EIS should identify where proposed stations, parking facilities, and additional required infrastructure will be located in the project corridor, and should disclose the associated impacts from station development on planned and unplanned growth.

Recommendations:

- Describe the expected land use changes associated with station locations, including new transit services and other methods for riders to access the stations.
- Describe the associated environmental impacts of those land use changes, including indirect and cumulative impacts.
- Identify how access to the HST system will be integrated with the existing Caltrain system and describe, in detail, the specific modifications to the existing rail network and rail crossings required to be compatible with an HST system.
- Identify parties responsible for mitigating the environmental impacts associated with the indirect and cumulative impacts of the projected land use changes.
- Identify the timeline for improvements and maintenance.
- As applicable, the Draft EIS should include a comparison of potential impacts from (1) an alternative that would provide for concurrent construction of one project allowing for high speed train technology in addition to commuter train technology,

and (2) construction of a proposed commuter rail project followed by a second, separate project of construction of a future high speed train corridor. This “scenario planning” provided with anticipated impacts from each build-out possibility provides critical information to decision makers regarding potential impacts to resources and potential benefits of coordinating major transportation development.

A substantial benefit of a proposed high speed rail corridor connecting San Jose to Merced is the opportunity to provide improved transit services and to reduce vehicle miles traveled (VMT). EPA strongly supports including project elements that will further reduce VMT.

Recommendations:

- Minimize the number of parking spaces to the greatest extent possible at the station in order to facilitate the use of transit;
- Coordinate with other transit providers to maximize station access by transit;
- Design the new facilities to be pedestrian and bicycle-friendly, in addition to linking with other modes of transit; and
- Support policies that will increase density and mixed-uses in the station areas.

Water Resources

The Clean Water Act Section 404(b)(1) Guidelines (Guidelines) at 40 CFR Part 230.10(a) state that “. . .no discharge of dredged or fill material shall be permitted if there is a practicable alternative to the proposed discharge which would have less adverse impact on the aquatic ecosystem, so long as the alternative does not have other significant adverse environmental consequences.” While EPA has concurred that the HST alternative alignments identified in the Final Bay Area to Central Valley Programmatic EIS are “most likely to contain” the least environmentally damaging practicable alternative (LEDPA), FRA and CHSRA will have to demonstrate in the Draft EIS for this Project that potential impacts to waters of the United States have been avoided and minimized to the maximum extent practicable prior to obtaining a CWA Section 404 permit (40 CFR 230.10(a) and 230.10(d)).

As disclosed in the Draft Programmatic Bay Area to Central Valley EIS, and as identified in the previously completed statewide High Speed Rail Programmatic Draft EIS, the Pacheco Pass alignment may result in substantial impacts to wetlands and other waters and may result in substantial impacts to jurisdictional waters. The significant loss of aquatic resources associated with the Pacheco Pass alignment, as well as the impacts to wildlife corridors and habitat fragmentation, are not consistent with the substantive binding requirements of the Guidelines to avoid and minimize impacts to the maximum extent practicable (40 CFR 230.10 (a) and (d)). Specifically, the magnitude of impacts to special aquatic sites may cause or contribute to significant degradation of waters of the United States (40 CFR 230.10(c)) and design modifications and commitments are needed to reduce impacts to resources.

Recommendations:

- In the Draft EIS for the San Jose to Merced HST Project, follow through with commitments made in the statewide Tier 1 Final Programmatic EIS (Final PEIS), specifically “Avoidance and minimization measures would be incorporated into the development, design, and implementation phases at project-level environmental analysis. In addition, close coordination will occur with the regulatory agencies to develop specific design and construction standards for stream crossings, infrastructure setbacks, monitoring during construction, and other best management practices” (Final PEIS, Page 3.17-25).
- Ensure the mitigation measures as listed in the table starting on page 3.17-28 of the Final PEIS are incorporated in the Draft EIS (see enclosure).
- Demonstrate that all potential impacts to waters of the United States have been avoided and minimized. If these resources cannot be avoided, the Draft EIS analyses should clearly demonstrate how cost, logistical, or technological constraints preclude avoidance and minimization of impacts.
- Identify design measures and modifications to avoid and minimize impacts to water resources. Quantify the benefits achieved for each alternative studied, for example, number of stream crossings avoided, acres of waters of the United States avoided, etc.
- Identify all protected resources with special designations and all special aquatic sites and waters within state, local, and federal protected lands. Additional steps should be taken to avoid and minimize impacts to these areas.
- Include a compensation proposal for unavoidable impacts to CWA regulated waters that complies with new regulations for compensatory mitigation promulgated in April 2007 (40 CFR 230 Subpart J).

Waters Assessment

The waters assessment should be of an appropriate scope and detail to identify sensitive areas or aquatic systems with functions highly susceptible to change. EPA also recommends the following in the Draft EIS for the assessment of existing conditions and environmental consequences of each proposed alternative:

Recommendations:

- Estimate waters of the United States within the project area using CWA jurisdictional determinations, which should be submitted to the Army Corps of Engineers for verification.
- Provide maps of the estimated or verified CWA jurisdictional determinations.

- Provide specific descriptions of proposed activities in CWA regulated waters including grading plans and cross sections.
- Include the classification of waters and the geographic extent of waters and adjacent riparian areas.
- Characterize the functional condition of waters and adjacent riparian areas.
- Describe the extent and nature of stream channel alteration, riverine corridor continuity, and buffered tributaries.
- Include wildlife species affected that could reasonably be expected to use waters or associated riparian habitat and sensitive plant taxa that are associated with waters or associated riparian habitat.
- Analyze the potential flood flow alteration.
- Characterize the hydrologic linkage to any impaired water body.
- Analyze the potential water quality impact and potential effects to designated uses.
- Address techniques proposed for minimizing surface water contamination due to increased runoff from additional impervious surfaces.

Avoidance and Minimization Measures

To demonstrate compliance with CWA Guidelines, FRA/CHSRA must explore on-site alternatives to avoid or minimize impacts to specific waters. Typically, transportation projects can accomplish this by using spanned crossings, arched crossings, or oversized buried box culverts over drainages to encourage continuity of sediment transport and hydrological processes and wildlife passage.

The Draft EIS should include a complete systematic analysis for drainage crossings which identifies and prioritizes the potential for improvements to the aquatic system and for wildlife use at each crossing, as applicable. Additionally, the Draft EIS should identify measures and modifications to avoid and minimize impacts to water resources. Temporary and permanent impacts to waters of the U.S. for each alternative studied should be quantified; for example, acres of waters impacted, etc. For each alternative, the Draft EIS should report these numbers in table form for each impacted water and wetland feature.

Biological Resources and Impacts to Wildlife

EPA is supportive of FRA and CHSRA previous commitments in the statewide Tier 1 Final PEIS that “project-level studies will identify areas where it is important to maintain connectivity and will ensure that sufficient mitigation is included to maintain movement corridors,” and “wildlife underpasses or overpasses will be added to the (HST) at-grade

alignments, where appropriate, to reduce the overall effects on wildlife corridors and movements” (Final PEIS Appendix 2, Chapter 9, Standard Response 3.15.9). If the proposal includes fencing of the HST system, the proposal may affect wildlife movement corridors where (1) the HST alignment is not in an existing rail or highway corridor and would traverse natural areas, and (2) habitat use in existing rights-of-way occurs across roads and rail lines currently unobstructed by fences. The Draft EIS should address wildlife movement impacts associated with the proposal and present mitigating measures, if appropriate. Proposed stream and wash crossings should be designed to maintain or improve existing wildlife passages.

EPA provides the following recommendations to be implemented by FRA and CHSRA for the Draft EIS. Much of the information identified below is now available for FRA and CHSRA to use in landscape-level analyses, and up-front data compilation and coordination with species experts prior to initiation of project-level planning will contribute to a better understanding of the measures needed to reduce impacts to biological resources.

Recommendations:

- Incorporate information developed for the California Missing Linkages Report and identify how Project alternatives have been designed to allow for continued wildlife movement:
http://scwildlands.org/missinglinks/reports/download_missinglinkages.htm
- Use data developed for the statewide California Wildlife Action Plan (CWAP) to inform the siting of Project alternatives and mitigation. Identify in the Draft EIS the specific design changes proposed to avoid resources. The CWAP addresses 800 at-risk species and provides range maps. The range maps for these species are available from the California Department of Fish and Game:
<http://www.dfg.ca.gov/habitats/WDP/>
- In addition to reviewing the available data indicating where species ranges may be bisected by the HST system, EPA recommends that FRA and CHSRA facilitate a meeting of scientists and local experts to explore specific locations and design features for wildlife crossings that are needed.
- Identify the connections that would likely remain after construction of the HST system and highlight these areas as "connectivity zones" for protection and preservation. In the Draft EIS, identify specific commitments for preservation of these corridors through mitigation measures and cooperative agreements.
- As applicable, disclose how fencing the train route will affect wildlife movement and discuss how fencing for safety purposes will be integrated with proposed wildlife passages, such as culverts, bridges, viaducts, underpasses, and overpasses.

The Draft EIS should also describe efforts to avoid and/or minimize impacts to threatened and endangered species and associated habitats, as well as preserves, parks, and restoration and habitat management areas. The Draft EIS should describe the extent and nature of the protected species and their primary habitat(s) and the extent and nature of potential

impacts to proposed and designated critical habitat. The Draft EIS should also provide a description of narrow endemics, unique habitat elements, and suitable habitat for native fauna and flora in the project area and the extent each proposed alternative may affect each resource. Efforts to minimize or avoid impacts to resources should be presented with a quantification of specific resources avoided.

Noise Impacts

The Draft EIS should address the potential noise and vibration impact to residents, businesses, and wildlife related to the construction and operation of the proposed Project. Potential impacts to human health and welfare and wildlife activity are important with a project of this magnitude, particularly in light of the densely populated area and maximum speed and resulting noise and vibration that the HST will produce throughout the train route.

Recommendations:

- All noise impacts to should be fully analyzed and presented in the Draft EIS. In addition, the Draft EIS should include commitments to implement measures to adequately mitigate noise impacts associated with the Project. The Draft EIS should assess noise and vibration exposure to determine the severity of impacts near the proposed HST route.
- The Draft EIS should address nocturnal and diurnal impacts to wildlife activities such as foraging, predator avoidance, and nesting that may be affected by new noise and vibration introduced to natural habitats.

Energy Resources

It is our expectation that the HST project will increase annual electricity use and decrease use of diesel fuel and gasoline. Successful implementation of the proposed project depends on the availability of sufficient sources of energy. The Draft EIS should identify the number and capacity of energy facilities that were either operational or under construction as of 2008 and discuss whether the future supply is expected to be adequate to meet growth in demand, given the number of power plants planned. The energy analysis should take into consideration the cumulative impact of other planned projects that will also increase demand on the existing energy supply.

Recommendations:

- Identify the number and capacity of energy facilities that were either operational or under construction as of 2008 and discuss whether the future supply is expected to be adequate to meet growth in demand, given the number of power plants planned.
- Discuss the cumulative impact of other planned projects that will also increase demand on the existing energy supply. Reasonably foreseeable projects include: (1) the extension of Bay Area Rapid Transit to Warm Springs, San Jose and Santa Clara, (2) the extension of light rail projects in San Jose, and (3) Dumbarton Rail Corridor.

Air Quality

The Draft EIS should provide a detailed discussion of ambient air conditions (baseline or existing conditions), National Ambient Air Quality Standards (NAAQS), criteria pollutant nonattainment areas, and potential air quality impacts of the project (including cumulative and indirect impacts) for each fully evaluated alternative.

The San Francisco Bay Area is federally designated marginal nonattainment for the 8-hour ozone standard and the San Joaquin Valley Air Basin has some of the worst 8-hour ozone and PM_{2.5} problems in the nation. Because of the air pollution challenges facing both these areas, it is important to reduce emissions of ozone precursors and particulate matter from this Project to the maximum extent.

Recommendations:

- Provide a detailed discussion of ambient air conditions (baseline or existing conditions), National Ambient Air Quality Standards (NAAQS), criteria pollutant nonattainment areas, and potential air quality impacts of the project (including cumulative and indirect impacts) for each alternative.
- Include a thorough analysis of impacts from the construction and operation of the proposed alternatives. Include monitoring data, any anticipated exceedances of NAAQS, and estimates of all criteria pollutant emissions, including the federal 8-hour ozone standard and the PM_{2.5} standard.
- Disclose the available information about the health risks associated with vehicle emissions, sensitive receptors in the vicinity of the project area, and how the proposed project will affect current emission levels.
- Work with the Bay Area Air Quality Management District (BAAQMD), San Joaquin Valley Air Pollution Control District (SJVAPCD), Caltrans, and MTC to ensure that methods to estimate emissions and anticipated emissions values from the proposed project are consistent with Air Quality Management Plan and Regional Transportation Plan (RTP) conformity determinations.
- Use the most current EPA-approved model to estimate emissions, including re-entrained PM-10 emissions and present all methods and assumptions for analyses with pertinent air quality analyses and conclusions.
- Include an identification of potential hotspot impacts, especially where parking lots, idling locomotives, idling buses, and road modifications are proposed.

General Conformity and Transportation Conformity

The proposed Project may require a general conformity determination by FRA. If required, the Draft EIS should include the general conformity determination with related

mitigation commitments. FRA and CHSRA should work with BAAQMD and SJVAPCD to ensure that anticipated emissions from the proposed project are consistent with the regions' Air Quality Management Plans.

To the extent that the proposed train system will require modification of the existing grade crossings, road network and construction of parking lots and transit facilities, the Draft EIS should identify what elements of this project will require funding or approval by the Federal Highway Administration (FHWA) or Federal Transit Administration (FTA). In addition, the Draft EIS should demonstrate that FHWA or FTA -funded or -approved project elements are included in a conforming transportation plan and a transportation improvement program. FRA and CHSRA should work with BAAQMD, SJVAPCD, and the MTC to ensure that applicable elements of the proposed project are consistent with future revisions of the RTP. The identification of sensitive receptors, and carbon monoxide and particulate matter hotspot analyses should be included in the Draft EIS, especially where parking lots and road modifications are proposed.

Construction Mitigation Measures

The proposed Project will involve construction and staging along heavily populated sections of the corridor. Because of the multiple receptors along the corridor, FRA and CHSRA should identify and commit to specific requirements to reduce emissions.

The Draft EIS should include BAAQMD and SJVAPCD requirements to reduce emissions. In addition to these measures, EPA recommends the following additional measures to reduce the impacts resulting from future construction associated with this Project.

Recommendations:

In light of the serious health impacts associated with PM_{2.5} (fine particulate matter) and diesel exhaust exposure, we recommend that the best available control measures for these pollutants be implemented at all times and recommend that a Construction Emissions Mitigation Plan is incorporated into the Draft EIS. We recommend that all BAAQMD and SJVAPCD requirements, and the following additional measures be incorporated into a Construction Emissions Mitigation Plan, where feasible and appropriate, in order to reduce impacts associated with fugitive dust and emissions of PM_{2.5}, diesel exhaust, and mobile source air toxics from construction-related activities:

Fugitive Dust Source Controls:

- Install wind fencing and phase grading operations where appropriate, and operate water trucks for stabilization of surfaces under windy conditions.
- When hauling material and operating non-earthmoving equipment, prevent spillage and limit speeds to 15 miles per hour (mph). Limit speed of earth-moving equipment to 10 mph.

Mobile and Stationary Source Controls:

- Minimize use, trips, and unnecessary idling of heavy equipment.

- Maintain and tune engines per manufacturer's specifications to perform at EPA certification levels, where applicable, and to perform at verified standards applicable to retrofit technologies. Employ periodic, unscheduled inspections to limit unnecessary idling and to ensure that construction equipment is properly maintained, tuned, and modified consistent with established specifications. The California Air Resources Board has a number of mobile source anti-idling requirements which could be employed. See their website at: <http://www.arb.ca.gov/msprog/truck-idling/truck-idling.htm>
- Prohibit any tampering with engines and require continuing adherence to manufacturer's recommendations.
- If practicable, lease new, clean equipment meeting the most stringent of applicable Federal or State Standards. In general, commit to the best available emissions control technology. Tier 4 engines will be available in the 2009-model year and should be used for project construction equipment to the maximum extent feasible. Lacking availability of non-road construction equipment that meets Tier 4 engine standards, FRA/CHSRA should commit to using the best available emissions control technologies on all equipment.
- Utilize EPA-registered particulate traps and other appropriate controls where suitable to reduce emissions of diesel particulate matter and other pollutants at the construction site.

Administrative controls:

- Specify the means by which impacts to sensitive receptors, such as children, elderly, infirm and others identified in the Draft EIS, will be minimized. For example, locate construction equipment and staging zones away from sensitive receptors and fresh air intakes to buildings and air conditioners.
- Identify where implementation of mitigation measures is rejected based on economic infeasibility. Provide the justification behind not committing to all mitigation measures. Should FRA and CHSRA determine that potential mitigation measures are not economically feasible, the Draft EIS should provide the context behind this decision.
- Prepare an inventory of all equipment prior to construction and identify the suitability of add-on emission controls for each piece of equipment before groundbreaking. (Suitability of control devices is based on: whether there is reduced normal availability of the construction equipment due to increased downtime and/or power output, whether there may be significant damage caused to the construction equipment engine, or whether there may be a significant risk to nearby workers or the public.) Meet EPA diesel fuel requirements for off-road and on-highway, and, where appropriate, use alternative fuels such as natural gas and electric.

Greenhouse Gases

Due to the nature of this Project and the potential greenhouse gases (GHG) benefits that could result, we believe the Project proponents have an opportunity to demonstrate the potential overall GHG benefits of such a project. There are many guidance documents available or expected to be available in the near future to assist with this analysis. EPA is also available to coordinate regarding analysis of GHGs. Please refer to our detailed comments on the HST Project Environmental Analyses Methodologies for further recommendations on the analysis of GHG emissions in the project level EISs.

Additionally, EPA recommends the Draft EIS should ultimately identify the cumulative contributions and reductions to GHG emissions that will result from implementation of the Project. We also recommend that the Draft EIS discuss the potential impacts of climate change on the Project. Finally, the Draft EIS should identify if there are specific mitigation measures needed to 1) protect the Project from the effects of climate change, 2) reduce the Project's adverse air quality effects, and/or 3) promote pollution prevention or environmental stewardship. Any design and operation measures that can be identified as reducing GHGs should be identified in the EIS with an estimate of the GHG emissions reductions that would result if measures were ultimately implemented.

Tunneling Methodology and Impacts

As applicable, the Draft EIS should identify the amount of material to be removed per mile of tunnel and where material will be disposed or stored. Any impacts associated with the transport and storage of fill should be described and mitigated. Discuss the tunneling methodology to be utilized and the corresponding environmental impacts. Identify specific design measures and options to insure that the full scope of environmental impacts associated with tunneling are considered in project design.

Recommendations:

- Discuss the methodology proposed for any alternative design that involves tunneling, including equipment and planned locations for staging tunnel operations and methods for transportation of tunnel equipment.
- Quantify the environmental impacts associated with the tunneling and required connected actions, for example, amount of material removed per mile tunnel, impacts associated with storage of removed material, road access required, impacts associated with the transport of removed material, etc.
- Discuss the potential impacts of tunneling on the existing transportation network.
- Address the potential for tunneling to affect stream flows, riparian habitat, the direction of lateral movement of water through the soil profile, and the recharge of shallow, unconfined aquifers.
- Estimate the miles of roads required for operation and access for emergency personnel in tunneled areas and the number of temporary roads required for each mile

of tunnel construction. Include proposed methods for removal and revegetation of these roads.

Cumulative Impact Analysis

Cumulative impacts are defined in the Council on Environmental Quality's (CEQ) NEPA regulations as the impact on the environment that results from the incremental impact of the action when added to the other past, present, and reasonably foreseeable future actions, regardless of what agency (Federal or non-Federal) or person undertakes such actions (40 CFR 1508.7). The cumulative impacts analysis should provide the context for understanding the magnitude of the impacts of the alternatives by analyzing the impacts of other past, present, and reasonably foreseeable projects or actions and then considering those cumulative impacts in their entirety. These actions include both transportation and non-transportation activities. Where adverse cumulative impacts are identified, the Draft EIS should disclose the parties that would be responsible for avoiding, minimizing, and mitigating those adverse impacts (CEQ's Forty Most Frequently Asked Questions #19).

Recommendations:

- The cumulative impact analysis should consider transportation and non-transportation projects such as large-scale developments and approved urban planning projects that are reasonably foreseeable and are identified within city and county planning documents.
- The cumulative impact analysis should describe the "identifiable present effects" to various resources attributed to past actions. The purpose of considering past actions is to determine the current health of resources. This information forms the baseline for assessing potential cumulative impacts and can be used to develop cooperative strategies for resources protection (CEQ's Forty Most Frequently Asked Questions #19). Identify the current condition of the resource as a measure of past impacts. For example, the percentage of wetlands lost to date.
- Identify the future condition of the resource based on an analysis of the cumulative impacts of reasonably foreseeable projects or actions added to existing conditions and current trends. Identify the trend in the condition of the resource as a measure of present impacts. For example, the health of the resource is improving, declining, or stasis.
- The cumulative impact analysis should identify potential large, landscape-level statewide and regional impacts, as well as potential large-scale mitigation measures. The analysis should examine landscape-level impacts to the human and natural environment on a statewide and regional scale. The cumulative impact analysis should guide minimization measures and mitigation efforts. Disclose the parties that will be responsible for avoiding, minimizing, and mitigating impacts, as well as a timeline for implementing mitigation measures.

- EPA recommends that FRA and CHSRA use the Caltrans cumulative impacts guidance, which is applicable to cumulative impact analyses for non-road projects. This guidance can be found at [http://www.dot.ca.gov/ser/cumulative_guidance/purpose.htm].

Growth Inducement Analysis

EPA recommends that FRA and CHSRA make both the methodology and the assumptions in the growth inducement analysis as transparent as possible to the public and decision makers.

Recommendations:

- Identify which land use model will be used, discuss its strengths and weaknesses, and describe why it was selected.
- Identify the assumptions used in the model, the strengths and weaknesses of the assumptions, and why those assumptions were selected. For example, describe which method will be used to allocate growth to analysis zones, its strengths and weaknesses, and why that method was selected.
- Ground truth the results of the land use model by enlisting local expertise involved in land use issues, such as local government officials, land use and transportation planners, home loan officers, and real estate representatives. Use their collective knowledge to validate or modify the results of the land use model.
- Use the results of the growth inducement analysis to inform station locations, and parking lot size and locations, as well as mitigation measures to reduce environmental impacts.
- Use the results of the growth inducement analysis to estimate growth inducement impacts to CWA regulated waters and inform LEDPA identification.
- Identify station locations that are currently zoned for high density development and those that are not. Address potential growth-related mitigation efforts, including incentives and other mechanisms to encourage transit-oriented development, and measures to increase the capacity of city/county high density planning efforts.
- Use FHWA and Caltrans growth-related impacts guidance, which is applicable to growth-related impact analyses for non-road projects. This guidance can be found at [http://www.dot.ca.gov/ser/Growth-related_IndirectImpactAnalysis/gri_guidance.htm].

Environmental Justice

Executive Order 12898 addresses Environmental Justice in minority and low income populations, and the Council on Environmental Quality has developed guidance concerning how

to address Environmental Justice in the environmental review process (<http://ceq.eh.doe.gov/nepa/regs/ej/justice.pdf>).

Recommendations:

- Identify how the proposed alternatives may affect the mobility of low-income or minority populations in the surrounding area.
- Provide specific, appropriate mitigation measures for any anticipated adverse impacts to community members.
- Include opportunities for incorporating public input to promote context sensitive design, especially in Environmental Justice communities.

Invasive Species

The proposed Project may include impacts to vegetation within the existing right-of-way and mitigation is proposed as a result of ground disturbance and tree removal. Executive Order 13112 on Invasive Species calls for the restoration of native plant and tree species.

Recommendation:

- To the extent that this project will entail new landscaping and tree replacement, the mitigation measures should describe how the project will meet the requirements of Executive Order 13112 by using native species. Replacement of trees and revegetation should be coordinated with appropriate city and county urban foresters and native species should be utilized where feasible.

We look forward to maintaining our working relationship with FRA and CHSRA as we continue to coordinate on a proposed HST system for California. If you have any questions, please feel free to contact Connell Dunning, Transportation Team Leader, at 415-947-4161, or Tom Plenys, the lead reviewer for this project. Tom can be reached at 415-972-3238 or plenys.thomas@epa.gov.

Sincerely,



Tom Plenys
Environmental Review Office

Enclosure: Mitigation Strategies, Bay Area to Central Valley HST Final Program EIR/EIS

CC: Dan Leavitt, California High Speed Rail Authority
Mehdi Morshed, California High Speed Rail Authority
Jane Hicks, Army Corps of Engineers
Robert Smith, Army Corps of Engineers

Mark Littlefield, U.S. Fish and Wildlife Service
Susan K. Moore, U.S. Fish and Wildlife Service
Ray Sukys, Federal Transit Administration
Gary Sweeten, Federal Highway Administration
Marie Pang, Peninsula Corridor Joint Powers Board
Lindy Lowe, San Francisco Bay Conservation and Development Commission
Scott Wilson, California Department of Fish and Game
James B. Richards, Caltrans
Trais Norris, Caltrans

Resource Area	Impact Area	Mitigation Measure
Traffic and circulation	Traffic and circulation	Require that HST system stations serve as multi-modal transportation hubs providing easy connection to local/regional bus, rail, and transit services, as well as providing bicycle and pedestrian access.
		Require the HST system to be grade-separated from all roadways to allow vehicular traffic to flow without impediment from the HST system.
		Work with local and regional agencies to develop and implement transit-oriented development strategies, as described in Chapter 6, around HST stations.
		Work with local and regional agencies to identify, plan, coordinate, and implement traffic flow improvements around HST station locations during project-level planning. Such improvements may include: <ul style="list-style-type: none"> a. a construction phasing and traffic management plan for construction periods; b. improving capacity of local streets with upgrades in geometrics such as providing standards roadway lane widths, traffic controls, bicycle lanes, shoulders, and sidewalks; c. modifications at intersections, such as signalization and/or capacity improvements (widening for additional left-turn and/or through lanes), and turn prohibitions; d. signal coordination and optimization (including retiming and rephasing); e. designation of one-way street patterns near some station locations; f. truck route designations; and g. coordination with Caltrans regarding nearby highway facilities.
		Work with public transportation providers to coordinate services and to increase service and/or add routes, as necessary, to serve the HST station areas.
		Avoid parking impacts by developing and coordinating implementation at the project-level of parking improvement strategies consistent with local policies, including shared parking, offsite parking with shuttles, parking and curbside use restrictions, parking permit plans for neighborhoods near HST stations, and other parking management strategies.
		Air quality
Coordinate with local and regional public transportation providers to increase opportunities for connection between the HST system and other public transportation services.		
Work with local and regional agencies to implement local street and roadway improvements, including various traffic flow improvements and congestion management techniques, and parking management strategies to reduce localized pollution from traffic related to the HST system.		
Short-term air quality impacts due to construction	Water all active construction areas at least twice daily.	
	Require that all trucks hauling soil, sand, and other loose materials be covered or maintain at least 2 feet of freeboard.	
	Pave, apply water three times daily, or apply nontoxic soil stabilizers on all unpaved access roads, parking areas, and staging areas at active construction sites.	
	Sweep daily (with water sweepers) all paved access roads, parking areas, and staging areas at active construction sites.	
	Sweep nearby streets daily (with water sweepers) if visible soil materials from HST system construction are carried onto adjacent public streets.	
	Hydroseed or apply nontoxic soil stabilizers to inactive construction areas (previously graded areas inactive for 10 days or more).	
	Enclose, cover, water twice daily, or apply nontoxic soil binders to exposed stockpiles of dirt, sand, etc.	
	Limit traffic speeds on unpaved roads to 15 mph.	

Resource Area	Impact Area	Mitigation Measure
		Install sand bags or other erosion control measures to prevent silt runoff to public roads. Replant vegetation in disturbed areas as quickly as possible. Use alternative fuels for construction equipment when feasible. Minimize equipment idling time. Maintain properly tuned equipment.
Noise	Increased noise from train operations and construction	Grade separations to eliminate grade crossing related noise. Noise barriers, such as sound walls, where there are severe noise impacts. Require noise reduction in HST equipment design and track structures design. Use of enclosures or walls to surround noisy equipment, and installation of mufflers on engines; substituting quieter equipment or construction methods, minimizing time of operation, and locating equipment farther from sensitive receptors. Where not already included, consider placing alignment sections in tunnel or trenches or behind berms where possible and where other measures are not available to reduce significant noise impacts. Suspend construction between 7:00 pm and 7:00 am and/or on weekends or holidays in residential areas where there are severe noise impacts. In managing construction noise, take into account local sound control and noise level rules, regulations, and ordinances. Ensure that each internal combustion engine is equipped with a muffler of a type recommended by the manufacturer. Specify the use of the quietest available construction equipment where appropriate and feasible. Turn off construction equipment during prolonged periods of nonuse. Require contractors to maintain all equipment and to train their equipment operators. Locate noisy stationary equipment away from noise sensitive receptors.
	Exposure to ground-borne vibration	Specify the use of train and track technologies that minimize ground vibration such as state of the art suspensions, resilient track pads, tie pads, ballast mats, or floating slabs. Phase construction activity, use low impact construction techniques, and avoid use of vibrating construction equipment where possible to avoid vibration construction impacts.
Energy	Increased energy use and electricity demand with the HST system	HST stations will be multi-modal hubs providing linkage for various transportation modes, which will contribute to increased efficiency of energy use for intercity trips and by commuters, and the stations will be required to be constructed to meet Title 24 California Code of Regulations energy efficiency standards. Design practices will require that the electrically powered HST technology be energy efficient, include regenerative braking to reduce energy consumption, and minimize grade changes in steep terrain to reduce energy consumption. Design practices will require that localized impacts be avoided through planning and design of the power distribution system for the HST system. Locate HST maintenance and storage facilities within proximity to major stations/termini.
	Energy use during construction of the HST system	Develop and implement a construction energy conservation plan. Use energy efficient construction equipment and vehicles. Locate construction material production facilities on site or in proximity to project construction sites.

Resource Area	Impact Area	Mitigation Measure
		Develop and implement a program encouraging construction workers to carpool or use public transportation for travel to and from construction sites.
Electromagnetic fields and electromagnetic interference	Exposure of electromagnetic fields to HST system workers, passengers, and nearby residents, schools and other facilities	Use standard design practices for overhead catenary power supply systems and vehicles, including appropriate materials, location and spacing of facilities, and power supply systems to minimize exposure to receptors over distance, and shielding with vegetation and other screening materials.
		Design overhead catenary system, substations, and transmission lines to reduce the electromagnetic fields to a practical minimum.
	Electromagnetic interference with electronic and electrical devices	Design the overhead catenary system, substations, and transmission lines to reduce the electromagnetic fields to a practical minimum.
		Design the project component to minimize arcing and radiation of radiofrequency energy.
		Choose devices generating radio frequency with a high degree of electromagnetic compatibility.
		Where appropriate, add electronic filters to attenuate radio frequency interference.
		Relocate receiving antennas and use antenna models with greater directional gain where appropriate, particularly for sensitive receptors near the HST system.
		Comply with the FCC regulations for intentional radiators, such as the proposed HST wireless systems.
Establish safety criteria and procedures and personnel practices to avoid exposing employees with implantable medical devices to EMF levels that may cause interference with such implanted biomedical devices.		
Land use	Incompatibility with land uses and disruption to communities	Continue to apply design practices to minimize property needed for the HST system and to stay within or adjacent to existing transportation corridors to the extent feasible.
		Work with local governments to consider local plans and local access needs, and to apply design practices to limit disruption to communities.
		Work with local governments to establish requirements for station area plans and opportunities for transit-oriented development.
		Work with local governments to enhance multi-modal connections for HST stations.
		Coordinate with cities and counties to ensure that HST facilities will be consistent with land use planning processes and zoning ordinances.
		Provide opportunities for community involvement early in project-level studies.
		Hold design workshops in affected neighborhoods to develop understanding of vehicle, bicycle, and pedestrian linkages in order to preserve those linkages through use of grade-separated crossings and other measures.
		Ensure that connectivity is maintained across the rail corridor (pedestrian/bicycle and vehicular crossings) where necessary to maintain neighborhood integrity.
		Develop facility, landscape, and public art design standards for HST corridors that reflect the character of adjacent affected neighborhoods.
		Maintain high level of visual quality of HST facilities in neighborhood areas by implementing such measures as visual buffers, trees and other landscaping, architectural design, and public artwork.
	Impacts to neighborhoods during construction	Develop a traffic management plan to reduce barrier effects during construction.
To the extent feasible, maintain connectivity during construction.		
Agricultural	Conversion of	Avoid farmland whenever feasible during the conceptual design stage of the project.

Resource Area	Impact Area	Mitigation Measure
lands	prime, statewide important, and unique farmlands, and farmlands of local importance, to project uses	Reduce the potential for impacts by sharing existing rail rights-of-way where feasible or by aligning HST features immediately adjacent to existing rail rights-of-way.
		Reduce the potential for impacts by reducing the HST right-of-way width to 50 feet in constrained areas.
		Increase protection of existing important farmlands by securing easements or participating in mitigation banks.
		Coordinate with and support the California Farmland Conservancy Program to secure conservation easements on farmland in geographic areas where the HST project creates impacts.
		Coordinate with private agricultural land trusts, local programs, mitigation banks, and Resource Conservation Districts to identify additional measures to limit important farmland conversion or provide further protection to existing important farmland.
	Severance of prime, statewide important, and unique farmlands, and farmlands of local importance, to project uses	Avoid farmland whenever feasible during the conceptual design stage of the project.
		Minimize severance of agricultural land by constructing underpasses and overpasses at reasonable intervals to provide property access.
		Work with landowners during final design of the system to enable adequate property access.
		Provide appropriate severance payments to landowners.
	Aesthetics and visual resources	
Design bridges and elevated guideways with graceful lines and minimal apparent bulk and shading effects.		
Design elevated guideways, stations, and parking structures with sensitivity to the context, using exterior materials, colors, textures, and design details that are compatible with patterns in the surrounding natural and built environment, and that minimize the contrast of the structures with their surroundings.		
Use neutral colors and dulled finishes that minimize reflectivity for catenary support structures, and design them to fit the context of the specific locale.		
Use aesthetically appropriate fencing along rights-of-way, including decorative fencing, where appropriate, and use dark and non-reflective colors for fencing to reduce visual contrast.		
Where at-grade or depressed route segments pass through or along the edge of residential areas or heavily traveled roadways, install landscape treatments along the edge of the right-of-way to provide partial screening and to visually integrate the right-of-way into the residential context.		
Use the minimum amount of night lighting consistent with that necessary for operations and safety.		
Use shielded and hooded outdoor lighting directed to the area where the lighting is required, and use sensors and timers for lights not required to be on all the time.		
Design stations to minimize potential shadow impacts on adjacent pedestrian areas, parks, and residential areas, and site all structures in a way that minimizes shadow effects on sensitive portions of the surrounding area.		
Seed and plant areas outside the operating rail trackbed that are disturbed by cut, fill, or grading to blend with surrounding vegetated areas, where the land will support plants. Use native vegetation in appropriate locations and densities.		

Resource Area	Impact Area	Mitigation Measure
		<p>Use strategic plantings of fast-growing trees to provide partial or full screening of elevated guideways where they are close to residential areas, parks, and public open spaces.</p> <p>Where elevated guideways are located down the median strips or along the edge of freeways or major roadways, use appropriate landscaping of the area under the guideway to provide a high level of visual interest. Landscaping in these areas should use attractive shrubs and groundcovers and should emphasize the use of low-growing species to minimize any additional shadow effects or blockage of views.</p> <p>Plan hours of construction operations and locate staging sites to minimize impacts to adjacent residents and businesses.</p>
Public utilities		<p>Make adjustments to the HST alignments and vertical profiles to avoid crossing or using major utility right-of-way or fixed facilities during engineering design.</p> <p>If avoidance is not feasible, in consultation and coordination with the utility owner, relocate or protect in-place transmission lines, substations, and any other affected facilities.</p> <p>For acquisition projects which result in utility relocation, follow the uniformity and equitable treatment policies, and comply with the requirements, of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 for all property necessary for the proposed HST system.</p>
Hazardous materials and wastes		<p>Investigate soils and groundwater for contamination and prepare environmental site assessments when necessary.</p> <p>Design realignment of the HST corridors to avoid identified sites.</p> <p>Relocate HST associated facilities such as stations to avoid identified sites.</p> <p>Remediate identified hazardous materials and hazardous waste contamination.</p> <p>Prior to demolition of buildings for project construction, survey for lead-based paint and asbestos-containing materials.</p> <p>Follow BMPs for testing, treating, and disposing of water, and acquire necessary permits from the regional water quality control board, if ground dewatering is required.</p> <p>When indicated by project-level environmental site assessments, perform Phase II environmental site assessments in conformance with the ASTM Standards related to the Phase II Environmental Site Assessment Process to identify specific mitigation measures.</p> <p>Prepare a Site Management Program/Contingency Plan prior to construction to address known and potential hazardous material issues, including:</p> <ul style="list-style-type: none"> a. measures to address management of contaminated soil and groundwater; b. a site-specific Health and Safety Plan (HASP), including measures to protect construction workers and general public; and c. procedures to protect workers and the general public in the event that unknown contamination or buried hazards are encountered. <p>As part of the second-tier environmental review, consider impacts to the environment on sites identified on the Cortese list (Government Code Section 65962.4) at that time.</p>
Cultural and paleontological resources	Impacts to archaeological resources and traditional cultural properties	<p>Avoid the impact, or when avoidance cannot be accommodated, minimize the scale of the impact.</p> <p>Incorporate the site into parks or open space.</p> <p>Provide data recovery for archaeological resources, which may include excavation of an adequate sample of the site contents so that research questions applicable to the site can be addressed.</p>

Resource Area	Impact Area	Mitigation Measure	
		Develop procedures for fieldwork, identification, evaluation, and determination of potential effects to archaeological resources in consultation with SHPO and Native American tribes. Procedures may include onsite monitoring when sites are known or suspected of containing Native American human remains and be reflected in Memoranda of Agreement with appropriate bodies.	
		Coordinate and consult with tribal representatives.	
	Impacts to historic properties/resources	Avoid the impact through project design. Prepare and utilize a treatment plan for protection of historic properties/resources that will describe methods to preserve, stabilize, shore/underpin, and monitor buildings, structures, and objects.	
		Avoid high vibration construction techniques in sensitive areas.	
		Record and document cultural resources that would be adversely affected by the project to the standards of the Historic American Building Survey or Historic American Engineering Record.	
		Develop design guidelines to ensure sympathetic, compatible, and appropriate designs for new construction.	
		Consult with architectural historians or historical architects to advise on appropriate architectural treatment of the structural design of proposed new structures. Prepare interpretive and/or educational materials and programs regarding the affected historic properties/resources. Materials may include: a popular report, documentary videos, booklets, and interpretive signage.	
		Make interpretive information available to state and local agencies, such as salvage items, historic drawings, interpretive drawings, current and historic photographs, models, and oral histories. Also assist with archiving and digitizing the documentation of the cultural resources affected and disseminating material to the appropriate repositories.	
		Relocate and rehabilitate historic properties/resources that would otherwise be demolished because of the project.	
		Monitor project construction to ensure it conforms to design guidelines and any other treatment procedures agreed to by the parties consulting pursuant to Section 106 of the National Historic Preservation Act. Repair inadvertent damage to historic properties/resources in accordance with the Secretary of the Interior's Standards for Treatment of Historic Properties.	
		Salvage selected decorative or architectural elements of the adversely affected historic properties/resources, and retain and incorporate salvaged items into new construction where possible. If reuse is not possible, make salvaged items available for use in interpretive displays near the affected resources or in an appropriate museum.	
		Implement an agreement with appropriate bodies specifying procedures for addressing historic resources which may be affected by the HST system.	
	Impacts to paleontological resources	Educate workers.	
		Recover fossils identified during the field reconnaissance.	
		Monitor construction.	
		Develop protocols for handling fossils discovered during construction, such as temporary diversion of construction equipment so that the fossils could be recovered, identified, and prepared for dating, interpreting, and preserving at an established, permanent, accredited research facility.	
	Geology and soils	Seismic hazards	Design structures to withstand anticipated ground motion, using design options such as redundancy and ductility.
			Prevent liquefaction and resulting structural damage and traffic hazards using: <ol style="list-style-type: none"> 1. ground modification techniques such as soil densification; and 2. structural design, such as deep foundations.

