

**Staff Summary of and  
Brief Response to  
Comments on the  
Final Bay Area to Central Valley  
High-Speed Train  
Program Environmental Impact Report/  
Environmental Impact Statement**



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# Staff Summary of and Brief Response to Comments on the Final Bay Area to Central Valley High-Speed Train Program EIR/EIS

## 1.1 Introduction

This attachment to the *Staff Report for the Bay Area to Central Valley High-Speed Train (HST) Program Environmental Impact Report/Environmental Impact Statement (EIR/EIS)* summarizes comments received on the Final Program EIR/EIS.

## 1.2 Summary of Comments Received on the Final EIR/EIS

### 1.2.1 U.S. Environmental Protection Agency

The U.S. Environmental Protection Agency (EPA) submitted comments on the Final Program EIR/EIS. The EPA encourages continued regulatory and resource agency coordination during the Tier-2 project-level analysis of the Preferred Pacheco Pass Network Alternative to inform design choices that are most protective of the natural environment.

#### Integration of Clean Water Act and NEPA Requirements

The EPA submitted recommendations for future Preferred Pacheco Pass Network Alternative project-level Tier 2 analysis related to wetlands and other waters and requested that this future analysis be focused on a more accurate estimate of potential impacts and opportunities for reducing impacts to waters from the project. It was also recommended that interagency coordination among resource and regulatory agencies occur as part of this future analysis. The EPA has stated that they are available to discuss the mitigation framework for the project.

Direct and indirect impacts identified in the Final Program EIR/EIS will be further minimized through project design features. The Pacheco Pass Network Alternative would include tunnels and elevated structures to minimize impacts on streams, water bodies, wetlands, wildlife movement corridors, and sensitive species and habitat. The alignment along Henry Miller Road, for example, would extend approximately 3 miles on elevated structure, which could potentially reduce total

direct and indirect impacts on wetlands. More detail both in project refinement and specific on-the-ground information would be developed in the Tier 2 process that would allow for greater estimate of impacts and avoidance. The Authority and FRA will continue coordination with all agencies and organizations involved to identify specific issues and develop solutions that avoid, minimize, and mitigate potential impacts. The Authority and FRA also have committed to investigating site-specific location and design alternatives, including avoidance and minimization alternatives, during the Tier 2, project-level environmental review. This includes evaluating design alternatives to the north and south of the current proposed Henry Miller alignment alternative.

The Authority also made a commitment to acquire agricultural, conservation and/or open space easements encompassing at least 10,000 acres and generally located along or in the vicinity of the Grassland Ecological Area (GEA) to mitigate for impacts. 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 and other areas. 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 Tier 2 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 U.S. Fish and Wildlife Service, and the Grassland Water District.

#### Growth-related Impact Analysis

The EPA reiterated comments it made on the Draft Program EIR/EIS regarding potential growth-related impacts associated with station locations. EPA recommended that the FRA's Record of Decision (ROD) include additional information about growth inducing impacts by county with upper and lower potential ranges of impacts illustrating the role of station selection in the amount of growth that may be induced. The EPA further recommended that mitigation measures be adopted to address an offset growth inducement of the high speed train, including a growth mitigation plan.

Chapter 5 of the Final Program EIR/EIS and Standard Response 4 describe the potential for the HST system to induce growth and to create secondary impacts to the environment associated with urbanization. Section 5.5 discusses relative differences in impacts depending on the alignment alternatives and station locations, and uses Stanislaus County to illustrate the urbanization differences between a downtown station (Modesto) and a suburban station (Amtrak Briggsmore). The illustration, which is based on analysis in the Statewide HST Program EIR/EIS, is intended to underscore the fact that locating stations in downtown core areas will lead to fewer urbanization effects than locating stations in suburban areas.

This *relative* difference in growth-inducing effects between a downtown and a suburban station location should not be construed as a description of the absolute impacts of either station location. As explained in the responses to comments in the Final Program EIR/EIS, it is not possible to associate specific levels of

population/employment growth, urbanization, and indirect impacts with individual stations. Individual stations draw ridership from a broad catchment area that does not necessarily follow county boundaries, which form the basis for the growth inducement and secondary impact analysis. The relationships considered in the growth inducing impacts analysis are simply too numerous and complex to state that a particular station will lead to a particular amount of growth. The EIR/EIS therefore offered a qualitative assessment of potential differences between the alignment alternatives and noted those counties expected to experience the highest level of growth with the HST.

