

# 1 INTRODUCTION AND SUMMARY

The California High-Speed Rail Authority (Authority) has recirculated portions of its 2008 Final Program Environmental Impact Report (EIR) and 2010 Revised Final Program EIR to address November 2011 court rulings in the *Town of Atherton* litigation challenging the 2010 *Bay Area to Central Valley High-Speed Train (HST) Revised Final Program EIR*. This chapter describes the basis for circulating the Partially Revised Draft Program EIR, the contents of this document, the public comment period, how the Authority will use this document in its decision making, and the relationship of this document to the Authority's project-level EIRs.

## 1.1 Basis for Circulating Bay Area to Central Valley High-Speed Train Partially Revised Draft Program EIR

The Partially Revised Draft Program EIR was circulated to address specific topics identified by the Sacramento Superior Court as part of two California Environmental Quality Act (CEQA) challenges. The original case, *Atherton 1* (Sacramento Superior Court No. 34-2008-8000022), challenged the Authority's July 2008 certification of the Bay Area to Central Valley HST Final Program EIR (2008 Final Program EIR) for compliance with CEQA and its selection of the Pacheco Pass Network Alternative for further analysis in second-tier EIRs. This case resulted in a final judgment in November 2009, requiring the Authority to undertake additional analysis in specified areas. In response to the *Atherton 1* final judgment, the Authority prepared a Revised Draft Program EIR, circulated it for public comment, and issued a Revised Final Program EIR in August 2010. In September 2010, the Authority made a new decision to certify the Revised Final Program EIR for compliance with CEQA. The Authority also made a new decision to approve the Pacheco Pass Network Alternative, as well as approved CEQA findings, a mitigation plan, and a statement of overriding considerations.

In October 2010, the petitioners in the *Atherton 1* case challenged the adequacy of the Authority's actions under CEQA and the *Atherton 1* final judgment. An additional lawsuit was filed on the same day, called *Atherton 2* (Sacramento Superior Court No. 34-2010-8000679), also challenging the Authority's action as not complying with CEQA. The court considered the two cases together and on November 10, 2011, issued a ruling in each case. In the rulings, the Court held as follows:

- Recirculation is required to address noise, vibration, and construction impacts of shifting Monterey Highway.
- Recirculation is required to address traffic impacts on surrounding local roads due to narrowing Monterey Highway.
- Recirculation is required to address the impacts of potentially moving freight tracks closer to adjacent land uses along the San Francisco Peninsula.
- Recirculation is required to address impacts of reduced access to surface streets from potential lane closure along the San Francisco Peninsula.

In addition, the Court concluded that the Authority's CEQA finding on traffic impacts associated with narrowing Monterey Highway was not supported by substantial evidence.

The remainder of the 2010 Revised Final Program EIR either was not challenged in litigation and is presumed adequate, or was challenged in litigation and determined by the Court to comply with CEQA. The complete text of the 2009 ruling in *Atherton 1*, and the 2011 rulings in *Atherton 1* and *Atherton 2*, can be reviewed on the Authority's website at [http://www.cahighspeedrail.ca.gov/ba\\_cv\\_program\\_eir.aspx](http://www cahighspeedrail.ca.gov/ba_cv_program_eir.aspx).

## 1.2 Summary of Partially Revised Final Program EIR

The Authority has recirculated portions of its 2008 Final Program EIR and 2010 Revised Final Program EIR to address the *Atherton* November 2011 court rulings described above. The requirement to revise and recirculate portions of the program EIR does not require the Authority to start the program EIR process anew. (*Protect the Historic Amador Waterways v. Amador Water Agency* [2004] 116 Cal.App.4th 1099, 1112.) Recirculation of the EIR "may be limited by the scope of the revisions required." (*Vineyard Area Citizens for Responsible Growth v. City of Rancho Cordova* [2007] 40 Cal.4th 412, 449.) Where the scope of revisions is limited to certain chapters or portions of the EIR, a lead agency need only recirculate the chapters or portions that have been modified. (*Id.*; citing CEQA Guidelines, § 15088.5, subd. (c).)

Accordingly, this document contains the following information and analysis:

### **Chapter 2: Additional Noise & Vibration Analysis**

This chapter adds to Chapter 3.4 of the 2008 Final Program EIR. It analyzes noise and vibration effects of shifting a stretch of Monterey Highway between San Jose and Gilroy to implement the high-speed train project. It also analyzes noise and vibration related to the potential for moving freight rail activity to outside tracks along the San Francisco Peninsula and South of San Jose between Tamien and Lick, placing freight closer to adjacent land uses in some locations.