Resource Area	Impact Area	Mitigation Measure	
		Utilize motion sensing instruments to provide ground motion data and a control system to temporarily shut down HST operations during or after an earthquake to reduce risks.	
		Design and engineer all structures for earthquake activity using Caltrans Seismic Design Criteria.	
		Design and install foundations resistant to soil liquefaction and settlement.	
		Identify potential serpentinite bedrock disturbance areas and implement a safety plan.	
		Apply Section 19 requirements from the most current Caltrans Standard Specifications to ensure geotechnically stable slopes are planned and created.	
		Install passive or active gas venting systems and gas collection systems in areas where subsurface gases are identified.	
		Remove corrosive soil and use corrosion protected materials in infrastructure.	
		Address erosive soils through soil removal and replacement, geosynthetics, vegetation, and/or riprap, where warranted.	
		Remove or moisture condition shrink/swell soils.	
		Utilize stone columns, grouting, and deep dynamic compaction in areas of potential liquefaction.	
		Utilize buttress berms, flattened slopes, drains, and/or tie-backs in areas of slope instability.	
		Avoid settlement through preloading, use of stone columns, deep dynamic compaction, grouting, and/or special foundation designs.	
		Surface rupture hazards	Install early warning systems triggered by strong ground motion associated with ground rupture, such as linear monitoring systems (i.e., time domain reflectometers) along major highways and rail lines within the zone of potential rupture to provide early warnings and allow for temporary control of rail and automobile traffic to avoid and reduce risks.
Avoid active faults to the extent possible. Where avoidance is not possible, cross active faults at grade and perpendicular to the fault line.			
	Slope instability	Install temporary and permanent slope reinforcement and protection, based on geotechnical investigations, and review of proposed earthwork and foundation excavation plans.	
		Conduct geotechnical inspections during construction to verify that no new unanticipated conditions are encountered.	
		Incorporate slope monitoring in final design.	
	Difficulty in excavation	Identify areas of potentially difficult excavation to ensure safe practices.	
		Focus future geotechnical engineering and geologic investigations in areas of potentially difficult excavation.	
		Monitor conditions during and after construction.	
		Employ tunnel excavation and lining techniques to ensure safety.	
	Hazards related to oil and gas fields	Follow federal and state Occupational Safety and Health Administration regulatory requirements for excavations.	
		Consult with other agencies such as the Department of Conservation's Division of Oil and Gas, or the Department of Toxic Substances Control regarding known areas of concern.	
		Use safe and explosion-proof equipment during construction.	

Resource Area	Impact Area	Mitigation Measure
		Test for gases regularly. Install monitoring systems and alarms in underground construction areas and facilities where subsurface gases are present. Install gas barrier systems.
Hydrology and water resources	Impacts on floodplains	Avoid or minimize construction of facilities within floodplains where feasible.
		Minimize the footprint of facilities within the floodplain through design changes or the use of aerial structures and tunnels.
		Restore the floodplain to its prior operation in instances where the floodplain is affected by construction.
	Impacts on surface waters	Use construction methods and facility designs to minimize the potential encroachments onto surface water resources.
		Minimize sediment transport caused by construction by following BMPs as part of NPDES and SWPPP requirements that will be included in construction permits. BMPs may include measures such as: <ul style="list-style-type: none"> a. providing permeable surfaces where feasible; b. retaining and treating stormwater on site using catch basins and filtering wet basins; c. minimizing the contact of construction materials, equipment, and maintenance supplies with stormwater; d. reducing erosion through soil stabilization, watering for dust control, installing perimeter silt fences, placing rice straw bales, and installing sediment basins; e. maintaining water quality by using infiltration systems, detention systems, retention systems, constructed wetland systems, filtration systems, biofiltration/bioretention systems, grass buffer strips, ponding areas, organic mulch layers, planting soil beds, sand beds, and vegetated systems such as swales and grass filter strips that are designed to convey and treat either fallow flow (swales) or sheetflow (filter strips) runoff.
		Use methods such as habitat restoration, reconstruction of habitat on site, and habitat replacement off site to minimize surface water quality impacts.
		Comply with mitigation measures included in permits issued under Sections 404 and 401 of the federal Clean Water Act.
		Comply with requirements in the SWPPP to reduce pollutants in storm water discharges and the potential for erosion and sedimentation.
		Comply with requirements of Section 10 of the federal Rivers and Harbors Act for work required around a water body designated as navigable and applicable permit requirements.
		Comply with the requirements of a state Streambed Alteration Agreement for work along the banks of various surface water bodies.
		Implement a spill prevention and emergency response plan to handle potential fuel or other spills.
		Where feasible, avoid significant development of facilities in areas that may have substantial erosion risk, including areas with erosive soils or steep slopes.
		Impacts on groundwater
	Apply for, obtain, and comply with conditions of applicable waste discharge requirements as part of project-level review.	
	Develop facility designs that are elevated, or at a minimum are permeable, and will not affect recharge potential where construction is required in areas of potentially substantial groundwater discharge or recharge.	

Resource Area	Impact Area	Mitigation Measure
		Apply for and obtain a SWPPP for grading, with BMPs that will control release of contaminants near areas of surface water or groundwater recharge. BMPs may include constraining fueling and other sensitive activities to alternative locations, providing drip plans under some equipment, and providing daily checks of vehicle condition.
		Use and retain native materials with high infiltration potential at the ground surface in areas that are critical to infiltration for groundwater recharge.
Biological resources and wetlands	Impacts to sensitive vegetation communities (as defined at the project level)	Utilize existing transportation corridors and rail lines to minimize potential impacts.
		Use large diameter tunnels as part of the design to limit surface access needs in tunnels for ventilation or evacuation, as a method to avoid or limit impacts to vegetation and habitat above tunnels.
		Use in-line construction (i.e., use new rail infrastructure as it is built) to transport equipment to/from the construction site and to transport excavated material away from the construction to appropriate re-use or disposal sites to minimize impacts from construction access roads on vegetation/habitat.
		Accomplish necessary geologic exploration in sensitive areas by using helicopters to transport drilling equipment and for site restoration to minimize surface disruption.
		Use and reuse excavated materials within the confines of the project.
		Participate in or contribute to existing or proposed conservation banks or natural management areas, including possible acquisition, preservation, or restoration of habitats.
		Revegetate/restore impacted areas, with a preference for onsite mitigation over offsite, and with a preference for offsite mitigation within the same watershed or in close proximity to the impact where feasible.
		Comply with the Biological Resources Management Plan(s) developed or identified during project-level studies, as reviewed by the USFWS, CDFG, and USACE.
		Conduct preconstruction focused biological surveys.
		Conduct biological construction monitoring.
	Undertake plant relocation, seed collection, plant propagation, and outplanting at suitable mitigation sites.	
	Prevent the spread of weeds during construction and operation by identifying areas with existing weed problems and measures to control traffic moving out of those areas such as cleaning construction vehicles or limiting the movement of fill.	
	Impacts to wildlife movement corridors	Construct wildlife underpasses, bridges, and/or large culverts to facilitate known wildlife movement corridors.
		Ensure that wildlife crossings are of a design, shape, and size to be sufficiently attractive to encourage wildlife use.
Provide appropriate vegetation to wildlife overcrossings and undercrossings to afford cover and other species requirements.		
Establish functional corridors to provide connectivity to protected land zoned for uses that provide wildlife permeability.		

Resource Area	Impact Area	Mitigation Measure
		Design protective measures for wildlife movement corridors using the following process in consultation with resource agencies: <ol style="list-style-type: none"> a. identify the habitat areas the corridor is designed to connect; b. select several species of interest from the species present in the area; c. evaluate the relevant needs of each selected species; d. for each potential corridor, evaluate how the area will accommodate movement by each species of interest; e. draw the corridors on a map; and f. design a monitoring program.
		Utilize existing transportation corridors and rail lines to minimize potential impacts.
		Use aerial structures or tunnels to allow for unhindered crossing by wildlife.
	Impacts to nonwetland jurisdictional waters	Utilize existing transportation corridors and rail lines to minimize potential impacts.
		Return degraded habitat to pre-existing conditions.
		Create new habitat by converting nonwetland habitats into wetland or other aquatic habitat.
		Enhance existing habitats by increasing one or more functions through activities such as plantings or nonnative vegetation eradication.
		Provide for passive revegetation by allowing a disturbed area to revegetate naturally.
		Purchase credits in an existing wetlands or aquatic habitat mitigation bank.
		Provide in-lieu fee payments to an agency or other entity who will provide aquatic habitat conservation or restoration.
		Prefer onsite mitigation over offsite mitigation, and for offsite mitigation, prefer that it be located within the same watershed or as close in proximity to the area of impact as possible.
	Impacts to wetlands	Utilize existing transportation corridors and rail lines to minimize potential impacts.
		Return degraded habitat to pre-existing conditions.
		Create new habitat by converting nonwetland habitats into wetland or other aquatic habitat.
		Enhance existing habitats by increasing one or more functions through activities such as plantings or nonnative vegetation eradication.
		Provide for passive revegetation by allowing a disturbed area to revegetate naturally.
		Purchase credits in an existing wetlands or aquatic habitat mitigation bank.
		Provide in-lieu fee payments to an agency or other entity who will provide aquatic habitat conservation or restoration.
		Develop and implement measures to address the "no net loss" policy for wetlands. Prefer onsite mitigation over offsite mitigation, and for offsite mitigation, prefer that it be located within the same watershed or as close in proximity to the area of impact as possible.
	Impacts to marine and anadromous fishery resources	Utilize existing transportation corridors and rail lines to minimize potential impacts.
		Comply with the terms of a Streambed Alteration Agreement for work along banks of surface water bodies.
		Implement a spill prevention and emergency response plan to handle potential fuel or other spills.
		Incorporate biofiltration swales to intercept runoff.

Resource Area	Impact Area	Mitigation Measure
	Impacts to special status species	<p>Where feasible, avoid significant development of facilities in areas that may have substantial erosion risk, including areas with erosive soils and steep slopes.</p> <p>Utilize existing transportation corridors and rail lines to minimize potential impacts.</p> <p>Relocate sensitive species.</p> <p>Conduct preconstruction focused surveys.</p> <p>Conduct biological construction monitoring.</p> <p>Restore suitable breeding and foraging habitat.</p> <p>Purchase credits from an existing mitigation bank.</p> <p>Participate in an existing Habitat Conservation Plan.</p> <p>Phase construction around the breeding season.</p>
Public parks and recreation resources	Impacts to parks and recreational resources	<p>Continue to apply design practices to avoid impacts to park resources, and when avoidance cannot be accommodated, minimize the scale of the impact.</p> <p>Apply measures at the project level to reduce and minimize indirect/proximity impacts as appropriate for the particular sites affected, while avoiding other adverse impacts (e.g., visual); such as noise barriers, visual buffers, and landscaping.</p> <p>Apply measures to modify access to/egress from the recreational resource to reduce impacts to these resources.</p> <p>Design and construct cuts, fill, and aerial structures to avoid and minimize visual impacts to units of the state park system.</p> <p>Incorporate wildlife under- or overcrossings at appropriate intervals as necessary.</p> <p>Where public parklands acquired with public funds will be acquired for nonpark use as part of the HST system, commit as required by law to providing funds for the acquisition of substantially equivalent substitute parkland or to acquiring/providing substitute parkland of comparable characteristics for construction impacts.</p> <p>Restore affected parklands to natural state and replace or restore affected park facilities.</p> <p>If park facilities must be relocated, provide planning studies as well as appropriate design and replacement with minimal impact on park use.</p> <p>Use local native plants for revegetation.</p> <p>Develop and implement construction practices, including scheduling, to limit impacts to wildlife, wildlife corridors, and visitor use areas within public parks.</p> <p>For temporary unavoidable loss of park and recreation facility uses, consider providing compensation.</p>
Cumulative	Impacts on traffic and circulation and travel conditions	<p>The following program-level mitigation strategies can be developed, in consultation with state, federal, regional, and local governments and affected transit agencies, to improve the flow of intercity travel on the primary routes and access to the proposed stations or airports and would reduce this impact:</p> <ol style="list-style-type: none"> 1. Regional strategies will include coordination with Regional Transportation planning and Intelligent Transportation System Strategies. 2. Local improvements could employ TSM/Signal Optimization; local spot widening of curves; and major intersection improvements. <p>The following program-level mitigation strategies can be developed, in consultation with state, federal, regional, and local governments and affected transit agencies, to improve the flow of intercity travel on the primary routes and access to the proposed stations or airports and would reduce this impact:</p> <ol style="list-style-type: none"> 1. Regional strategies would include coordination with Regional Transportation planning and Intelligent Transportation System Strategies. 2. Local improvements could employ TSM/Signal Optimization; local spot widening of curves; and major intersection improvements.

Resource Area	Impact Area	Mitigation Measure
	Impacts on air quality	<p>The project-level mitigation strategies to address localized impacts can include the following and would reduce this impact:</p> <ol style="list-style-type: none"> 1. Increase emission controls from power plants supplying power for the HST alignment. 2. Design the system to utilize energy efficient, state-of-the-art equipment. 3. Promote increased use of public transit, alternative fueled vehicles, and parking for carpools, bicycles, and other alternative transportation methods. 4. Alleviate traffic congestion around passenger station areas. 5. Minimize construction air emissions.
	Impacts on noise and vibration	<p>The program-level mitigation strategies include the following and would reduce this impact:</p> <ol style="list-style-type: none"> 1. Design practices emphasizing the use of tunnels or trenches. 2. Use of electric powered trains, higher quality track interface, and smaller, lighter, and more aerodynamic trainsets. 3. Full grade separations from all roadways. <p>The project-level mitigation strategies include the following and would reduce this impact:</p> <ol style="list-style-type: none"> 1. Treatments for insulation of buildings affected by noise and vibration. 2. Sound barrier walls within the right-of-way. 3. Track treatments to minimize train vibrations. 4. Construction mitigation.
	Impacts on land use and planning, communities and neighborhoods, property, and environmental justice	<p>The program-level mitigation strategies for HST alignment contributions to the land use impacts include the following and would reduce this impact:</p> <ol style="list-style-type: none"> 1. Design practices to maximize use of existing rights-of-way and incorporating strategies for stations to incorporate transit-oriented design. 2. Coordination with cities and counties in each region to ensure that project facilities will be consistent with land use planning processes and zoning ordinances.
	Impacts on agricultural lands	<p>The program-level mitigation strategies include the following and would reduce this impact:</p> <ol style="list-style-type: none"> 1. Design practices to avoid agricultural land conversion through maximizing use of existing rights-of-way to minimize encroachment on additional agricultural lands. 2. Utilizing aerial structure or tunnel alignments to allow for vehicular and pedestrian traffic access across the alignment. 3. Reducing the new right-of-way to 50 feet in constrained areas. <p>The project-level mitigation strategies include the following and would reduce this impact:</p> <ol style="list-style-type: none"> 1. Securing easements. 2. Participating in mitigation banks. 3. Increasing permanent protection of farmlands at the local planning level. 4. Coordinating with various local, regional, and state agencies support farmland conservation programs.
	Impacts on aesthetics and visual resources	<p>The program-level mitigation strategies include the following and would reduce this impact:</p> <ol style="list-style-type: none"> 1. Design practices that will incorporate local agency and community input during subsequent project-level environmental review in order to develop context sensitive aesthetic designs and treatments for infrastructure.

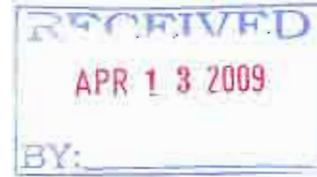
Resource Area	Impact Area	Mitigation Measure
		<p>The project-level mitigation strategies include the following and would reduce this impact:</p> <ol style="list-style-type: none"> Design of facilities that integrate into landscape contexts, which will reduce potential view blockage, contrast with existing landscape settings, and light and shadow effects.
	Impacts on public utilities	<p>The program-level mitigation strategies include the following and would reduce this impact:</p> <ol style="list-style-type: none"> Design practices that will avoid potential conflicts, at the project-level analysis, to the extent feasible and practical. These practices include design methods to avoid crossing or using utility rights-of-way by modifying both the horizontal and vertical profiles of proposed transportation improvements. Emphasis will be placed on detailed alignment design to avoid potential contribution to cumulative impacts from linear facilities on land use opportunities and to minimize conflicts with existing major fixed public utilities and supporting infrastructure facilities.
		<p>The project-level mitigation strategies include the following and would reduce this impact:</p> <ol style="list-style-type: none"> Coordination with utility representatives during construction in the vicinity of critical infrastructure will occur.
	Impacts on cultural and paleontological resources	<p>The program-level mitigation strategies include the following and would reduce this impact:</p> <ol style="list-style-type: none"> Continued consultation with SHPO will occur to define and describe general procedures to be applied in the future for fieldwork, method of analysis, and the development of specific mitigation measures to address effects and impacts to cultural resources, resulting in a programmatic agreement between the Authority, FRA, and SHPO. Consultation with Native American tribes will occur.
		<p>The project-level mitigation strategies include the following and would reduce this impact:</p> <ol style="list-style-type: none"> Avoidance measures through identification of sensitive resources within the project-level analysis, project design refinement, and careful selection of alignments. Subsequent project-level field studies to verify the location of cultural resources will offer opportunities to avoid or minimize direct impacts on resources, based on the type of project, type of property, and impacts to the resource.
	Impacts on geology and soils	<p>The program-level mitigation strategies include the following and would reduce this impact:</p> <ol style="list-style-type: none"> Design practices will be used while preparing extensive alignment studies to ensure that potential effects related to major geologic hazards such as major fault crossings, oil fields, and landslide areas will be avoided. Mitigation for potential impacts will be developed on a site-specific basis, based on detailed geotechnical studies to address ground shaking, fault crossings, slope stability/landslides, areas of difficult excavation, hazards related to oil and gas fields, and mineral resources.
Impacts on hydrology and water resources	<p>The program-level mitigation strategies include the following and would reduce this impact:</p> <ol style="list-style-type: none"> Design practices to maximize use of existing rights-of-way to minimize potential impacts on water resources. 	

Resource Area	Impact Area	Mitigation Measure
		<p>The project-level mitigation strategies include the following and would reduce this impact:</p> <ol style="list-style-type: none"> 1. Avoidance and minimization measures will be incorporated into the development, design, and implementation phases. 2. Close coordination will occur with the regulatory agencies to develop specific design and construction standards for stream crossings, infrastructure setbacks, erosion control measures, sediment controlling excavation/fill practices, and other best management practices. 3. Mitigation strategies specific to reconstruction, restoration, or replacement of the resource will occur, in close coordination with state and federal resource agencies, related to flood plains; surface waters, runoff, and erosion; and groundwater.
	Impacts on biological resources and wetlands	<p>The program-level mitigation strategies include the following and would reduce this impact:</p> <ol style="list-style-type: none"> 1. Design practices to maximize use of existing rights-of-way to minimize potential impacts on biological resources and wetlands. <p>The project-level mitigation strategies include the following and would reduce this impact:</p> <ol style="list-style-type: none"> 1. Avoidance and minimization measures will be incorporated into the development, design, and implementation phases. 2. Close coordination will occur with the regulatory agencies to develop specific design and construction standards for stream crossings, infrastructure setbacks, monitoring during construction, and other best management practices. 3. Mitigation strategies specific to reconstruction, restoration, or replacement of the resource will occur, in close coordination with state and federal resource agencies, related to wetlands. 4. Field studies will be conducted to verify the location, in relation to the HST alignments, of sensitive habitat, wildlife movement corridors, and wetlands. These studies will provide further opportunities to minimize and avoid potential impacts on biological resources through changes to the alignment plan and profile in sensitive areas. For example, the inclusion of design features such as elevated track structures over drainages and wetland areas and wildlife movement corridors will minimize potential impacts to wildlife and sensitive species.
	Impacts on Section 4(f) and 6(f) resources (public parks and recreational resources)	<p>The program-level mitigation strategies include the following and would reduce this impact:</p> <ol style="list-style-type: none"> 1. Incorporation of sound barriers (e.g., walls, berms, or trenches), visual buffers/landscaping, and modification of transportation access to/egress from the public lands and recreational resource. 2. Incorporation of design modifications or controls on construction schedules, phasing, and activities.

Resource Area	Impact Area	Mitigation Measure
		<p>The project-level mitigation strategies include the following and would reduce this impact:</p> <ol style="list-style-type: none"> 1. Beautification measures. 2. Replacement of land or structures or their equivalents on or near their existing site(s). 3. Tunneling, cut and cover, and cut and fill of right-of-ways. 4. Treatment of embankments. 5. Planting, screening, creating wildlife corridors, acquisition of land for preservation, and installation of noise barriers. 6. Establishment of pedestrian or bicycle paths. 7. Other potential mitigation strategies identified during the public input process. <p>In the event that HST alignments or facilities are located within or in close proximity to public parks, the following mitigations for natural, cultural, aesthetic, and recreational impacts may be considered to offset the contribution to the cumulative impact, including but not limited to:</p> <ol style="list-style-type: none"> 1. Compensation for temporary and loss of park and recreation use. 2. Recordation of any historic features removed. 3. If necessary, provide alternative shuttle access service to park visitors. 4. Restore directly impacted park lands to a natural state. 5. If any facilities must be relocated, provide planning studies as well as design and appropriate replacement with minimal impact on park use. 6. Inventory and record affected historic structures. Provide appropriate mitigation for adverse effects to historic structures. 7. Require appropriate vehicle cleaning for all construction equipment used near units of the California State Park System to protect against spreading exotic plants or disease. 8. Use local native plants for revegetation. 9. Design and construct cuts, fills, and aerial structures to avoid and minimize visual impact to units of the State Park System. 10. In addressing impacts to wildlife movement corridors and habitat directly related to California State Park System units, consult with the California Department of Parks and Recreation. 11. Incorporate wildlife under- or overcrossings as necessary. 12. Adopt construction practices to protect critical wildlife corridors and visitor use areas within public parks.



MEMORANDUM



To: PLANNING COMMISSION

Date: April 14, 2009

From: COMMUNITY DEVELOPMENT DEPARTMENT

Subject: SAN JOSE TO MERCED HIGH-SPEED TRAIN PROJECT

BACKGROUND

In July 2008, the California High-Speed Rail Authority (Authority) selected the Pacheco Pass to San Francisco via San Jose alternative as the preferred corridor and alignment for the future High-Speed Train (HST) service. In February 2009, the Authority issued a Notice of Preparation (NOP) and the Federal Railroad Administration issued a Notice of Intent for a Project EIR/EIS for the San Jose to Merced section of the HST system initiating the state environmental review process under the California Environmental Quality Act (CEQA) and federal environmental review process under the National Environmental Policy Act (NEPA).

The selected alignment for the San Jose to Merced section generally follows the Caltrain/Union Pacific Railroad corridor from San Jose to Gilroy. The preferred alignment for HST through Morgan Hill is on grade separated tracks located on or adjacent to the UP railroad tracks. From Gilroy, the corridor extends east through Pacheco Pass, generally following State Route 152 to the Central Valley and on to Merced. Stations are proposed in San Jose (Diridon Station), Gilroy and downtown Merced. The preferred station location in Gilroy is the current Caltrain Station. The Project EIR/EIS will examine site-specific impacts of the preferred alignment, station locations and HST operations between San Jose and Merced, and will identify specific mitigation measures as necessary. The NOP indicates that further engineering studies will be undertaken as part of this EIR/EIS process that will examine design options along the Caltrain/UPRR corridor and possible use of portions of parallel transportation corridors. The Planning Commission reviewed the NOP at their March 10, 2009 meeting and expressed a strong interest (and questions) regarding the HST service and requested a presentation by HST staff at a future Commission meeting. Staff from the High Speed Rail Authority and their consultant team will be attending the April 14 Planning Commission meeting to give the requested presentation.

The City Council reviewed the NOP at their March 18, 2009 meeting. The Council voted to recommend the EIR/EIS process includes design options for an alignment through Morgan Hill

along US Highway 101. The City believes this should be the preferred alignment in the EIR/EIS document.

A public EIR/EIS scoping meeting was held in Gilroy on March 26, 2009. Staff attended the meeting and provided the attached comment letter under the Mayor's signature. Exhibits from the scoping meeting are also attached to this report.

RECOMMENDATION

Receive presentation/Discussion.

Attachments:

City comment letter on NOP
San Jose to Merced Scoping Meeting Presentation Exhibits

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STEVE TATE
Mayor

March 25, 2009

Mr. Dan Leavitt, Deputy Director
California High Speed Rail Authority
925 L Street, Suite 1425
Sacramento, CA 95814

Subject: Notice of Preparation for the San Jose to Merced Section High-Speed Train Project
EIR/EIS

Dear Mr. Leavitt,

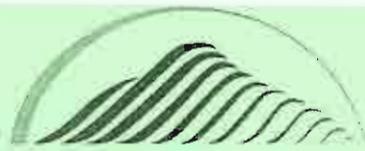
Thank you for the opportunity to comment on the California High-Speed Rail Authority's Notice of Preparation (NOP) and the Federal Railroad Administration's Notice of Intent for a Project EIR/EIS for the San Jose to Merced section of the HST system. Our City Council reviewed the document at its meeting of March 18, 2008. According to the NOP, the selected alignment for the San Jose to Merced section generally follows the Caltrain/Union Pacific Railroad corridor from San Jose to Gilroy. The NOP indicates that further engineering studies will be undertaken as part of this EIR/EIS process that will examine design options along the Caltrain/UPRR corridor and possible use of portions of parallel transportation corridors. The City recommends the EIR/EIS process include design options for an alignment through Morgan Hill along US Highway 101. The City believes this should be the preferred alignment in the EIR/EIS document. The existing UPRR rail corridor is constrained in several areas by existing development and the elevated/graded separated HST tracks and parallel security fencing will have an adverse effect by creating a barrier or divide within our community.

In addition to the environmental impact areas identified in the NOP, the EIR/EIS should evaluate the visual and aesthetic impact of the elevated HST tracks and the potential of flood inundation due to the failure of nearby Anderson Reservoir Dam. The reservoir, located east of Morgan Hill, is owned and maintained by the Santa Clara Valley Water District. The District is currently conducting a seismic safety evaluation of Anderson Dam.

Sincerely,

Steve Tate
Mayor

c: Morgan Hill Council Members
Ed Tewes, City Manager



CITY OF MORGAN HILL
COMMUNITY DEVELOPMENT DEPARTMENT, PLANNING DIVISION

17555 Peak Avenue Morgan Hill CA 95037 (408) 779-7247 Fax (408) 779-7236
Website Address: www.morgan-hill.ca.gov / Email: General@ch.morgan-hill.ca.gov

PLANNING COMMISSION

TUESDAY, APRIL 14, 2009

CITY COUNCIL CHAMBERS
CIVIC CENTER
17555 PEAK AVENUE
MORGAN HILL, CA

COMMISSIONERS

CHAIR, SUSAN KOEPP-BAKER
VICE-CHAIR, COMMISSIONER WAYNE TANDA
COMMISSIONER H. GENO ACEVEDO
COMMISSIONER ROBERT L. ESCOBAR
COMMISSIONER RALPH LYLE
COMMISSIONER JOHN A. MONIZ
COMMISSIONER JOSEPH H. MUELLER

REGULAR MEETING - 7:00 P.M.

*** A G E N D A ***

NOTICE TO THE PUBLIC

The following policies shall govern the conduct of the Planning Commission meetings:

- *All Planning Commission proceedings are tape-recorded.*
- *Individuals wishing to address the Planning Commission on a particular item should fill out a speaker card and present it to the Secretary. This will assist the Chairperson in hearing your comments at the appropriate time.*
- *When the Chairperson invites you to address the Commission, please state your name and address at the beginning of your remarks.*
- *Speakers will be recognized to offer presentations in the following order:*
 - *Those supporting the application*
 - *Those opposing the application*
 - *Those with general concerns or comments*
 - *Presentations are limited to 5 minutes*

**DECLARATION OF POSTING OF AGENDA IN ACCORDANCE WITH
GOVERNMENT CODE SECTION 54954.2 - SECRETARY REPORT**

OPEN PUBLIC COMMENT PERIOD (5 MINUTES)

Now is the time for presentation from the public on items NOT appearing on the agenda that are within the Planning Commission's jurisdiction. Should your comments require Commission action, your request will be placed on the next appropriate agenda. No Commission discussion or action may be taken until your item appears on a future agenda. You may contact the Planning Division for specific time and dates. This procedure is in compliance with the California Public Meeting Law (Brown Act) G.C. 54950.5. Please limit your comments to five (5) minutes.

MINUTES: March 10, 2009

PUBLIC HEARINGS:

- 1) **SAN JOSE TO MERCED HIGH-SPEED TRAIN PROJECT:** Information regarding the proposed project level Environmental Impact Report /Statement for the San Jose to Merced Section of the High-Speed Train System.

Recommendation: Discussion

- 2) **EMERGENCY OPERATIONS PLANNING FOR ANDERSON DAM:** Information item on the City's Office of Emergency Services and the Santa Clara Valley Water District's emergency planning relating to Anderson Dam.

Recommendation: Discussion

- 3) **USE PERMIT, UP-09-02: SAN PEDRO-T-MOBILE:** A request for approval of a Conditional Use Permit to legalize an existing wireless service provider. As part of the approval the applicant is requesting to replace 3 panel antennas and install additional equipment to the existing site. The site is located at 235 San Pedro Ave and is in a Light Industrial zoning district. (APN 817-11-066)

Recommendation: Open Public Hearing/Adopt Resolution approving the Use Permit application request.

- 4) **ZONING AMENDMENT, ZA-09-03: AMENDMENTS TO DESIGN REVIEW ZONING CHAPTER 18.74 AND TO CHAPTER 2.56 AND OTHER SECTIONS OF THE CITY OF MORGAN HILL MUNICIPAL CODE IN ORDER TO CEASE THE ARCHITECTURAL REVIEW BOARD:** Repeal of Chapter 2.56 and Amendment to Chapter 18.74 to remove Architectural Review Board (ARB) and to shift design permit (architectural and site review) authority to staff; and amendments to modify and clarify requirements and procedures related to review and action on design permits, including extensions and modifications of permits. Amendments to other sections of the Municipal Code to substitute "Community Development Director" in place of "Architectural Review Board".

Recommendation: Open Public Hearing/Adopt Resolution with recommendation to forward requests to the City Council for approval.

PLANNING COMMISSION AGENDA

APRIL 14, 2009

PAGE 3

- 5) **FINDING OF GENERAL PLAN CONSISTENCY FOR DRAFT FY2009/10 – 2013/14 CAPITAL IMPROVEMENTS PROGRAM (CIP):** The Planning Commission is requested to review the draft Five-Year Capital Improvements Program (CIP) for consistency with the Adopted 2001 General Plan.

Recommendation: Adopt Resolution with recommendation to forward the request to the City Council for approval.

- 6) **RESIDENTIAL DEVELOPMENT CONTROL SYSTEM (RDCS) QUARTERLY REPORT:** Quarterly review of the progress of residential projects that have been awarded building allocations under the City's Residential Development Control System.

Recommendation: Approve report, with recommendation to forward to the City Council for approval.

- 7) **MULTI-FAMILY VACANCY RATE REPORT:** Biannual review of apartment vacancy rate as required in accordance to the Morgan Hill Municipal Code, Chapter 17.36.

Recommendation: Approval of Multi-Family Vacancy Rate Report by minute action, with recommendation to forward to City Council for approval.

- 8) **PLANNING COMMISSION'S PARTICIPATION IN THE CARBON DIET CLUB:** Presentation and discussion on forming a Carbon Diet Club and potential meeting dates.

Recommendation: Discussion/consider a motion for the Commission to form a Carbon Diet Club.

TENTATIVE AGENDA FOR THE APRIL 28, 2009 MEETING

No items currently scheduled.

ANNOUNCEMENTS

CITY COUNCIL REPORTS

ADJOURNMENT

SPEAKER CARD

IN ACCORDANCE WITH GOVERNMENT CODE 54953.3, IT IS NOT A REQUIREMENT TO FILL OUT A SPEAKER CARD IN ORDER TO SPEAK TO THE PLANNING COMMISSION. HOWEVER, it is very helpful to the Commission if you would fill out the Speaker Card that is available on the counter in the Council Chambers. Please fill out the card and return it to the Deputy City Clerk. As your name is called by the Chairperson, please walk to the podium and speak directly into the microphone. Clearly state your name and address and proceed to comment upon the agenda item. Please limit your remarks to three (3) minutes.

NOTICE
AMERICANS WITH DISABILITY ACT (ADA)

The City of Morgan Hill complies with the Americans with Disability Act (ADA) and will provide reasonable accommodation to individuals with disabilities to ensure equal access to all facilities, programs and services offered by the City.

If assistance is needed regarding any item appearing on the Planning Commission agenda, please contact the Office of the City Clerk at City Hall, 17555 Peak Avenue or call 779-7259 or Hearing Impaired only - TDD 776-7381 to request accommodation.

NOTICE

NOTICE IS GIVEN pursuant to Government Code Section 65009, that any challenge of any of the above agenda items in court, may be limited to raising only those issues raised by you or on your behalf at the Public Hearing described in this notice, or in written correspondence delivered to the Planning Commission at, or prior to the Public Hearing on these matters.

NOTICE

The time within which judicial review must be sought of the action taken by the Planning Commission which acted upon any matter appearing on this agenda is governed by the provisions of Section 1094.6 of the California Code of Civil Procedure.

NOTICE

All public records relating to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act that are distributed to a majority of the Planning Commission less than 72 hours prior to an open session, will be made available for public inspection at the Office of the City Clerk at Morgan Hill City Hall located at 17555 Peak Avenue, Morgan Hill, CA, 95037 at the same time that the public records are distributed or made available to the Planning Commission. (Pursuant to Government Code 54957.5)



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Southwest Region
501 West Ocean Boulevard, Suite 4200
Long Beach, California 90802-4213

APR 22 2009

Dan Leavitt
Deputy Director
San Jose to Merced HST Project EIR/EIS,
California High-Speed Rail Authority
925 L Street, Suite 1425
Sacramento, California 95814

Dear Mr. Leavitt:

This letter is in response to your Notice of Preparation (NOP), received by NOAA's National Marine Fisheries Service (NMFS) on March 4, 2009, regarding a Project Environmental Impact Report/Environmental Impact Statement (EIR/EIS) for a San Jose to Merced High-Speed Train system in Santa Clara, Merced, and Madera Counties, California. Be advised that NMFS can only enter formal section 7 consultations with another Federal Agency or its designee, which in this case is the Federal Railroad Authority. This response is not intended to take the place of formal comments or consultation as required under the Endangered Species Act (ESA) of 1973, as amended (16 U.S.C. 1531 *et seq.*), and does not provide incidental take authorization pursuant to section 7(b)(4) and section 7(o)(2) of the ESA. In addition, you should be aware that any incidental take of listed species that may occur during the construction activities of the proposed project is not exempt from section 9 of the ESA. The federally listed Evolutionarily Significant Units and Distinct Population Segments (DPS) that may occur in the project area include:

Central Valley steelhead DPS (*Oncorhynchus mykiss*)
threatened (January 5, 2006, 71 FR 834)
critical habitat (September 2, 2005, 70 FR 52488)

Central California Coast steelhead DPS (*O. mykiss*) threatened (January 5, 2006, 71 FR 834)

South-Central California Coast steelhead DPS (*O. mykiss*) threatened (January 5, 2006, 71 FR 834)

Because the above-mentioned salmonids are known to occur within the vicinity of proposed project actions, the Federal action agency or its appointed designee would be expected to enter into ESA section 7 consultation with NMFS.

You should also be aware that the proposed project may affect the Essential Fish Habitat (EFH) for Chinook salmon (*O. tshawytscha*) as described in Amendment 14 of the Pacific Salmon



Fishery Management Plan pursuant to the Magnuson-Stevens Fishery Conservation and Management Act. Federal action agencies must consult with NMFS on any activity which they fund, permit, or carry out that may adversely affect EFH. Upon completion of that consultation process, NMFS is required to provide EFH conservation and enhancement recommendations to the Federal action agencies.