Both NEPA and CEQA require that an EIS or EIR discuss a project's impacts, including the potential for a project to induce urban growth. The Final Program EIR/EIS offers the public and decision makers information about the potential for the HST to fuel population and economic growth in the Bay Area to Central Valley study region, including the potential magnitude, location, and nature of that growth. The EIR/EIS also characterizes the potential indirect effects of HST-induced growth by resource area and discusses how these effects will be evaluated more specifically with project-level studies.

The analysis concludes that growth will be higher with the representative Altamont Network Alternative than with the representative Pacheco Network Alternative. For both networks, the greatest magnitude of secondary impacts will occur in Madera and Merced counties. Alignment and station locations that serve existing urban and community centers, rather than less-developed outlying areas, would be expected to result in lower ecological and natural resources impacts, but higher community and social impacts, both positive and negative. And the extent of secondary impacts will be highly dependent on local land use plans and policies.

The Final Program EIR/EIS includes numerous mitigation strategies designed to avoid and minimize the physical environmental impacts of the HST system. These mitigation strategies include conservation easements to permanently protect farmlands, easements to protect and preserve open space and the unique biological resources of the Grassland Ecological Area, and measures to promote dense urban growth around HST stations that will serve as transportation hubs. These mitigation strategies will also address any secondary effects of urbanization and ensure that they are less than significant. The Authority proposes to work with local governments, which are the entities that make local land use decisions about the extent and location of urban growth within their jurisdictions, to establish policies and principles that promote transit-oriented development, provide incentives for smart growth and infill development around stations, and limit urban expansion into new areas.

#### Design, Mitigation, and Coordination Measures Deferred to Future Project-Level Analyses

The EPA commended the Authority and FRA for identifying multiple measures for future project-level analyses and appreciated the compilation of mitigation measures in one location. They further recommend that the Mitigation Monitoring and Reporting Program (MMRP) be included with the FRA's Record of Decision (ROD). The FRA will include the MMRP as part of the ROD.

## 1.2.2 Siegfried Macheleidt

Siegfried Macheleidt submitted a letter on June 6, 2008 in response to the publication of the notice of the Final Program EIR/EIS. This letter was submitted with other letters attached to U.S. Senator Henry Reid, California Governor Arnold Schwarzenegger, and the Editor of the San Jose Mercury News. Mr. Macheleidt supports maglev technology over a rail-wheel system and identifies potential safety concerns. The Authority eliminated maglev technology from further investigation in the Final Program EIR/EIS for the California High-Speed Train System in 2005.

## 1.2.3 Jack F. Munro

Jack Munro submitted a letter received on June 16, 2008 in response to the publication of the notice of the Final Program EIR/EIS. The issues raised by Mr. Munro are in addition to Mr. Munro's comments on the Draft Program EIR/EIS (Comment Letter I007 dated August 27, 2007). These new comments do not raise new issues concerning the Final Program EIR/EIS. Mr. Munro's comments cover a variety of areas including alignments, shared-use of the Caltrain corridor, FRA compliance, phasing of construction, and a request that passenger trains be added on the existing Union Pacific coast route.

- Mr. Munro states that the alignments look like a "bowl of spaghetti". The HST system described and analyzed in the Final Program EIR/EIS included a number of alignment alternatives and station location options. As described in Chapter 8, only those alignments and station location options associated with the Preferred Network Alternative would move forward into project-level environmental review.
- Mr. Munro states that the use of the Caltrain track should be considered temporary. The Authority plans for four tracks that include two express and two local tracks to be shared by HST and Caltrain and would not hinder HST performance.
- Mr. Munro states that the Union Pacific Railroad (UPRR) currently uses the San Jose to San Francisco track and is FRA compliant and that by the HST using this track, HST would have to also be FRA compliant which would reduce performance. There is currently temporal separation between freight service and Caltrain. The Program conceptual design assumes that the freight service will not utilize the same tracks as the HST and the Caltrain Express trains. It also assumes that temporal separation would continue between Caltrain local service and freight on the local tracks.
- Mr. Munro presumes that the first section built would be from San Francisco to Los Angeles with remaining routes constructed in order of expected ridership. He states that the Authority could best serve the San Francisco to Los Angeles market by using passenger trains on the UPRR coast route. The Authority considered but rejected the Coast route between San Francisco and Los Angeles in the Statewide Program Level Document.