### **Chapter 3: Additional Traffic Analysis**

This chapter adds to Chapter 3.1 of the 2008 Final Program EIR. It analyzes the traffic impacts on surrounding local streets resulting from the lane reduction on a stretch of Monterey Highway between San Jose and Gilroy to implement the high-speed train project. It also analyzes traffic impacts resulting from lane closures on adjacent parallel streets in some locations along the San Francisco Peninsula where the current Caltrain right-of-way would be expanded to accommodate the high-speed train project. Additional analysis is also provided for the potential loss of traffic lanes along the Oakland to San Jose corridor in the City of Hayward.

### **Chapter 4: Revised Construction Impacts Discussion**

This chapter revises Chapter 3.18 from the 2008 Final Program EIR to clarify the construction impacts anticipated with the adjustments to Monterey Highway and movement of tracks in an active rail corridor to implement the high-speed train project.

### **Chapter 5: New Information and Effect on Program EIR Analysis**

This chapter describes an assessment of new information and changed conditions since the Authority's September 2, 2010 decisions based on the Revised Final Program EIR, including the Draft 2012 Business Plan and the Revised 2012 Business Plan, and discusses the implications for the programmatic environmental analysis.

### **Chapter 6: Staff Recommendation of a Preferred Network Alternative for Connecting the Bay Area to the Central Valley and Information in Partially Revised Final Program EIR**

This chapter discusses the information contained in this Partially Revised Final Program EIR, and in the 2008 Final Program EIR and 2010 Revised Final Program EIR, and concludes that the new and revised information does not change the previous staff recommendation that the Pacheco Pass Network Alternative serving San Francisco via San Jose is the Preferred Network Alternative.

### **Chapter 7: Unavoidable Adverse Impacts**

This chapter discusses how the information contained in this revised material affects the unavoidable and adverse impacts described in Chapter 9 of the 2008 Final Program EIR and Chapter 8 of the 2010 Revised Final Program EIR.

## **Chapter 7A: Additional Design Features and Mitigation Strategies**

This chapter includes additions to project design features and mitigation strategies based on input received in comments on the Partially Revised Draft Program EIR.

## **Chapter 8: List of Preparers**

## **Chapter 9: Sources Used in Document Preparation**

## **Chapters 10-19: Responses to Comments**

This chapter includes comments received on the Partially Revised Draft Program EIR and responses to those comments.

## **1.3 Public and Agency Involvement**

The Authority has involved the public and other public agencies in the program environmental review process pursuant to the requirements of CEQA. This section describes the public and agency involvement efforts in the preparation of prior Bay Area to Central Valley HST environmental documents and the Partially Revised Draft Program EIR.

### **1.3.1 Prior 2008 Draft Program EIR/EIS and Final Program EIR/EIS Notification and Circulation**

Notice regarding the availability and the circulation of the 2007 Draft Program EIR/EIS was provided pursuant to CEQA and NEPA requirements. The Draft Program EIR/EIS was released for public review and comment on July 16, 2007. All 1,300 comments submitted to the Authority during this review period were addressed and responded to as part of the May 2008 Final Program EIR/EIS. The draft and final documents and/or notices were distributed to approximately 3,600 statewide contacts, including federal, state, and local elected officials; federal, state, and local agency representatives; chambers of commerce; environmental and transportation organizations; special interest groups; media; private entities; and members of the public. The Draft and Final Program EIR/EIS were made available for viewing and downloading at the Authority's website ([www.cahighspeedrail.ca.gov](http://www.cahighspeedrail.ca.gov)) and also available at libraries in Fremont, Gilroy, Merced, Modesto, Mountain View, Oakland, Pleasanton, Palo Alto, Sacramento, San Francisco, San Jose, and Stockton. Newspaper announcements and postcards were distributed announcing a total of 8 public hearings that were held on the Draft Program EIR/EIS in 2007 in San Francisco, San Jose, Livermore, Oakland, Gilroy, Merced, Stockton, and Sacramento.