NMFS has reviewed the project alternatives provided in your letter. In order to minimize impacts and adverse effects on listed anadromous fish and EFH, the following is a list of general recommendations to consider when finalizing your project description:

1. Instream construction activities should be limited to periods when stream channels are nearly or completely dry and NMFS' ESA listed fish species are least likely to occur in the project area.
2. Measures should be taken to maintain upstream and downstream fish passage for all life stages of listed anadromous fish.
3. Best Management Practices should be developed and implemented to minimize erosion and sedimentation to stream channels in the proposed project area. Depending upon the size and extent of the proposed action(s), additional measures may be necessary.

NMFS appreciates the opportunity to provide input on the NOP of the EIR/EIS for the San Jose to Merced High-Speed Train System through Pacheco Pass. We look forward to working with the applicants to ensure that this EIR/EIS adequately addresses the protection of listed salmonids within the project area.

If you have any questions regarding this correspondence, please contact Ms. Leslie Mirise in our Sacramento Area Office, 650 Capitol Mall, Suite 8-300, Sacramento, CA 95814. Ms. Mirise may be reached by telephone at (916) 930-3638, or Leslie.Mirise@noaa.gov.

Sincerely,



For Maria Rea
Supervisor, Sacramento Area Office

cc: Copy to File AR # 151422SWR2009SA00192
NOAA Fisheries-PRD, Long Beach, CA

ADAMS BROADWELL JOSEPH & CARDOZO

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

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LOULENA A. MILES
ROBYN C. PURCHIA

OF COUNSEL
THOMAS R. ADAMS
ANN BROADWELL
GLORIA D. SMITH

April 30, 2009

VIA EMAIL AND OVERNIGHT MAIL

Dan Leavitt
Deputy Director
California High-Speed Rail Authority
925 L Street, Suite 1425
Sacramento, CA 95814

Re: Grassland Water District / Grassland Resource Conservation District /
Grassland Fund Scoping Comments on the San Jose to Merced High
Speed Train System through Pacheco Pass Project EIR/EIS

Dear Deputy Director Leavitt:

On behalf of the Grassland Water District ("GWD"), the Grassland Resource Conservation District ("GRCD") and the Grassland Fund¹, this letter provides comments on the proposed scope of the Project Environmental Impact Report / Environmental Impact Statement ("EIR/EIS") for a San Jose to Merced High Speed Train System through Pacheco Pass ("HST" or "the Project"). The EIR/EIS is a project-level EIR/EIS being prepared pursuant to the California Environmental Quality Act² ("CEQA") and the National Environmental Policy Act³ ("NEPA").

The High Speed Rail Authority ("Authority") is the lead agency for this Project for purposes of CEQA, while the Federal Railroad Administration ("FRA") will serve as the federal lead agency for environmental review under NEPA. These comments are submitted in response to the Notice of Preparation ("NOP") issued by the Authority, dated February 23, 2009, 2005 and the Notice of Intent ("NOI")

¹ The Grassland Fund was previously known as the Grassland Conservation and Education Fund ("GCEF").

² Pub. Res. Code §§ 21000 *et seq.*

³ 42 U.S.C. § 4321 *et seq.*

April 30, 2009

Page 2

issued by the Federal Rail Administration and Department of Transportation on March 9, 2009.

The GWD and GRCD (collectively, "the Districts") are concerned about the proposed Project because it includes a proposed HST alignment that may pass through or otherwise impact the Districts' jurisdictional boundaries. The combined area of the GWD and GRCD contains approximately 60,000 acres of privately owned wetlands located north, east and south of the City of Los Banos in Merced County. The Districts are charged under state law and federal contract with the responsibility to manage water resources and carry out conservation programs in order to preserve and protect this resource, primarily as habitat for waterfowl and other wildlife species. Land stewardship in the Districts mostly comprises privately owned and managed waterfowl hunting clubs that receive their water supply from GWD.

The Districts together with the adjacent federal wildlife refuges, state wildlife areas and state park lands make up the Grasslands Ecological Area ("GEA"). Encompassing approximately 240,000 acres, the GEA is the largest wetland complex in California and contains the largest block of contiguous wetlands remaining in the Central Valley.⁴ This region is considered a critical component of the Central Valley wintering habitat for waterfowl and has been recognized as a resource of international significance.

The Grassland Fund is concerned about the Project because of its potential impacts on the GEA. The Grassland Fund is a non-profit organization dedicated to the protection of the GEA through education, conservation and advocacy efforts. The Grassland Fund runs the Grassland Environmental Education Center and is a member of the Grasslands Stewardship Plan project team. The Grassland Environmental Education Center is a past recipient of the PG&E Community Service Award and the Association of California Water Agencies Theodore Roosevelt Environmental Award. The Grassland Environmental Education Center is located at the Los Banos Wildlife Area's Interpretative Marsh at 18110 W. Henry Miller Road, Los Banos, California. The proposed Henry Miller Road alignment would potentially run directly through this location.

⁴ Appendix 8, Grassland Water District, Land Use and Economics Study: Grasslands Ecological Area (July 2001), p. 2 (hereafter "*Grassland Land Use and Economics Study*").

The GWD, GRCD and the Grassland Fund remain extremely concerned over the proposed Pacheco Pass alignment option through the GEA. Bisection of the GEA by a high speed rail may interfere with critical wildlife corridors, disrupt canals and waterways, degrade water quality, interfere with waterfowl nesting and breeding, induce inconsistent growth in and adjacent to the GEA, and increase wildlife mortality rates due to noise, shock and collision impacts. Construction of a few wildlife underpasses alone would be insufficient to address this impact.

The proposed Henry Miller Road alignment is particularly troublesome because the area along Henry Miller Road bisects a critical and endangered corridor separating the north GEA from the south GEA that is already dangerously fragmented. According to experts, this proposed alignment could provide the “final blow” in severing the vulnerable linkage between the north and south units of the Grassland Management Area.⁵ This would “have a profound effect on the movement of waterfowl between different parts of the refuges they now utilize on a daily basis.”⁶

While existing transportation corridors may generally offer alignment options that would minimize the HST’s impacts, alignment of the HST along Henry Miller Road poses unique risks due the potential cumulative impacts of further fragmenting an already endangered corridor. In addition, as a rural roadway with limited traffic, it is unreasonable to regard Henry Miller Road as an appropriate existing transportation corridor for the HST project in the same vein as an urban roadway or as a larger rural highway such as Highway 140.

We urge the Authority to consider alternative corridors, including an alignment north of the GEA along Highway 140 and an alignment south of the GEA, for example, along Nees road.

The GWD, GRCD and Grassland Fund previously submitted comments to the Authority on its prior two EIRs on this matter: (1) the August 2005 Statewide Program EIR/EIS; and (2) the July 2008 second program EIR/EIS to identify a preferred alignment for the Bay Area to Central Valley section of the HST (“July

⁵ Appendix 9, Thomas Reid Associates, *Grassland Water District Land Planning Guidance Study* (1995), Appendix A (Noss, R.F., *Translating Conservation Principles to Landscape Design for the Grassland Water District* (1994)), p. 47; see also Exhibit A, Rich Wright Comments.

⁶ Appendix 8, *Grassland Land Use and Economics Study*.

2008 Bay Area to Central Valley EIR /EIS"). In addition we met with Authority staff several times to discuss our concerns and discuss potential solutions.

As a result, the Authority agreed to prohibit the establishment of any HST stations between Gilroy and Merced and to prohibit any HST maintenance or storage facilities within the Los Banos area (or in the vicinity of the GEA). The Authority has already taken a number of steps to ensure that these prohibitions are enforceable. We urge the Authority to continue to impose conditions, adopt mitigation measures and take other legal actions to ensure that these prohibitions remain in effect in perpetuity.

In addition, the July 2008 Bay Area to Central Valley EIR /EIS commits the Authority to execute the following specific mitigation measures to address potential impacts on the GEA:

- (A) *An appropriate field survey of biological resources within areas of the GEA directly affected by proposed HST tracks or facilities, including San Joaquin kit fox, giant garter snake and important waterfowl nesting and breeding habitat to be included in the project-level environmental analysis.*
- (B) *Project-level evaluation of the potential impacts to biological resources in the GEA from HST construction, operation and maintenance, including, but not limited to, ecosystem fragmentation impacts, impacts to wildlife movement corridors, impacts to waterfowl flight patterns, noise impacts, startle and vibration impacts, collision impacts, electrocution impacts, glare impacts, water quality and water flow impacts, impacts on waterfowl nesting and breeding, impacts on migratory habits, impacts from construction traffic, impacts of equipment storage and laydown areas, impacts from blasting and pile-driving, and impacts from temporary disruption of water supply deliveries.*
- (C) *Minimize the footprint of necessary HST facilities to the extent feasible in the HST alignment crossing the GEA;*
- (D) *In consultation with the California Department of Fish and Game, the United States Fish and Wildlife Service, and the Grassland Water District, an evaluation in the project-level environmental analysis of the*

timing of construction activities within the GEA and measures to minimize disturbance during nesting and flooding seasons.

- (E) In consultation with the California Department of Fish and Game, the United States Fish and Wildlife Service, and the Grassland Water District, an evaluation in the project level environmental analysis of non-glare and directed lighting and appropriate measures to avoid disturbance impacts to sensitive species in areas of the GEA directly affected by proposed HST facilities.*
- (F) Acquisition from willing sellers by the Authority, or by other entities designated and supported by the Authority, of agricultural, conservation and/or open space easements encompassing at least 10,000 acres and generally located along or in the vicinity of the HST alignment and within or adjacent to the designated GEA. This measure would reduce impacts to and support conservation of wetlands and sensitive ecological areas, as well as limit urban encroachment in the vicinity of the HST through the GEA. The focus for these easements would be in areas undergoing development pressures, such as the areas around Los Banos and Volta, and/or areas that would be most appropriate for ecological conservation or restoration. The eventual locations and total acreage for these easements would be determined in conjunction with the project-level environmental analysis and decisions addressing the Gilroy to Merced portion of the HST system and in consultation with the California Department of Fish and Game, the United States Fish and Wildlife Service, and the Grassland Water District.*

We appreciate the Authority's commitment in the July 2008 Bay Area to Central Valley EIR /EIS to implement these measures as part of the Project EIR/EIS.

In order to assist the Authority in preparing the Project EIR/EIS, we have provided below more detailed comments regarding the potential impacts of the Project on the GEA. In addition, we incorporate by reference the extensive supporting documents that we previously provided to you as exhibits and appendices to our October 25, 2007 Comments on the on the Draft Bay Area to Central Valley High-Speed Train Program EIR/ EIS. These documents include maps, studies and expert comments that are intended to assist you in preparing the

Project EIR/EIS. These studies and comments supplement the issues addressed below and may raise important issues and provide important information in addition to those described in this comment letter.

Where we refer to exhibits or appendices in the footnotes of this letter, we are referring to the exhibits and appendices contained in our bound October 25, 2007 Comments on the Draft Bay Area to Central Valley EIR/EIS.

Finally, we ask the Authority to establish a GEA advisory group of resource management agencies and interested stakeholders to review and advise the Authority on final route selection and on project level environmental review and mitigation.

I. IMPORTANCE OF GRASSLAND ECOLOGICAL AREA

The GEA is an irreplaceable, internationally significant ecological resource. The GEA is located west of the City of Merced and surrounds the City of Los Banos to the north, east and south. Originally, this area was part of a four million acre wetland system in the Central Valley of California. Of the 300,000 acres that remain, the GEA is the largest contiguous block of wetlands in the Central Valley. The protection of this area has been the result of private and public investments and partnerships.

The GEA boundary is a non-jurisdictional boundary designated by the U.S. Fish and Wildlife Service in order to identify an area for priority purchase of public easements for wetland preservation and enhancement.⁷ The GEA includes federal wildlife refuges, a state park, state wildlife management areas and the largest block of privately managed wetlands in the state. The GEA also includes a large and growing portfolio of federal and state conservation easements. Through 1998, conservation easements had been acquired on over 64,000 acres at a total cost of over \$28 million.⁸ Acquisitions since 1998 have increased the number of acres protected by conservation easements to over 70,000 acres. Significant areas of the GEA, however, remain unprotected from future development.

⁷ Appendix 8, *Grassland Land Use and Economics Study* at p. 2.

⁸ *Id.* at pp. 11-12.

The GEA is of considerable importance because it preserves a variety of habitats important to the maintenance of biodiversity on a local, regional, national and international scale. It has been estimated that thirty percent (30%) of the Central Valley migratory population of waterfowl use this area for winter foraging.⁹ The GEA is a major wintering ground for migratory waterfowl and shorebirds of the Pacific Flyway. Over a million waterfowl are regularly found in the GEA during the winter months.¹⁰ The GEA also provides habitat for more than 550 species of plants and animals, including 47 plant and animal species that are endangered, threatened or candidate species under state or federal law, including San Joaquin kit fox, Aleutian Canada [cackling] geese, sandhill cranes, California tiger salamander, vernal pool fairy shrimp, tadpole shrimp, California red-legged frog, the giant garter snake, Swainson's hawks and tri-colored blackbirds.¹¹

The Western Hemisphere Shorebird Reserve Network has designated the GEA as one of only 15 international shorebird reserves in the world.¹² The GEA was also recently recognized in February 2005 as a Wetland of Worldwide Importance by the Ramsar Convention.¹³ The Ramsar Convention is an international agreement dedicated to the worldwide protection of particular ecosystems. Ramsar member nations work to coordinate wetland conservation efforts, particularly for species that rely on ecosystems that span member nation's borders. The designation of the GEA as a Wetland of Worldwide Importance illustrates the tremendous worldwide ecological value of the GEA ecosystem. The GEA is one of only four such wetland sites in California, and one of twenty-two sites in the country. The GEA has also been recognized by the American Bird Conservancy as a Globally Important Bird Area.¹⁴

In addition to providing critical biological habitat, the Grasslands' wetlands also provide a wide range of other benefits to the area, including flood control and educational and recreational opportunities. This concentration of wetlands and wildlife is a unique feature of the area, attracting hunters and other recreational visitors who make significant contributions to the economy of the area. The GEA

⁹ U.S. Bureau of Reclamation, *Final NEPA EA, Refuge Water Supply Long-Term Water Supply Agreements* (January 2002).

¹⁰ Appendix 8, *Grassland Land Use and Economics Study* at p. 2.

¹¹ *Id.*

¹² Appendix 11, Fredrickson, Leigh H. and Laubhan, Murray K, *Land Use Impacts and Habitat Preservation in the Grasslands of Western Merced County, CA* (February 1995), p. 3.

¹³ See <http://international.fws.gov/ramsar/ramsar.htm>.

¹⁴ See <http://www.abcbirds.org/iba/california.htm>.

receives over 300,000 user visits per year for hunting, fishing and non-consumptive wildlife recreation.¹⁵ Recreational and other activities related to habitat values within the GEA contribute \$41 million per year to the Merced County economy, and account for approximately 800 jobs.¹⁶

A thorough study of the potential impacts that the Project may have on the GEA is vital to ensure it does not damage this irreplaceable ecological resource of international importance.

II. CEQA REQUIRES AGENCIES TO BE INFORMED ABOUT THE ENVIRONMENTAL CONSEQUENCES OF THEIR DECISIONS BEFORE THEY ARE MADE

CEQA has two basic purposes. First, CEQA is designed to inform decision makers and the public about the potential, significant environmental effects of a project.¹⁷ “Its purpose is to inform the public and its responsible officials of the environmental consequences of their decisions *before* they are made. Thus, the EIR ‘protects not only the environment but also informed self-government.’”¹⁸

Second, CEQA directs public agencies to avoid or reduce environmental damage when possible by requiring alternatives or mitigation measures.¹⁹ If the project has a significant effect on the environment, the agency may approve the project only upon finding that it has “eliminated or substantially lessened all significant effects on the environment where feasible” and that any unavoidable significant effects on the environment are “acceptable due to overriding concerns” specified in CEQA section 21081.²⁰

In order for the EIR/EIS to satisfy these basic purposes, it must include:
(1) an accurate and complete description of the project setting, including an

¹⁵ Appendix 8, *Grassland Land Use and Economics Study* at p. 14

¹⁶ *Id.* at p. 21.

¹⁷ 14 Cal. Code Regs. (“CEQA Guidelines”) § 15002(a)(1).

¹⁸ *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 564.

¹⁹ CEQA Guidelines § 15002(a)(2)-(3); *see also*, *Berkeley Keep Jets Over the Bay Committee v. Board of Port Commissioners* (2001) 91 Cal.App.4th 1344, 1354; *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 564; *Laurel Heights Improvement Assn. v. Regents of the University of California* (1988) 47 Cal.3d 376, 400.

²⁰ CEQA Guidelines § 15092(b)(2)(A)-(B).

adequate description of the existence and importance of internationally significant wetlands habitat and wildlife within the GEA; (2) a complete project description including but not limited to, significant construction, engineering and operational aspects of the project; (3) identification of all potential environmental impacts of the Project on the wetlands habitat and wildlife within the GEA, including but not limited to, construction, land-use, operational and growth-inducing impacts; (5) identification of feasible and enforceable measures to mitigate potential impacts on the GEA; and (6) identification of the environmentally superior alignment through or around the GEA supported by findings regarding significance of environmental impacts, feasibility of mitigation and feasibility of alternatives.

III. THE EIR/EIS MUST ADEQUATELY DESCRIBE THE PROJECT SETTING

An accurate description of the environmental setting is critical because it establishes the baseline physical conditions against which a lead agency can determine whether an impact is significant.²¹ Under CEQA and NEPA, an EIR/EIS must include a description of the physical environmental conditions in the vicinity of the project from both a local and regional perspective.²² The EIR/EIS must provide an accurate description of the environmental baseline, because “[t]he impacts of the project must be measured against the ‘real conditions on the ground.’”²³

In order to comply with this requirement, the EIR/EIS for the proposed project must include a full description of the GEA, including its location in relation to the proposed project. The importance of this area should also be disclosed. Maps should be provided showing where potential alignments may cross the GEA and denoting, for example, wildlife habitat, wildlife corridors, flyways, state and federal easement lands, proposed GEA buffer zones, and other significant resource areas.

²¹ CEQA Guidelines § 15125(a).

²² *Id.*; 40 C.F.R. § 1502.15.

²³ *Save Our Peninsula Committee v. Monterey Board of Supervisors* (2001) 87 Cal.App.4th 99, 121. 1124-589a

IV. THE EIR/EIS MUST ADEQUATELY DESCRIBE THE PROJECT

An accurate and stable project description is the *sine qua non* of an informative, legally adequate EIR/EIS.²⁴ A legally sufficient project description must contain a “general description of the project’s technical, economic, and environmental characteristics, considering the principal engineering proposals if any and supporting public service facilities.”²⁵ A complete project description must include a description of significant construction, engineering and operational aspects of the project.

For example, the EIR/EIS must clearly state how often trains will pass by on these tracks. An appendix to the 2005 Statewide HST Program EIR/EIS stated that at least 134 total daily trains will pass through Los Banos; an average of more than one train every 11 minutes.²⁶ However, trains would be expected to pass through more frequently during peak hours and less frequently during off-peak hours. This is critical Project information for establishing potential visual, noise, vibration, and wildlife collision impacts and for providing the public with the real picture of what will be going through their parks, wildlife refuges, hunting clubs and neighborhoods.

The EIR/EIS must also clearly describe the existence, location and size of appurtenant operational and maintenance facilities. These facilities are a major component of the project and will, themselves, result in numerous significant impacts. Based on the estimated power needs of the HST system, 20,000 square foot power supply stations will be necessary every 30 miles. 7,500 square foot switching stations would be required at approximately 15 mile intervals. 5,000 square foot paralleling (booster) stations would be required at approximately 7.5-mile intervals. Fleet storage/service facilities and inspection/light maintenance facilities would also be required. The location and construction of these appurtenant facilities must be disclosed in the project summary and/or description sections of the EIR/EIS.

The evaluation of wetland impacts, agriculture impacts, biological impacts and other impacts must take the location and construction of these facilities into

²⁴ *County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185, 192.

²⁵ CEQA Guidelines § 15124(c).

²⁶ High Speed Train Operations Report, Appendix E.

account. The Project should avoid placement of any appurtenant operational or maintenance facilities within the GEA to the extent feasible.

V. THE EIR/EIS MUST DETERMINE THE POTENTIAL BIOLOGICAL IMPACTS OF THE HST ON GEA WILDLIFE AND HABITAT

The EIR/EIS must include sufficient analysis of the potential Project impacts on the biological resources of the GEA to permit an informed consideration of the implication of choosing an alignment over Henry Miller Road over other potential alignments within or to the north or south of the GEA. Once the presence of the biological resources in the GEA have been identified and described, the EIR/EIS must then analyze how the direct and indirect impacts of the project would affect these resources *after feasible mitigation is imposed*.²⁷ Direct and indirect significant effects of the project on the environment shall be clearly identified and described, giving due consideration to both short-term and long-term effects.²⁸ The discussion should include relevant specifics of the area, the resources involved, physical changes, and alterations to the ecological systems.²⁹

A complete analysis of the potential biological impacts of the HST on the GEA is essential due to the considerable importance of this area. As discussed in more detail above, the GEA constitutes the most important waterfowl wintering area on the Pacific Flyway, and international treaties have recognized the habitat as a resource of international significance. The complex of wetland habitats within the GEA is of special significance because the size, juxtaposition, and connectivity of the different wetland types provide a unique opportunity to sustain native migratory and resident wildlife populations.³⁰

The associated uplands surrounding the semi-permanent wetlands are also of special importance because they provide nesting areas for waterbirds, important food sources for grazers such as geese, and essential habitat for endangered species and numerous upland wildlife. Over one million waterfowl winter in the GEA each year and the GEA provides critical habitat for over 550 species of plants and

²⁷ CEQA Guidelines Section 15126(a).

²⁸ *Id.*

²⁹ *Id.*

³⁰ Appendix 11, Fredrickson, Leigh H. and Laubhan, Murray K., *Land Use Impacts and Habitat Preservation in the Grasslands of Western Merced County, CA* (February 1995).

animals, including 47 plant and animal species that are endangered, threatened or candidate species under state or federal law.

Prior to the selection of a final alignment through or around the GEA, a complete assessment of all the Project's potential biological impacts on this important ecological resource must be made. These potential impacts include interruption of habitat connectivity, interference with habitat conservation plans, train noise and vibration impacts, shock wave impacts, train collisions with large animals, water quality impacts and construction impacts.

A. The EIR/EIS Must Analyze the Project's Potential Impact on Bisection and Fragmentation of the GEA

1. Interference with Wildlife Corridors

The Proposed Pacheco alignment along Henry Miller Road would further fragment a critical southern spur of the GEA from the rest of the contiguous wetlands and isolate an additional small section of wetlands as well. This route cuts across the southern part of the Volta State Wildlife Management Area and the Los Banos State Wildlife Management Area (the oldest Wildlife Management Area in the state - created in 1929). It would also sever already fragmented wildlife corridors connecting the North and South grasslands.³¹

A HST alignment through the GEA would likely result in significant fragmentation impacts on the wetland habitat and wildlife due to its creation of a physical barrier bisecting this area.³² Potential fragmentation impacts include interference with wildlife movement and migration corridors, interference with drainage, and the flow of irrigated water through the managed wetlands and interference with access to hunting clubs.

The Henry Miller Road alignment poses a particularly acute threat to the GEA because it would further separate an already fragmented, critical southern spur of the GEA from the rest of the contiguous wetlands. The area along Henry Miller Road represents a pinch point between the northern and southern portions of

³¹ See Appendix 1, Map of Federal, State and Privately Owned Lands in GEA. Pacheco alignment is proposed to run just north of and parallel to Henry Miller Road, isolating the sections of the GEA south of this area.

³² Appendix 4, *Dr. Weissman Comments*.
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the GEA. This area is considered extremely sensitive due to the significant fragmentation caused by urban development, rural roads and Highway 152. A study by noted conservation biologist Reed Noss concluded that “[a]ny further fragmentation of the vulnerable linkage between the north and south units of the Grassland Management Area could well provide the ‘final blow’ in fragmenting the wetland ecosystem” and “could have a profound effect on the movement of waterfowl between different parts of the refuges they now utilize on a daily basis.” Rich Wright, staff biologist for the GWD and GRCD, states that the proposed alignment along Henry Miller Road could very well be this final blow.

Alignments elsewhere through the GEA would also create new areas of fragmentation and potentially exacerbate the existing fragmentation concerns. The EIR/EIS must determine whether cumulative impacts to the already fragmented corridor along Henry Miller Road would pose a potentially greater threat to the GEA ecosystem than the creation of new areas of fragmentation in or outside of the GEA.

Construction of wildlife underpasses, bridges, and/or large culverts, could be considered to provide wildlife movement corridors. However, a few underpasses alone would likely be insufficient to address this impact. Fragmentation does not require complete separation. Rather:

It is a relative and cumulative problem. After some threshold of fragmentation is exceeded, movement of individuals will no longer occur regularly enough to maintain the population of a fragmentation-sensitive species. Until detailed, long-term studies of species in the [GEA] are performed, the prudent course is to prevent any further fragmentation of the system. Indeed, professional opinion among scientists is now firm that the burden of proof in such matters must rest on those who propose activities that may fragment or otherwise degrade ecosystems.³³

The EIR/EIS must provide evidence for the success of any proposed mitigation measures in a wetland environment like the GEA and provide detail on the number, location and type of such structures to facilitate wildlife movement

³³ Appendix 9, Thomas Reid Associates, *Grassland Water District Land Planning Guidance Study* (1995), Appendix A (Noss, R.F., *Translating Conservation Principles to Landscape Design for the Grassland Water District* (1994)), p. 47.

across the railroad right-of-way. Without such information the impact of the proposed Pacheco Pass alignment on the GEA cannot be fairly assessed.

2. Disruption of Canals and Waterways

Wetland ecosystems are also sensitive to disruption of water flow and other hydrological impacts that accompany fragmentation.³⁴ For example, drainage canals, dikes, and roads have had severe effects on the hydrology, vegetation, flora and fauna of the Everglades.³⁵

In the case at hand, the proposed Pacheco Pass alignments would bisect several waterways within the GEA essential to the management of these critically important wetlands and wildlife habitat.³⁶ The Santa Fe and San Luis Canals convey water to more than 31,000 acres of public and privately owned wetlands. Mud Slough South (a natural channel) and the Porter-Blake Bypass serve as drainage facilities for thousands of acres of additional wetlands, thus making possible the timely release of water, a crucial element in the management of seasonal habitat.

The EIR/EIS must identify each of the waterways that potential alignments through the GEA may bisect and must analyze the potential impacts that may result. Mitigation measures must be identified to ensure that the design and construction of the project will not impede the flow and maintenance of water in these channels. Without such information the impact of an alignment through the GEA cannot be fairly assessed.

The bisection of these waterways by the HST may also have a significant impact on important wildlife corridors. Among the threatened species that would likely be affected by the bisection of the GEA is the giant garter snake (*thamnophis gigas*), a state and federally listed threatened species.³⁷ This snake is not only historically known in the GEA, but it has been recently documented in waterways both north and south of the City of Los Banos.³⁸ These snakes were found in both natural channels and water conveyance canals. It is well documented that the

³⁴ *Id.*; see also Appendix 4, *Dr. Weissman Comments*.

³⁵ *Id.*

³⁶ Appendix 7, *Don Marciochi Letter*.

³⁷ Appendix 15, *Dean Kwasny letter*.

³⁸ *Id.*

giant garter snake inhabits waterways, including irrigation and drainage canals, sloughs, and low gradient streams.

The San Luis Canal, which would be bisected by the Henry Miller Road route, has been found to contain the necessary habitat components for the giant garter snake, including: adequate water during the snake's active season, populations of food organisms, emergent, herbaceous wetland vegetation for escape cover and foraging, and grassy banks and openings in waterside vegetation for basking.³⁹ In addition, the San Luis Canal functions as a movement corridor for the giant garter snake.⁴⁰

The EIR/EIS must evaluate the potential for interference with waterway habitats and corridors and assess whether feasible mitigation is available to reduce these impacts to a level of insignificance.

3. Interference with Access and Use of Hunting Clubs

The continued protection of the privately managed wetlands within the GEA depends largely on the continued viability of these lands as private duck hunting clubs. Currently, 181 duck hunting clubs exist within the GWD and the GRCD. The proposed bisection of the GEA by the HST poses the potential to impede the access of GWD members to their hunting clubs.⁴¹ In addition, to access, continued, viable operation of these clubs may also be threatened if errant gunshots pose any possibility of striking passing trains. The EIR/EIS must consider the impact that an alignment through the GEA may have on access and use of these clubs.

B. Noise and Vibration

The HST will likely produce significant noise and vibration each time it passes through the GEA. The EIR/EIS must disclose what the actual noise exposure would be in decibels, at varying distances from the track. The EIR/EIS must also analyze the potential impact noise and vibration may have on wildlife and habitat in the GEA.

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ *Id.*

A Federal Railroad Administration (“FRA”) report rates as a “severe impact” any case where the project noise exceeded 60 dBA where the ambient noise level was near 50 or 55 dBA Ldn, as would be the case in the GEA.⁴² The FRA report also states that impacts on wild birds and mammals must be assessed by dB SEL rate, not just by the decibel rate. The SEL is a measure of all sound energy during an event expressed as the equivalent sound level with a duration of one second.

The July 2008 Bay Area to Central Valley EIR/EIS states that trains running through flat and straight areas, such as the Henry Miller alignment through the GEA, will be traveling at speeds up to 220 miles per hour.⁴³ In her comments attached as Appendix 4 to our October 25, 2007 Program EIR/EIS Comments, Dr. Weissman examines the available data on this issue and estimates that the Lmax noise from the train at 200 mph would be around 101.5 dB.⁴⁴ Even at high speed, the train will take three to four seconds to pass a point receptor. This means the SEL at 50 feet distance is probably around 105 to 110 dB. With 3 dB drop-off per doubling distance for a line source, the high-speed train will likely exceed a 100 dB SEL significance threshold for wild birds and mammals out to a distance of 500 feet.⁴⁵ This distance would increase significantly at a train speed of 220 miles per hour or at a significance level of 77 dB SEL.

Train frequency also determines the overall noise impact of the project. The EIR/EIS must clearly state the potential frequency of trains passing through the GEA. An operational report for the first-phase EIR/EIS contained a schedule showing that 134 total trains would potentially pass along the Northern Crossing alignment each day. This schedule described an average of one train every 11 minutes, with trains passing as frequently as every 5 minutes during the busy portion of the business day. This means that startle effects will be frequent and that the overall sound level will rise substantially.⁴⁶

Noise disturbances of wildlife in the GEA are of significant concern. Noise disturbances may displace waterfowl from feeding grounds, may cause desertion of nests, may increase energetic costs associated with flight, and may lower productivity of nesting or brooding waterfowl, among other impacts.⁴⁷ The EIR

⁴² Appendix 4, *Dr. Weissman Comments*.

⁴³ July 2008 Bay Area to Central Valley EIR/EIS at p. 3.4-9.

⁴⁴ Appendix 4, *Dr. Weissman Comments*.

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ Appendix 12, U.S. Fish & Wildlife Leaflet 13.2.15; Appendix 4, *Dr. Weissman Comments* at pp. 3-4
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must evaluate the actual likely impacts of the train noise and vibration on the sensitive wildlife species in the GEA that may be exposed to these noise levels on a daily basis.

C. Shock Wave

High-speed trains will produce a significant shock wave each time they pass.⁴⁸ The shock wave can be felt at varying distances from the train, depending upon its speed. It could produce a harmful startle response in wildlife. If birds are flying within the immediate area where the train passes, it could possibly interrupt their flight.⁴⁹ The EIR/EIS should quantify the shock wave that emanates from the train moving at up to 220 mph and determine its potential effects on wildlife in the GEA.

D. Collisions with Trains

Animals that may be crossing the tracks in the GEA can be hit by one of some 100 plus trains per day. In addition, mitigation such as fencing proposed to reduce such collisions must itself be evaluated for the impacts such fencing may have on fragmenting wildlife corridors.

Species at risk include the giant garter snake, San Joaquin kit fox, tule elk and bobcat.⁵⁰ The giant garter snake, for example, can be found as far away as 820 feet from the edge of marsh habitat; U.S. Fish and Wildlife service recommends a minimum buffer of 200 feet from the banks of giant garter snake habitat.⁵¹ The HST project, however, proposes trains running by every 5 to 11 minutes right over the waterways inhabited by this threatened species.

The EIR/EIS should estimate the mortality to each wildlife species that is vulnerable to train collisions and the effect of this mortality on the respective populations. For special status species such as the green garter snake or the San Joaquin kit fox, the EIR/EIS should also discuss whether these train impacts would

(citing numerous reports).

⁴⁸ Appendix 4, *Dr. Weissman Comments*.

⁴⁹ *Id.* (citing Howe M. S. "The compression wave produced by a high-speed train entering a tunnel." *Proceedings: Mathematical, Physical & Engineering Sciences* 1 June 1998, vol. 454, no. 1974, pp. 1523-1534.)

⁵⁰ Appendix 4, *Dr. Weissman Comments*; Exhibit 15, Dean Kwasny letter.

⁵¹ Appendix 15, Dean Kwasny letter.

be substantial enough to cause further decline in the status of the species, or would interfere with the recovery of the species. Mitigation measures such as chain-link fencing must be evaluated to determine their actual effectiveness in keeping out the giant garter snake and other potentially impacted species. Mitigation measures creating partially or wholly impermeable barriers must also be evaluated to determine their potential for fragmenting important wildlife corridors.

E. Construction Impacts

The EIR/EIS must meaningfully evaluate the potential impact of construction and maintenance activities on the GEA. The duration of noisy and invasive construction activities through and adjacent to the GEA may severely disrupt biological species, habitat, water quality and air quality. In addition, the construction of the San Joaquin River crossing could pose serious impacts to water quality and riparian habitat. Potential construction impacts on the GEA that must be studied in the EIR/EIS include the impacts of truck and other vehicular traffic, equipment storage and laydown areas, blasting and pile-driving, and temporary disruption of water supply deliveries.⁵²

F. Water Flow and Water Quality

The EIR/EIS must evaluate the potential impacts the Project may have on water flow and water quality in the GEA. The HST Project has the potential to cause significant impacts to the complex of natural and man-made channels that move water through the wetlands, establish the waterfowl habitat and support nearly all the GEA ecological functions.⁵³

Construction of the HST through the GEA would entail tremendous wetland fill and the importation of possibly a million cubic yards of fill, depending on the actual route taken. It is unlikely that the earth for berms and other support structures could be excavated from along the route due to soil weight bearing limitations. Berms and other support structures would need to be keyed in to the substrate, meaning that the organic top layer would be removed and drainage ditches and water pumps would be installed to allow engineered placement of fill.

⁵² See Appendix 4, *Dr. Weissman Comments*.

⁵³ Appendix 4, *Dr. Weissman Comments*.

Even where trestle construction crossed water channels, there would be disturbance from clearing and pile driving.⁵⁴

Construction may alter the present water flow patterns, introduce sediment and create stagnant sections of the wetlands producing essentially permanent water quality degradation. Water quality impacts on wildlife range from altered growth of feed to increased risk of avian botulism.⁵⁵

The Grassland Water District has spent much time and money managing the application of water in the Grasslands. Historically, water quality problems in the Grasslands have had a tremendous impact on wildlife. Imposition of a hydraulic barrier across the GEA will materially impact the south-to-north water management in the GEA, which is essential to maintaining water quality.⁵⁶ The potential impact that construction of a HST would have on water flow and water quality in the GEA must be thoroughly evaluated and fully mitigated.

G. The EIR/EIS Must Evaluate the Impacts that Growth Induced by the Project May Have on the GEA

The EIR/EIS must evaluate the potential for growth-inducing impacts of the Project to negatively impact the GEA. When preparing an EIR, the lead agency must identify, discuss and analyze the growth-inducing impacts of a proposed project.⁵⁷ A project must be analyzed to determine if it will facilitate and encourage population growth, economic growth or changes in land use and development patterns.⁵⁸ Similarly, NEPA requires that agencies consider the indirect effects of a proposed action, such as growth inducing impacts and other impacts related to induced changes in the pattern of land use, population density or growth rate.⁵⁹

Mere identification of growth-inducing impacts, however, is not sufficient to meet the requirements of CEQA. Specific, enforceable mitigation measures to address impacts from this growth must also be identified and evaluated.

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ CEQA Guidelines § 15126.2, subd. (d).

⁵⁸ *Id.*

⁵⁹ 40 C.F.R. § 1508, subd. (b).

A project may indirectly induce growth by reducing or removing barriers to growth or by creating a condition that attracts additional population or new economic activity that is not currently planned. Here, the HST proposal will induce population growth and commuter traffic in the Merced/Los Banos area at a much greater rate than would occur otherwise by removing the barrier of accessibility to jobs in the Bay Area. According to the chart in Appendix 4-E of the July 2008 Bay Area to Central Valley EIR/EIS, the Pacheco alignment could cut travel time between Merced and San Jose to as little as 45 minutes. Such a commute would be short by Bay Area standards.

Historic growth patterns in California clearly demonstrate that accessibility to major employment centers triggers tremendous new growth from commuters.⁶⁰ Examples include: (1) the Auburn corridor as major new employers moved to the Sacramento region and north; (2) the Truckee area, which is approximately 1 hour from the major new job growth in the Auburn Corridor; and (3) Reno.⁶¹ Numerous studies have also shown that the introduction of transportation facilities redirects growth.⁶²

The introduction of the HST will dramatically shorten commute times between the Merced County area and the urban employment centers in the Bay Area, making the areas surrounding any proposed HST stations in the Merced area more attractive to commuters. The substantially lower cost of homes and property in the area would be a tremendous draw for Bay Area workers to move to the area.⁶³

In her comments attached as Appendix 17 to our October 25, 2007 Program EIR/EIS Comments, Ms. Watt also concludes that, without strict land use controls, this growth in a largely rural, agricultural county such as Merced will occur in suburban and rural sprawl patterns most harmful to habitat areas and farmland.⁶⁴

⁶⁰ Appendix 17, *Watt Comments*.