## 1.2.4 Charles Cameron

Charles Cameron submitted a letter received on June 21, 2008 in response to the publication of the notice of the Final Program EIR/EIS. Mr. Cameron had previously responded on the Draft Program EIR/EIS in an individual comment (#I013) and at the San Francisco Public Hearing (PH-SF14-1). In responding to Mr. Cameron's public hearing comment, he was erroneously referred to the response of another comment. The response for PH-SF14-1 should have referred to Response to Comment Letter I013.

## 1.2.5 Laura R. Cohen, Rails-to-Trails Conservancy

Laura Cohen, Director Western Region Rails-to-Trails Conservancy, submitted a letter dated June 16, 2008 in response to a June 4, 2008 meeting with Authority staff. Ms. Cohen requested that the Authority include a bicycle and pedestrian path ("rail with trail") parallel to the HST right-of-way as part of project level planning and that a Citizens Advisory Committee be formed to facilitate this request. For safety and other reasons, the HST system would be operated on a completely grade-separated, controlled access right-of-way designed to fully prohibit access for pedestrians, bicyclists, and larger animals to the HST tracks using fences or grade separation. Thus any trails that would enable any incursion onto the HST tracks would not be permitted.

That said, there may be occasion when the HST right-of-way would provide an opportunity for trails along side but outside of the controlled right-of-way, and the Authority is encouraging development of HST stations with enhanced pedestrian and bicycle access. During the project level review, the Authority will work with the Rails-to-Trails Conservancy and other related organizations as well as local jurisdictions to determine if such opportunities exist and possible funding for such improvements.

## 1.2.6 Robert S. Allen

Mr. Allen suggests in his letter dated June 26, 2008 that BART and Caltrain be merged. The issues raised by Mr. Allen are in addition to Mr. Allen's comments on the Draft Program EIR/EIS (Comment Letters I002, I012, I022, I025, and PH-SJ31 dated June 27, September 6, 19, and 24, and August 24, 2007 respectively). He proposes that Caltrain be grade separated, electrified, and widened for four tracks (two local and two express) and that BART use the local tracks between San Jose and Millbrae. Mr. Allen proposes double tracking and grade separating UPRR's Mulford line to expedite Capitol Corridor and ACE trains, and that Caltrans widen parts of I-580, SR 4, and I-80 allowing for an at-grade BART to Livermore Greenville Rd), Antioch (Hillcrest Ave.) and Crockett. Mr. Allen suggests other improvements to the BART system including extensions in San Francisco to the Golden Gate Bridge; over Altamont to the Central Valley; beyond Antioch toward Stockton; and to the North Bay. He proposes a West Oakland by-pass with an

intermodal station with the Amtrak/Capitol Corridor. Mr. Allen suggests that BART should loop the Bay and point to the North Bay and Central Valley.

The Authority has consistently pursued opportunities to locate HST stations to maximize intermodal connections with other transit providers. The Preferred Alternative identified in the Final Program EIR/EIS includes such station locations.

The HST Preferred Alternative in the Final Program EIR/EIS includes improvements to the Caltrain Corridor, including provision of four tracks (express and local) to be shared with Caltrain service operating compatible equipment. Use of the local tracks by BART would require the track improvements to be designed to BART specification (e.g., third rail electrification and a wider track gauge) and would preclude joint use of the Corridor tracks for light equipment Caltrain and HST trains.

The other proposed BART improvements, the possible merger of BART and Caltrain, and improvements to the Capitol Corridor system are beyond the purview of the HST Authority, although the Authority did participate in the development of the adopted MTC Regional Rail Plan and is working with regional stakeholders on possible commuter rail improvements in the Altamont Corridor.

### **1.2.7 Robert S. Allen**

Mr. Allen submitted a letter received on July 2, 2008 in response to the publication July 9, 2008 Authority Board Meeting agenda. The issues raised by Mr. Allen are in addition to Mr. Allen's comments on the Draft Program EIR/EIS (Comment Letters I002, I012, I022, I025, and PH-SJ31 dated June 27, September 6, 19, and 24, and August 24, 2007 respectively) and the Final Program EIR/EIS noted above.

This letter is noted. This is for Agenda item 10 and not related to the Final Program EIR/EIS.