### **1.3.2 Prior 2010 Revised Draft Program EIR and Revised Final Program EIR Notification and Circulation**

The Authority circulated the March 2010 Revised Draft Program EIR to comply with the final judgment in the *Town of Atherton* litigation on the 2008 Final Program EIR/EIS.

Notice regarding the availability and the circulation of the March 2010 Revised Draft Program EIR was provided pursuant to CEQA. In accordance with CEQA, a Notice of Completion was filed with the State Clearinghouse on March 11, 2010 initiating the required 45-day public comment period that extended to April 26, 2010. A total of 3,755 comments were submitted to the Authority during this review period and were addressed as part of the August 2010 Revised Final Program EIR. The Revised Draft and Final Program EIR documents and/or notices were distributed to over 53,000 statewide contacts, including federal, state, and local elected officials; federal, state, and local agency representatives; chambers of commerce; environmental and transportation organizations; special interest groups; media; private entities; and members of the public. The Revised Draft and Final Program EIR, as well as the 2008 Final Program EIR, were made available to the public through the Authority website ([www.cahighspeedrail.ca.gov](http://www.cahighspeedrail.ca.gov)) and also available at libraries in Fremont, Gilroy, Livermore, Merced, Modesto, Menlo Park, Mountain View, Oakland, Pleasanton, Palo Alto, Sacramento, San Francisco, San

Jose, Stockton, and Tracy. The Authority held two Public Meetings in San Jose on April 7, 2010 to receive comments from the public and public agencies on the Revised Draft Program EIR. Newspaper announcements, notices, and postcards were distributed announcing the public meeting.

### 1.3.3 Notification and Circulation of the Partially Revised Draft Program EIR

The Authority circulated a January 2012 Partially Revised Draft Program EIR to address November 2011 court rulings in the *Town of Atherton* litigation challenging the 2010 *Bay Area to Central Valley High-Speed Train (HST) Revised Final Program EIR/EIS*.

Notice regarding the availability and the circulation of the January 2012 Partially Revised Draft Program EIR was provided pursuant to CEQA. The Partially Revised Draft Program EIR was made available to the public through the Authority website ([www.cahighspeedrail.ca.gov](http://www.cahighspeedrail.ca.gov)) on January 5, 2012. The Partially Revised Draft Program EIR was distributed on January 5, 2012 as well. Either a printed copy or a CD along with a Notice of Availability was sent to over 360 state, federal, and local agencies, elected officials, Native American groups, other groups, and individuals who previously commented. In accordance with CEQA, a Notice of Completion was filed with the State Clearinghouse on January 6, 2012 initiating the required 45-day public comment period that extended to February 21, 2012. Notices were also posted at 9 county clerk offices within the project area. The Partially Revised Draft Program EIR and a Notice of Availability and of a Public Meeting was also made available to 16 libraries for public viewing. These libraries, listed in Table 1-1, also had copies of the 2008 Final Program EIR/EIS and the 2010 Revised Final Program EIR available to the public. The Notice of Availability and Notice of a Public Meeting was distributed to over 24,000 individuals on the program mailing list on January 6, 2012 and published in 11 newspapers throughout Bay Area and Central Valley including the San Jose Mercury News, Sacramento Bee, Daily Republic, Oakland Tribune, San Francisco Examiner, Modesto Bee, Merced Sun Star, Fresno Bee, Stockton Record, Palo Alto Daily News, and Gilroy Dispatch.

**Table 1-1  
Partially Revised Draft Program EIR Library Viewing Locations**

Library	Location
Fremont Main Library, Reference Department	2400 Stevenson Boulevard Fremont, CA 94538
Gilroy Library	7387 Rosanna Street Gilroy, CA 95020
Livermore Public Library	1188 S Livermore Ave. Livermore, CA 94550
Menlo Park Library	800 Alma Street Menlo Park, CA 94025
Merced County Library	2100 "O" Street Merced, CA 95340
Stanislaus County Library, Government Documents Section	1500 "I" Street Modesto, CA 95354
City of Mountain View General Public Library	585 Franklin Street Mountain View, CA 94040
Oakland Public Library	125 14th Street Oakland, CA 94612
Palo Alto Main Library	1213 Newell Road Palo Alto, CA 94303
Pleasanton Public Library	400 Old Bernal Avenue Pleasanton, CA 94566
California State Library, Government Publications Section	914 Capitol Mall, Room 402 Sacramento, CA 95814