⁶¹ *Id.*

⁶² *Id.*

⁶³ Appendix 17, *Watt Comments*, Attachment A, *California Real Estate Statistics for Merced and Santa Clara Counties*. As of the 2nd quarter of 2004, a median priced home in Merced County costs \$228,000 and in Los Banos costs \$265,500. By comparison, during the same quarter a median priced home in San Jose costs \$507,750, nearly twice the cost of median priced home in the area near the proposed Los Banos station. In Gilroy during the same period, a median priced home costs \$550,000.

⁶⁴ *Id.*

Moreover, the pattern of growth may vary significantly depending on the alignment selected. Most worrisome is the proposed Henry Miller Road alignment, which would likely induce growth along the more rural areas around Los Banos. Even without a station in Los Banos, land speculation is likely to occur all along the Henry Miller Road corridor in anticipation that a Los Banos station would eventually be permitted. The EIR/EIS must evaluate the potential localized rural growth impacts that may arise from the Henry Miller Road alignment. The EIR/EIS must also evaluate the impacts of land speculation along the Henry Miller Road alignment on the ability to obtain conservation easements on the portions of the GEA that have not yet been protected from development.

Impacts of urban encroachment on the wetlands complex of the GEA have been documented in numerous studies including the 1995 Land Planning and Guidance Study and the supporting 1994 study by Reed F. Noss, "Translating Conservation Principles to Landscape Design for the Grassland Water District." These studies have shown that impacts of urban development adjacent to the GEA may include: (1) fragmentation of the North Grasslands from the South Grasslands; (2) a reduction in habitat value of the entire interior of the wetlands complex; (3) chemical disruption including the introduction of fertilizers and toxic chemicals in drainage water; (4) introduction of non-native species of both plants and animals; (5) noise disruption; (6) visual disruption caused by removal of trees and shrubs around the wetlands; (7) interruption of water deliveries for wildlife uses; and (8) the competition for the water supply that supports the wetland habitat.⁶⁵

Induced growth and land speculation along the HST route may also make it difficult or economically unfeasible to continue purchasing conservation easements in the GEA or to purchase buffer zone easements. While much of the GEA is protected by conservation easements or as state and federal wildlife areas, critical sections of the GEA remain privately owned, unencumbered by easements or other protection from development pressures. The location of a HST route through the GEA may create a tipping point where the productive economy of the wetlands can no longer compete with the economic pressures of development.

In addition to providing high biological value, the Grassland wetlands provide substantial direct economic contributions to the local and regional

⁶⁵ Appendix 9, Thomas Reid Associates, *Grassland Water District Land Planning Guidance Study* (1995), Appendix A (Noss, R.F., *Translating Conservation Principles to Landscape Design for the Grassland Water District* (1994)).

economies. Unfortunately, the productive economy of the wetlands is threatened by population growth and urban encroachment.⁶⁶

Preservation of the GEA requires that fragmentation around the ecosystem stop and the area not decrease in size. A 2001 Land Use and Economics Study prepared for the GWD evaluated the impacts of a compact growth scenario, characterized by development within existing cities, and a “sprawl” scenario, characterized by low density residential development in rural areas and facilitated by subdivisions of agricultural land. According to the study, sprawl development has a significant cumulative adverse effect on the cost to local government of providing services and on revenue and employment in the GEA.⁶⁷ In addition, if non-compatible urban development encroaches on the wetlands so as to reduce its utilization by wildlife, then recreational usage could be expected to decline, and public and private funds for habitat management may be more difficult to obtain.⁶⁸

The EIR/EIS must evaluate the Project’s potential impact on the continued economic viability of the wetlands economy and how this impact may affect the continued private/public partnership that has preserved the GEA wetlands all these years. Despite ongoing conservation efforts, significant portions of the Grasslands still lack permanent protection from development pressures.⁶⁹ Acquiring conservation easements over both the existing unprotected areas of the GEA and the additional areas targeted for expansion will require significant additional private-public cooperation and expenditures.

Several studies have concluded that the best way to protect this investment in the GEA is to prevent any incompatible development from occurring within a two-mile buffer zone around the GEA.⁷⁰ These studies have been previously provided to the Authority along with a map showing the proposed buffer zone areas.

⁶⁶ Appendix 8, *Grassland Land Use and Economics Study*. According to the 2001 Land Use and Economics Study, Grassland Ecological Area, Merced County, CA, jointly funded by the Grassland Water District, the Packard Foundation and the Great Valley Center, recreational and other activities related to habitat values within the GEA contributes \$41 million per year to the Merced County economy, and accounts for approximately 800 jobs. Agricultural lands within the GEA also account for approximately five percent (5%) of Merced County’s \$1.45 billion agricultural economy.

⁶⁷ *Id.*

⁶⁸ *Id.*

⁶⁹ See Exhibit 3, Ducks Unlimited, Map of Grasslands Ecological Area.

⁷⁰ Appendix 8, *Grassland Land Use and Economics Study*, at pp. 11-12; Appendix 9, Thomas Reid Associates, *Grassland Water District Land Planning Guidance Study* (1995), Appendix A (Noss, R.F., *Translating Conservation Principles to Landscape Design for the Grassland Water District* (1994)).
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The EIR/EIS should include an evaluation of the Project's impact on the ability to create this buffer zone.

The concept of a buffer or band of appropriate land uses around the GEA was comprehensively addressed in the 1995 *Land Planning Guidance Study* prepared for the GWD. The study showed that a two-mile buffer was substantially more effective than a one-mile buffer in protecting the core, or interior of the refuge.⁷¹

The 2001 *Land Use and Economics Study* examined the proposed two-mile buffer zone around the GEA and identified "zones of conflict" where the impacts of urbanization on the GEA would likely occur.⁷² In particular, of the six cities in Merced County, Los Banos, Gustine and Dos Palos have city spheres that include a portion of the two-mile GEA band. The study also identified growth in unincorporated areas as impacting the two-mile GEA band. According to the study, in the long term, it is essential that this band contain only resource beneficial or resource neutral uses to protect the integrity of the interior of the refuge complex as a whole.⁷³

A key point of the 2001 land use study is that agriculture and wetlands are compatible uses to each other. Agriculture is a productive use within the wetlands complex and especially in the two-mile band around the wetlands to protect the core area from the effects of urban encroachment.⁷⁴ The study found that protection of a two-mile band around the core area with only compatible uses (agriculture and open space) inside the band would best protect wetland uses and their infrastructure.⁷⁵ The study concluded that General Plan policies and case-by-case local land use planning decisions should be directed away from any further encroachment on the GEA.⁷⁶

The proposed Henry Miller Road alignment, however, would place the HST directly within the zone of conflict where the impacts of growth would negatively affect the GEA. The GWD has already heard reports of land speculation in the Los

⁷¹ Appendix 9, Thomas Reid Associates, *Grassland Water District Land Planning Guidance Study* (January 23, 1995).

⁷² Appendix 8, *Grassland Land Use and Economics Study*; Appendix 14, Grassland GEA Buffer Zones & Spheres of Conflict Map.

⁷³ Appendix 8, *Grassland Land Use and Economics Study*.

⁷⁴ *Id.*

⁷⁵ *Id.*

⁷⁶ *Id.*

Banos area. This suggests that even the potential for a Los Banos Station has already endangered plans to limit incompatible development, despite assurances by the Authority that no Los Banos Station will be permitted.

As urbanization progresses, fragmentation of agriculture and open space increases, the value of agricultural habitats for wildlife declines, transportation corridors expand, threats to eliminate recreational hunting increase, air and water pollution increase, and local hydrology is modified.⁷⁷ Thus, urban growth induced by this Project presents a very real threat to the functions, values and economic benefits of the Grassland ecosystem.

VI. THE EIR/EIS MUST CONDUCT A 4(F) ASSESSMENT OF THE PROJECT'S IMPACT ON THE GEA

The EIR/EIS must evaluate the Project's potential impacts on the substantial state, federal and public conservation investments that have been made to protect the GEA. Section 4(f) of the Department of Transportation Act requires the EIR/EIS to take into account the public investment that has been made to protect this critically important ecological resource.

The GEA includes federal wildlife refuges, a state park, state wildlife management areas and the largest block of privately managed wetlands in the state. These privately managed wetlands contain a large and growing portfolio of federal and state conservation easements. Through 1998, conservation easements had been acquired on over 64,000 acres at a total cost of over \$28 million.⁷⁸ The EIR/EIS must analyze any inconsistency of the proposed project with the conservation easements and state and federal wildlife areas in the GEA.

Section 4(f) states that the transportation secretary may not approve a transportation project "on publicly owned land of a public park, recreation area, or wildlife and waterfowl refuge of national, state or local significance" unless "(1) there is no prudent and feasible alternative to using that land; and (2) such program includes all possible planning to minimize harm to such park, recreational area, wildlife and waterfowl refuge, or historic site resulting from the use."⁷⁹

⁷⁷ *Id.*

⁷⁸ Appendix 8, *Grassland Land Use and Economics Study* at pp. 11-12.

⁷⁹ 49 U.S.C.A. § 303(c).

Section 4(f) requires federal agencies to consider alternatives and creates a presumption that public parks and natural resource areas protected by this section may not be used for transportation projects unless truly compelling reasons indicate that no alternative route is possible.⁸⁰ This requirement applies even if the land from the wildlife and waterfowl refuge is not directly taken for the project, but the project will nonetheless impact the wildlife area.⁸¹

Section 4(f) applies to any lands in which a governmental body has a proprietary interest in the land for public recreation or wildlife and waterfowl conservation purposes. *This includes conservation easements obtained for the purpose of wildlife and waterfowl habitat protection.*⁸² Accordingly, Section 4(f) applies to the more than 64,000 acres of privately managed wetlands in the GEA that are subject to federal and state conservation easements in addition to the federal wildlife refuges, state wildlife areas and state park land located within the GEA.

Section 4(f) creates a “specific and explicit bar” to the sacrifice of these public resources for transportation projects. “Only the most unusual situations are exempted.”⁸³ Under section 4(f), the protection of state and federal natural resource areas and conservation easements take precedence over other Project considerations including cost and directness of route.⁸⁴

VII. THE EIR/EIS MUST COMPLY WITH EXECUTIVE ORDERS TO ANALYZE AND MINIMIZE IMPACTS ON WETLANDS AND MIGRATORY BIRDS HABITAT

The EIR/EIS must comply with the executive wetlands order issued by President Carter. Executive Order 11990 requires federal agencies to “avoid undertaking or providing assistance for new construction located in wetlands unless the head of the agency finds: (1) that there is no practicable alternative to such construction, and (2) that the proposed action includes all practicable measures to

⁸⁰ *Citizens to Preserve Overton Park, Inc. v. Volpe* (1971) 401 U.S. 402, 412.

⁸¹ Mandelker, *NEPA Law and Litigation* (2nd Ed. 2001) § 2:19, fn. 1, p. 2-44.

⁸² Mandelker, *NEPA Law and Litigation* (2nd Ed. 2001) § 2:19, p. 2-45.

⁸³ *Id.* at 411.

⁸⁴ See *Id.* at 412-13.

minimize harm to wetlands which may result from such use.”⁸⁵ This executive order has been held judicially enforceable.⁸⁶

The analysis of the Project’s impacts on the GEA must also comply with the executive order issued by President Clinton for the protection of migratory birds. Executive Order 13186 requires federal agencies to avoid or minimize the effects of their actions on migratory birds.⁸⁷ It requires that evaluation of agency projects under NEPA consider the effects of the proposed action on migratory birds, with emphasis on species of concern.⁸⁸

The GEA provides a nationally and internationally important wetland habitat for migratory waterfowl and shorebirds of the Pacific Flyway. Under these two executive orders, the Authority and the FRA may not choose a HST alignment through the GEA unless there is no practicable alternative to such an alignment.

VIII. THE EIR/EIS MUST ADEQUATELY ANALYZE CUMULATIVE IMPACTS

CEQA and NEPA require that cumulative impacts be analyzed. The CEQA Guidelines define cumulative impacts as “two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts.”⁸⁹ “[I]ndividual effects may be changes resulting from a single project or a number of separate projects.”⁹⁰ Federal Regulations implementing NEPA also require that the cumulative impacts of the proposed action be assessed. As discussed extensively elsewhere in this comment letter, we are particularly concerned about the cumulative impacts of aligning the rail project along Henry Miller Road.

⁸⁵ Executive Order 11990, 42 Fed. Reg. 26,961 (1977).

⁸⁶ *City of Carmel-by-the-Sea v. United States Dep’t of Transp.* (9th Cir. 1997) 123 F.3d 1142.

⁸⁷ Executive Order 13186, 66 Fed. Reg. 3853 (2001).

⁸⁸ *Id.*

⁸⁹ CEQA Guidelines § 15355(a).

⁹⁰ *Id.*

IX. THE EIR/EIS MUST ADEQUATELY ANALYZE FEASIBLE ALTERNATIVES

CEQA requires that an EIR provide a discussion of project alternatives that allows meaningful analysis.⁹¹ An EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives.⁹² This analysis should focus on alternatives that would “avoid or substantially lessen any significant effects of the project, *even if these alternatives would impede to some degree the attainment of the project objectives, or would be more costly.*”⁹³

Similarly, under NEPA, federal agencies must consider alternatives to their proposed actions as well as their environmental impacts.⁹⁴ The alternatives analysis has been called the “linchpin” of the Environmental Impact Statement.⁹⁵

The purpose of the discussion of alternatives is both to support the decision makers and to inform public participation. Thus, “[a]n EIR’s discussion of alternatives must contain a quantitative analysis sufficient to allow informed decision making.”⁹⁶

The NOP for this Project-level EIR/EIS states that alignment variations along Henry Miller Road (both to the north and the south will be identified and evaluated for the purpose of reducing or avoiding impacts to natural resources in the GEA. In evaluating potential alignment variations, we urge the Authority to determine if alignments immediately outside of the GEA are feasible and would substantially lessen the potential environmental impact of the Project.

⁹¹ *Laurel Heights Improvement Assn. v. Regents of the University of California* (1988) 47 Cal.3d 376, 403.

⁹² CEQA Guidelines § 15125.6.

⁹³ CEQA Guidelines, § 15126.6, subd. (a) & (b) (emphasis provided); see *Citizens for Quality Growth v. City of Mount Shasta*, 198 Cal.App.3d 433, 443-45 (1988).

⁹⁴ 40 C.F.R. § 1502.14.

⁹⁵ *Monroe County Conservation Council, Inc. v. Volpe* (2d Cir. 1972) 472 F.2d 693.

⁹⁶ *Laurel Heights Improvement Assn. v. Regents of the University of California* (1988) 47 Cal.3d 376, 404; *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 733-735.

Alternative corridors should be evaluated including, Highway 140 north of GEA and an alignment south of the GEA, for example, along Nees road.

X. THE AUTHORITY SHOULD ESTABLISH A GEA ADVISORY GROUP TO REVIEW AND ADVISE THE AUTHORITY ON FINAL ROUTE SELECTION, ENVIRONMENTAL REVIEW AND MITIGATION

At our February 26, 2009 meeting with Authority staff, staff suggested the formation of an advisory group of resource management agencies and interested stakeholders to review and to advise the Authority on GEA related issues. We strongly concur with this recommendation. We respectfully request that the Authority immediately establish a GEA advisory group to review and advise the Authority on final route selection and on project level environmental review and mitigation.

We recommend that the GEA advisory group consist of representatives of the California Department of Fish and Game, The U.S. Fish and Wildlife Service, American Farmland Trust and the Grassland Water District. These organizations represent the resource management agencies and interested stakeholders who have long worked together to protect the integrity of the GEA and the buffer zone agricultural lands.

XI. CONCLUSION

The Grassland Ecological Area is an irreplaceable, internationally significant, ecological resource. Further loss or degradation of this largest remnant wetland habitat in the Central Valley will have a negative impact on migratory species that move across the North American continent and among continents during their annual cycle. For these reasons, protection of this unique ecosystem is essential to the preservation and maintenance of the productivity of this important natural heritage.

We appreciate the Authority's recognition of the unique risks that the HST may pose to the GEA and its commitment to meaningfully evaluate and mitigate these risks.

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Representatives from the GWD, GRCD and Grassland Fund would be happy to consult with Authority staff regarding the issues raised in this letter if additional information is needed. Thank you for considering these comments.

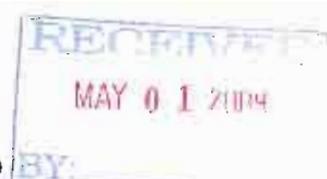
Sincerely,

A handwritten signature in blue ink that reads "Thomas A. Enslow". The signature is written in a cursive style with a small mark at the end.

Thomas A. Enslow

TAE:bh

cc: Dave Widell, General Manager, Grassland Water District
Grassland Water District Board of Directors
Grassland Resource Conversation District Board of Directors
Grassland Fund Board of Directors



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April 30, 2009

VIA EMAIL AND OVERNIGHT MAIL

Dan Leavitt
Deputy Director
California High-Speed Rail Authority
925 L Street, Suite 1425
Sacramento, CA 95814

Re: Grassland Water District / Grassland Resource Conservation District /
Grassland Fund Scoping Comments on the San Jose to Merced High
Speed Train System through Pacheco Pass Project EIR/EIS

Dear Deputy Director Leavitt:

On behalf of the Grassland Water District ("GWD"), the Grassland Resource Conservation District ("GRCD") and the Grassland Fund¹, this letter provides comments on the proposed scope of the Project Environmental Impact Report / Environmental Impact Statement ("EIR/EIS") for a San Jose to Merced High Speed Train System through Pacheco Pass ("HST" or "the Project"). The EIR/EIS is a project-level EIR/EIS being prepared pursuant to the California Environmental Quality Act² ("CEQA") and the National Environmental Policy Act³ ("NEPA).

The High Speed Rail Authority ("Authority") is the lead agency for this Project for purposes of CEQA, while the Federal Railroad Administration ("FRA") will serve as the federal lead agency for environmental review under NEPA. These comments are submitted in response to the Notice of Preparation ("NOP") issued by the Authority, dated February 23, 2009, 2005 and the Notice of Intent ("NOI")

¹ The Grassland Fund was previously known as the Grassland Conservation and Education Fund ("GCEF").

² Pub. Res. Code §§ 21000 *et seq.*

³ 42 U.S.C. § 4321 *et seq.*

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issued by the Federal Rail Administration and Department of Transportation on March 9, 2009.

The GWD and GRCD (collectively, “the Districts”) are concerned about the proposed Project because it includes a proposed HST alignment that may pass through or otherwise impact the Districts’ jurisdictional boundaries. The combined area of the GWD and GRCD contains approximately 60,000 acres of privately owned wetlands located north, east and south of the City of Los Banos in Merced County. The Districts are charged under state law and federal contract with the responsibility to manage water resources and carry out conservation programs in order to preserve and protect this resource, primarily as habitat for waterfowl and other wildlife species. Land stewardship in the Districts mostly comprises privately owned and managed waterfowl hunting clubs that receive their water supply from GWD.

The Districts together with the adjacent federal wildlife refuges, state wildlife areas and state park lands make up the Grasslands Ecological Area (“GEA”). Encompassing approximately 240,000 acres, the GEA is the largest wetland complex in California and contains the largest block of contiguous wetlands remaining in the Central Valley.⁴ This region is considered a critical component of the Central Valley wintering habitat for waterfowl and has been recognized as a resource of international significance.

The Grassland Fund is concerned about the Project because of its potential impacts on the GEA. The Grassland Fund is a non-profit organization dedicated to the protection of the GEA through education, conservation and advocacy efforts. The Grassland Fund runs the Grassland Environmental Education Center and is a member of the Grasslands Stewardship Plan project team. The Grassland Environmental Education Center is a past recipient of the PG&E Community Service Award and the Association of California Water Agencies Theodore Roosevelt Environmental Award. The Grassland Environmental Education Center is located at the Los Banos Wildlife Area’s Interpretative Marsh at 18110 W. Henry Miller Road, Los Banos, California. The proposed Henry Miller Road alignment would potentially run directly through this location.

⁴ Appendix 8, Grassland Water District, Land Use and Economics Study: Grasslands Ecological Area (July 2001), p. 2 (hereafter “*Grassland Land Use and Economics Study*”).

The GWD, GRCD and the Grassland Fund remain extremely concerned over the proposed Pacheco Pass alignment option through the GEA. Bisection of the GEA by a high speed rail may interfere with critical wildlife corridors, disrupt canals and waterways, degrade water quality, interfere with waterfowl nesting and breeding, induce inconsistent growth in and adjacent to the GEA, and increase wildlife mortality rates due to noise, shock and collision impacts. Construction of a few wildlife underpasses alone would be insufficient to address this impact.

The proposed Henry Miller Road alignment is particularly troublesome because the area along Henry Miller Road bisects a critical and endangered corridor separating the north GEA from the south GEA that is already dangerously fragmented. According to experts, this proposed alignment could provide the “final blow” in severing the vulnerable linkage between the north and south units of the Grassland Management Area.⁵ This would “have a profound effect on the movement of waterfowl between different parts of the refuges they now utilize on a daily basis.”⁶

While existing transportation corridors may generally offer alignment options that would minimize the HST’s impacts, alignment of the HST along Henry Miller Road poses unique risks due the potential cumulative impacts of further fragmenting an already endangered corridor. In addition, as a rural roadway with limited traffic, it is unreasonable to regard Henry Miller Road as an appropriate existing transportation corridor for the HST project in the same vein as an urban roadway or as a larger rural highway such as Highway 140.

We urge the Authority to consider alternative corridors, including an alignment north of the GEA along Highway 140 and an alignment south of the GEA, for example, along Nees road.

The GWD, GRCD and Grassland Fund previously submitted comments to the Authority on its prior two EIRs on this matter: (1) the August 2005 Statewide Program EIR/EIS; and (2) the July 2008 second program EIR/EIS to identify a preferred alignment for the Bay Area to Central Valley section of the HST (“July

⁵ Appendix 9, Thomas Reid Associates, *Grassland Water District Land Planning Guidance Study* (1995), Appendix A (Noss, R.F., *Translating Conservation Principles to Landscape Design for the Grassland Water District* (1994)), p. 47; see also Exhibit A, Rich Wright Comments.

⁶ Appendix 8, *Grassland Land Use and Economics Study*.

2008 Bay Area to Central Valley EIR /EIS”). In addition we met with Authority staff several times to discuss our concerns and discuss potential solutions.

As a result, the Authority agreed to prohibit the establishment of any HST stations between Gilroy and Merced and to prohibit any HST maintenance or storage facilities within the Los Banos area (or in the vicinity of the GEA). The Authority has already taken a number of steps to ensure that these prohibitions are enforceable. We urge the Authority to continue to impose conditions, adopt mitigation measures and take other legal actions to ensure that these prohibitions remain in effect in perpetuity.

In addition, the July 2008 Bay Area to Central Valley EIR /EIS commits the Authority to execute the following specific mitigation measures to address potential impacts on the GEA:

- (A) *An appropriate field survey of biological resources within areas of the GEA directly affected by proposed HST tracks or facilities, including San Joaquin kit fox, giant garter snake and important waterfowl nesting and breeding habitat to be included in the project-level environmental analysis.*
- (B) *Project-level evaluation of the potential impacts to biological resources in the GEA from HST construction, operation and maintenance, including, but not limited to, ecosystem fragmentation impacts, impacts to wildlife movement corridors, impacts to waterfowl flight patterns, noise impacts, startle and vibration impacts, collision impacts, electrocution impacts, glare impacts, water quality and water flow impacts, impacts on waterfowl nesting and breeding, impacts on migratory habits, impacts from construction traffic, impacts of equipment storage and laydown areas, impacts from blasting and pile-driving, and impacts from temporary disruption of water supply deliveries.*
- (C) *Minimize the footprint of necessary HST facilities to the extent feasible in the HST alignment crossing the GEA;*
- (D) *In consultation with the California Department of Fish and Game, the United States Fish and Wildlife Service, and the Grassland Water District, an evaluation in the project-level environmental analysis of the*

timing of construction activities within the GEA and measures to minimize disturbance during nesting and flooding seasons.

- (E) *In consultation with the California Department of Fish and Game, the United States Fish and Wildlife Service, and the Grassland Water District, an evaluation in the project level environmental analysis of non-glare and directed lighting and appropriate measures to avoid disturbance impacts to sensitive species in areas of the GEA directly affected by proposed HST facilities.*

- (F) *Acquisition from willing sellers by the Authority, or by other entities designated and supported by the Authority, of agricultural, conservation and/or open space easements encompassing at least 10,000 acres and generally located along or in the vicinity of the HST alignment and within or adjacent to the designated GEA. This measure would reduce impacts to and support conservation of wetlands and sensitive ecological areas, as well as limit urban encroachment in the vicinity of the HST through the GEA. The focus for these easements would be in areas undergoing development pressures, such as the areas around Los Banos and Volta, and/or areas that would be most appropriate for ecological conservation or restoration. The eventual locations and total acreage for these easements would be determined in conjunction with the project-level environmental analysis and decisions addressing the Gilroy to Merced portion of the HST system and in consultation with the California Department of Fish and Game, the United States Fish and Wildlife Service, and the Grassland Water District.*

We appreciate the Authority's commitment in the July 2008 Bay Area to Central Valley EIR /EIS to implement these measures as part of the Project EIR/EIS.

In order to assist the Authority in preparing the Project EIR/EIS, we have provided below more detailed comments regarding the potential impacts of the Project on the GEA. In addition, we incorporate by reference the extensive supporting documents that we previously provided to you as exhibits and appendices to our October 25, 2007 Comments on the on the Draft Bay Area to Central Valley High-Speed Train Program EIR/ EIS. These documents include maps, studies and expert comments that are intended to assist you in preparing the

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Project EIR/EIS. These studies and comments supplement the issues addressed below and may raise important issues and provide important information in addition to those described in this comment letter.

Where we refer to exhibits or appendices in the footnotes of this letter, we are referring to the exhibits and appendices contained in our bound October 25, 2007 Comments on the Draft Bay Area to Central Valley EIR/EIS.

Finally, we ask the Authority to establish a GEA advisory group of resource management agencies and interested stakeholders to review and advise the Authority on final route selection and on project level environmental review and mitigation.

I. IMPORTANCE OF GRASSLAND ECOLOGICAL AREA

The GEA is an irreplaceable, internationally significant ecological resource. The GEA is located west of the City of Merced and surrounds the City of Los Banos to the north, east and south. Originally, this area was part of a four million acre wetland system in the Central Valley of California. Of the 300,000 acres that remain, the GEA is the largest contiguous block of wetlands in the Central Valley. The protection of this area has been the result of private and public investments and partnerships.

The GEA boundary is a non-jurisdictional boundary designated by the U.S. Fish and Wildlife Service in order to identify an area for priority purchase of public easements for wetland preservation and enhancement.⁷ The GEA includes federal wildlife refuges, a state park, state wildlife management areas and the largest block of privately managed wetlands in the state. The GEA also includes a large and growing portfolio of federal and state conservation easements. Through 1998, conservation easements had been acquired on over 64,000 acres at a total cost of over \$28 million.⁸ Acquisitions since 1998 have increased the number of acres protected by conservation easements to over 70,000 acres. Significant areas of the GEA, however, remain unprotected from future development.

⁷ Appendix 8, *Grassland Land Use and Economics Study* at p. 2.

⁸ *Id.* at pp. 11-12.

The GEA is of considerable importance because it preserves a variety of habitats important to the maintenance of biodiversity on a local, regional, national and international scale. It has been estimated that thirty percent (30%) of the Central Valley migratory population of waterfowl use this area for winter foraging.⁹ The GEA is a major wintering ground for migratory waterfowl and shorebirds of the Pacific Flyway. Over a million waterfowl are regularly found in the GEA during the winter months.¹⁰ The GEA also provides habitat for more than 550 species of plants and animals, including 47 plant and animal species that are endangered, threatened or candidate species under state or federal law, including San Joaquin kit fox, Aleutian Canada [cackling] geese, sandhill cranes, California tiger salamander, vernal pool fairy shrimp, tadpole shrimp, California red-legged frog, the giant garter snake, Swainson's hawks and tri-colored blackbirds.¹¹

The Western Hemisphere Shorebird Reserve Network has designated the GEA as one of only 15 international shorebird reserves in the world.¹² The GEA was also recently recognized in February 2005 as a Wetland of Worldwide Importance by the Ramsar Convention.¹³ The Ramsar Convention is an international agreement dedicated to the worldwide protection of particular ecosystems. Ramsar member nations work to coordinate wetland conservation efforts, particularly for species that rely on ecosystems that span member nation's borders. The designation of the GEA as a Wetland of Worldwide Importance illustrates the tremendous worldwide ecological value of the GEA ecosystem. The GEA is one of only four such wetland sites in California, and one of twenty-two sites in the country. The GEA has also been recognized by the American Bird Conservancy as a Globally Important Bird Area.¹⁴

In addition to providing critical biological habitat, the Grasslands' wetlands also provide a wide range of other benefits to the area, including flood control and educational and recreational opportunities. This concentration of wetlands and wildlife is a unique feature of the area, attracting hunters and other recreational visitors who make significant contributions to the economy of the area. The GEA

⁹ U.S. Bureau of Reclamation, *Final NEPA EA, Refuge Water Supply Long-Term Water Supply Agreements* (January 2002).

¹⁰ Appendix 8, *Grassland Land Use and Economics Study* at p. 2.

¹¹ *Id.*

¹² Appendix 11, Fredrickson, Leigh H. and Laubhan, Murray K, *Land Use Impacts and Habitat Preservation in the Grasslands of Western Merced County, CA* (February 1995), p. 3.

¹³ See <http://international.fws.gov/ramsar/ramsar.htm>.

¹⁴ See <http://www.abcbirds.org/iba/california.htm>.

receives over 300,000 user visits per year for hunting, fishing and non-consumptive wildlife recreation.¹⁵ Recreational and other activities related to habitat values within the GEA contribute \$41 million per year to the Merced County economy, and account for approximately 800 jobs.¹⁶

A thorough study of the potential impacts that the Project may have on the GEA is vital to ensure it does not damage this irreplaceable ecological resource of international importance.

II. CEQA REQUIRES AGENCIES TO BE INFORMED ABOUT THE ENVIRONMENTAL CONSEQUENCES OF THEIR DECISIONS BEFORE THEY ARE MADE

CEQA has two basic purposes. First, CEQA is designed to inform decision makers and the public about the potential, significant environmental effects of a project.¹⁷ “Its purpose is to inform the public and its responsible officials of the environmental consequences of their decisions *before* they are made. Thus, the EIR ‘protects not only the environment but also informed self-government.’”¹⁸

Second, CEQA directs public agencies to avoid or reduce environmental damage when possible by requiring alternatives or mitigation measures.¹⁹ If the project has a significant effect on the environment, the agency may approve the project only upon finding that it has “eliminated or substantially lessened all significant effects on the environment where feasible” and that any unavoidable significant effects on the environment are “acceptable due to overriding concerns” specified in CEQA section 21081.²⁰

In order for the EIR/EIS to satisfy these basic purposes, it must include:
(1) an accurate and complete description of the project setting, including an

¹⁵ Appendix 8, *Grassland Land Use and Economics Study* at p. 14

¹⁶ *Id.* at p. 21.

¹⁷ 14 Cal. Code Regs. (“CEQA Guidelines”) § 15002(a)(1).

¹⁸ *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 564.

¹⁹ CEQA Guidelines § 15002(a)(2)-(3); *see also*, *Berkeley Keep Jets Over the Bay Committee v. Board of Port Commissioners* (2001) 91 Cal.App.4th 1344, 1354; *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 564; *Laurel Heights Improvement Assn. v. Regents of the University of California* (1988) 47 Cal.3d 376, 400.

²⁰ CEQA Guidelines § 15092(b)(2)(A)-(B).

adequate description of the existence and importance of internationally significant wetlands habitat and wildlife within the GEA; (2) a complete project description including but not limited to, significant construction, engineering and operational aspects of the project; (3) identification of all potential environmental impacts of the Project on the wetlands habitat and wildlife within the GEA, including but not limited to, construction, land-use, operational and growth-inducing impacts; (5) identification of feasible and enforceable measures to mitigate potential impacts on the GEA; and (6) identification of the environmentally superior alignment through or around the GEA supported by findings regarding significance of environmental impacts, feasibility of mitigation and feasibility of alternatives.

III. THE EIR/EIS MUST ADEQUATELY DESCRIBE THE PROJECT SETTING

An accurate description of the environmental setting is critical because it establishes the baseline physical conditions against which a lead agency can determine whether an impact is significant.²¹ Under CEQA and NEPA, an EIR/EIS must include a description of the physical environmental conditions in the vicinity of the project from both a local and regional perspective.²² The EIR/EIS must provide an accurate description of the environmental baseline, because “[t]he impacts of the project must be measured against the ‘real conditions on the ground.’”²³

In order to comply with this requirement, the EIR/EIS for the proposed project must include a full description of the GEA, including its location in relation to the proposed project. The importance of this area should also be disclosed. Maps should be provided showing where potential alignments may cross the GEA and denoting, for example, wildlife habitat, wildlife corridors, flyways, state and federal easement lands, proposed GEA buffer zones, and other significant resource areas.

²¹ CEQA Guidelines § 15125(a).

²² *Id.*; 40 C.F.R. § 1502.15.

²³ *Save Our Peninsula Committee v. Monterey Board of Supervisors* (2001) 87 Cal.App.4th 99, 121. 1124-589a

IV. THE EIR/EIS MUST ADEQUATELY DESCRIBE THE PROJECT

An accurate and stable project description is the *sine qua non* of an informative, legally adequate EIR/EIS.²⁴ A legally sufficient project description must contain a “general description of the project’s technical, economic, and environmental characteristics, considering the principal engineering proposals if any and supporting public service facilities.”²⁵ A complete project description must include a description of significant construction, engineering and operational aspects of the project.

For example, the EIR/EIS must clearly state how often trains will pass by on these tracks. An appendix to the 2005 Statewide HST Program EIR/EIS stated that at least 134 total daily trains will pass through Los Banos; an average of more than one train every 11 minutes.²⁶ However, trains would be expected to pass through more frequently during peak hours and less frequently during off-peak hours. This is critical Project information for establishing potential visual, noise, vibration, and wildlife collision impacts and for providing the public with the real picture of what will be going through their parks, wildlife refuges, hunting clubs and neighborhoods.

The EIR/EIS must also clearly describe the existence, location and size of appurtenant operational and maintenance facilities. These facilities are a major component of the project and will, themselves, result in numerous significant impacts. Based on the estimated power needs of the HST system, 20,000 square foot power supply stations will be necessary every 30 miles. 7,500 square foot switching stations would be required at approximately 15 mile intervals. 5,000 square foot paralleling (booster) stations would be required at approximately 7.5-mile intervals. Fleet storage/service facilities and inspection/light maintenance facilities would also be required. The location and construction of these appurtenant facilities must be disclosed in the project summary and/or description sections of the EIR/EIS.

The evaluation of wetland impacts, agriculture impacts, biological impacts and other impacts must take the location and construction of these facilities into

²⁴ *County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185, 192.

²⁵ CEQA Guidelines § 15124(c).

²⁶ High Speed Train Operations Report, Appendix E.
1124-589a

account. The Project should avoid placement of any appurtenant operational or maintenance facilities within the GEA to the extent feasible.

V. THE EIR/EIS MUST DETERMINE THE POTENTIAL BIOLOGICAL IMPACTS OF THE HST ON GEA WILDLIFE AND HABITAT

The EIR/EIS must include sufficient analysis of the potential Project impacts on the biological resources of the GEA to permit an informed consideration of the implication of choosing an alignment over Henry Miller Road over other potential alignments within or to the north or south of the GEA. Once the presence of the biological resources in the GEA have been identified and described, the EIR/EIS must then analyze how the direct and indirect impacts of the project would affect these resources *after feasible mitigation is imposed*.²⁷ Direct and indirect significant effects of the project on the environment shall be clearly identified and described, giving due consideration to both short-term and long-term effects.²⁸ The discussion should include relevant specifics of the area, the resources involved, physical changes, and alterations to the ecological systems.²⁹

A complete analysis of the potential biological impacts of the HST on the GEA is essential due to the considerable importance of this area. As discussed in more detail above, the GEA constitutes the most important waterfowl wintering area on the Pacific Flyway, and international treaties have recognized the habitat as a resource of international significance. The complex of wetland habitats within the GEA is of special significance because the size, juxtaposition, and connectivity of the different wetland types provide a unique opportunity to sustain native migratory and resident wildlife populations.³⁰

The associated uplands surrounding the semi-permanent wetlands are also of special importance because they provide nesting areas for waterbirds, important food sources for grazers such as geese, and essential habitat for endangered species and numerous upland wildlife. Over one million waterfowl winter in the GEA each year and the GEA provides critical habitat for over 550 species of plants and

²⁷ CEQA Guidelines Section 15126(a).

²⁸ *Id.*

²⁹ *Id.*

³⁰ Appendix 11, Fredrickson, Leigh H. and Laubhan, Murray K., *Land Use Impacts and Habitat Preservation in the Grasslands of Western Merced County, CA* (February 1995).

animals, including 47 plant and animal species that are endangered, threatened or candidate species under state or federal law.

Prior to the selection of a final alignment through or around the GEA, a complete assessment of all the Project's potential biological impacts on this important ecological resource must be made. These potential impacts include interruption of habitat connectivity, interference with habitat conservation plans, train noise and vibration impacts, shock wave impacts, train collisions with large animals, water quality impacts and construction impacts.

A. The EIR/EIS Must Analyze the Project's Potential Impact on Bisection and Fragmentation of the GEA

1. Interference with Wildlife Corridors

The Proposed Pacheco alignment along Henry Miller Road would further fragment a critical southern spur of the GEA from the rest of the contiguous wetlands and isolate an additional small section of wetlands as well. This route cuts across the southern part of the Volta State Wildlife Management Area and the Los Banos State Wildlife Management Area (the oldest Wildlife Management Area in the state - created in 1929). It would also sever already fragmented wildlife corridors connecting the North and South grasslands.³¹

A HST alignment through the GEA would likely result in significant fragmentation impacts on the wetland habitat and wildlife due to its creation of a physical barrier bisecting this area.³² Potential fragmentation impacts include interference with wildlife movement and migration corridors, interference with drainage, and the flow of irrigated water through the managed wetlands and interference with access to hunting clubs.