### **1.2.8 Stuart M. Flashman**

Mr. Flashman, on behalf of the Planning and Conservation League, TRANSDEF, and the California Rail Foundation, submitted a letter dated June 2, 2008 in response to the publication of the notice of the Final Program EIR/EIS. The issues raised by Mr. Flashman are in addition to his comments on the Draft Program EIR/EIS (Comment Letter O007 dated October 25, 2007). Mr. Flashman references a letter received by the Authority from the UPRR dated May 13, 2008 and raises the issue of the HST being within the right-of-way of the UPRR. Mr. Flashman states that the Altamont and Pacheco alternatives analyzed in the Final Program EIR/EIS are predicated on the use of the UPRR right-of-way for significant portions. He further states that given the UPRR's opposition to use of its right-of-way likely makes infeasible major portions of the alignments, and he requests that new alignments be analyzed. Mr. Flashman also states that the UPRR's opposition will require reassessment of major portions of the routing

between San Francisco and Los Angeles that were addressed in the previous statewide program EIR/EIS, including the Palmdale area. He also states that the environmental analysis for these previously approved portions of the alignment be reopened to address the changed circumstances before those portions can proceed to project-level decisions.

Mr. Flashman states that since changes in circumstances, not considered in the Final Program EIR/EIS and which the public has not had the opportunity to comment on, the Final Program EIR/EIS needs to be withdrawn and a revised Draft Program EIR/EIS be prepared and circulated.

Authority staff do not concur with the characterization of the right-of-way issues in this comment letter or the letter's suggestion that the Final Program EIR/EIS needs to be revised and recirculated.

To minimize potential environmental impacts from the HST system, the Authority's objective has been to maximize the use of existing transportation corridors and rights-of-way for the HST system. Consistent with this objective, extensive portions of the alignment alternatives were described and analyzed as if they were placed within or adjacent to existing rail or highway rights-of-way, rather than on new alignment. Evaluations for the previous statewide HST system program EIR and for the current Final Program EIR/EIS prepared for the Bay Area to Central Valley have consistently shown a potential for fewer significant environmental impacts along existing transportation facilities than on new alignments through both developed and undeveloped areas.

At the same time that the Authority has attempted to minimize environmental impacts by locating alignment alternatives within or adjacent to existing transportation rights-of-way, the EIR does not assume or rely on the availability of existing transportation rights-of-way for its analysis. Figures 2.3-6, 2.3-7, and 2.3-8 in the Final Program EIR depict typical cross sections for HST facilities at grade, on an elevated structure, and where twin tunnels might be necessary. These figures show maximum proposed rights-of-way of 100 feet, 50 feet, or 120 feet for these facilities, respectively. At the programmatic level, this EIR has analyzed the impacts of constructing and operating the HST system along the proposed alignment alternatives conservatively, by evaluating direct and indirect impacts within a wide band that exceeds the maximum proposed HST right-of-way, whether in an existing transportation right-of-way or adjacent to it. For example, for biological impacts, the EIR defines the study area for direct biological impacts as 50 feet on either side of the alignment, and for indirect impacts as 1,000 feet in urban areas and 0.25 mile in rural areas on each side of the alignment. At the project level, when detailed field conditions, resource data, and site-specific facility design information become available, certain impacts disclosed in the Program EIR are expected to be far less in those circumstances when the actual final footprint of HST track can be located within existing rights-of-way, rather than adjacent to them.

Recirculation is required under the California Environmental Quality Act when there is "significant new information" that arises prior to certification of a final EIR. "Significant new information" is limited to circumstances involving:

- (1) A new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented.
- (2) A substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance.
- (3) A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the environmental impacts of the project, but the project's proponents decline to adopt it.
- (4) The draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded. (*Mountain Lion Coalition v. Fish and Game Com.* (1989) 214 Cal.App.3d 1043)

(CEQA Guidelines, § 15088.5; see also Pub. Resources Code, § 21092.1)

Because the environmental analysis in the Final Program EIR/EIS is not dependent on the availability of any railroad right-of-way, the analysis remains accurate even in light of the May 2008 letter from UPRR to the Authority. A revision and recirculation of the Bay Area to Central Valley Program EIR/EIS is therefore not necessary.

### **1.2.9 Josue Castellanos-Mejia**

Mr. Castellanos-Mejia submitted a letter dated June 12, 2008 to the UPRR and copied the Authority. Mr. Castellanos-Mejia states that the UPRR should partner with the State to the benefit of UPRR. He states that by adding four tracks, the Authority would be expanding capacity for UPRR at no expense to UPRR.