Library	Location
Sacramento Central Library	828 I St. Sacramento, CA 95814
San Francisco Main Library, Government Information Center, 5th Floor	100 Larkin Street San Francisco, CA 94102
Dr. Martin Luther King Jr. Library, Reference Department, Room 285	150 East San Fernando Street San Jose, CA 95112
Cesar Chavez Central Library	605 North El Dorado Street Stockton, CA 95202
Tracy Branch Library	20 E. Eaton Avenue Tracy, CA 95376-3100

The Authority held a Public Meeting in San Jose on February 9, 2012 to receive comments from the public and public agencies on the Partially Revised Draft Program EIR. The meeting was held from 4:00 p.m. to 7:00 p.m. at the San José City Hall, City Council Chambers, 200 East Santa Clara St, San José CA 95113.

**A. COMMENTS ON THE PARTIALLY REVISED DRAFT PROGRAM EIR**

Written comments on the Partially Revised Draft Program EIR were sent to the Authority in the form of letters, electronic mail, and submissions through the Authority's website. Comments from the public meeting were transcribed as well. Table 1-2 lists the number of those providing comments during the public comment period including those from the public meetings. Some of the letters received listed multiple agencies or individuals. More than 50 people provided over 400 comments during the circulation period (either through written letters or oral testimony).

**Table 1-2  
Comment Submittals on the Partially Revised Draft Program EIR**

Type of Commenter	Number of Commenters	Number of Comments
Federal Agencies	1	1
Tribes	1	5
State Agencies	1	1
Local Agencies	17	258
Businesses/Organizations	10	65
Individuals	20	91
Public Meeting	6	15
<b>Total</b>	<b>56</b>	<b>436</b>

The verbal and written comments received during the public comment period addressed the broad spectrum of issues related to an EIR. Some comments addressed the information in the Partially Revised Draft Program EIR. Other comments addressed the content of the prior program EIRs. Many commenters expressed their views on traffic impacts on the San Francisco Peninsula; how information in the Draft 2012 Business Plan affects the program EIR; and that the Authority should not continue to propose and consider a four-track alignment on the Peninsula, and should instead limit the consideration to only the "Blended System" as proposed by Senator Simitian, Congresswoman Eshoo and Assembly Member Gordon in April of 2011. The comments are included following the text for the Partially Revised Final Program EIR.

## 1.4 California High-Speed Rail Authority's Use of Partially Revised Final Program EIR

Following the public comment period on the Partially Revised Draft Program EIR, the Authority has prepared this Partially Revised Final Program EIR. The Partially Revised Final Program EIR includes the full text of the Partially Revised Draft Program EIR with changes based on the comments incorporated and written and verbal comments received on the Partially Revised Draft Program EIR and responses to comments; and the complete 2-volume text of the 2010 Revised Final Program EIR and 3-volume text of the 2008 Final Program EIR.

The *Town of Atherton* November 2011 court rulings require the Authority to rescind its 2010 Revised Final Program EIR certification, rescind its approval of the Pacheco Pass Network Alternative, and make a new decision based on a corrected Program EIR. It is anticipated that the Authority Board will consider rescinding its September 2010 certification of the Revised Final Program EIR and decision approving the Pacheco Pass Network Alternative at an upcoming, publicly noticed meeting. Following the public comment period on the Partially Revised Draft Program EIR, the Authority has prepared this Partially Revised Final Program EIR including responses to the comments received during the comment period. At a publicly noticed meeting, the Authority will consider the Partially Revised Final Program EIR, along with the 2008 Final Program EIR and 2010 Revised Final Program EIR, and the whole record before it, in determining whether to make the following decisions:

- Certify the Partially Revised Final Program EIR (including the 2008 Final Program EIR and the 2010 Revised Final Program EIR) for compliance with CEQA.
- Approve findings of fact, a statement of overriding considerations, and a mitigation monitoring and reporting program in compliance with CEQA.
- Approve a network alternative, preferred alignments, and preferred station locations for further study in project-level EIRs.

The 2008 Program EIR examined eleven representative network alternatives that would utilize the Altamont Pass, six that would use the Pacheco Pass, and four that would utilize the Pacheco Pass with Altamont Pass for local service, depicted in Chapter 7 of that document. The purpose of this revised program EIR process is to provide the necessary analysis to support the selection of a network alternative to connect the Bay Area and Central Valley, via the Altamont Pass, via the Pacheco Pass, or via both passes.