The Henry Miller Road alignment poses a particularly acute threat to the GEA because it would further separate an already fragmented, critical southern spur of the GEA from the rest of the contiguous wetlands. The area along Henry Miller Road represents a pinch point between the northern and southern portions of

³¹ See Appendix 1, Map of Federal, State and Privately Owned Lands in GEA. Pacheco alignment is proposed to run just north of and parallel to Henry Miller Road, isolating the sections of the GEA south of this area.

³² Appendix 4, *Dr. Weissman Comments*.
1124-589a

the GEA. This area is considered extremely sensitive due to the significant fragmentation caused by urban development, rural roads and Highway 152. A study by noted conservation biologist Reed Noss concluded that “[a]ny further fragmentation of the vulnerable linkage between the north and south units of the Grassland Management Area could well provide the ‘final blow’ in fragmenting the wetland ecosystem” and “could have a profound effect on the movement of waterfowl between different parts of the refuges they now utilize on a daily basis.” Rich Wright, staff biologist for the GWD and GRCD, states that the proposed alignment along Henry Miller Road could very well be this final blow.

Alignments elsewhere through the GEA would also create new areas of fragmentation and potentially exacerbate the existing fragmentation concerns. The EIR/EIS must determine whether cumulative impacts to the already fragmented corridor along Henry Miller Road would pose a potentially greater threat to the GEA ecosystem than the creation of new areas of fragmentation in or outside of the GEA.

Construction of wildlife underpasses, bridges, and/or large culverts, could be considered to provide wildlife movement corridors. However, a few underpasses alone would likely be insufficient to address this impact. Fragmentation does not require complete separation. Rather:

It is a relative and cumulative problem. After some threshold of fragmentation is exceeded, movement of individuals will no longer occur regularly enough to maintain the population of a fragmentation-sensitive species. Until detailed, long-term studies of species in the [GEA] are performed, the prudent course is to prevent any further fragmentation of the system. Indeed, professional opinion among scientists is now firm that the burden of proof in such matters must rest on those who propose activities that may fragment or otherwise degrade ecosystems.³³

The EIR/EIS must provide evidence for the success of any proposed mitigation measures in a wetland environment like the GEA and provide detail on the number, location and type of such structures to facilitate wildlife movement

³³ Appendix 9, Thomas Reid Associates, *Grassland Water District Land Planning Guidance Study* (1995), Appendix A (Noss, R.F., *Translating Conservation Principles to Landscape Design for the Grassland Water District* (1994)), p. 47.

across the railroad right-of-way. Without such information the impact of the proposed Pacheco Pass alignment on the GEA cannot be fairly assessed.

2. Disruption of Canals and Waterways

Wetland ecosystems are also sensitive to disruption of water flow and other hydrological impacts that accompany fragmentation.³⁴ For example, drainage canals, dikes, and roads have had severe effects on the hydrology, vegetation, flora and fauna of the Everglades.³⁵

In the case at hand, the proposed Pacheco Pass alignments would bisect several waterways within the GEA essential to the management of these critically important wetlands and wildlife habitat.³⁶ The Santa Fe and San Luis Canals convey water to more than 31,000 acres of public and privately owned wetlands. Mud Slough South (a natural channel) and the Porter-Blake Bypass serve as drainage facilities for thousands of acres of additional wetlands, thus making possible the timely release of water, a crucial element in the management of seasonal habitat.

The EIR/EIS must identify each of the waterways that potential alignments through the GEA may bisect and must analyze the potential impacts that may result. Mitigation measures must be identified to ensure that the design and construction of the project will not impede the flow and maintenance of water in these channels. Without such information the impact of an alignment through the GEA cannot be fairly assessed.

The bisection of these waterways by the HST may also have a significant impact on important wildlife corridors. Among the threatened species that would likely be affected by the bisection of the GEA is the giant garter snake (*thamnophis gigas*), a state and federally listed threatened species.³⁷ This snake is not only historically known in the GEA, but it has been recently documented in waterways both north and south of the City of Los Banos.³⁸ These snakes were found in both natural channels and water conveyance canals. It is well documented that the

³⁴ *Id.*; see also Appendix 4, *Dr. Weissman Comments*.

³⁵ *Id.*

³⁶ Appendix 7, *Don Marciochi Letter*.

³⁷ Appendix 15, *Dean Kwasny letter*.

³⁸ *Id.*

giant garter snake inhabits waterways, including irrigation and drainage canals, sloughs, and low gradient streams.

The San Luis Canal, which would be bisected by the Henry Miller Road route, has been found to contain the necessary habitat components for the giant garter snake, including: adequate water during the snake's active season, populations of food organisms, emergent, herbaceous wetland vegetation for escape cover and foraging, and grassy banks and openings in waterside vegetation for basking.³⁹ In addition, the San Luis Canal functions as a movement corridor for the giant garter snake.⁴⁰

The EIR/EIS must evaluate the potential for interference with waterway habitats and corridors and assess whether feasible mitigation is available to reduce these impacts to a level of insignificance.

3. Interference with Access and Use of Hunting Clubs

The continued protection of the privately managed wetlands within the GEA depends largely on the continued viability of these lands as private duck hunting clubs. Currently, 181 duck hunting clubs exist within the GWD and the GRCD. The proposed bisection of the GEA by the HST poses the potential to impede the access of GWD members to their hunting clubs.⁴¹ In addition, to access, continued, viable operation of these clubs may also be threatened if errant gunshots pose any possibility of striking passing trains. The EIR/EIS must consider the impact that an alignment through the GEA may have on access and use of these clubs.

B. Noise and Vibration

The HST will likely produce significant noise and vibration each time it passes through the GEA. The EIR/EIS must disclose what the actual noise exposure would be in decibels, at varying distances from the track. The EIR/EIS must also analyze the potential impact noise and vibration may have on wildlife and habitat in the GEA.

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ *Id.*

A Federal Railroad Administration (“FRA”) report rates as a “severe impact” any case where the project noise exceeded 60 dBA where the ambient noise level was near 50 or 55 dBA Ldn, as would be the case in the GEA.⁴² The FRA report also states that impacts on wild birds and mammals must be assessed by dB SEL rate, not just by the decibel rate. The SEL is a measure of all sound energy during an event expressed as the equivalent sound level with a duration of one second.

The July 2008 Bay Area to Central Valley EIR/EIS states that trains running through flat and straight areas, such as the Henry Miller alignment through the GEA, will be traveling at speeds up to 220 miles per hour.⁴³ In her comments attached as Appendix 4 to our October 25, 2007 Program EIR/EIS Comments, Dr. Weissman examines the available data on this issue and estimates that the Lmax noise from the train at 200 mph would be around 101.5 dB.⁴⁴ Even at high speed, the train will take three to four seconds to pass a point receptor. This means the SEL at 50 feet distance is probably around 105 to 110 dB. With 3 dB drop-off per doubling distance for a line source, the high-speed train will likely exceed a 100 dB SEL significance threshold for wild birds and mammals out to a distance of 500 feet.⁴⁵ This distance would increase significantly at a train speed of 220 miles per hour or at a significance level of 77 dB SEL.

Train frequency also determines the overall noise impact of the project. The EIR/EIS must clearly state the potential frequency of trains passing through the GEA. An operational report for the first-phase EIR/EIS contained a schedule showing that 134 total trains would potentially pass along the Northern Crossing alignment each day. This schedule described an average of one train every 11 minutes, with trains passing as frequently as every 5 minutes during the busy portion of the business day. This means that startle effects will be frequent and that the overall sound level will rise substantially.⁴⁶

Noise disturbances of wildlife in the GEA are of significant concern. Noise disturbances may displace waterfowl from feeding grounds, may cause desertion of nests, may increase energetic costs associated with flight, and may lower productivity of nesting or brooding waterfowl, among other impacts.⁴⁷ The EIR

⁴² Appendix 4, *Dr. Weissman Comments*.

⁴³ July 2008 Bay Area to Central Valley EIR/EIS at p. 3.4-9.

⁴⁴ Appendix 4, *Dr. Weissman Comments*.

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ Appendix 12, U.S. Fish & Wildlife Leaflet 13.2.15; Appendix 4, *Dr. Weissman Comments* at pp. 3-4
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must evaluate the actual likely impacts of the train noise and vibration on the sensitive wildlife species in the GEA that may be exposed to these noise levels on a daily basis.

C. Shock Wave

High-speed trains will produce a significant shock wave each time they pass.⁴⁸ The shock wave can be felt at varying distances from the train, depending upon its speed. It could produce a harmful startle response in wildlife. If birds are flying within the immediate area where the train passes, it could possibly interrupt their flight.⁴⁹ The EIR/EIS should quantify the shock wave that emanates from the train moving at up to 220 mph and determine its potential effects on wildlife in the GEA.

D. Collisions with Trains

Animals that may be crossing the tracks in the GEA can be hit by one of some 100 plus trains per day. In addition, mitigation such as fencing proposed to reduce such collisions must itself be evaluated for the impacts such fencing may have on fragmenting wildlife corridors.

Species at risk include the giant garter snake, San Joaquin kit fox, tule elk and bobcat.⁵⁰ The giant garter snake, for example, can be found as far away as 820 feet from the edge of marsh habitat; U.S. Fish and Wildlife service recommends a minimum buffer of 200 feet from the banks of giant garter snake habitat.⁵¹ The HST project, however, proposes trains running by every 5 to 11 minutes right over the waterways inhabited by this threatened species.

The EIR/EIS should estimate the mortality to each wildlife species that is vulnerable to train collisions and the effect of this mortality on the respective populations. For special status species such as the green garter snake or the San Joaquin kit fox, the EIR/EIS should also discuss whether these train impacts would

(citing numerous reports).

⁴⁸ Appendix 4, *Dr. Weissman Comments*.

⁴⁹ *Id.* (citing Howe M. S. "The compression wave produced by a high-speed train entering a tunnel." *Proceedings: Mathematical, Physical & Engineering Sciences* 1 June 1998, vol. 454, no. 1974, pp. 1523-1534.)

⁵⁰ Appendix 4, *Dr. Weissman Comments*; Exhibit 15, Dean Kwasny letter.

⁵¹ Appendix 15, Dean Kwasny letter.

be substantial enough to cause further decline in the status of the species, or would interfere with the recovery of the species. Mitigation measures such as chain-link fencing must be evaluated to determine their actual effectiveness in keeping out the giant garter snake and other potentially impacted species. Mitigation measures creating partially or wholly impermeable barriers must also be evaluated to determine their potential for fragmenting important wildlife corridors.

E. Construction Impacts

The EIR/EIS must meaningfully evaluate the potential impact of construction and maintenance activities on the GEA. The duration of noisy and invasive construction activities through and adjacent to the GEA may severely disrupt biological species, habitat, water quality and air quality. In addition, the construction of the San Joaquin River crossing could pose serious impacts to water quality and riparian habitat. Potential construction impacts on the GEA that must be studied in the EIR/EIS include the impacts of truck and other vehicular traffic, equipment storage and laydown areas, blasting and pile-driving, and temporary disruption of water supply deliveries.⁵²

F. Water Flow and Water Quality

The EIR/EIS must evaluate the potential impacts the Project may have on water flow and water quality in the GEA. The HST Project has the potential to cause significant impacts to the complex of natural and man-made channels that move water through the wetlands, establish the waterfowl habitat and support nearly all the GEA ecological functions.⁵³

Construction of the HST through the GEA would entail tremendous wetland fill and the importation of possibly a million cubic yards of fill, depending on the actual route taken. It is unlikely that the earth for berms and other support structures could be excavated from along the route due to soil weight bearing limitations. Berms and other support structures would need to be keyed in to the substrate, meaning that the organic top layer would be removed and drainage ditches and water pumps would be installed to allow engineered placement of fill.

⁵² See Appendix 4, *Dr. Weissman Comments*.

⁵³ Appendix 4, *Dr. Weissman Comments*.

Even where trestle construction crossed water channels, there would be disturbance from clearing and pile driving.⁵⁴

Construction may alter the present water flow patterns, introduce sediment and create stagnant sections of the wetlands producing essentially permanent water quality degradation. Water quality impacts on wildlife range from altered growth of feed to increased risk of avian botulism.⁵⁵

The Grassland Water District has spent much time and money managing the application of water in the Grasslands. Historically, water quality problems in the Grasslands have had a tremendous impact on wildlife. Imposition of a hydraulic barrier across the GEA will materially impact the south-to-north water management in the GEA, which is essential to maintaining water quality.⁵⁶ The potential impact that construction of a HST would have on water flow and water quality in the GEA must be thoroughly evaluated and fully mitigated.

G. The EIR/EIS Must Evaluate the Impacts that Growth Induced by the Project May Have on the GEA

The EIR/EIS must evaluate the potential for growth-inducing impacts of the Project to negatively impact the GEA. When preparing an EIR, the lead agency must identify, discuss and analyze the growth-inducing impacts of a proposed project.⁵⁷ A project must be analyzed to determine if it will facilitate and encourage population growth, economic growth or changes in land use and development patterns.⁵⁸ Similarly, NEPA requires that agencies consider the indirect effects of a proposed action, such as growth inducing impacts and other impacts related to induced changes in the pattern of land use, population density or growth rate.⁵⁹

Mere identification of growth-inducing impacts, however, is not sufficient to meet the requirements of CEQA. Specific, enforceable mitigation measures to address impacts from this growth must also be identified and evaluated.

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ CEQA Guidelines § 15126.2, subd. (d).

⁵⁸ *Id.*

⁵⁹ 40 C.F.R. § 1508, subd. (b).

A project may indirectly induce growth by reducing or removing barriers to growth or by creating a condition that attracts additional population or new economic activity that is not currently planned. Here, the HST proposal will induce population growth and commuter traffic in the Merced/Los Banos area at a much greater rate than would occur otherwise by removing the barrier of accessibility to jobs in the Bay Area. According to the chart in Appendix 4-E of the July 2008 Bay Area to Central Valley EIR/EIS, the Pacheco alignment could cut travel time between Merced and San Jose to as little as 45 minutes. Such a commute would be short by Bay Area standards.

Historic growth patterns in California clearly demonstrate that accessibility to major employment centers triggers tremendous new growth from commuters.⁶⁰ Examples include: (1) the Auburn corridor as major new employers moved to the Sacramento region and north; (2) the Truckee area, which is approximately 1 hour from the major new job growth in the Auburn Corridor; and (3) Reno.⁶¹ Numerous studies have also shown that the introduction of transportation facilities redirects growth.⁶²

The introduction of the HST will dramatically shorten commute times between the Merced County area and the urban employment centers in the Bay Area, making the areas surrounding any proposed HST stations in the Merced area more attractive to commuters. The substantially lower cost of homes and property in the area would be a tremendous draw for Bay Area workers to move to the area.⁶³

In her comments attached as Appendix 17 to our October 25, 2007 Program EIR/EIS Comments, Ms. Watt also concludes that, without strict land use controls, this growth in a largely rural, agricultural county such as Merced will occur in suburban and rural sprawl patterns most harmful to habitat areas and farmland.⁶⁴

⁶⁰ Appendix 17, *Watt Comments*.

⁶¹ *Id.*

⁶² *Id.*

⁶³ Appendix 17, *Watt Comments*, Attachment A, *California Real Estate Statistics for Merced and Santa Clara Counties*. As of the 2nd quarter of 2004, a median priced home in Merced County costs \$228,000 and in Los Banos costs \$265,500. By comparison, during the same quarter a median priced home in San Jose costs \$507,750, nearly twice the cost of median priced home in the area near the proposed Los Banos station. In Gilroy during the same period, a median priced home costs \$550,000.

⁶⁴ *Id.*

Moreover, the pattern of growth may vary significantly depending on the alignment selected. Most worrisome is the proposed Henry Miller Road alignment, which would likely induce growth along the more rural areas around Los Banos. Even without a station in Los Banos, land speculation is likely to occur all along the Henry Miller Road corridor in anticipation that a Los Banos station would eventually be permitted. The EIR/EIS must evaluate the potential localized rural growth impacts that may arise from the Henry Miller Road alignment. The EIR/EIS must also evaluate the impacts of land speculation along the Henry Miller Road alignment on the ability to obtain conservation easements on the portions of the GEA that have not yet been protected from development.

Impacts of urban encroachment on the wetlands complex of the GEA have been documented in numerous studies including the 1995 Land Planning and Guidance Study and the supporting 1994 study by Reed F. Noss, "Translating Conservation Principles to Landscape Design for the Grassland Water District." These studies have shown that impacts of urban development adjacent to the GEA may include: (1) fragmentation of the North Grasslands from the South Grasslands; (2) a reduction in habitat value of the entire interior of the wetlands complex; (3) chemical disruption including the introduction of fertilizers and toxic chemicals in drainage water; (4) introduction of non-native species of both plants and animals; (5) noise disruption; (6) visual disruption caused by removal of trees and shrubs around the wetlands; (7) interruption of water deliveries for wildlife uses; and (8) the competition for the water supply that supports the wetland habitat.⁶⁵

Induced growth and land speculation along the HST route may also make it difficult or economically unfeasible to continue purchasing conservation easements in the GEA or to purchase buffer zone easements. While much of the GEA is protected by conservation easements or as state and federal wildlife areas, critical sections of the GEA remain privately owned, unencumbered by easements or other protection from development pressures. The location of a HST route through the GEA may create a tipping point where the productive economy of the wetlands can no longer compete with the economic pressures of development.

In addition to providing high biological value, the Grassland wetlands provide substantial direct economic contributions to the local and regional

⁶⁵ Appendix 9, Thomas Reid Associates, *Grassland Water District Land Planning Guidance Study* (1995), Appendix A (Noss, R.F., *Translating Conservation Principles to Landscape Design for the Grassland Water District* (1994)).

economies. Unfortunately, the productive economy of the wetlands is threatened by population growth and urban encroachment.⁶⁶

Preservation of the GEA requires that fragmentation around the ecosystem stop and the area not decrease in size. A 2001 Land Use and Economics Study prepared for the GWD evaluated the impacts of a compact growth scenario, characterized by development within existing cities, and a “sprawl” scenario, characterized by low density residential development in rural areas and facilitated by subdivisions of agricultural land. According to the study, sprawl development has a significant cumulative adverse effect on the cost to local government of providing services and on revenue and employment in the GEA.⁶⁷ In addition, if non-compatible urban development encroaches on the wetlands so as to reduce its utilization by wildlife, then recreational usage could be expected to decline, and public and private funds for habitat management may be more difficult to obtain.⁶⁸

The EIR/EIS must evaluate the Project’s potential impact on the continued economic viability of the wetlands economy and how this impact may affect the continued private/public partnership that has preserved the GEA wetlands all these years. Despite ongoing conservation efforts, significant portions of the Grasslands still lack permanent protection from development pressures.⁶⁹ Acquiring conservation easements over both the existing unprotected areas of the GEA and the additional areas targeted for expansion will require significant additional private-public cooperation and expenditures.

Several studies have concluded that the best way to protect this investment in the GEA is to prevent any incompatible development from occurring within a two-mile buffer zone around the GEA.⁷⁰ These studies have been previously provided to the Authority along with a map showing the proposed buffer zone areas.

⁶⁶ Appendix 8, *Grassland Land Use and Economics Study*. According to the 2001 Land Use and Economics Study, Grassland Ecological Area, Merced County, CA, jointly funded by the Grassland Water District, the Packard Foundation and the Great Valley Center, recreational and other activities related to habitat values within the GEA contributes \$41 million per year to the Merced County economy, and accounts for approximately 800 jobs. Agricultural lands within the GEA also account for approximately five percent (5%) of Merced County’s \$1.45 billion agricultural economy.

⁶⁷ *Id.*

⁶⁸ *Id.*

⁶⁹ See Exhibit 3, Ducks Unlimited, Map of Grasslands Ecological Area.

⁷⁰ Appendix 8, *Grassland Land Use and Economics Study*, at pp. 11-12; Appendix 9, Thomas Reid Associates, *Grassland Water District Land Planning Guidance Study* (1995), Appendix A (Noss, R.F., *Translating Conservation Principles to Landscape Design for the Grassland Water District* (1994)).

The EIR/EIS should include an evaluation of the Project's impact on the ability to create this buffer zone.

The concept of a buffer or band of appropriate land uses around the GEA was comprehensively addressed in the 1995 *Land Planning Guidance Study* prepared for the GWD. The study showed that a two-mile buffer was substantially more effective than a one-mile buffer in protecting the core, or interior of the refuge.⁷¹

The 2001 *Land Use and Economics Study* examined the proposed two-mile buffer zone around the GEA and identified "zones of conflict" where the impacts of urbanization on the GEA would likely occur.⁷² In particular, of the six cities in Merced County, Los Banos, Gustine and Dos Palos have city spheres that include a portion of the two-mile GEA band. The study also identified growth in unincorporated areas as impacting the two-mile GEA band. According to the study, in the long term, it is essential that this band contain only resource beneficial or resource neutral uses to protect the integrity of the interior of the refuge complex as a whole.⁷³

A key point of the 2001 land use study is that agriculture and wetlands are compatible uses to each other. Agriculture is a productive use within the wetlands complex and especially in the two-mile band around the wetlands to protect the core area from the effects of urban encroachment.⁷⁴ The study found that protection of a two-mile band around the core area with only compatible uses (agriculture and open space) inside the band would best protect wetland uses and their infrastructure.⁷⁵ The study concluded that General Plan policies and case-by-case local land use planning decisions should be directed away from any further encroachment on the GEA.⁷⁶

The proposed Henry Miller Road alignment, however, would place the HST directly within the zone of conflict where the impacts of growth would negatively affect the GEA. The GWD has already heard reports of land speculation in the Los

⁷¹ Appendix 9, Thomas Reid Associates, *Grassland Water District Land Planning Guidance Study* (January 23, 1995).

⁷² Appendix 8, *Grassland Land Use and Economics Study*; Appendix 14, Grassland GEA Buffer Zones & Spheres of Conflict Map.

⁷³ Appendix 8, *Grassland Land Use and Economics Study*.

⁷⁴ *Id.*

⁷⁵ *Id.*

⁷⁶ *Id.*

Banos area. This suggests that even the potential for a Los Banos Station has already endangered plans to limit incompatible development, despite assurances by the Authority that no Los Banos Station will be permitted.

As urbanization progresses, fragmentation of agriculture and open space increases, the value of agricultural habitats for wildlife declines, transportation corridors expand, threats to eliminate recreational hunting increase, air and water pollution increase, and local hydrology is modified.⁷⁷ Thus, urban growth induced by this Project presents a very real threat to the functions, values and economic benefits of the Grassland ecosystem.

VI. THE EIR/EIS MUST CONDUCT A 4(F) ASSESSMENT OF THE PROJECT'S IMPACT ON THE GEA

The EIR/EIS must evaluate the Project's potential impacts on the substantial state, federal and public conservation investments that have been made to protect the GEA. Section 4(f) of the Department of Transportation Act requires the EIR/EIS to take into account the public investment that has been made to protect this critically important ecological resource.

The GEA includes federal wildlife refuges, a state park, state wildlife management areas and the largest block of privately managed wetlands in the state. These privately managed wetlands contain a large and growing portfolio of federal and state conservation easements. Through 1998, conservation easements had been acquired on over 64,000 acres at a total cost of over \$28 million.⁷⁸ The EIR/EIS must analyze any inconsistency of the proposed project with the conservation easements and state and federal wildlife areas in the GEA.

Section 4(f) states that the transportation secretary may not approve a transportation project "on publicly owned land of a public park, recreation area, or wildlife and waterfowl refuge of national, state or local significance" unless "(1) there is no prudent and feasible alternative to using that land; and (2) such program includes all possible planning to minimize harm to such park, recreational area, wildlife and waterfowl refuge, or historic site resulting from the use."⁷⁹

⁷⁷ *Id.*

⁷⁸ Appendix 8, *Grassland Land Use and Economics Study* at pp. 11-12.

⁷⁹ 49 U.S.C.A. § 303(c).

Section 4(f) requires federal agencies to consider alternatives and creates a presumption that public parks and natural resource areas protected by this section may not be used for transportation projects unless truly compelling reasons indicate that no alternative route is possible.⁸⁰ This requirement applies even if the land from the wildlife and waterfowl refuge is not directly taken for the project, but the project will nonetheless impact the wildlife area.⁸¹

Section 4(f) applies to any lands in which a governmental body has a proprietary interest in the land for public recreation or wildlife and waterfowl conservation purposes. *This includes conservation easements obtained for the purpose of wildlife and waterfowl habitat protection.*⁸² Accordingly, Section 4(f) applies to the more than 64,000 acres of privately managed wetlands in the GEA that are subject to federal and state conservation easements in addition to the federal wildlife refuges, state wildlife areas and state park land located within the GEA.

Section 4(f) creates a “specific and explicit bar” to the sacrifice of these public resources for transportation projects. “Only the most unusual situations are exempted.”⁸³ Under section 4(f), the protection of state and federal natural resource areas and conservation easements take precedence over other Project considerations including cost and directness of route.⁸⁴

VII. THE EIR/EIS MUST COMPLY WITH EXECUTIVE ORDERS TO ANALYZE AND MINIMIZE IMPACTS ON WETLANDS AND MIGRATORY BIRDS HABITAT

The EIR/EIS must comply with the executive wetlands order issued by President Carter. Executive Order 11990 requires federal agencies to “avoid undertaking or providing assistance for new construction located in wetlands unless the head of the agency finds: (1) that there is no practicable alternative to such construction, and (2) that the proposed action includes all practicable measures to

⁸⁰ *Citizens to Preserve Overton Park, Inc. v. Volpe* (1971) 401 U.S. 402, 412.

⁸¹ Mandelker, *NEPA Law and Litigation* (2nd Ed. 2001) § 2:19, fn. 1, p. 2-44.

⁸² Mandelker, *NEPA Law and Litigation* (2nd Ed. 2001) § 2:19, p. 2-45.

⁸³ *Id.* at 411.

⁸⁴ See *Id.* at 412-13.

minimize harm to wetlands which may result from such use.”⁸⁵ This executive order has been held judicially enforceable.⁸⁶

The analysis of the Project’s impacts on the GEA must also comply with the executive order issued by President Clinton for the protection of migratory birds. Executive Order 13186 requires federal agencies to avoid or minimize the effects of their actions on migratory birds.⁸⁷ It requires that evaluation of agency projects under NEPA consider the effects of the proposed action on migratory birds, with emphasis on species of concern.⁸⁸

The GEA provides a nationally and internationally important wetland habitat for migratory waterfowl and shorebirds of the Pacific Flyway. Under these two executive orders, the Authority and the FRA may not choose a HST alignment through the GEA unless there is no practicable alternative to such an alignment.

VIII. THE EIR/EIS MUST ADEQUATELY ANALYZE CUMULATIVE IMPACTS

CEQA and NEPA require that cumulative impacts be analyzed. The CEQA Guidelines define cumulative impacts as “two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts.”⁸⁹ “[I]ndividual effects may be changes resulting from a single project or a number of separate projects.”⁹⁰ Federal Regulations implementing NEPA also require that the cumulative impacts of the proposed action be assessed. As discussed extensively elsewhere in this comment letter, we are particularly concerned about the cumulative impacts of aligning the rail project along Henry Miller Road.

⁸⁵ Executive Order 11990, 42 Fed. Reg. 26,961 (1977).

⁸⁶ *City of Carmel-by-the-Sea v. United States Dep’t of Transp.* (9th Cir. 1997) 123 F.3d 1142.

⁸⁷ Executive Order 13186, 66 Fed. Reg. 3853 (2001).

⁸⁸ *Id.*

⁸⁹ CEQA Guidelines § 15355(a).

⁹⁰ *Id.*

IX. THE EIR/EIS MUST ADEQUATELY ANALYZE FEASIBLE ALTERNATIVES

CEQA requires that an EIR provide a discussion of project alternatives that allows meaningful analysis.⁹¹ An EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives.⁹² This analysis should focus on alternatives that would “avoid or substantially lessen any significant effects of the project, *even if these alternatives would impede to some degree the attainment of the project objectives, or would be more costly.*”⁹³

Similarly, under NEPA, federal agencies must consider alternatives to their proposed actions as well as their environmental impacts.⁹⁴ The alternatives analysis has been called the “linchpin” of the Environmental Impact Statement.⁹⁵

The purpose of the discussion of alternatives is both to support the decision makers and to inform public participation. Thus, “[a]n EIR’s discussion of alternatives must contain a quantitative analysis sufficient to allow informed decision making.”⁹⁶

The NOP for this Project-level EIR/EIS states that alignment variations along Henry Miller Road (both to the north and the south will be identified and evaluated for the purpose of reducing or avoiding impacts to natural resources in the GEA. In evaluating potential alignment variations, we urge the Authority to determine if alignments immediately outside of the GEA are feasible and would substantially lessen the potential environmental impact of the Project.

⁹¹ *Laurel Heights Improvement Assn. v. Regents of the University of California* (1988) 47 Cal.3d 376, 403.

⁹² CEQA Guidelines § 15125.6.

⁹³ CEQA Guidelines, § 15126.6, subd. (a) & (b) (emphasis provided); see *Citizens for Quality Growth v. City of Mount Shasta*, 198 Cal.App.3d 433, 443-45 (1988).

⁹⁴ 40 C.F.R. § 1502.14.

⁹⁵ *Monroe County Conservation Council, Inc. v. Volpe* (2d Cir. 1972) 472 F.2d 693.

⁹⁶ *Laurel Heights Improvement Assn. v. Regents of the University of California* (1988) 47 Cal.3d 376, 404; *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 733-735.

Alternative corridors should be evaluated including, Highway 140 north of GEA and an alignment south of the GEA, for example, along Nees road.

X. THE AUTHORITY SHOULD ESTABLISH A GEA ADVISORY GROUP TO REVIEW AND ADVISE THE AUTHORITY ON FINAL ROUTE SELECTION, ENVIRONMENTAL REVIEW AND MITIGATION

At our February 26, 2009 meeting with Authority staff, staff suggested the formation of an advisory group of resource management agencies and interested stakeholders to review and to advise the Authority on GEA related issues. We strongly concur with this recommendation. We respectfully request that the Authority immediately establish a GEA advisory group to review and advise the Authority on final route selection and on project level environmental review and mitigation.

We recommend that the GEA advisory group consist of representatives of the California Department of Fish and Game, The U.S. Fish and Wildlife Service, American Farmland Trust and the Grassland Water District. These organizations represent the resource management agencies and interested stakeholders who have long worked together to protect the integrity of the GEA and the buffer zone agricultural lands.

XI. CONCLUSION

The Grassland Ecological Area is an irreplaceable, internationally significant, ecological resource. Further loss or degradation of this largest remnant wetland habitat in the Central Valley will have a negative impact on migratory species that move across the North American continent and among continents during their annual cycle. For these reasons, protection of this unique ecosystem is essential to the preservation and maintenance of the productivity of this important natural heritage.

We appreciate the Authority's recognition of the unique risks that the HST may pose to the GEA and its commitment to meaningfully evaluate and mitigate these risks.

April 30, 2009

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Representatives from the GWD, GRCD and Grassland Fund would be happy to consult with Authority staff regarding the issues raised in this letter if additional information is needed. Thank you for considering these comments.

Sincerely,

A handwritten signature in blue ink that reads "Thomas A. Enslow". The signature is written in a cursive style and is positioned above the printed name.

Thomas A. Enslow

TAE:bh

cc: Dave Widell, General Manager, Grassland Water District
Grassland Water District Board of Directors
Grassland Resource Conversation District Board of Directors
Grassland Fund Board of Directors

Kris Livingston

From: HSR Comments
Sent: Tuesday, April 21, 2009 2:53 PM
To: Kris Livingston
Subject: FW: San Jose to Merced HST
Attachments: AR-M455N_20090408_125240.pdf

-----Original Message-----

From: Mary Brittain [mailto:MBRITTAIN@dfg.ca.gov]
Sent: Wednesday, April 08, 2009 1:44 PM
To: HSR Comments
Subject: San Jose to Merced HST

Attached is comments from the Department of Fish and Game, Habitat Conservation Planning Branch.

Please let me know this was received. Thank you.

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ARNOLD SCHWARZENEGGER, Governor
DONALD KOCH, Director



April 8, 2009

Dan Leavitt
Deputy Director
California High-Speed Rail Authority
925 L Street, Suite 1425
Sacramento, CA 95814

Subject: Department Response to the Notice of Preparation (NOP) of a Project Environmental Impact Report /Environmental Impact Statement (EIR/EIS) for a San Jose to Merced High-Speed Train System through Pacheco Pass.

Dear Mr. Leavitt:

The Department of Fish and Game (Department), acting as a responsible and trustee agency pursuant to the California Environmental Quality Act (CEQA), has reviewed the NOP submitted by the California High Speed Rail Authority (Authority) for the San Jose to Merced section of the high-speed train (HST) system. The proposed HST system is an electrified steel-wheel-on-steel-rail system capable of speeds up to 220 mph on a fully grade-separated, access controlled track with state-of-the-art safety, signaling and automated control systems. The NOP indicates that the Project EIR/EIS prepared by the Authority will address the San Jose to Merced alignment along the Caltrain/UPRR corridor, through the Pacheco Pass and via Henry Miller Road.

The Department has previously commented on both the Proposed California High-Speed Train System EIR/EIS on August 31, 2004, and the Bay Area to Central Valley Program EIR/EIS on September 25, 2007 (Draft EIR/EIS) and July 7, 2008 (Final EIR/EIS) and incorporates those comments by reference here.

The purpose of this letter is to provide the Authority with specific detail about the scope and content of environmental information related to the Department's areas of statutory responsibility that must be included in the EIR/EIS. This letter also highlights significant environmental issues and reasonable alternatives and mitigation measures that should be explored in the EIR/EIS to allow the Department to make informed findings with regards to permitting the proposed project.

Department Authority

The Department has jurisdiction by law over natural resources affected by a project that are held in trust for the people of the state of California. The Department is a trustee agency with regard to the fish and wildlife of the state, to designated rare or endangered native plants, and to game refuges, ecological reserves, and other areas administered

by the Department. As a trustee agency, the Department consults with lead and responsible agencies and provides the requisite biological expertise to review and comment upon environmental documents and impacts arising from project activities.

The Department has regulatory authority over projects that could result in the "take" of any species listed by the State as threatened or endangered pursuant to Fish and Game Code Section 2081. If a project could result in the "take" of any species listed as threatened or endangered pursuant to the California Endangered Species Act (CESA), an incidental take permit issued by the Department should be obtained by the Authority. Based upon review of program-level EIRs for the HST, the Department anticipates the proposed project will necessitate an incidental take permit addressing several species. The Department should be contacted as early as possible to begin the Incidental Take Permitting process to reduce any project or permitting delays.

The Department also has regulatory authority with regard to activities occurring in streams and/or lakes that could adversely affect any fish or wildlife resource. For any activity that will divert or obstruct the natural flow, or change the bed, channel, or bank (which may include associated riparian resources) of a river or stream, or use material from a streambed, a Lake and Streambed Alteration (LSA) Agreement will be required from the Department pursuant to Section 1600 et seq. of the Fish and Game Code. Due to the size and linear alignment of the HST, the Department anticipates a LSA Agreement will be required for the proposed project. The Department should be contacted when enough information is available to begin the LSA process.

As a responsible agency, the Department will rely on the EIR/EIS as prepared by the Authority to prepare and issue its own findings regarding the proposed project (CEQA Guidelines, Sections 15096 and 15381). The Department will use the Authority's environmental document if it adequately addresses the effects of those activities involved in the project which the Department is required by law to carry out or approve. The document should summarize technical data, maps, plans, diagrams and similar information to permit a full assessment of all significant environmental impacts (CEQA Guidelines, Section 15147).

Potential Impacts and Department Recommendations

The Department is concerned that the proposed project may result in several impacts to fish and wildlife of the state of California. Construction and operation of the proposed HST will create barriers to wildlife movement, which may result in potentially significant impacts to San Joaquin kit fox (*Vulpes macrotis mutica*) (SJKF), hunting and public use, and wildlife habitat linkages. Additionally, the proposed project may significantly impact Department owned and managed lands, specially-designated species, and sensitive habitat. These concerns are discussed in more detail below.

Potential Impacts to Wildlife Movement

The construction of the proposed HST has the potential to adversely impact fish and wildlife movement and connection between habitats in the region. This is the single biggest biological impact potentially arising from construction of the proposed HST. These impacts to fish and wildlife should therefore be addressed with a correspondingly appropriate degree of scientific analysis in the EIR/EIR to provide sufficient information for meaningful review. The proposed HST has the potential to disrupt already beleaguered wildlife passages, threatening the continued viability of many species. Construction of access controlled rail lines will create barriers to the movement of wildlife, thereby cutting them off from important food, shelter, and breeding areas. Isolation of sub-populations limits the exchange of genetic material and puts populations at risk of local extinction through genetic and environmental factors. Barriers can prevent the re-colonization of suitable habitat following local extirpations, ultimately putting species at risk of extinction.

Potential Impacts to San Joaquin Kit Fox Movement

The proposed HST alignment along Pacheco Pass and Henry Miller road would result in significant and irreversible impacts to the State threatened San Joaquin kit fox by impacting the entire northern range of the species. The preferred alignment would create a significant movement barrier between the southern and northern kit fox populations. The Santa Nella area has been identified by the Department and the United States Fish and Wildlife Service (USFWS) as a "pinch point" in the connectivity between the north and south populations of SJKF. There is a very narrow area remaining in the Santa Nella vicinity that is usable for SJKF north-south movement, and the preferred alignment would sever this remaining movement area. The proposed HST also has the potential to isolate the Los Banos Valley core SJKF population from the northern population of SJKF. The ability of individuals from the Los Banos Valley to breed with members of more northern SJKF populations is thought to be critical to the continued existence and genetic diversity of the northern SJKF population. As a result, the proposed HST would at a minimum, impact the entire 420,000 acres of SJKF range north of the project area in addition to areas within the project footprint. Sufficient SJKF movement corridors will be required to permit the proposed project pursuant to CESA. Incidental take permit requirements allowing for effective SJKF (and other wildlife) passage could require major structural component changes in the early design phases in consultation with the Department and the USFWS. Specific recommendations are discussed in the *Measures to Reduce Potential Impacts Wildlife Movement* section below.

In addition, there are several movement corridors and habitat lands protected in perpetuity as mitigation for impacts to SJKF movement and habitat resultant of other projects in the Santa Nella area. The proposed HST alignment would sever one or more of these SJKF mitigation areas and render them completely ineffective.