The letter is noted. The Authority appreciates receiving a copy of this correspondence.

### **1.2.10 Ken Norwood, Shared Living Resource Center**

Mr. Norwood submitted a letter received on June 24, 2008 in response to the publication of the notice of the Final Program EIR/EIS. Mr. Norwood suggests that the Authority has made an error by not selecting Altamont as the preferred alignment because it would avoid environmental intrusion and discourage speculative development of agriculture and open space lands, and better serve northern San Joaquin Valley cities.

The comment is noted. The Final Program EIR/EIS compares the environmental impact differences between the Preferred Pacheco Pass Network Alternative and the Altamont Pass Network Alternatives. As stated in the document, the choice of overall network involves a balancing of different types and degrees of environmental impact in different locations. Both networks would involve impacts on agricultural land and open space and both would involve growth. The Final Program EIR/EIS includes numerous mitigation strategies to address these impacts and reduce them to a less than significant level wherever feasible. The information in the Final Program EIR/EIS is adequate for the Authority members to

make a final decision to select a preferred network, alignment alternatives, and station location options for the Bay Area to Central Valley region.

## 1.2.11 Scott D. Moore, Union Pacific Railroad

Mr. Moore submitted a letter received on July 7, 2008 in response to the publication of the notice of the Final Program EIR/EIS. Issues raised include limited railroad rights-of-way to meet future freight transportation needs of the state. The San Jose to Gilroy rights-of-way is narrow and bounded by a major arterial highway and the UPRR cannot give up an exclusive right-of-way to HST. A loss of 50 feet of the UPRR right-of-way along the Central Valley line would render future freight rail expansion impossible and disrupt rail-served businesses and prevent serving new industries from locating on one or both sides of the rail. The UPRR does not own the right-of-way for the Caltrain corridor between San Francisco and San Jose but has a freight easement. Imposing two exclusive tracks for HST would end the UPRR's ability to provide freight service to customers, including the Port of San Francisco. The UPRR also has the same issue between Sylmar and Los Angeles. The Authority Board should not jeopardize UPRR's ability to provide such freight service by assuming the HST will have no impact. The UPRR urges the Board to carefully consider corridor routes that do not utilize our rights-of-way.

To minimize potential environmental impacts from the HST system, the Authority's objective has been to maximize the use of existing transportation corridors and rights-of-way for the HST system. Consistent with this objective, extensive portions of the alignment alternatives were described and analyzed as if they were placed within or adjacent to existing rail or highway rights-of-way, rather than on new alignment. Evaluations for the previous statewide HST system program EIR and for the current Final Program EIR/EIS prepared for the Bay Area to Central Valley have consistently shown a potential for fewer significant environmental impacts along existing transportation facilities than on new alignments through both developed and undeveloped areas.

At the same time that the Authority has attempted to minimize environmental impacts by locating alignment alternatives within or adjacent to existing transportation rights-of-way, the EIR does not assume or rely on the availability of existing transportation rights-of-way for its analysis. Figures 2.3-6, 2.3-7, and 2.3-8 in the Final Program EIR depict typical cross sections for HST facilities at grade, on an elevated structure, and where twin tunnels might be necessary. These figures show maximum proposed rights-of-way of 100 feet, 50 feet, or 120 feet for these facilities, respectively. At the programmatic level, this EIR has analyzed the impacts of constructing and operating the HST system along the proposed alignment alternatives conservatively, by evaluating direct and indirect impacts within a wide band that exceeds the maximum proposed HST right-of-way, whether in an existing transportation right-of-way or adjacent to it. For example, for biological impacts, the EIR defines the study area for direct biological impacts as 50 feet on either side of the alignment, and for indirect impacts as 1,000 feet in urban areas and 0.25 mile in rural areas on each side of the alignment. At the project level, when detailed field conditions, resource data, and site-specific facility

design information become available, certain impacts disclosed in the Program EIR are expected to be far less in those circumstances when the actual final footprint of HST track can be located within existing rights-of-way, rather than adjacent to them.