## 1.5 Relationship of Bay Area to Central Valley High-Speed Train Program EIR Process to Project-Level EIR Processes

The *Town of Atherton* CEQA litigation has been ongoing since 2008. During the ensuing years, the court has not required the Authority to halt its second-tier, project-level environmental studies for the Bay Area to Central Valley sections, which include the San Francisco to San Jose and the San Jose to Merced sections. The Authority has therefore continued with its project-level EIR work for these sections, as well as for other sections within the 800-mile high-speed train system. The development of the San Jose to Merced section project-level Draft EIR is underway, but not yet complete. In May of 2011, the Authority put on hold its work on the Draft EIR for the San Francisco to San Jose section.

Project-level EIR work is ongoing for the Merced to Fresno section, which overlaps in part with the study area for this Partially Revised Program EIR. A project-level Draft EIR/EIS for the Merced to Fresno section has circulated for public and agency comment, and the final EIR/EIS is under preparation. The Merced to Fresno section includes a wye interchange to connect to the San Jose to Merced section. Although this wye interchange is analyzed in the Merced to Fresno Draft EIR/EIS, the Authority will not make a decision regarding the wyes based on the Merced to Fresno project-level EIR/EIS. Instead, the Authority will

examine the wyes further in a subsequent project-level EIR/EIS. Depending on the outcome of the program EIR process, the wye connection to the San Francisco Bay Area could be studied in a project-level Draft EIR/EIS for either a San Jose to Merced section for a Pacheco Pass network alternative, or a more northerly section for an Altamont Pass network alternative.

The *Town of Atherton* November 2011 court rulings require the Authority to rescind its 2010 Revised Final Program EIR certification and rescind its approval of the Pacheco Pass Network Alternative. At the conclusion of this revised program EIR process, the Authority will make a new decision on a network alternative, preferred alignments, and preferred station locations. The new program EIR decision may require adjustment to the environmental work that is underway in the project-level EIRs.

## **1.6 Summary of Environmental Impacts and Mitigation Strategies**

Table 1-3 provides a summary of the environmental impacts and mitigation strategies identified in this document.

**Table 1-3  
 Summary of Environmental Impacts and Mitigation Strategies**

<b>TOPIC</b>	<b>Significance Conclusion</b>	<b>Mitigation Strategies</b>	<b>Significance Conclusion with Mitigation Strategies</b>
Noise/Vibration from Potentially Moving Freight Trains to Outside Tracks on Expanded Right-of-way on San Francisco Peninsula	Significant (consistent with 2008 Program EIR conclusion)	See mitigation strategies listed in Chapter 2	Noise: less than significant Vibration: significant and unavoidable
Noise/Vibration from Monterey Highway Shift	Significant (consistent with 2008 Program EIR conclusion; also described as separate significant impact for clarity)	See mitigation strategies listed in Chapter 2	Noise: less than significant Vibration: significant and unavoidable
Noise/Vibration from Potentially Moving Freight Trains to Outside Tracks on Expanded Right-of-way Between Tamien and Lick	Significant (consistent with 2008 Program EIR conclusion)	See mitigation strategies listed in Chapter 2	Noise: less than significant Vibration: significant and unavoidable
Traffic Impacts of Potential Lane Loss on San Francisco Peninsula	Significant	See mitigation strategies listed in Chapter 3	Significant and unavoidable
Traffic Impacts from Monterey Highway Narrowing (on Monterey Highway itself and on surrounding roadways)	Significant	See mitigation strategies listed in Chapter 3	Significant and unavoidable
Traffic Impacts of Potential Lane Loss in Hayward	Significant	See mitigation strategies listed in Chapter 3	Significant and unavoidable
Construction Impacts	Significant	See mitigation strategies listed in Chapter 4	Significant and unavoidable in some resource areas
Significant Traffic Impacts at Interim Terminus Stations under Phased Implementation	Significant	See mitigation strategies listed in Chapter 5	Significant and unavoidable
Significant Impacts to Connecting Commuter Rail Service from HST riders boarding at Interim Terminus Stations under Phased Implementation	Significant	See mitigation strategies listed in Chapter 5	Significant and unavoidable
Adverse Impacts from Grade Separation	Significant	See mitigation strategies listed in Chapter 5	Significant and unavoidable