The SJKF movement and potential population-level project level impacts posed by the proposed HST are significant and should be evaluated in light of Fish and Game Code Section 2055 (conservation of threatened and endangered species by State Agencies, Boards, and Commissions).

Potential Impacts to Hunting and Public Use

The presence of an access controlled railway north of SR 152 could also negatively impact deer and elk herd movement within and around the Upper Cottonwood Creek Wildlife Area (UCCWA), Lower Cottonwood Creek Wildlife Area (LCCWA), O'Neill Forebay Wildlife Area, California State Parks' San Luis Reservoir, and private lands in the area. Any impacts to the deer herd could reduce public hunting opportunities throughout the Department-managed lands and reduce the public-use values of these lands. SR 152 already poses a significant movement barrier to the elk herd in the area and severely limits the movement of elk into and out of the lands on the north side of the highway. The presence of the proposed HST would add an additional movement barrier and further restrict the movement of elk in the region.

Potential Impacts to Wildlife Habitat Linkages

The proposed route west of Pacheco Pass has the potential to impact the three most important wildlife habitat linkages in the area as recognized in the Santa Clara HCP/NCCP which is currently under development. The first habitat linkage occurs in the area of Metcalf Road south of San Jose to just north of Morgan Hill. It is the northernmost habitat linkage area south of San Francisco Bay and is one of a very limited number of areas currently providing connectivity between Santa Clara and points west and the San Francisco Peninsula. Additionally, it is the only connection between the southern end of the San Francisco Bay and the Pajaro River. There is ample evidence that this area remains a viable but highly impacted connection area. It is critical that connectivity through this area not be further reduced. The second habitat linkage occurs from Gilroy to Pacheco Pass and is essentially unblocked with the exception of SR 152. The EIR/EIS should clearly articulate the type of construction in this area to allow for meaningful Department review of impacts. In general, significantly sized crossing opportunities should exist at least every half mile, allowing connectivity for large mammals, smaller animals, plants, and habitats. The third habitat linkage occurs in the area from the Diablo foothills to Gilroy which traverses the valley floor north of the Pajaro River. The area is crucial for steelhead passage and connectivity between watersheds in the Diablo Range, the Gabilan Range, and the Santa Cruz Mountains. These important connectivity areas identified in the Santa Clara HCP/NCCP are planned for study, enhancement and possible protection over the next 50 years. The EIR/EIS needs to contain a detailed discussion of these wildlife habitat linkages. The EIR/EIS also needs to provide enough information for the Department to evaluate potential impacts to the area and evaluate potential conflicts between the proposed project and the goals of the Santa Clara HCP/NCCP.

Measures to Reduce Potential Impacts Wildlife Movement

The EIR/EIS should include measures to reduce SJKF and other wildlife movement impacts due to the permanent wildlife barriers that would result from at-grade, access-controlled railways. The Department recommends that all segments of the railway that are not using existing rails be elevated. Elevation of the rails could reduce the impacts the proposed HST system would have on wildlife movement and migration by allowing wildlife to pass freely underneath the entire length of the railway while providing the access controlled tracks that are required for proposed HST. Elevated railways would be more effective in facilitating wildlife movement than the proposed wildlife underpasses and overpasses, which are not always effective for various reasons. Because animals would be able to see through the underside of the tracks to the other side, they would be more likely to walk underneath the tracks than to use a tunnel or vegetated overpass where the view of the other side would be visually obstructed. Elevated railways are critical in areas where the movement of wildlife is already reduced due to existing and proposed geographic, transportation and structural barriers such as in western Merced County near the intersections of SR 152, SR 33 and Interstate 5.

If wildlife movement passage structures will be used instead of elevated tracks, we recommend site specific research to determine the locations, numbers and types of structures. Specific alignments and wildlife passage structures, such as underpasses, overpasses, elevation of the alignment, and tunnels, may not be suitable for all species and locations and will need should be evaluated carefully before subsequent analysis of alignment sections. Methods to determine the best locations for wildlife movement structures or avoidance should at a minimum include: 1) track count surveys, 2) ditch crossing surveys, 3) monitoring trails with infrared or remote cameras, and 4) GIS habitat modeling to identify likely wildlife travel corridors and anthropogenic barriers (such as highways, canals, and reservoirs) at the landscape level. In addition, wildlife habitat linkages will need to be identified using habitat models, information from the movement studies, GIS analyses, and Department expertise.

Potential Impacts to Department Owned and Managed Lands

Department Wildlife Areas are acquired for the protection and enhancement of habitat for a wide variety of species and are open to the public for wildlife viewing, hiking, hunting, fishing, and nature tours. The construction and operation of the proposed HST within or near Department lands could significantly limit the wildlife and public use values of these lands as well as alter the way these lands are managed by the Department. Some Wildlife Areas depend on visitor's fees for operation, maintenance and management. The proposed HST may negatively impact the number of visitor's to Wildlife Areas resulting in reduced revenues; thereby reducing or eliminating the public recreational opportunities and wildlife habitat provided by the lands. The EIR/EIS should identify all Department owned and managed lands that may be impacted by the

proposed project and provide sufficient mitigation measures to reduce any potential impacts to less than significant levels.

Specific Department lands that are adjacent to, bisected by, or occur within one mile of the San Jose to Merced alignment include Cottonwood Creek Wildlife Area (Upper and Lower), San Luis Reservoir Wildlife Area, O'Neill Forebay Wildlife Area, Volta Wildlife Area, Los Banos Wildlife Area and Cañada de los Osos Ecological Reserve.

The Los Banos Wildlife Area is adjacent to the north side of Henry Miller Road. The proposed HST route would directly impact the Wildlife Area and the wildlife that use it. In addition to direct and indirect impacts to wildlife, the route could also impact public hunting and fishing opportunities in the area by affecting wildlife distribution and public access. Similar impacts to public use of wildlife resources could also occur on private lands near the proposed route. The proximity of the train tracks to areas used by the public for waterfowl (and upland) hunting should also be addressed in the EIS/EIS.

The proposed HST route bisects the western half of the Upper Cottonwood Creek Wildlife Area (UCCWA) north of State Route (SR) 152. The programmatic EIR/EIS states that tunnels will be used to cross a portion of UCCWA. While the use of tunnels to cross a portion of UCCWA may reduce biological impacts, they will not be as effective as crossing the entire area using tunnels. Wildlife movement and vehicle strike impacts will need to be determined prior to the placement of the tracks if above ground tracks are used. The Department recommends that the entire area of UCCWA be crossed using tunnels to limit the wildlife impacts and reduce public use impacts. The presence of the proposed HST above ground on the western half of UCCWA could severely limit public hunting opportunities on the property and could effectively reduce the hunted area on UCCWA by at least half. An above ground train at UCCWA is not compatible with wildlife hunting in much the same way as SR 152 is not compatible. The public could not discharge firearms across (or under if elevated) the tracks. It is likely that hunting would not be allowed to continue at its current level, if at all, on the western half of the property if the proposed HST tracks are above ground due to public safety and liability issues.

The NOP states that the feasibility of locating the proposed HST line and tunnels closer to SR 152 will be "reviewed to determine practicality and their ability to reduce environmental impacts." Depending on the alignment along SR 152, this could actually cause more impacts to lands owned by the Department than the currently proposed route. UCCWA and Lower Cottonwood Creek Wildlife Area (LCCWA) are adjacent to SR 152 to the north and the San Luis Wildlife Area is adjacent to SR 152 to the south. The Authority should consult with the Department early in the planning process to reduce potential operational impacts to Department facilities and activities. Early consultation will allow for informed decision-making which can avoid costly alternatives later.

Potential Impacts to Species and Habitat.

The EIR/EIS will need to analyze the potential impacts to specially-designated species and habitat resulting from construction and operation of the HST rail alignment. The EIR/EIS should contain an accurate and complete description of the existing biological conditions in and around the proposed HST project site, including all specially-designated species and habitats that may occur in the vicinity. An extensive list of species will need to be addressed due to the size of the proposed HST project. The Authority should assemble a list of sensitive species and habitats known to occur within at least 5 miles of proposed HST alignment. The authority should generate the list of potentially occurring specially-designated species and habitats through consultation with the Department, the California Natural Diversity Data Base (CNDDDB), state and federal resource agency lists, California Wildlife Habitat Relationship System (CWHR), California Native Plant Society (CNPS) Inventory, agency contacts, environmental documents for other projects in the vicinity, academic, professional and scientific organizations, and other sources. A preliminary list of species which may be impacted by the proposed project has been generated using the CNDDDB (Attachment). This list should not be considered exhaustive and additional species should be added to the list through utilization of the information sources listed above. The Authority should briefly address each species and habitat on the generated list to determine which species and habitats will need to be addressed in more detail in the EIR/EIS. If a species is not addressed in more detail in the EIR/EIS, a brief explanation why should be provided.

In order for the Department to make informed findings with regards to the proposed project, extensive surveys should be conducted. Survey protocols for listed species and/or sensitive habitats should be approved by the Department, USFWS, and other relevant regulatory agencies prior to implementation. This will reduce the need for additional surveys prior to Department approval. Federal and state survey protocol for many species may be found at http://www.dfg.ca.gov/wildlife/nongame/survey_monitor.html

Animal surveys should follow protocols adopted by the Department, USFWS and the United States Geological Survey (USGS), where they exist. Where they do not, the Department and USFWS should be consulted for concurrence on a particular methodology before use.

Plant surveys should follow the adopted Guidelines developed and maintained by the Department at <http://www.dfg.ca.gov/biogeodata/cnddb/pdfs/guideplt.pdf>. The Guidelines are currently under revision, so the Authority should contact Department Botanist Mary Ann Showers at (916) 651-6594 for the most up-to-date information prior to proceeding with plant surveys.

Comprehensive survey work should be carried out in time to inform the analysis of the EIR/EIS, and not deferred to the pre-construction period. It is unlikely that the Department will be able to provide helpful comments for a project of this scale, unless appropriate surveys have been conducted early in the CEQA process and results are included in the draft EIR/EIS. Deferral of appropriate surveys can lead to costly delays as time sensitive surveys may only be conducted during specific times of the year.

The Pacheco segment of the proposed HST is constrained primarily by the presence of Pacheco Creek. The creek supports one of the few extant populations of sycamore alluvial woodland, a very rare habitat type designated as G1 and S1.1 (Critically Imperiled) under the Natureserve ranking system used in the California Natural Diversity Data Base (CNDDDB). This natural community is currently experiencing a die back as a result of unknown factors; highlighting the need to avoid additional stressors from new impacts.

In addition, during normal and wet years, Pacheco Creek can support a run of South-Central California Coast (S-CCC) Evolutionarily Significant Unit (ESU) steelhead (*Oncorhynchus mykiss irideus*), currently a State Species of Special Concern (SSC) and listed as 'Threatened' under the Federal Endangered Species Act. This ESU extends from the Pajaro River south to (but not including) the Santa Maria River.

In the S-CCC ESU, steelhead inhabit the largest river basins such as the Pajaro and Salinas Rivers and very small coastal tributaries such as those on the Big Sur Coast (Monterey County). Both the inland and coastal runs as units are necessary for sustaining the ESU and of the inland runs, only Uvas and Pacheco Creeks support fish in the Pajaro drainage. The last formal estimate of inland S-CCC ESU steelhead was in 1991 and at that time there were thought to be only 200 spawners in the entire system. The Science Advisor's Report for the Santa Clara HCP/NCCP (available at <http://www.dfg.ca.gov/habcon/nccp/pubs/santaclarasciadvrpt.pdf>) recognized the need to establish redundancy for the ESU and the importance of Pacheco Creek in doing so.

The Pacheco run is very tenuous due to historic conditions (the run was likely episodic rather than yearly) and current water operations from Pacheco Reservoir. Due to the current condition of the run and its significance it is critical that care be taken to avoid impacts entirely to Pacheco Creek, either from construction or continuing operations.

The route section between the Diablo foothills and Gilroy, traverses the valley floor north of the Pajaro River. The underlying soil in this area historically supported alkaline wetlands and grasslands, two of the rarest habitats in the state (<http://www.sfei.org/HEP/reports/southsantaclaravalley.html>). While much of the area is currently farmed or grazed, the underlying soil and much of the hydrology remain essentially unchanged and some of the original seed bank appears to remain intact. At the southern edge of the area, in San Benito County, a plant thought extinct was rediscovered recently (saline clover (*Trifolium depauperatum* var. *hydrophilum*)). When left to go fallow, the underlying influences reassert themselves, making this area a good candidate for restoration. These areas may be significantly impacted by the proposed project.

Potential Impacts Resulting from Noise and Vibration

The potential for significant noise and vibration impacts to wildlife should be presented in detail in the EIR/EIS and should include impacts such as nest abandonment by birds

nesting near train tracks. In the case of the State threatened Swainson's hawk (*Buteo swainsoni*), which is known to nest in trees along the proposed Henry Miller route, nest abandonment caused by train travel could be a significant impact and should be fully addressed in the EIR/EIS. Noise and vibration will likely have impacts to "sensitive land uses" including the Department's Wildlife Areas, and other conservation lands. These areas should be considered "sensitive land uses" to be evaluated within a minimum 1,000-foot study area. The Department recommends that a noise and vibration impact study be developed that includes noise and vibration ranges expected to impact wildlife. A noise and vibration impact study is necessary to provide sufficient information for meaningful review of the proposed project by the Department. The study should examine noise, below surface vibration, and surface vibration impacts on wildlife. The study design should be approved by the Department and USFWS.

Additional Considerations

In order for the Department to adequately evaluate impacts of the proposed project, the Department requests the EIR/EIS contain enough information to determine precisely where the route or route options will be located. Routes should be locatable on the ground to allow accurate surveys and evaluation of impacts.

The type of construction in each area must be clearly identified to allow an accurate evaluation of the potential impacts. Each section should be identified as subterranean, above ground but on soil, elevated, etc. The transition points from one type to another should also be identified. Projected heights under or below ground, typical cross sections and materials proposed for use should be called out.

Construction methodologies should be clearly identified including the type of equipment to be used, when and where equipments will be operated, where spoils and lay-down areas will be located, daily hours of operation, and seasonal restrictions should all be specified. Maintenance activities that will occur in perpetuity should be identified with the same level of detail as original construction.

Conclusion

In summary, the San Jose to Merced section of the high-speed train (HST) system has the potential to result in several significant impacts to the fish and wildlife of California. Construction and operation of the proposed HST will create barriers to wildlife movement, which may result in potentially significant impacts to San Joaquin kit fox (SJKF), hunting and public use, and wildlife habitat linkages. Additionally, the proposed project may significantly impact Department owned and managed lands, specially-designated species, and sensitive habitat.

The preparation of the project-level EIR/EIS for the San Jose to Merced section of the proposed HST will require close coordination between the Department and the Authority to ensure that construction and operation the proposed HST will have a minimal impact to the public resources and fish and wildlife of the State of California.

Mr. Dan Leavitt
April 7, 2009
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If you have any questions regarding these comments, or would like the Department to assist in identification of sensitive habitat areas within the Project area, please contact Justin Sloan, Environmental Scientist, at (559) 243-4014 extension 216 for input pertaining to Merced and Madera County portions of the project, or Dave Johnston, Environmental Scientist, at (831) 466-0234 for input pertaining to the Alameda, San Francisco, San Mateo, and Santa Clara County portions of the project.

Sincerely,


for Kevin Hunting
Deputy Director
Ecosystem Conservation Division

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Kris Livingston

From: HSR Comments
Sent: Tuesday, April 21, 2009 2:44 PM
To: Kris Livingston
Subject: FW: San Jose to Merced HST
Attachments: Scan001.PDF

From: Weech John [mailto:JWeech@CFBF.com]
Sent: Friday, April 10, 2009 2:07 PM
To: HSR Comments
Cc: Maggard Michelle
Subject: San Jose to Merced HST

Attached are California Farm Bureau Federation's scoping comments on the San Jose to Merced HST. Please contact me if you have any questions regarding this submission.

John

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April 10, 2009

Via Email Only
comments@hsr.ca.gov

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Ms. Carrie Pourvahidi, Deputy Director
Attn: Merced to Bakersfield
California High-Speed Rail Authority
925 L. Street, Suite 1425
Sacramento, CA 95814

Re: *Scoping Comments on the San Jose to Merced HST Project and the Merced to Bakersfield HST Project*

Dear Mr. Leavitt and Ms. Pourvahidi:

The California Farm Bureau Federation ("Farm Bureau") is a non-governmental, non-profit, voluntary membership California corporation whose purpose is to protect and promote agricultural interests throughout the State of California and to find solutions to the problems of the farm, the farm home and the rural community. FARM BUREAU is California's largest farm organization, comprised of 53 county Farm Bureaus currently representing over 32,000 farm families and more than 85,000 individual members in 56 counties. FARM BUREAU strives to protect and improve the ability of farmers and ranchers engaged in production agriculture to provide a reliable supply of food and fiber through responsible stewardship of California's resources.

Farm Bureau, through its several California County Farm Bureau constituents, has members that will be directly impacted by this project.

Farm Bureau appreciates the opportunity to submit these scoping comments on the scope of the San Jose to Merced and Merced to Bakersfield HST Project EIR/EIS. This EIR/EIS will tier from the Final Statewide Program EIR/EIS and the Final Bay Area to Central Valley HST Program EIR/EIS in accordance with Council on Environmental Quality ("CEQ") regulations (40 C.F.R. 1508.28) and California Environmental Quality Act ("CEQA") Guidelines (14 C.C.R. Sec. 15168[b]).

- **Accurate and Complete Identification of Agricultural Resources:** The agricultural lands surrounding the route of the San Jose to Merced and Merced to Bakersfield HST Project must be accurately and completely depicted. The California Department of Conservation (“DoC”), through the farmland Mapping and Monitoring Program (“FMMP”), monitors changes in Prime farmland, Farmland of Statewide Importance, Unique Farmland, and Farmland of Local Importance. The EIR/EIS must incorporate the FMMP Maps as a basis for its analysis. The acreage of farmland that will be converted and/or impacted from this project must be included in the EIR/EIS. Additionally, any other changes in the existing environment due to the project which, due to their location or nature, could result in conversion of agricultural to nonagricultural use must also be examined.

Farm Bureau also recommends that an agricultural impact discussion for areas outside Important Farmland Map boundaries be based on the agricultural land definition in the Williamson Act.¹ This would also be in accordance with the definition of “agricultural land” in CEQA. Public Resources Code Section 21060.1 provides:

- (a) “Agricultural land” means prime farmland, farmland of statewide importance, or unique farmland, as defined by the United States Department of Agriculture land inventory and monitoring criteria, as modified for California.
 - (b) In these areas of the state where lands have not been surveyed for the classifications specified in subdivision (a), “agricultural land” means land that meets the requirements of “prime agricultural land” as defined in paragraph (1), (2), (3), or (4) of subdivision (c) of section 51201 of the Government Code.
- **Accurate and Complete Analysis of All of the Impacts:** The impact analysis in the EIR/EIS must not be limited to the amount of area that would be physically occupied by the rail line. The analysis should consider the construction of ancillary facilities and supporting infrastructure, as well as growth-inducing impacts. It is evident that when people are offered efficient transportation to jobs and cities, lower cost lands, such as agricultural lands, are quickly developed for housing and other residential and commercial use. This potentially significant impact must not be overlooked. Furthermore, the permanent and temporary disturbances caused directly by construction activities must be fully analyzed in the EIR/EIS.
 - **All Impacts to Agricultural Resources Must be Fully Mitigated:** All mitigation measures proposed in the EIR/EIS to address the impacts to agricultural resources must be fully described and must fully mitigate for the impacts. A project of this magnitude has the potential to convert significant amounts of agricultural land to nonagricultural use. To address this, sufficient funding must be allocated for mitigation of agricultural land loss on a per acre basis. In other words, for every acre of agricultural converted to

¹ The California Land Conservation Act of 1965 (Government Code Section 51200 *et seq.*), commonly known as the “Williamson Act.” The Williamson Act will be discussed *infra*.

April 10, 2009

Dan Leavitt / Carrie Pourvahidi

San Jose to Merced HST Scoping Comments

Merced to Bakersfield HST Scoping Comments

nonagricultural use, an acre of similar or better agricultural land must be permanently reserved through an agricultural easement.

- **This Project Must Comply With the Williamson Act:** The Williamson Act provides a tax incentive for the voluntary enrollment of agricultural and open space lands in ten year contracts between local government and landowners. The contract enforceably restricts the land to agricultural and open space uses and defined compatible uses. A project such as this high speed rail would not be compatible with the Williamson Act. Each local government that participates in the Williamson Act designates certain boundaries within their jurisdictions as "agricultural preserve" and land within these boundaries can be enrolled in the Williamson Act. Once enrolled, local governments calculate the property tax assessment based on the actual use of the land instead of the potential land value assuming full development.

A Williamson Act contract lasts a minimum of ten years, and automatically renews each year, so that a minimum ten year contract is always in effect. A nonrenewal of the contract can be filed by either the landowner or the local government. Unless the contract is cancelled², the restrictions on the use of the property continue for the life of the contract.

Any discussions regarding mitigation for this project must include a discussion of the Williamson Act's policies regarding public acquisition of, and locating public improvements within, agricultural preserves and on lands under Williamson Act contract.³ In addition to disfavoring locating public improvements in agricultural preserves, a public agency must consult with the Director of the Department of Conservation whenever it appears likely that a public improvement may be located in an agricultural preserve.

At a minimum, the EIR/EIS must include the following specific information on the agricultural preserves and Williamson Act contracts in the project area: (1) a map detailing the location of agricultural preserves and Williamson Act contracted land with each preserve. The document must also calculate the total amount of acreage under contract, according to land type (prime or non-prime), that could be either directly or indirectly impacted by this project; and (2) the impacts that public acquisition of areas under Williamson Act contracts would have on nearby properties also under contract. This analysis is similar to the "growth-inducing" impacts analysis under CEQA.

- **Public Acquisition of Property for this Project Must be Limited:** It is unclear at this time how much private property will have to be acquired for this project. The least environmentally damaging and practicable alternative must maximize the use of property

² The Williamson Act contract cancellation process is outlined at Gov. Code §§ 51280 *et seq.*, and requires a specific set of findings which often includes environmental review pursuant to CEQA.

³ Gov. Code §§ 51290 *et seq.* contains the state policy against locating public improvements in agricultural preserves and prescribes the requirements that any public agency must take before locating public improvements in agricultural preserves.

April 10, 2009

Dan Leavitt / Carrie Pourvahidi

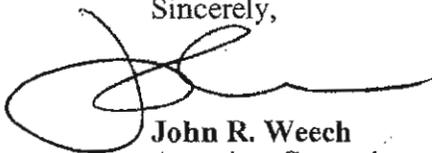
San Jose to Merced HST Scoping Comments
Merced to Bakersfield HST Scoping Comments

already owned by the government before acquiring private land. For land under Williamson Act contract, Government Code Section 51291(c) spells out the requirements for government acquisition of land under contract (*see also* Gov. Code § 51292 for the findings to be made before acquisition). These requirements must be strictly adhered to whenever any property under contract is acquired for this project.

- **Significant and Cumulative Impacts to Groundwater Resources:** The EIR/EIS must also analyze the impacts of this project to water quality. This includes water supply and water quality. This analysis must involve an examination of water supply impacts the project may have, and how that might impact the water supply otherwise available for production agriculture as well as alternatives for mitigation such as increased recharge.
- **Social and Economic Impacts Must be Analyzed:** The siting of a high-speed rail through agricultural lands will greatly impact the agricultural industry as a whole, as well as local rural communities. These impacts can be far-reaching and include a loss of jobs, a loss of sales tax revenue which leads to a loss of social services, and a loss of agriculturally-related businesses. Such socio-economic impacts and interrelated with the proposed effects on the physical environment and thus, must be evaluated in the EIS. (40 C.F.R. section 1508.14, [When socioeconomic effects are interrelated with other effects on the physical environment, then all of these impacts should be addressed together in the EIS.]

Thank you for the opportunity to provide comment on these concerns. We would like to request timely notice of all future meetings and review dates regarding the EIR/EIS and subsequent meetings that are part of the CEQA/NEPA process regarding the proposed complex.

Sincerely,



John R. Weech
Associate Counsel

JRW\mmm

Kris Livingston

From: HSR Comments
Sent: Tuesday, April 21, 2009 2:45 PM
To: Kris Livingston
Subject: FW: San Jose to Merced HST

From: Kevin Bryant [mailto:mtngreen17@verizon.net]
Sent: Friday, April 10, 2009 1:22 PM
To: HSR Comments
Cc: 'Kevin Bryant'
Subject: San Jose to Merced HST



Santa Clara Valley Chapter
3921 E. Bayshore
Palo Alto, CA 94306
April 9, 2009

Mr. Dan Leavitt, Deputy Director
ATTN: San Jose to Merced Project EIR/EIS
California High Speed Rail Authority
925 L Street, Suite 1425
Sacramento, CA 95814

Re: Notice of Preparation of Project EIR/EIS for San Jose to Merced High Speed Train through Pacheco Pass

Comments of the Santa Clara Valley Chapter of the California Native Plant Society

The Pacheco Pass route could impact several sensitive plant species on the southern boundary of Santa Clara County, if it goes through the Soap Lake (San Felipe lake) area. These include San Joaquin saltbush, Hoover's button celery, hairless popcorn flower, saline clover, Oregon meconella, and the red-flowered lotus.

The route through Pacheco Pass follows an existing corridor, State Highway 152, a four lane highway over the pass. Hall's bush mallow has been documented along this corridor and arcuate bush mallow and Loma Prieta hoita may be there. There is a very good example of western sycamore alluvial woodland in this corridor, a rapidly decreasing plant community.

This project must avoid destroying and disturbing our sensitive and declining natural resources in the area of Pacheco Pass and Soap Lake.

Yours truly,

Kevin Bryant
California Native Plant Society
President, Santa Clara Valley Chapter
3921 E. Bayshore Rd. Suite 205
Palo Alto, CA 94303
(408) 348-9470 cell

Kris Livingston

From: HSR Comments
Sent: Tuesday, April 21, 2009 2:56 PM
To: Kris Livingston
Subject: FW: San Jose to Merced HST - NOP Comments
Attachments: High Speed Rail - San Jose to Merced NOP comments (4-7-09).pdf

From: Don Dey [mailto:Don.Dey@ci.gilroy.ca.us]
Sent: Tuesday, April 07, 2009 3:13 PM
To: HSR Comments
Cc: Tom Haglund; Rick Smelser; Melissa Durkin
Subject: San Jose to Merced HST - NOP Comments

Dan Leavitt

The City of Gilroy has attached a letter that represents our comments California High-Speed train – San Jose to Merced Project – Environmental Document Notice of Preparation. I will also forward a hard copy of the letter to you via mail.

If you have any questions once you have reviewed the letter please contact me.

Thanks

Don Dey
City Transportation Engineer



City of Gilroy

COMMUNITY DEVELOPMENT DEPARTMENT

Planning Division	(408) 846-0440; fax (408) 846-0429
Engineering Division	(408) 846-0450; fax (408) 846-0429
Building, Life & Environmental Safety	(408) 846-0430; fax (408) 846-0429
Housing & Community Development	(408) 846-0290; fax (408) 846-0429

April 7, 2009

Dan Leavitt, Deputy Director
ATTN. San Jose to Merced
California High-Speed Rail Authority
925 L Street, Suite 1425
Sacramento, CA 95814

SUBJECT: California High-Speed Train – San Jose to Merced - Notice of Preparation

Dear Mr. Leavitt:

Thank you for including the City of Gilroy in the environmental review process for the High-Speed Train (HST) project. The Gilroy City Council has recommended that comments be forwarded to the California High Speed Rail Authority for review in the preparation of the Project Level EIR/EIS study for the California High-Speed Train (HST) system from San Jose to Merced

One of the main comments provided by the Gilroy City Council is that they favor an HST alignment through the City of Gilroy that follows the Union Pacific Railroad tracks and has an HST station at the Caltrain Station. We understand that there are many challenges and mitigations to meet this goal and the City would like to work with the Authority to make it happen.

We attended the San Jose to Merced Section High-Speed Train Project Level Environmental Impact Report/Statement Scoping meeting in Gilroy on March 26, 2009 and would like to present the following comments on the project scope.

Transportation Impacts (contact Don Dey at 408-846-0451)

The City of Gilroy has a concern about the potentially significant impact the project may have to traffic volume and congestion. In order to adequately address our concerns regarding the High Speed Train Project we recommend a specific project traffic impact analysis be prepared. The traffic impact analysis should include, but not be limited to the following:

- a. Information on the project's traffic impacts in terms of trip generation, distribution, and assignment for the train station in Gilroy. The assumptions and methodologies used in compiling this information needs to be documented.

- b. Current Average Daily Traffic (ADT) and AM and PM peak hour volumes on all significantly affected streets and intersections, highway segments and freeway ramps, for the Gilroy train station and all Gilroy train station alternatives analyzed.
- c. Schematic illustrations of traffic conditions for: 1) existing, 2) existing plus background traffic, 3) existing plus background traffic plus train station project, and cumulative impact for intersections in the train station and elevated grade crossing locations. The City of Gilroy has a documented traffic study procedure, development data base and traffic volume database for approved and proposed development and suggests that the Project utilize this information for the traffic analysis.
- d. Calculation of cumulative traffic volumes should consider all traffic-generating developments, both existing and future, that would affect the roadways being evaluated. The City of Gilroy General Plan generally identifies the Level of Service standard for intersections west of US 101 at LOS "C" and east of US 101 at LOS "D." City staff can provide clarifying information for the LOS standard requirement for the traffic study.

The Transportation Impact Analysis (TIA) for the EIR/EIS should include relevant segments of freeways, interchanges, State Highways, city roadways and intersections in the City of Gilroy. The freeway segments and intersections to be analyzed should be determined according to the VTA TIA guidelines and would include those meeting the following thresholds.

- Freeways: If the project is expected to add traffic equal to at least one percent of the freeway segments' capacity.
- Intersections: If the project is expected to add 10 or more peak hour vehicles per lane to any intersection movement. (It must be pointed out that due to high weekend retail traffic in Gilroy east of US 101, the weekend is the highest peak period and this is part of our regular studies)
- The traffic study must clearly identify the method of estimating the number of trips and the method of distributing project trips.

The EIR analysis should refer to recent efforts in Santa Clara County's South County area to study and address future roadway issues due to growth. The studies include the VTA South County Circulation Study and the VTA Southern Gateway Study. In addition, there is a project in design and environmental review for the US 101/SR 25/Santa Theresa interchange.

It is very important that the EIR completely study the existing, background, project and cumulative traffic conditions for the area and particularly their impacts on the City of Gilroy's Circulation system including freeway circulation.

Parking

- a. Provide clarification on how the parking analysis will be performed and how the parking needs generated by the project will be supplied.
- b. A detailed parking analysis must be prepared that identifies the existing parking conditions around the proposed HST train station and the project level demand for parking for the HST station and the location(s) where parking for the HST station will be

constructed. Reasonable walking distances must be assumed for the construction of new parking facilities so that residential neighborhoods are not impacted.

- c. A detailed pick-up / drop-off analysis must be performed for the HST station that identifies the traffic circulation in the station area and the project level demand for pick-up and drop-off for the HST station.
- d. Are there Taxi waiting areas at the HST station? How does Taxi service impact parking space needs and the pick-up drop-off area. Are there rental car facilities planned for the HST station? How does rental car service impact parking space needs and pick-up drop-off area.

High-Speed Train Alignment

The City of Gilroy favors the Authority's High-Speed Train alignment along the Union Pacific Railroad right-of-way which is an existing transportation corridor. This is the alignment proposed in the High-Speed Train statewide program environmental impact report/environmental impact statement (EIR/EIS).

- a. Analyze an HST alignment that assumes utilization of the current Union Pacific Railroad right of way through Gilroy to San Jose.
- b. Analyze an HST alignment that assumes utilization above the current Union Pacific Railroad right of way through Gilroy to San Jose (aerial alignment).
- c. Analyze an HST alignment that assumes utilization below the current Union Pacific Railroad right of way through Gilroy to San Jose (trench alignment).
- d. Analyze a trenched vertical alignment alternative through Gilroy for all railroad tracks – HST, Caltrain, Union Pacific. This is Gilroy's preferred design to keep the pedestrian integrity of the City's revitalized pedestrian orient downtown (see the attached illustrations).
- e. Analyze an HST alternative rail alignment through Pacheco Pass that follows the proposed (preferred) SR 152/SR 156 freeway alignment towards US 101.
- f. The preferred HST station in Gilroy is the Caltrain Station area. Analyze alternative station locations including 1) the east side of the UP tracks adjacent to the Caltrain Station, and 2) a HST station south of Tenth Street.

Construction Impacts

The City has a concern about the potentially significant impact the project may have during construction of the HST train station and elevated or trenched train tracks.

- a. The construction of a train station and trenched or elevated train tracks will cause traffic circulation problems during the construction phase. The construction phase needs to be reviewed in the environmental document and mitigation measures for handling traffic disruption identified.

- b. Noise and vibration issues are also a major concern for the Downtown area during construction. The construction impacts must be reviewed and mitigated.

Noise and Vibration Impacts

The City has a concern about the potentially significant impact the project may have to noise and vibration issues.

- a. The project-level EIR will have to address the impacts of noise and vibrations to existing buildings and residences in Gilroy, and will have to mitigate noise levels to meet Gilroy's noise standards. In addition, special studies may be required to determine that impact of the trains' vibrations on unreinforced masonry structures downtown.

Planning Impacts (contact Melissa Durkin at 408-846-0440)

The NOP identifies several potential environmental impacts that the EIR will analyze. Gilroy Planning staff is particularly concerned about impacts related to the parking demands created by the HST station; vibration impacts on existing and future buildings; noise generation; impacts to historic structures; and neighborhood compatibility. Therefore, the Planning Division recommends that the High-Speed Rail EIR address the following issues. The EIR needs to analyze the potential for impacts in these areas to occur, and develop mitigation measures that reduce impacts to a level of insignificance.

- a. A detailed parking analysis must be prepared that identifies the existing parking conditions around the proposed train station and the project demand for parking for the station. Reasonable walking distances must be assumed for the construction of new parking facilities so that residential neighborhoods are not impacted.
- b. The project-level EIR will have to address the impacts of noise and vibrations to existing buildings and residences, and will have to mitigate noise levels to meet Gilroy's noise standards. In addition, special studies may be required to determine that impact of the trains' vibrations on unreinforced masonry structures downtown.
- c. Noise and vibration issues are also a major concern for the Downtown area during construction. The construction impacts must be reviewed and mitigated.
- d. Gilroy has targeted much of the downtown area for historic preservation. The HST's impact to historic structures must be analyzed, particularly any potential for the loss of historic buildings.
- e. Gilroy has targeted much of the area surrounding the train station for neighborhood revitalization, and staff has concerns that the HST tracks could divide neighborhoods, making cross town access and neighborhood integration difficult.

If you have any questions concerning information in this letter, please contact me at (408) 846-0451.

Sincerely,

A handwritten signature in black ink, appearing to read 'Don Dey', written over a horizontal line.

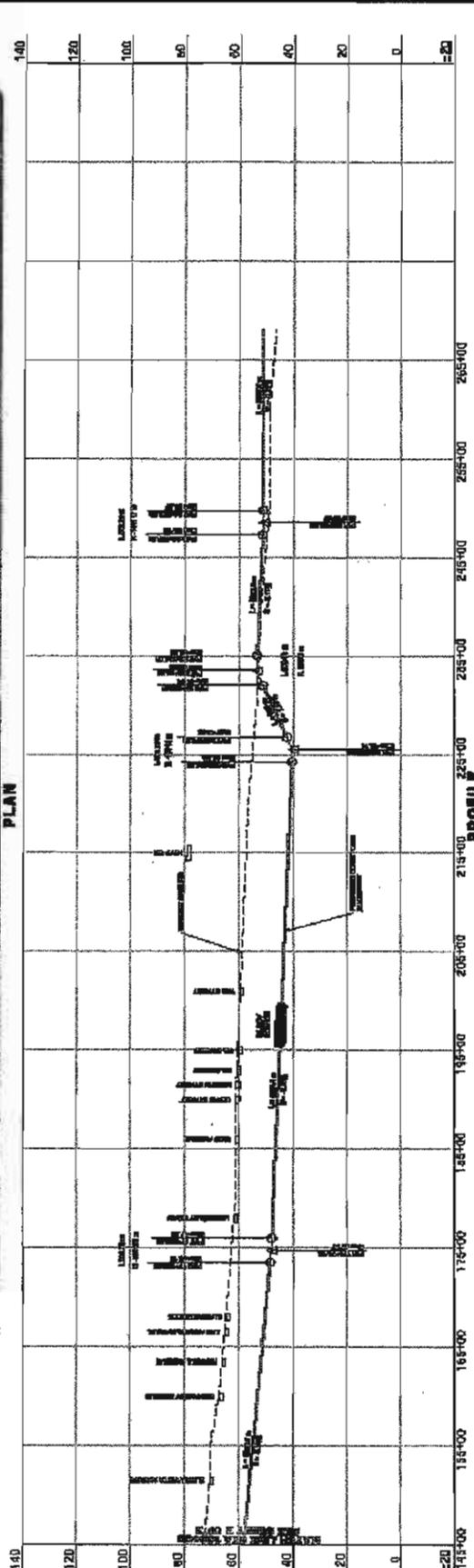
Don Dey
City Transportation Engineer

Attachments

C: Tom Haglund, City Administrator
Rick Smelser, City Engineer
Melissa Durkin, Planner



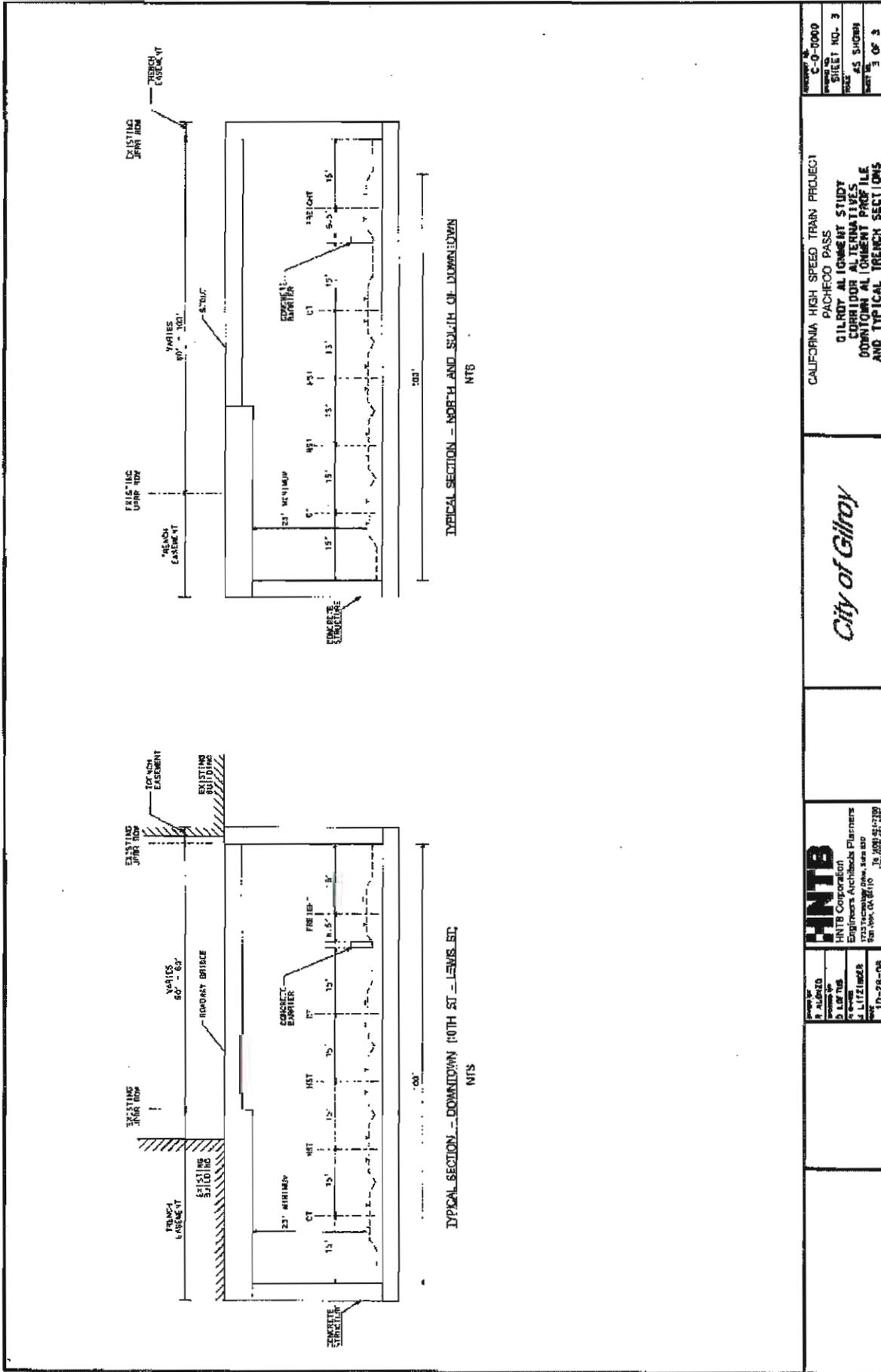
PLAN



PROFILE

HNTB HNTB Corporation Engineers, Architects, Planners and Scientists 1150 California Street, Suite 200 San Jose, CA 95128 TEL: (408) 291-2000 FAX: (408) 291-2001		CALIFORNIA HIGH SPEED TRAIN PROJECT PACIFIC PASS GILROY ALIGNMENT STUDY DOWNTOWN ALIGNMENT PLAN AND PROFILE AND TYPICAL TRENCH SECTIONS	
DRAWN BY FR. ALBERICO	CHECKED BY D. LUTZNER	PROJECT NO. C-0-0000	SHEET NO. 1 OF 3
DATE 10-26-09	PROJECT NO. C-0-0000	DRAWN BY FR. ALBERICO	CHECKED BY D. LUTZNER
SCALE HORIZ. 1"=200' H VERT. 1"=20' H	CITY OF GILROY	PROJECT NO. C-0-0000	SHEET NO. 1 OF 3

FIGURE 2



<p>PROJECT: CALIFORNIA HIGH SPEED TRAIN PROJECT PACHECO PASS GILROY ALIGNMENT STUDY CORRIDOR ALTERNATIVES DOWNTOWN ALIGNMENT PROFILE AND TYPICAL TRENCH SECTIONS</p>		<p>PROJECT NO. C-9-0000 SHEET NO. 3 DATE: 05/20/09 PAGE 3 OF 3</p>	
<p><i>City of Gilroy</i></p>		<p>HNTB HNTB Corporation Engineers, Architects, Planners & Interiors 3750 Central Expressway San Jose, CA 95128 Tel: 408.261.8300 Fax: 408.261.8302</p>	
<p>DATE: 10-28-08</p>		<p>DATE: 10-28-08</p>	

State Route 152

CORRIDOR ALIGNMENT ALTERNATIVES



Alternative Components	Length (miles)	Travel Time (minutes)	Probable Costs (Range in \$ mil)
Alternative 1			
TOTAL	14.9	17	NA
Existing SR 152	11.3		
Existing SR 150	3.0		
Alternative 2			
TOTAL	15	16.3	NA
Existing SR 152	8.1		
Existing SR 25	6.9		
Alternative D			
TOTAL	11.0	9.5	\$232 - \$264
Reassigned SR 152	7.2		\$142 - \$150
Proposed SR 25	3.8		\$15 - \$114
Alternative D			
TOTAL	19.5	9	\$215 - \$263
Reassigned SR 152	7.0		\$170 - \$210
Proposed SR 25	12.5		\$45 - \$45

Kris Livingston

From: HSR Comments
Sent: Tuesday, April 21, 2009 2:52 PM
To: Kris Livingston
Subject: FW: High-Speed Rail - San Jose to Merced Section NOP/Scoping comments

From: JLucas1099@aol.com [mailto:JLucas1099@aol.com]
Sent: Thursday, April 09, 2009 2:45 PM
To: HSR Comments
Subject: High-Speed Rail - San Jose to Merced Section NOP/Scoping comments

Dan Leavitt, Deputy Director,
ATTN, San Jose to Merced
California High Speed Rail Authority
925 L Street, Suite 1425
Sacramento, CA 95814

Subject: SanJose to Merced HST

Dear Dan Leavitt,

In regards the Project Level Environmental Impact Report/Statement (EIR/EIS) for the San Jose to Merced section of proposed High-Speed Train system I would suggest the following areas need careful assessment:

~ Detail impacts to riparian corridor and wetlands of Guadalupe River (downtown San Jose) and Coyote Creek along entire valley corridor with special attention to constraints at Metcalf Narrows and Fisher Creek. Expansion of railroad right-of-way to four tracks will have what watershed impacts throughout Coyote Valley? Accommodation for wildlife and fish migratory corridors plan to be engineered in addition to drainage swales?

~ What BMP measures will be incorporated to insure that natural landscape vegetation be preserved and construction equipment does not contribute to spread of invasives? Can special measures be incorporated in relatively pristine rural and backcountry reaches, especially in and around Pacheco Pass?

~ The Santa Clara County Habitat Conservation Plan will be specifically referenced and appropriate 'best management practices' and habitat conservation be followed as rail project passes out of county HCP range, and over Pacheco Pass into Merced County? This terrain has an exceptional wealth of native vegetation and EIR/EIS will detail specific areas where adherence to protocols for listed protected species is mandated?

~ As mentioned in an earlier communication, I have had no luck in finding hard copy documents for review that were supposed to be in Menlo Park and Los Gatos libraries, but from what little I was able to see in a public hearing there is an extensive elevated segment of rail line over Pacheco Pass and through Soap Lake wetlands that will need careful analysis for wetlands impact and for preservation of the ridge wildlife corridor. A raised rail line also will have considerable aesthetic impact on wilderness experience of Coe State Park?

~ Can this EIR/EIS contribute to an HCP being conducted for areas between San Jose and Merced that are not presently undergoing a scientific habitat evaluation and conservation plan?

~ This relatively undeveloped region of Santa Clara and Merced Counties contains critical wildlife corridors for mammals as well as for birds of the Pacific Flyway. Will it be possible to design this high speed rail line and all mitigation measures mandated due to impacts from this project, in manner that not only will safeguard these historic ridge migratory wildlife corridors but will ensure their viability in perpetuity? Will you detail all species, flora and fauna, whose habitat could be impacted by increased, high-speed access to this region?

~ Please make hard copies of EIR/EIS available to public who does not have a capability to read documents on line. These are my personal comments and only regret that they cannot reference more specific data.

Thank you for considering inclusion of these concerns in an environmental analysis of the proposed project.

Libby Lucas, Conservation
CNPS, Santa Clara Valley Chapter
174 Yerba Santa Ave.,
Los Altos, CA 94022

Feeling the pinch at the grocery store? Make dinner for \$10 or less.

Kris Livingston

From: HSR Comments
Sent: Tuesday, April 21, 2009 2:40 PM
To: Kris Livingston
Subject: FW: San Jose-Merced HST (SCC Comments).pdf
Attachments: SCC Comments on San Jose-Merced HST System NOP.pdf

From: Ranu Aggarwal [mailto:Ranu.Aggarwal@pln.sccgov.org]
Sent: Friday, April 10, 2009 4:14 PM
To: HSR Comments
Subject: San Jose-Merced HST (SCC Comments).pdf

County of Santa Clara

Department of Planning and Development
Planning Office

County Government Center, East Wing, 7th Floor
70 West Hedding Street
San Jose, California 95110-1705
(408) 299-5770 FAX (408) 288-9198
www.sccplanning.org



April 10, 2009
Mehdi Morshed
Executive Director
California High Speed Rail Authority
925 L Street, Suite 1425
Sacramento, CA 95814

Re: County of Santa Clara Comments on Notice of Preparation for a San Jose to Merced High Speed Train System through Pacheco Pass.

Attn: Mr. Mehdi Moshed

The proposed San Jose to Merced High Speed Train System is partially located in unincorporated Santa Clara County in the County of Santa Clara jurisdiction. Upon review of the above stated Notice of Preparation, the County of Santa Clara, Planning Office, Parks Department and Roads and Airports comments are as follows:

PLANNING OFFICE:

Agricultural Resources:

- The proposed High Speed Train System is to be build in through land in Santa Clara County under agricultural use, currently zoned Agriculture Ranchland with many of the parcels under Williamson Act Contract. In the EIR, please consider the impacts of the loss of agricultural land, loss of prime farmland, and impacts on land under Williamson Act Contract or commercial agricultural production as a result of the proposed project.

Noise:

- The EIR should evaluate noise impacts on adjacent properties using the County Noise Ordinance and the County General Plan Policies as thresholds of noise significance.

Visual Impacts:

- The EIR should evaluate visual impacts of the proposal on County designated scenic roads.

Santa Clara Valley Habitat Plan:

- Six Local agencies, including the County of Santa Clara, are in the process of collaboratively developing a Habitat Conservation Plan/Natural Communities Conservation Plan called the Santa Clara Valley Habitat Plan – A Conservation Legacy. Please incorporate information developed under this in the analysis for the proposed High Speed Train System. The Plan is anticipated to be adopted by the end of 2010.



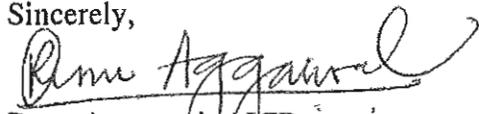
part of the EIR/EIS. With so few stations, these stations will be a major draw. The analysis needs to identify projected number of trips to and from the stations and the level of service impacts on the streets and freeways used to access the station. Traffic impact mitigations should be identified as needed for station access.

- County of Santa Clara Roads and Airports Department staff should be consulted as part of the planning process for any alignment/grade separation changes that are studied for County roads.

Please see enclosed for PARKS AND RECREATION DEPARTMENT COMMENTS.

Thanks for the opportunity to provide input and comments on the above stated Notice of Preparation. Please contact me at (408)-299-5795 for any questions.

Sincerely,



Ranu Aggarwal, AICP

Planner III

Planning Office, County of Santa Clara.

Encl:

Parks and Recreation Department Comment Letter

County of Santa Clara

Parks and Recreation Department

298 Garden Hill Drive
Los Gatos, California 95032-7669
(408) 355-2200 FAX 355-2290
Reservations (408) 355-2201
www.parkhere.org



April 6, 2009

Dan Leavitt, Deputy Director of the California High-Speed Rail Authority
California High-Speed Rail Authority
925 L Street, Suite 1425
Sacramento, CA 95814

**Re: Notice of Preparation (NOP) of a Project Environmental Impact Report/
Environmental Impact Statement (EIR/EIS) for a San Jose to Merced High Speed
Train System through Pacheco Pass.**

Dear Mr. Leavitt:

The Santa Clara County Parks and Recreation Department ("County Parks Department") has reviewed the Project Environmental Impact Report/ Environmental Impact Statement (EIR/EIS) for a San Jose to Merced High Speed Train (HST) System through Pacheco Pass, known as the Preferred Pacheco Pass Network Alternative, and submits the following comments. Previously, the County Parks Department submitted comments on the July 2007 Draft Bay Area to Central Valley HST Program EIR/EIS (Program EIR/EIS) and the May 2008 Final Program EIR/EIS.

The Department's concerns are in relation to the potential project impacts to regional parks and recreational resources in Santa Clara County. When the Authority and FRA conduct project-level evaluations and analysis of the Preferred Pacheco Pass Network Alternative, the County Parks Department requests additional considerations for assessing future park and recreation impacts in accordance with the Parks and Recreation Element of the *County of Santa Clara General Plan (1990-2010)* and the *Santa Clara County Countywide Trails Master Plan Update (1995)*. A copy of the Countywide Trails Master Plan is located on the County Parks Department's website at www.parkhere.org under Planning and Development.

The County Parks Department owns and operates 28 park units encompassing approximately 45,000 acres. The San Jose to Merced High Speed Train corridor would potentially impact a number of County parks and recreation resources. Under the Public Park Preservation Act of 1971, voter approved County Charter Amendment, and Code of Civil Procedures section



1240.680, the Department has the responsibility for reviewing and assessing all projects with the potential to encroach upon, or impact County parklands. Furthermore, the Department is required to conduct environmental review of any project which may impact parklands.

4.14 Biological Resources and Wetlands (Section 3.15)

Impact 2. Impacts to Wildlife Movement Corridors

The Project EIR/EIS should consider compliance with the *Integrated Natural Resource Management Plan and Master Plan* for Coyote Creek Parkway County Park (“Integrated Plan”) which is a locally-adopted land use plan. Coyote Creek Parkway County Park is an outstanding example of a regionally significant riparian habitat that provides a valuable wildlife movement corridor for numerous sensitive species. A copy of the *Coyote Creek Parkway County Park Integrated Plan* is located on the County Parks Department’s website at www.parkhere.org under Planning and Development.

In general, County parklands contain a number of sensitive and protected species and habitats and the Department is charged with the responsibility to provide, protect, and preserve regional parklands including management of these natural resources. The County Parks Department is under the regulatory oversight of local, federal, and state agencies, such as Santa Clara Valley Water District, and National Marine Fisheries Service (NOAA), necessitating that we conduct additional review of projects which may impact these resources or that require enhancement of habitats which exist in County parklands. As a result, the County Parks Department should be included in the development of design protective measures for wildlife movement corridors when the Authority and FRA consults with the resource agencies.

Mitigation strategy #5 should include consultations with local agencies who own and manage lands that are impacted by the HST project.

The Project EIR/ EIS should incorporate where necessary the design of bridges rather than culverts to off-set impacts to floodplains, wildlife corridors and waterway mitigations.

This section should also include a discussion of the on-going issue of invasive weed control (post-construction) as a result of the proposed right-of-way, which is a vector for invasive weed spread without control.

The Project EIR/ EIS should also include studies conducted for science-based approach to design. Fencing that excludes wildlife from accessing rails (for safety reasons) should be incorporated with wildlife corridors so fencing can be used to lead wildlife to crossings instead of cutting them off (funneling of wildlife to corridor crossings).

Impact 3. Impacts to Non-Wetland Jurisdictional Waters

The proposed right-of-way will likely be a vector for invasive weeds. This section should include a discussion regarding the need to have an on-going management plan for invasive weed control

to address impacts to non-wetland waters and wetlands. This should also be included under the Mitigation Strategies on page 67.

Impact 5. Impacts to Marine Anadromous Fishery Resources

This section is inconsistent, as it discusses crossing and impacting waterways like Coyote Creek, Guadalupe River, etc, but then goes on to state that there are no impacts to anadromous fishes.

Impact 6. Impacts to Special Status Species

This section should also include a discussion on the Santa Clara Valley Habitat Conservation Plan/Natural Community Conservation Plan (HCP/NCCP) that is currently underway and how the proposed alignment may affect future habitat conservation areas. Currently the Project EIR/EIS considers only participation in an existing Habitat Conservation Plan as part of Mitigation Strategy #8.

Santa Clara County is currently preparing an HCP/NCCP requiring additional environmental review of any proposed or current projects within the HCP/NCCP project area which encompasses most of Santa Clara County. For more information on the scope and requirements of this project, please contact Mr. Kenneth Schreiber, HCP/NCCP Program Manager at (408) 299-5789; Office of the County Executive, County Government Center, East Wing, 7th Floor, 70 West Hedding Street, San Jose CA 95110. email: ken.schreiber@pln.sccgov.org.

4.15 Public Parks and Recreation Resources (Section 3.16)

Impact 1. Impacts to Parks and Recreational Resources – Table 4-12

Table 4-12 of the Project EIR/EIS identifies Coyote Creek Parkway County Park as one of the directly impacted parks and recreational resources, since the County Park is located less than 150 feet from the centerline of the Preferred Pacheco Pass Alternative alignment. Although outside the 900 feet criteria for evaluation, nearby County Parks such as Hellyer County Park and Anderson County Park should be evaluated for indirect project impacts since they are contiguous to and located on either end of the Coyote Creek Parkway County Park.

Regional trail facilities that are located within 900 feet proximity of the preferred alternative alignment may also be directly impacted by the HST project, including the Coyote Creek/Llagas Creek Trail, the Bay Area Ridge Trail, the Juan Bautista de Anza National Historic Trail and the Monterey-Yosemite State Trail. The Project EIS/EIR should consider the planned regional trail routes shown in the *Santa Clara County Countywide Trails Master Plan Update* (1995). Future alignment construction in this area should take into consideration the existing and future placement of proposed trail alignments for the Juan Bautista de Anza National Historic Trail, Bay Area Ridge Trail, Coyote Creek /Llagas Creek Trail. In addition, the Monterey-Yosemite State Trail is located along Pacheco Pass, from San Benito County to Merced County.

Thank you for the opportunity to provide comments on the Project EIR/EIS for a San Jose to Merced High Speed Train System through Pacheco Pass. If you have any questions regarding these comments, please feel free to contact me at (408) 355-2230 or via email at Kimberly.Brosseau@prk.sccgov.org.

Sincerely,

A handwritten signature in black ink, appearing to read "Kimberly Brosseau". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Kimberly Brosseau
Park Planner III

cc: Lisa Killough, Director, Santa Clara County Parks and Recreation Department
Julie Mark, Deputy Director of Administration
Jane Mark, Senior Planner
Don Rocha, Natural Resources Management Program Supervisor
Ken Schreiber, Santa Clara Valley Habitat Plan Program Manager
Ranu Aggarwal, Planner, County Planning Office

County of Santa Clara

Department of Planning and Development
Planning Office

County Government Center, East Wing, 7th Floor
70 West Hedding Street
San Jose, California 95110-1705
(408) 299-5770 FAX (408) 288-9198
www.sccplanning.org



April 10, 2009
Mehdi Morshed
Executive Director
California High Speed Rail Authority
925 L Street, Suite 1425
Sacramento, CA 95814

Re: County of Santa Clara Comments on Notice of Preparation for a San Jose to Merced High Speed Train System through Pacheco Pass.

Attn: Mr. Mehdi Moshed

The proposed San Jose to Merced High Speed Train System is partially located in unincorporated Santa Clara County in the County of Santa Clara jurisdiction. Upon review of the above stated Notice of Preparation, the County of Santa Clara, Planning Office, Parks Department and Roads and Airports comments are as follows:

PLANNING OFFICE:

Agricultural Resources:

- The proposed High Speed Train System is to be build in through land in Santa Clara County under agricultural use, currently zoned Agriculture Ranchland with many of the parcels under Williamson Act Contract. In the EIR, please consider the impacts of the loss of agricultural land, loss of prime farmland, and impacts on land under Williamson Act Contract or commercial agricultural production as a result of the proposed project.

Noise:

- The EIR should evaluate noise impacts on adjacent properties using the County Noise Ordinance and the County General Plan Policies as thresholds of noise significance.

Visual Impacts:

- The EIR should evaluate visual impacts of the proposal on County designated scenic roads.

Santa Clara Valley Habitat Plan:

- Six Local agencies, including the County of Santa Clara, are in the process of collaboratively developing a Habitat Conservation Plan/Natural Communities Conservation Plan called the Santa Clara Valley Habitat Plan – A Conservation Legacy. Please incorporate information developed under this in the analysis for the proposed High Speed Train System. The Plan is anticipated to be adopted by the end of 2010.

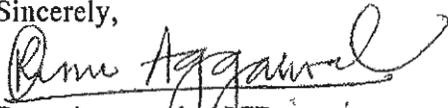
part of the EIR/EIS. With so few stations, these stations will be a major draw. The analysis needs to identify projected number of trips to and from the stations and the level of service impacts on the streets and freeways used to access the station. Traffic impact mitigations should be identified as needed for station access.

- County of Santa Clara Roads and Airports Department staff should be consulted as part of the planning process for any alignment/grade separation changes that are studied for County roads.

Please see enclosed for PARKS AND RECREATION DEPARTMENT COMMENTS.

Thanks for the opportunity to provide input and comments on the above stated Notice of Preparation. Please contact me at (408)-299-5795 for any questions.

Sincerely,



Ranu Aggarwal, AICP
Planner III
Planning Office, County of Santa Clara.

Encl:

Parks and Recreation Department Comment Letter

County of Santa Clara

Parks and Recreation Department

298 Garden Hill Drive
Los Gatos, California 95032-7669
(408) 355-2200 FAX 355-2290
Reservations (408) 355-2201
www.parkhere.org



April 6, 2009

Dan Leavitt, Deputy Director of the California High-Speed Rail Authority
California High-Speed Rail Authority
925 L Street, Suite 1425
Sacramento, CA 95814

**Re: Notice of Preparation (NOP) of a Project Environmental Impact Report/
Environmental Impact Statement (EIR/EIS) for a San Jose to Merced High Speed
Train System through Pacheco Pass.**

Dear Mr. Leavitt:

The Santa Clara County Parks and Recreation Department ("County Parks Department") has reviewed the Project Environmental Impact Report/ Environmental Impact Statement (EIR/EIS) for a San Jose to Merced High Speed Train (HST) System through Pacheco Pass, known as the Preferred Pacheco Pass Network Alternative, and submits the following comments. Previously, the County Parks Department submitted comments on the July 2007 Draft Bay Area to Central Valley HST Program EIR/EIS (Program EIR/EIS) and the May 2008 Final Program EIR/EIS.

The Department's concerns are in relation to the potential project impacts to regional parks and recreational resources in Santa Clara County. When the Authority and FRA conduct project-level evaluations and analysis of the Preferred Pacheco Pass Network Alternative, the County Parks Department requests additional considerations for assessing future park and recreation impacts in accordance with the Parks and Recreation Element of the *County of Santa Clara General Plan (1990-2010)* and the *Santa Clara County Countywide Trails Master Plan Update (1995)*. A copy of the Countywide Trails Master Plan is located on the County Parks Department's website at www.parkhere.org under Planning and Development.

The County Parks Department owns and operates 28 park units encompassing approximately 45,000 acres. The San Jose to Merced High Speed Train corridor would potentially impact a number of County parks and recreation resources. Under the Public Park Preservation Act of 1971, voter approved County Charter Amendment, and Code of Civil Procedures section



1240.680, the Department has the responsibility for reviewing and assessing all projects with the potential to encroach upon, or impact County parklands. Furthermore, the Department is required to conduct environmental review of any project which may impact parklands.

4.14 Biological Resources and Wetlands (Section 3.15)

Impact 2. Impacts to Wildlife Movement Corridors

The Project EIR/EIS should consider compliance with the *Integrated Natural Resource Management Plan and Master Plan* for Coyote Creek Parkway County Park (“Integrated Plan”) which is a locally-adopted land use plan. Coyote Creek Parkway County Park is an outstanding example of a regionally significant riparian habitat that provides a valuable wildlife movement corridor for numerous sensitive species. A copy of the *Coyote Creek Parkway County Park Integrated Plan* is located on the County Parks Department’s website at www.parkhere.org under Planning and Development.

In general, County parklands contain a number of sensitive and protected species and habitats and the Department is charged with the responsibility to provide, protect, and preserve regional parklands including management of these natural resources. The County Parks Department is under the regulatory oversight of local, federal, and state agencies, such as Santa Clara Valley Water District, and National Marine Fisheries Service (NOAA), necessitating that we conduct additional review of projects which may impact these resources or that require enhancement of habitats which exist in County parklands. As a result, the County Parks Department should be included in the development of design protective measures for wildlife movement corridors when the Authority and FRA consults with the resource agencies.

Mitigation strategy #5 should include consultations with local agencies who own and manage lands that are impacted by the HST project.

The Project EIR/ EIS should incorporate where necessary the design of bridges rather than culverts to off-set impacts to floodplains, wildlife corridors and waterway mitigations.

This section should also include a discussion of the on-going issue of invasive weed control (post-construction) as a result of the proposed right-of-way, which is a vector for invasive weed spread without control.

The Project EIR/ EIS should also include studies conducted for science-based approach to design. Fencing that excludes wildlife from accessing rails (for safety reasons) should be incorporated with wildlife corridors so fencing can be used to lead wildlife to crossings instead of cutting them off (funneling of wildlife to corridor crossings).

Impact 3. Impacts to Non-Wetland Jurisdictional Waters

The proposed right-of-way will likely be a vector for invasive weeds. This section should include a discussion regarding the need to have an on-going management plan for invasive weed control

to address impacts to non-wetland waters and wetlands. This should also be included under the Mitigation Strategies on page 67.

Impact 5. Impacts to Marine Anadromous Fishery Resources

This section is inconsistent, as it discusses crossing and impacting waterways like Coyote Creek, Guadalupe River, etc, but then goes on to state that there are no impacts to anadromous fishes.

Impact 6. Impacts to Special Status Species

This section should also include a discussion on the Santa Clara Valley Habitat Conservation Plan/Natural Community Conservation Plan (HCP/NCCP) that is currently underway and how the proposed alignment may affect future habitat conservation areas. Currently the Project EIR/EIS considers only participation in an existing Habitat Conservation Plan as part of Mitigation Strategy #8.

Santa Clara County is currently preparing an HCP/NCCP requiring additional environmental review of any proposed or current projects within the HCP/NCCP project area which encompasses most of Santa Clara County. For more information on the scope and requirements of this project, please contact Mr. Kenneth Schreiber, HCP/NCCP Program Manager at (408) 299-5789; Office of the County Executive, County Government Center, East Wing, 7th Floor, 70 West Hedding Street, San Jose CA 95110. email: ken.schreiber@pln.sccgov.org.

4.15 Public Parks and Recreation Resources (Section 3.16)

Impact 1. Impacts to Parks and Recreational Resources – Table 4-12

Table 4-12 of the Project EIR/EIS identifies Coyote Creek Parkway County Park as one of the directly impacted parks and recreational resources, since the County Park is located less than 150 feet from the centerline of the Preferred Pacheco Pass Alternative alignment. Although outside the 900 feet criteria for evaluation, nearby County Parks such as Hellyer County Park and Anderson County Park should be evaluated for indirect project impacts since they are contiguous to and located on either end of the Coyote Creek Parkway County Park.

Regional trail facilities that are located within 900 feet proximity of the preferred alternative alignment may also be directly impacted by the HST project, including the Coyote Creek/Llagas Creek Trail, the Bay Area Ridge Trail, the Juan Bautista de Anza National Historic Trail and the Monterey-Yosemite State Trail. The Project EIS/EIR should consider the planned regional trail routes shown in the *Santa Clara County Countywide Trails Master Plan Update (1995)*. Future alignment construction in this area should take into consideration the existing and future placement of proposed trail alignments for the Juan Bautista de Anza National Historic Trail, Bay Area Ridge Trail, Coyote Creek /Llagas Creek Trail. In addition, the Monterey-Yosemite State Trail is located along Pacheco Pass, from San Benito County to Merced County.

Thank you for the opportunity to provide comments on the Project EIR/EIS for a San Jose to Merced High Speed Train System through Pacheco Pass. If you have any questions regarding these comments, please feel free to contact me at (408) 355-2230 or via email at Kimberly.Brosseau@prk.sccgov.org.

Sincerely,

A handwritten signature in black ink, appearing to read "Kimberly Brosseau". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Kimberly Brosseau
Park Planner III

cc: Lisa Killough, Director, Santa Clara County Parks and Recreation Department
Julie Mark, Deputy Director of Administration
Jane Mark, Senior Planner
Don Rocha, Natural Resources Management Program Supervisor
Ken Schreiber, Santa Clara Valley Habitat Plan Program Manager
Ranu Aggarwal, Planner, County Planning Office

Kris Livingston

From: HSR Comments
Sent: Tuesday, April 21, 2009 2:46 PM
To: Kris Livingston
Subject: FW: San Jose to Merced HST
Attachments: Ltr041009-NOI-NOP_SJMER.pdf

From: Katie Albertson [mailto:KAlbertson@co.merced.ca.us]
Sent: Friday, April 10, 2009 11:38 AM
To: HSR Comments
Subject: San Jose to Merced HST

Attn: Dan Leavitt

Attached are the comments from Merced County on the NOP/NOI for the San Jose/Merced HST Project EIR/EIS.

Please email me a confirmation of their receipt.

Katie Albertson

Katie Albertson
Director of Governmental Affairs
209-385-7636
kalbertson@co.merced.ca.us



April 9, 2009

Mr. Dan Leavitt
Deputy Director
California High Speed Rail Authority
925 L Street, Suite 1425
Sacramento, CA 95814

RE: Notice of Preparation/Notice of Intent
San Jose to Merced HST Project EIR/EIS

Dear Mr. Leavitt:

On March 18, 2009, Merced County representatives attended the Public Scoping Session held in Merced. County representatives have also reviewed the Notice of Preparation (NOP) and Notice of Intent (NOI) for the San Jose to Merced High-Speed Train Project (Project) EIR/EIS released by the California High Speed Rail Authority (Authority) and offer the following comments on the NOP/NOI for this Project. The County has also reviewed the NOP/NOI for the Merced to Bakersfield HST Project and will submit comments on that project in a separate letter.

The County would like to begin by noting its support for the High Speed Rail Project. The County believes that the High Speed Rail Project, as a whole, will have substantial benefits for the County of Merced and the State. The County looks forward to continuing to work with the Authority to achieve a High Speed Rail system that both generates the promised benefits to the State and minimizes the impacts to the localities, such as the County, where the system will be located. The County also recognizes that its role as a regional leader may be of value to the Authority. The processing and approval of the HST will be more effective and efficient if local agencies cooperate. To that end, the County offers to assist the California High Speed Rail Authority in organizing regional public agencies on critical topics of shared interest relating to HST, such as the Castle Maintenance Facility.

The County does have a number of specific areas the County would like the Authority to address in the EIR/EIS. Pub. Res. Code, § 21080.4; CEQA Guidelines, § 15082.

Relationship of the Project to the Merced County General Plan

The implementation of this Project will require amendments to the Merced County General Plan and possibly the County's Redevelopment Plan. The County is, therefore, a Responsible Agency for this project. Specifically, the County requests that this EIR/EIS address the following subjects.

Land Use

The proposed Project will affect areas in the County that are designated for both rural and urban land uses. Rural land uses are designated either "Agricultural" or "Foothill Pasture."

Board of Supervisors

John Pedrozo
Supervisor, District One

Hubert "Hub" Walsh, Jr.
Supervisor, District Two

Michael G. Nelson
Supervisor, District Three

Deldre F. Kelsey
Supervisor, District Four

Jerry O'Banion
Supervisor, District Five

Demitrios O. Tatum
County Executive Officer

Merced County
Administration Building
2222 "M" Street
Merced, CA 95340
(209) 385-7368
(209) 726-7977 Fax
www.co.merced.ca.us

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The Agricultural designation generally is applied to intensely farmed irrigated areas on the valley floor the Foothill Pasture designation is generally applied to non-irrigated grasslands. Urban land uses are typically accommodated within designated urban areas. These are designated either Specific Urban Development Plan (SUDP) areas, Rural Residential Centers (RRC'S), or Highway Interchange Centers (HIC's). Development within SUDP's are typically guided through community plans which contain goals, objectives, and policies unique to that particular plan.

It is very important that the EIR/EIS include a comprehensive analysis of the Project's consistency with the County General Plan. For Rural designated areas, impacts to agricultural and open space resources will, to a large degree, determine General Plan consistency. For urban designated areas, the Project's consistency with the goals, objectives, and policies of the particular community plan is critical.

It appears that construction of the tracks and operation of the trains may have land use conflicts with existing uses in the unincorporated communities of Santa Nella and Volta and to designated Highway Interchange Centers along the Interstate 5 corridor. The EIR/EIS should analyze these impacts.

Circulation

The County General Plan circulation chapter contains goals, objectives, and policies to ensure that the land uses designated in the General Plan are adequately supported by a comprehensive circulation network. This Project has the potential to greatly enhance the County's circulation system by reducing overall traffic in the County. However, interruption of traffic flow at local intersections has the potential to add significant delays to local traffic circulation. The EIR/EIS should study these impacts and the Authority should ensure that the Project is designed, by fully grade-separated crossings, routing and other design and mitigation measures to minimize the disruption of the HST to the County's existing circulation system.

Air Quality

Similarly, the County is concerned that interruptions to the local circulation network may also increase local air pollution, including, but not limited to, the increase in carbon monoxide "hot spots" that may be created if cars are required to idle for extended periods of time at at-grade crossings or other facilities of the HST. The County's General Plan contains a number of policies designed to reduce air pollution. The EIR/EIS should fully evaluate the Project's potential to increase local air pollution and the potential conflicts with the County's General Plan policies designed to reduce air pollution.

Noise

The County's General Plan noise chapter contains noise exposure standards for both rural and urban land use designations. As with the traffic impacts, the Project has the potential to add significant noise impacts, especially to the extent that the Project will involve any at-grade crossings in established communities. Noise generated by this Project should be evaluated in the context of the County's noise exposure standards.

Open Space & Conservation

The County General Plan open space and conservation chapter contains goals, objectives, and policies which recognize the importance of the County's open space, habitat, wetland, and aesthetic resources. The proposed Project, as generally routed, has the potential to affect all of these resources. This EIR/EIS needs to carefully study this potential effect and minimize any adverse impact to these resources.

To properly evaluate the proposed Project's relationship and consistency with the wide array of County General Plan policies, the County recommends that the study corridor for the Project be expanded from 100 to 500 feet. A study corridor of 500 feet is advisable to adequately analyze potentially significant impacts such as noise, air quality and other impacts.

Water Supply

The County's General Plan recognizes that water supply in the County is largely dependent on groundwater and groundwater recharge. The General Plan also recognizes that the increase in impervious surfaces can decrease groundwater recharge, thereby reducing overall water supply. To the extent that the Project proposes to increase impervious surfaces in the County, the EIR/EIS should evaluate the impacts to groundwater supply.

The County's General Plan also recognizes that water supply is currently impacted by groundwater quality issues in several localities. The EIR/EIS should examine the potential for the Project to cause further degradation to groundwater quality in the County.

General Plan Update

The County is in the midst of a General Plan Update, and as such, will require close coordination with the Authority to ensure that the Project is evaluated against current General Plan policy.

Relationship of the Project to the UC Merced University Community Plan

In 1995, the Regents of the University of California selected Merced as the site for the 10th UC Campus.

In 2004, following a multi-year planning process, the County adopted the University Community Plan (UCP) and certified an EIR for that Plan (SCH # 2001021056).

The UCP is designed to capture all the growth generated by UC Merced, integrate that growth with the Campus Long Range Development Plan, and organizes and plans for this growth in a manner that is sustainable and consistent with the County's General Plan.

An efficient multi-modal transportation network is key to achieving the environmental sustainability goals of the UCP. It is critical that the EIR/EIS examine the relationship of the Project to the UCP and ensure that the Project is integrated with and supports the circulation element of the UCP.

Relationship of the Project to the County's Regional Transportation Program

The County participates in a Regional Transportation Program (RTP) administered by the Merced County Association of Governments (MCAG). There are several important regional transportation projects that could be affected by these projects. These may include, but are not necessarily limited to: the Campus Parkway, the Merced-Atwater Expressway, and the Los Banos By-Pass. The County requests that the EIRs/EISs fully evaluate the Projects' relationship and conformity with the county-wide RTP and the above listed projects.

Project Alternatives

In addition to the topics identified previously in this letter, the County believes it is very important for the EIR/EIS to carefully and completely analyze alternatives to the proposed Project. While it is understood that the general alignment of the High Speed Rail system has been selected and evaluated through the previous programmatic EIRs/EISs, it will be important for this project-level EIR/EIS to evaluate alternative alignments that minimize conflicts with the County's General Plan and RTP.

Environmental Justice Analysis

Finally, the County requests that the EIR/EIS include an Environmental Justice analysis required by NEPA. The County requests that the Authority examine the potential environmental justice issues in the final siting of the tracks for this leg of the HST.

Thank you for the opportunity to provide these comments to guide the scope of this EIR/EIS. The County of Merced knows that a high speed rail system that runs through our San Joaquin Valley connecting Northern California and the Bay Area to Southern California will offer many benefits to our Valley and California. The County looks forward to working with the Authority as it moves forward on this important and historic project.

Sincerely,



Deidre F. Kelsey
Chairman, Merced County Board of Supervisors

cc: The Honorable Dianne Feinstein, United States Senate
The Honorable Barbara Boxer, United States Senate
The Honorable Dianne Feinstein, United States House of Representatives
The Honorable Jeff Denham, California State Senate
The Honorable Cathleen Galgiani, California State Assembly

Kris Livingston

From: HSR Comments
Sent: Tuesday, April 21, 2009 2:51 PM
To: Kris Livingston
Subject: FW: San Jose to Merced HST
Attachments: SJ to Merced NOP letter.pdf

From: Yvonne Arroyo [mailto:yarroyo@valleywater.org]
Sent: Thursday, April 09, 2009 5:03 PM
To: HSR Comments
Subject: San Jose to Merced HST

Dear Mr. Leavitt,

Please find attached a copy of the Santa Clara Valley Water District's comments on the subject project. An original of the letter will follow in the mail. If you have any questions, please contact me at (408) 265-2607, extension 2319.

Sincerely,

Yvonne Arroyo

Associate Engineer

Community Projects Review Unit

Santa Clara Valley Water District

File: 30077
Various

April 9, 2009

Mr. Dan Leavitt, Deputy Director
Attention: San Jose to Merced HST Project EIR/EIS
California High-Speed Rail Authority
925 L Street, Suite 1425
Sacramento, CA 95814

Subject: San Jose to Merced High-Speed Train

Dear Mr. Leavitt:

The Santa Clara Valley Water District (District) has reviewed the Notice of Preparation (NOP) of a Project Environmental Impact Report (EIR) for the subject project. The District has the following comments on the NOP for your consideration during the preparation of the EIR:

The District provides comprehensive water management for all beneficial uses and protection from flooding within Santa Clara County as described in the Santa Clara Valley Water District Act. In support of its mission, the District operates and maintains several water resource facilities in Santa Clara County, including flood protection facilities and water supply facilities which may be above ground or underground, several of which cross the right of way which will be affected by the high-speed train project. The District's Water Resources Protection Ordinance requires that a District permit be obtained prior to any modification of or encroachment onto a District facility. The District may be a Responsible Agency under the California Environmental Quality Act if the project requires permitting under the Water Resources Protection Ordinance, which appears to be a likely scenario, depending on the actual improvements or modifications to the proposed right of way needed to accommodate the high-speed train.

The EIR should identify and discuss the potential for any needed modifications to existing bridges or other crossings of existing creeks, culverts, or other flood protection facilities and include details of any proposed mitigation measures to address adverse impacts to those facilities.

The EIR should identify and discuss any potential to alter existing flood flows or flood patterns from construction of rail improvements or stations and provide mitigations accordingly. Additionally, if a large amount of impervious surface area will be introduced from new parking structures or other facilities related to operation or maintenance of the high-speed train, then the EIR should discuss mitigation for increased runoff which may exacerbate existing flooding conditions or increase the frequency of flooding. Other general flooding concerns and concerns related to the Upper Pajaro River watershed that should be addressed were identified in our May 14, 2004 letter (enclosed) of response to the Draft Program EIR.



Mr. Dan Leavitt
Page 2
April 6, 2009

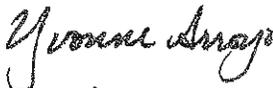
The EIR should discuss any potential for the project to degrade water quality in adjacent surface waters directly or indirectly via storm drainage and any potential to adversely impact groundwater supplies or groundwater quality from any tunneling or other underground work (see enclosed May 14, 2004 letter).

The EIR should identify and discuss any potential to modify or disturb any of the District's water supply facilities which include several large diameter pipelines. The District supplies Santa Clara County with a majority of its wholesale water. As a result, careful consideration must be taken when designing the high-speed train facilities to ensure that the District's water supply facilities are not adversely impacted during construction or in the long term whereby our maintenance costs are increased or our maintenance access is compromised. Of particular concern is any potential crossing of or potential adverse impact to the Santa Clara Conduit, the Pacheco Conduit, and any related facilities which are owned by the United States Bureau of Reclamation and maintained and operated by the District. These two pipelines are of particular concern due to their extremely large size and because they supply the District with nearly half of its surface water supply.

The NOP did not contain a detailed description of exactly how the project will be constructed along the proposed right of way or exactly what right of way will be affected; therefore, the District is unable to provide specific details on how the project may or may not impact our facilities. The EIR should contain sufficient detail of the project to determine the extent of potential impacts and area of influence of the project. The EIR should provide better clarity on whether the high-speed rail facilities will be above ground, below ground or utilize existing tracks at existing grade and define the limits where these modifications will occur such that the District can provide more detail on how the project may impact our facilities.

The District appreciates the opportunity to provide comments on the NOP and looks forward to reviewing the EIR when it is available. Please notify the District at the earliest possible time as to the availability of the EIR. If you have questions, please contact me at (408) 265-2607, extension 2319.

Sincerely,



Yvonne Arroyo
Associate Engineer
Community Projects Review Unit

Enclosure: Copy of May 14, 2004 letter

Cc: S. Tippets, M. Klemencic, K. Whitman, R. Yep, B. Ahmadi, C. Elias, L. Lee, J. Christie,
A. Gurevich, S. Katric, Y. Arroyo, File



ENCLOSURE

File: 30077
Various

May 14, 2004

California High-Speed Rail Authority
Attn: California High-Speed Train
Draft Program EIR/EIS Comments
925 L Street, Suite 1425
Sacramento, CA 95814

Subject: Proposed California High-Speed Train System

Ladies and Gentlemen:

The Santa Clara Valley Water District (District) has reviewed the Draft Program Environmental Impact Report/Environmental Impact Statement (DEIR/DEIS) for the subject project. The District has the following comments:

Section 3.10.1, Item B—Public Utilities, Regulatory Requirements and Methods of Evaluation

This section of the DEIR/DEIS did not analyze impacts to major water supply pipelines. Major water supply pipelines provide critical services, can create hazards if damaged, as well as pose construction challenges in the same manner as electric, natural gas, and wastewater treatment facilities. The District recommends that major water supply pipelines be included in the analysis for impacts to public utilities.

Section 3.14.4, Item A—Comparison of Alternatives by Region, High-Speed Train Alignment Option Comparison

Both the Diablo Range Alignment and the southern Pacheco alignment present significant concerns to various water resources. The report describes how the Diablo Range alternative would cross tributaries that could potentially contribute to siltation in Anderson and Coyote reservoirs. Mitigation for these impacts could potentially involve construction of pre-reservoir desilting facilities. The District is concerned about the adequacy of further analysis in determining the extent of such impacts. There may also be concerns regarding the disturbance of serpentine areas in this region, which is extremely difficult to mitigate.

The southern Pacheco alignment poses even more concerns as it would impact more floodplains in Santa Clara County, cross mountain streams that tribute to Pajaro River, and potentially increase flood

ENCLOSURE ↓



risk in this sensitive floodplain region. The complexities of the greater Pajaro Watershed in terms of stormwater detention and attenuation of downstream flooding cannot be underestimated. Work currently undertaken by the Pajaro River Watershed Flood Prevention Authority demonstrates the critical role of the upper Pajaro River system in regional hydrology. Any work performed within the Pajaro Watershed would require close coordination with concurrent investigations, studies and efforts to preserve the existing function of this watershed, specifically of the Soap Lake Floodplain Region. In addition to the floodplain issues associated with Upper Pajaro River, there are significant surface water quality issues in the Pajaro Basin. Specifically, there are presently two Total Maximum Daily Load (TMDL) efforts, one for sediment and one for nutrients. The TMDL activities were prompted by the listing of the Pajaro River under Clean Water Act 303 (d) classification as impaired for these contaminants. The EIR for a specific project will need to adequately address both water quality and flooding impacts associated specifically to the Upper Pajaro River.

Section 3.14.5, Item A—Mitigation Strategies, Floodplains

The DEIR/DEIS indicates that future project-level analysis will analyze floodplain hydrology/hydraulics for impacts of specific designs on water surface elevations and flood conveyance for low frequency floods to evaluate potential flooding risk. The District recommends that flood events of greater frequency will need to be analyzed as well. The project may have the potential to exacerbate or increase the frequency of existing frequent flood events such as 2-year or 10-year events.

Section 3.14.5, Item C—Mitigation Strategies, Groundwater

In addition to the issues and mitigations identified in the DEIR/DEIS for groundwater, the District recommends that the following items be addressed and mitigated for:

- The project may have the potential for the diversion of groundwater flow. Groundwater flow directions and pathways could be affected by tunneling and dewatering associated with the Modal and High Speed Rail alternatives in segments where tunneling or extensive earthwork would be undertaken.
- The project may cause a rise in the groundwater table in areas with soil contamination. This may cause an absorption of contaminants by groundwater or possibly spread groundwater contamination.
- The project may have the potential to induce land subsidence caused by construction /operation dewatering.
- Tunneling or drilling operations also has the potential to contaminate groundwater.

Section 3.14.6 Subsequent Analysis

As an information item, the District enacted Ordinance 83-2 which requires issuance of a District permit

3/15/04

for work within 50 feet of the top of bank of a creek within District jurisdiction and work located adjacent to a District facility, including pipelines. Creeks within the District's jurisdiction are those creeks located within Santa Clara County and whose tributary area is a minimum of one-half square mile. The District's Ordinance and other information items regarding watersheds within Santa Clara County may be found at our website, www.valleywater.org.

Section 3.15.4, Item A—Comparison of Alternatives by Region, Bay Area to Merced

The High-Speed Train alternative analysis should include a statement similar to the one presented under the Modal Alternative, that is: "...providing sufficient mitigation for compliance with Clean Water Act requirements for wetlands and waters would likely be difficult and challenging." This is an important fact that would apply to almost any project under consideration where wetlands and functioning floodplains exist.

General Comments

All of the proposed alignments within the Santa Clara County will affect groundwater quality, surface water quality, water supply pipelines, and existing flood conditions to some extent. The District would like to receive a copy of the final EIR/EIS when it is available and any future California Environmental Quality Act documents which may be prepared if a project-level analysis is performed. If a more definitive alignment is chosen to be analyzed, the District may have more detailed comments at that time. Any questions regarding these comments may be directed to me at (408) 265-2607, extension 2319.

Sincerely,



Yvonne Arroyo
Associate Engineer
Community Projects Review Unit

cc: S. Tippetts, Y. Arroyo, B. Ahmadi, Y. Ping, C. Presley, M. Klemencic, File (2)

Kris Livingston

From: HSR Comments
Sent: Tuesday, April 21, 2009 2:52 PM
To: Kris Livingston
Subject: FW: San Jose to Merced HST
Attachments: Leavitt - San Jose to Merced HST NOI 040909.pdf

-----Original Message-----

From: Christina Watson [mailto:Christina@tamcmonterey.org]
Sent: Thursday, April 09, 2009 4:26 PM
To: HSR Comments; Dan Leavitt
Cc: Don Bachman; Debbie Hale; Michael Zeller
Subject: San Jose to Merced HST

Dear Dan,

Attached please find our comment letter on the San Jose to Merced High-Speed Train Notice of Intent.

Please feel free to contact me with any questions.

Sincerely,

Christina

Christina Watson
Senior Transportation Planner
Transportation Agency for Monterey County 55-B Plaza Circle Salinas, CA 93901 Tel. (831) 775-4406 Fax (831) 775-0897 christina@tamcmonterey.org <http://www.tamcmonterey.org>



Regional Transportation Planning Agency • Congestion Management Planning
Local Transportation Commission • Monterey County Service Authority for Freeways & Expressways

April 9, 2009

Mr. Dan Leavitt
Deputy Director
California High-Speed Rail Authority
925 L Street, Suite 1425
Sacramento, CA 95814

SUBJECT: San Jose to Merced HST

Dear ~~Mr. Leavitt~~:

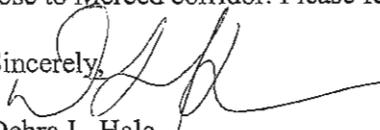
The Transportation Agency for Monterey County has been working with Caltrain, Union Pacific, the California Department of Transportation Division of Rail, Santa Clara Valley Transportation Authority, and other stakeholders on a project to extend Caltrain commuter rail service to Monterey County.

The Caltrain Commuter Rail Extension to Monterey County project extends the existing San Francisco to San Jose to Gilroy Caltrain commuter rail service to Pajaro, Castroville and Salinas. It will begin with two weekday roundtrips, increasing to four round trips as demand warrants. The project provides access to jobs, health care and interregional transportation, including the future High-Speed Rail train, offering an alternative to the highly congested US 101 corridor. This project includes intermodal facilities in three locations in Monterey County and a train layover facility in Salinas, which will serve to alleviate some of the congestion of trains that currently overnight in Gilroy. This project is nearing completion of the Project Approval and Environmental Documents phase. You can find the planning and environmental documents for this project on our website, <http://www.tamcmonterey.org/programs/rail/caltrain.html>.

Regarding the High-Speed Rail route between San Jose and Merced, the Transportation Agency for Monterey County supports the High-Speed Train stopping at the Gilroy station rather than bypassing it entirely or stopping somewhere far away from the existing station building. Current Caltrain and bus service at the station, as well as the planned extension from Gilroy to Monterey County, would make for easy transfers to connecting local service from the High Speed Train.

I would like to thank you and your staff for meeting with us about our project. We appreciate your efforts to keep us in the loop on developments for the High-Speed Rail train. Please continue to keep the Caltrain Extension to Monterey County project included in your improvement plans for the San Jose to Merced corridor. Please feel free to contact me with any questions.

Sincerely,


Debra L. Hale
Executive Director

Kris Livingston

From: HSR Comments
Sent: Tuesday, April 21, 2009 2:42 PM
To: Kris Livingston
Subject: FW: San Jose to Merced and Merced to Bakersfield HST Project EIR/EIS Comments
Attachments: Madera CTC HST EIREIS Comments.pdf; Madera County HST Alternatives Map.pdf

-----Original Message-----

From: Richard Poythress [mailto:richard@maderactc.org]
Sent: Friday, April 10, 2009 4:06 PM
To: HSR Comments
Cc: Eric VonBerg
Subject: San Jose to Merced and Merced to Bakersfield HST Project EIR/EIS Comments

Attached are comments from the Madera County Transportation Commission, County of Madera, City of Madera, and City of Chowchilla pertaining to the scope of both the San Jose to Merced and Merced to Bakersfield Project-Level EIR/EIS. A hard copy has also been sent to the California High Speed Rail Authority offices in Sacramento.

Thank you for your continuing efforts to involve local stakeholders in the High Speed Train development process.

Richard Poythress
Transportation Planner
Madera County Transportation Commission
(559) 675-0721
(559) 675-9328 - Fax



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Office: 559-675-0721 Fax: 559-675-9328
Website: www.maderactc.org

April 9, 2009

Honorable Chairman Judge Quentin L. Kopp
California High Speed Rail Authority
925 L Street, Suite 1425
Sacramento CA 95814

Dan Leavitt, Deputy Director
California High Speed Rail Authority
925 L Street, Suite 1425
Sacramento CA 95814

Carrie Pourvahidi, Deputy Director
California High Speed Rail Authority
925 L Street, Suite 1425
Sacramento CA 95814

RE: Comments on the scope of San Jose to Merced and Merced to Bakersfield High Speed Train Project-Level EIR/EIS

Dear Chairman Kopp:

The Madera County Transportation Commission is taking this opportunity to comment on the scope of both the San Jose to Merced and Merced to Bakersfield High Speed Train Project-Level Environmental Impact Report/Environmental Impact Statement. As the Federally-designated Metropolitan Planning Organization (MPO) and Regional Transportation Planning Agency for the Madera County region, we have worked with our member agencies to produce a regional response to the Notice of Preparation for both the north-south and east-west proposed High Speed Train alignments that intersect the County.

Madera County occupies a unique position in the proposed route of the High Speed Train system, serving as a hub not only for connections between the Bay Area and Southern California in the initial phase of HST construction, but also north to the Sacramento metropolitan area once full build-out of the system has been completed. Consequently, we believe that potential impacts to the Madera County region, particularly in the areas of transportation network connectivity, existing and future land use patterns, economic development, and natural resource preservation, require close scrutiny as the EIR/EIS process moves forward.

MCTC has been working together with the other seven San Joaquin Valley MPOs in the development of a Regional Blueprint for the Valley, which will help to inform local land use planning over the next 40 years. We urge the California High Speed Rail Authority to consider the regional land use and transportation planning efforts conducted locally in support of the Regional Blueprint when developing the EIR/EIS for both HST segments. Integration of the High Speed Train system with the Metro-Rural

Member Agencies: County of Madera, City of Madera, City of Chowchilla

Chairman Kopp
April 9, 2009
Page 2

Loop concept currently being explored by the Mid-Valley Multi Modal partnership, which includes Madera, Fresno, Kings and Tulare Counties, is also a priority.

The Cities of Madera and Chowchilla and the County of Madera have individually prepared letters addressing potential impacts to their jurisdictions. We ask that you consider the concerns outlined in these letters and carefully weigh proposed alternatives offered by the professionals responsible for planning throughout the County.

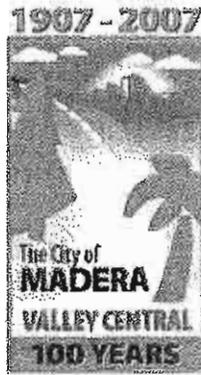
Thank you for all of your efforts in providing a forum for dialogue between the High Speed Rail Authority and the local and regional agencies of Madera County. We look forward to continued cooperation between the Authority and MCTC as we work to make High Speed Rail a reality in California.

Sincerely,



Patricia Taylor, Executive Director
Madera County Transportation Commission

Enclosures



COMMUNITY DEVELOPMENT

April 9, 2009

California High Speed Rail Authority
Honorable Chairman Judge Quentin L. Kopp
925 L Street, Suite 1425
Sacramento CA 95814

Dan Leavitt, Deputy Director
San Jose-Merced, California High Speed Rail Authority
925 L Street, Suite 1425
Sacramento CA 95814

Ms. Carrie Pourvahidi,
Deputy Director, Merced-to-Bakersfield
California High Speed Rail Authority
925 L Street, Suite 1425
Sacramento, CA 95814

RE: California High Speed Rail – EIR/EIS Scoping Process

This letter is provided in response to the EIR/EIS public scoping process for the California High Speed Rail (HSR) project. The City appreciates the willingness of the HSR Authority's Project Team to conduct a scoping meeting in Madera, as well as to meet informally with the staff from our Community Development Department. The section of the HSR corridor passing through Madera County, including in and around the City of Madera, is a critical component of the system not only for the San Joaquin Valley, but for the State as a whole. We look forward to working cooperatively with the Team to evaluate and design this section to ensure that it contributes positively to the Madera community, while retaining its function as a key segment in the overall system. The points outlined below summarize the issues the City of Madera believes should be further analyzed as part of the project-level evaluation.

Alternative North-South Alignment West of Madera

The proposed alignments in the vicinity of the City of Madera have been shown along the existing lines of the Burlington Northern Santa Fe (BNSF) and the Union Pacific (UP) tracks that run through Madera County. Staff from the City of Madera, as well representatives from our partnering agencies (City of Chowchilla and Madera County) have previously called out the need to evaluate a potential alignment west of Highway 99. While we have recently seen a similar alignment circulated by CH2MHill, we are somewhat uncertain the degree to which the Project Team is committed to evaluating this alternative as part of the project-level environmental document.

City of Madera Response to Notice of Preparation
For the California High Speed Rail Project EIR
Merced to Bakersfield and San Jose-Merced High Speed Train System
April 9, 2009

While not devoid of its own complications, a corridor west of the City of Madera has the potential to avoid several debilitating impacts that would otherwise be created by establishing HSR tracks on either the BNSF or UP alignments. We believe that failure to earnestly consider this alternative as a "buildable" alignment at the project level would constitute a significant flaw in the planning process and in any related environmental documents. The EIR/EIS should consider a westerly alignment, and its ability to address and avoid impacts including, but not limited to, those outlined below.

- The existing UP tracks bisect the City of Madera, presenting not only a physical obstacle, but also a cultural barrier in the City. The establishment of HSR facilities adjacent to the UP alignment within the City of Madera would exacerbate these conditions to a degree where there would be virtually no hope of bridging the divide. Significant impacts associated with environmental justice would be certain.
- The establishment of HSR tracks adjacent to the UP alignment would disrupt the functionality of Madera's historic downtown, including its central business district. This would create the potential for significant economic impacts and the opportunity for physical blight.
- The existing BNSF tracks run through and along established rural neighborhoods on the east side of the City's Planning Area. Establishing HSR facilities along the BNSF corridor would physically divide existing neighborhoods. Some of these neighborhoods serve what is primarily an environmental justice community, creating the potential for significant impacts associated with environmental justice.
- The BNSF tracks run along the east side of the City's Planning Area, which will interfere with the primary, long-term growth pattern of the City. The easterly growth pattern has largely been set by the presence of prime agricultural land west of the City. The establishment of HSR lines along the BNSF corridor has the potential to create a permanent barrier or constraint to this easterly pattern of development. Such a constraint has the potential to contribute to the loss of prime agricultural lands by forcing growth to the west. Alternatively, the placement of the HSR corridor west of the City has the potential to serve as part of a functional edge to urban development, thereby enhancing the conservation of agricultural lands.

Alternative East-West Alignment South of Highway 152

The east-west HSR corridor displayed in conjunction with the public scoping process traverses Madera County north of Highway 152. While the east-west alignment primarily affects the City of Chowchilla, the City of Madera is concerned with its regional implications. This alignment has not considered the City of Chowchilla's General Plan nor in the City's Infrastructure Master Plans and extends through lands that are developed or planned for urban development. An alternative alignment south of Highway 152 needs to be evaluated, in order to determine its potential to avoid unnecessary conflicts which could be detrimental to the region, including:

City of Madera Response to Notice of Preparation
For the California High Speed Rail Project EIR
Merced to Bakersfield and San Jose-Merced High Speed Train System
April 9, 2009

- The proposed alignments create the Chowchilla Triangle encompassing the City and its General Plan Area and would become a barrier around the City with the fences required to protect the train rights-of-way.
- The east-west alignment along Avenue 24 would split the two State Correctional Facilities that lie east of Highway 99. These prison sites are within the Chowchilla City Limits. An alignment to the south of Highway 152 would avoid the facilities.
- Using the right-of-way or adjacent right-of-way to be acquired of the UPRR would decimate the Chowchilla Downtown and waste the funds the Chowchilla Redevelopment Agency has put into Downtown Revitalization.

Avoidance of Circulation System and Public Service Conflicts

It is our understanding that the construction of the High Speed Rail System is intended to incorporate such features as necessary to allow local agencies to be "held harmless." However, we are not aware of any discussions regarding the specific features that would need to be incorporated. It is our observation that the alternative alignments would create significantly different impacts on features such as surface transportation routes, utility and infrastructure systems (sewer, water, storm drain, etc.), fire department response times, etc.

The potential impacts and mitigation measures on circulation systems and public services need to be evaluated. The City of Madera strongly believes that specific features necessary to accommodate the needs of affected agencies along the HSR route need to be identified in direct consultation with those agencies. To that end, we encourage the Project Team to work with the City to identify and evaluate these features, and we appreciate the opportunity to be able to provide additional information to the Project Team as the process continues. The early identification of local features, and their costs, will help to ensure that they are factored into the final alignment selection and to allay local concerns regarding potential fiscal impacts.

Additionally, we have yet to see any provision or plan for how to access the identified rail stations served by the High Speed Rail system (i.e. shuttle, transit bus, van). Please clearly describe how the existing outlying communities will access the proposed rail stations.

Design Characteristics and Adjacent Land Uses

The project-level analysis should evaluate the impact of the alternative alignments on the existing and planned land uses for each alignment. Alternative design characteristics (grade changes, sound walls, etc.) for the HSR Project which have the potential to reduce or eliminate impacts should be prioritized over measures which would be implemented "off-site". To the extent that future development is expected to provide physical setbacks or to incorporate noise attenuation or other design features to mitigate

impacts, we would look for these measures to be called out in detail and include the cost of implementation.

HSR Maintenance Facility

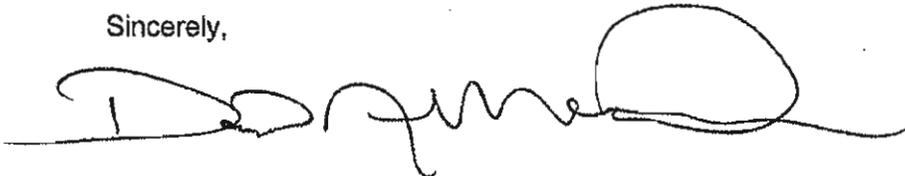
In combination with the County of Madera and the City of Chowchilla, the City offers its support for placement of the HSR maintenance facility in one of several alternate locations within Madera County. We believe that certain benefits to the HSR system are available by placing a maintenance facility in the County, stemming from the area's central location, the availability of freeway and rail access, and the ability to place the maintenance facility at or near the point where the east-west and north-south lines meet.

Coordination Plan

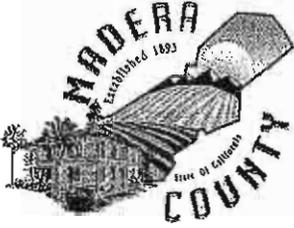
The City of Madera is supportive of the HSR Authority's action to rapidly create and implement a "Coordination Plan" which allows communities with substantial interest in the proposed project to be at the table and have a continuing voice in the planning and implementation of the Project.

A diagram outlining the alternative alignments and alternative maintenance facility locations described above is attached for review. Your consideration of these materials and the issues described in this letter is appreciated. Please feel free to contact me if you have any questions regarding this matter or wish to discuss any item in greater detail. We look forward to the continuing cooperation with the HSR Authority's Project Team.

Sincerely,

A handwritten signature in black ink, appearing to read 'David J. Merchen', with a large, stylized loop at the end.

David J. Merchen
Community Development Director



RESOURCE MANAGEMENT AGENCY
ADMINISTRATION
Ray Beach, Director

2037 W. Cleveland Avenue
Madera, CA 93637-8720
(559) 661-6333
FAX (559) 675-7639
rbeach@madera-county.com

April 8, 2009

California High Speed Rail Authority
Honorable Chairman Judge Quentin L. Kopp
925 L Street, Suite 1425
Sacramento CA 95814

RE: California High Speed Rail

Madera County would like to take this opportunity to thank you and your staff for the numerous meetings and workshops you have recently put on in the Central Valley specifically Madera County. As you are aware Madera County plays an integral role into the success of the High Speed Rail. We have prepared this letter addressing those impacts that the High Speed Rail poses to Madera County, and have included a detailed discussion of potential alternative routes to those previously identified by the CH2M Hill project team at your public outreach meeting on March 19, 2009 in the City of Madera. First we have outlined the potential impacts associated with the current alignments, followed up with alternative routes and their benefits. In addition we have attached a map showing those alternative routes along with maintenance stations Madera County would like analyzed in the projects EIR/EIS.

The proposed alignments are shown along the existing lines of the Burlington Northern Santa Fe (BNSF) or the Union Pacific (UP) tracks that run through Madera County. It is our understanding that a new alignment west of Highway 99 has been identified as a proposed alignment. Madera County has reviewed both the Burlington Northern Santa Fe and the Union Pacific route proposals and identified several debilitating impacts outlined below:

- These routes could result in massive degradation of our existing small farming communities of Fairmead, Trigo, and Berenda. The proposed route would essentially destroy these communities by eliminating their ability for growth and prosperity resulting in a potential environmental justice issue.
- We have yet to see any provision or plan for how to access the identified rail stations served by the High Speed Rail system (i.e. shuttle, transit bus, van). Please clearly describe and map how the existing outlying communities will access the proposed rail stations.
- It is our understanding that the High Speed Rail System will hold Madera County harmless when constructed, however there has been no discussion regarding the enormous costs associated with post rail development through the downtown communities that will be most impacted by the proposed alignments. It will eliminate any feasible development associated with the other side of the tracks due to the high infrastructure costs associated with crossing the High-Speed Rail.
- What will be the considerations given to the impacts of the small community airports and the larger regional Fresno Air Terminal?

- How will the High Speed Rail adversely impact economic development throughout the Central Valley?
- Is there the potential for the Central Valley to become a service economy with jobs being restricted to the existing large urban centers connected by the High Speed Rail such as Los Angeles, and the City of San Francisco.
- Will the proposed route shown through the downtown corridor of Chowchilla and Madera permanently divide and isolate the minority communities from the rest of the City? Will the rail alignment foster an environment of good side vs. bad side of the tracks?
- The proposed routes will promote the loss of agricultural lands by restricting growth to the east because of the increased infrastructure costs to cross the High Speed Rail system. If development is forced to move west it will result in substantial loss of prime agricultural lands impacted by development.
- The High Speed Rail will result in a loss of substantial transportation funding to address continued automobile demand on the States freeway system.
- Madera County does not feel that the High Speed Rail will carry enough traffic to offset the tremendous cost to the State of California.
- The land use densities being served by the High Speed Rail are far below the minimum required to provide the necessary ridership to be successful. This will result in the need to increase land use densities in an area that cannot provide the adequate water resources or basic infrastructure to allow for the type of development to support a High Speed Rail system. Increased development within the Central Valley will further denigrate our local air quality.
- Can a new alignment be studied in combination with a Highway 99 western truck route by-pass?

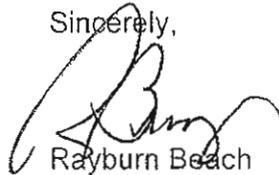
As a result of the impacts identified by the proposed alignments, Madera County would like to offer our support for the proposed alignment located west of Highway 99 for the following reasons:

- A north-south alignment that traverses along the west side of both the City of Madera, Fairmead, and the City of Chowchilla. The advantages of this include:
 - Preserves historical sites and avoids destroying downtown areas.
 - Avoids physically dividing existing communities or facilities which would lead to environmental justice issues. Avoids dividing the community of Fairmead and separating the Central California Women's Facility (CCWF) and the Valley State Prison for Women (VSPW).
 - This alignment would create an urban boundary preserving prime agricultural lands along the west side. This would also provide a semi-permanent buffer for agriculture along the west side.
 - Cheaper lands would result in cheaper construction costs.

- Avoidance of the issue of a merger between the two currently proposed alignments.
- Would facilitate construction of a Caltrans Highway 99 truck by-pass route.
- Ease of access to proposed rail stations.
- An east-west alignment located south of Highway 152 offers similar advantages to that above including:
 - The avoidance of impacts on the growth patterns and service needs of the City of Chowchilla.
 - Possible avoidance of wetlands located west of Chowchilla.

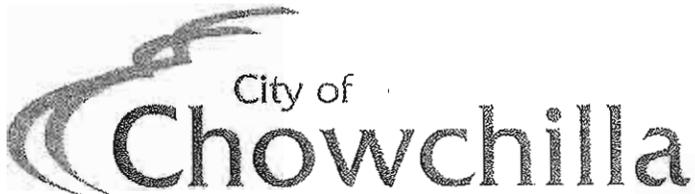
Again, I would like to thank you and your staff for meeting with us. Please contact me to discuss these proposed alternatives in greater detail. We look forward to the continuing cooperation on the High Speed Rail and reserve the opportunity to comment on any documents prepared by the High Speed Rail Authority.

Sincerely,



Rayburn Beach
RMA Director
Madera County

cc: Madera County Board of Supervisors
Madera City Council
Chowchilla City Council



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April 6, 2009

California High Speed Rail Authority
Honorable Chairman Judge Quentin L. Kopp
925 L Street, Suite 1425
Sacramento CA 95814

Dan Leavitt, Deputy Director
San Jose-Merced, California High Speed Rail Authority
925 L Street, Suite 1425
Sacramento CA 95814

Carrie Pourvahidi, Deputy Director
Merced to Bakersfield, California High Speed Rail Authority
925 L Street, Suite 1425
Sacramento CA 95814

**COMMENTS TO THE NOTICES OF PREPARATION FOR THE
CALIFORNIA HIGH SPEED RAIL PROJECT ENVIRONMENTAL
IMPACT REPORT, MERCED-BAKERSFIELD AND SAN JOSE-MERCED
HIGH SPEED TRAIN SYSTEM**

Dear Gentlepersons:

On behalf of the City Council and the staff of the City of Chowchilla we present the following comments on both Notices of Preparation for the Project Environmental Impact Report. We express our appreciation for the consideration that your staff provided us on March 19, 2009 by meeting with City of Chowchilla elected officials, planning commissioners, and staff. We departed from that meeting with a renewed sense of cooperation and the ability to make suggestions regarding less environmentally sensitive alternatives from our perspective having superior local knowledge of potential impacts. **We were further encouraged with the Authority consultant staff comments that the route shown in the NOP maps were "corridors" as opposed to specifically identified routes which were listed in the NOP as the "project description".**

The City of Chowchilla is particularly concerned with the initial alternatives adopted by the Authority as they physically isolate Chowchilla. Chowchilla is in the unique position of planning for the connection of the east-west and north-south fast train system within our Sphere of Influence. As such we will be potentially impacted by not just one route, but two routes traversing our City. Because of this unique design feature of your system we are concerned, as are the County of Madera and the Madera County Transportation Commission, about the impacts on our transportation system connectivity, existing and future land use patterns, and economic impacts to residential, industrial, commercial, and public facilities in our existing City and in this City's immediate growth areas.

We are vitally interested in the alternative recently circulated by CH2MHill in early April 2009 and the attention paid to the "Metro loop" concept also proposed as a regional solution to traffic congestion in the San Joaquin Valley. This alternative provides an opportunity for Chowchilla and the County to assist the Authority and its consultants in defining more precise routes with fewer potential impacts, in particular south of Highway 152 and using the BNSF right-of-way or CH2MHill's most recent alternative of a "western" alignment route.

It is equally encouraging that the Authority's staff is offering a continuing dialogue through the preparation of the environmental document with the local agencies to afford them an opportunity to add clarifications and refinements to their comments on the NOP past the close of the comment period. **The City of Chowchilla is supportive of the Authority's action to rapidly create and implement a "Coordination Plan" which allows communities with substantial interest in the proposed project to be at the table and have a continuing voice in the planning and implementation of the Fast Train.**

The specific issues that Chowchilla has with the NOP and feels needs further study in the Project Level EIR for the Fast Train are:

1. The alignment for the Gilroy to Merced segment that follows the Henry Miller Road, which becomes Avenue 24 through the Chowchilla area, has not considered the City of Chowchilla's General Plan nor the City's Infrastructure Master Plans and extends through lands that are developed or planned for urban development.
2. The proposed alignments compromise the community whereas alternate alignments can be considered which will have less impact on existing uses and still achieve the target travel time for the San Francisco to Los Angeles run. One such alignment may be south of Highway 152 in the Chowchilla area.

3. The proposed alignments create the Chowchilla Triangle encompassing the City and its General Plan Area and would become a barrier around the City with the fences required to protect the train rights-of-way.
4. The east-west alignment along Avenue 24 would split the two State Correctional Facilities that lie east of Highway 99. These prison sites are within the Chowchilla City Limits. An alignment to the south of Highway 152 would avoid the facilities.
5. Using the right-of-way or adjacent right-of-way to be acquired of the UPRR would decimate the Chowchilla Downtown and waste the resources the Chowchilla Redevelopment Agency has put into Downtown Revitalization.

Superior alternative alignments are available for consideration. The BNSF right-of-way alignment or an alignment south of Highway 152 is suggested on the attached map. This alternative alignment is south of Highway 152, misses Fairmead, crosses Highway 99 near the new interchange, misses the prisons, and provides an opportunity for a maintenance facility in several locations, one west of Highway 99 and another in the "triangle" formed by the northbound-southbound split.

A second alternative is a refinement of the CH2MHill alternative, except it moves the north-south alignment a little farther to the west to avoid substantial isolation of Chowchilla. This alignment also provides for additional maintenance facility locations west of Highway 99 and one north of Highway 152.

As surface rail access is important to the maintenance facility, both of these alternatives could be easily served from BNSF or UPRR. A common interest may be found between Chowchilla and the Authority in the maintenance facility north of Highway 152, west of Highway 99 in that Chowchilla is already planning to construct a railroad spur to serve its industrial area north of Highway 152 and west of Highway 99. Extending that spur along Highway 152 to the west is highly feasible. Proximity of the maintenance facility to an expanding industrial area can provide a highly accessible location for suppliers of the maintenance facility benefiting both Chowchilla and the City of Madera. Water and sewer service is readily available at this site within the timeframe that the maintenance facility would be constructed.

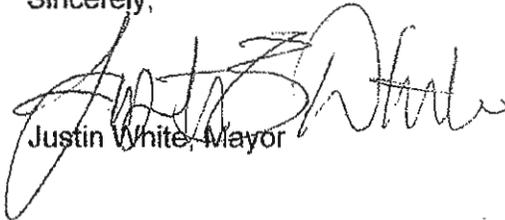
Both of these alternatives are superior to the proposed route in the NOP for a number of reasons. Growth in Chowchilla would not be overly impacted; planned regional and local circulation systems would not be compromised; it would be consistent with the San Joaquin Valley Blueprint; minimize the potential for encountering endangered species; generally consistent with the grasslands issues to the west; and avoids potential conflict with the Chowchilla Airport. These alternatives also promote the objectives of the Authority in that more surface alignments can be implemented reducing elevated and depressed construction; greater acceptance and cooperation by

affected local governments and stakeholders; sharing of cost by local governments (Chowchilla would share in the cost of surface rail access to the maintenance facility).

Given the limited time to prepare sufficient and comprehensive responses to the Notice of Preparation on such a significant project for the this City and the State of California, the City of Chowchilla is in the process of developing additional information regarding the positive impacts and minimizing potentially adverse impacts for consideration of these alternatives that we desire to share with the Authority and its environmental consultants. **We were pleased when the Authority's consulting staff informed us that they would gladly accept additional environmental information from Chowchilla after the closing of the NOP comment period. The City intends to take advantage of that offer to provide additional information.**

The City of Chowchilla stands ready to continue the dialogue with the Authority and its consultants on the preparation of the environmental documents at the project level as well as more thoroughly investigate alignment alternatives. Please feel free to contact me, or Nancy Red, City Administrator to schedule any meetings or obtain additional information regarding this very important project.

Sincerely,



Justin White, Mayor

CC: City Council
City Administrator
City Attorney
City of Madera, Dave Merchen
County of Madera, Ray Beach
Assembly Tom Berryhill
Senator Jeff Denham
Senator Dave Cogdill