The Program EIR/EIS does not assume use of the UPRR right-of-way between San Jose and Gilroy. In the Central Valley, the assumption was predominately that the alignment would be adjacent to the UPRR right-of-way. Between San Francisco and San Jose, the configuration assumed shared operations with Caltrain express services, but would not share tracks and would not impact freight operations. A considerable amount of aerial structure is assumed to be needed within or adjacent to the UPRR to avoid impacts to industry along the railroad. This will be looked at in more detail at the project level.

## **1.3 Summary of Comments Received on the Final Program EIR/EIS at the July 8, 2008 Authority Board Meeting**

### **1.3.1 Individuals Supporting the Project**

The following individuals provided oral comment at the July 8, 2008, Authority Board Meeting that supported the project and Final EIR certification.

- Mayor Reed, City of San Jose (read by Christina Fernandez)
- Mayor Gavin Newsom, City of San Francisco
- Mr. Brian Dykes, Transbay JPA (selection of Transbay Transit Center)
- Mr. Dean Chu, Commissioner representing MTC
- Mr. Kurt Evans, Santa Clara VTA
- Mr. Robert Doty, representing SAMTRANS, Caltrain JPB, San Mateo County Transportation Authority
- Mr. Aaron Peskin, President San Francisco Board of Supervisors
- Ms. Bena Chang, Silicon Valley Leadership Group
- Mr. Bruce Gwynne, California Department of Conservation
- Mr. Jim Lazarus, President, San Francisco Chamber of Commerce
- Mr. Adam Montgomery, Silicon Valley Association of Realtors
- Mr. Eugene Skoropowski, Managing Director, Capitol Corridor/JPA
- Mr. John Diamante, Friends of the Railway (North Bay)
- Mr. Mark Herbert, representing Congresswoman Pelosi
- Ms. Emily Rusche, CALPIRG
- Mr. Jim Bigelow, Redwood City/San Mateo Chamber of Commerce
- Ms. Mary Renner, self
- Ms. Anna Stern, self

- Mr. Roger Bazeley, self
- Ms. Barbara Pierce, Redwood City Council Member, representing self
- Mr. David Snyder, SPUR

### 1.3.2 Individuals with Concerns

The following individuals provided oral or written comment at the July 8, 2008, Authority Board Meeting expressing concerns regarding the Final Program EIR/EIS.

#### **Mr. Tim Frank, Sierra Club (California)**

- The Sierra Club still has concerns regarding the comparison of Altamont and Pacheco. They believe that there could be a more fair comparison. The Authority staff do not agree with this statement. The analysis in the Final Program EIR/EIS analyzed both network alternatives equally and did not favor one over the other.
- The Sierra Club supports mitigation for the Grassland Ecological Area. Comment noted.
- The Sierra Club supports mitigation for farmland. Comment noted.
- The Sierra Club suggest that HST move forward to help with global warming and noted that the HST is included in CARB's blueprint for meeting AB32. Comment noted.

#### **Mr. Daniel McNamara, California Rail Foundation**

- Mr. McNamara doesn't understand how we could choose Pacheco since Altamont has shorter travel time and Altamont has the busiest freeways. See Chapter 8 and Standard Response 3.
- Mr. McNamara states that the Authority forgot to ask UPRR for their permission, and UPRR opposes use of their right-of-way; therefore Pacheco Pass is infeasible. The feasibility of Pacheco Pass is not contingent on the use of UPRR right-of-way. Please see discussion of right-of-way adjacent to or within transportation rights-of-way discussion in Section 2.3 in the CEQA Findings.
- Mr. McNamara states that the Authority did not study an abandoned SP route or I-580 route for Altamont Pass. The I-580 alignment option was considered and rejected as documented in the Final Program EIR/EIS. Between Livermore and Pleasanton, the old SP alignment is generally adjacent to the UPRR line and is in fact now owned by the UPRR. In Pleasanton, portions of the old SP alignment were sold and now have urban development. Thus, there is no viable rail right-of-way alternative other than the UPRR alignment through downtown Livermore and downtown Pleasanton to connect the Central Valley to the Bay Area.

#### **Mr. Len Conly, Sierra Club and Friends of BRT**

- Mr. Conly can't understand why the Authority selected Pacheco Pass when it would create sprawl (see TRAC's "follow the lights" figure). This was

responded to in Standard Response 3 and Chapter 8 of the Final Program EIR/EIS.

**Mr. Stuart Flashman, Lawyer, representing Planning Conservation League, Bay Rail Alliance, California Rail Foundation, TRANSDEF, Mountain Lion Foundation**

Mr. Flashman questions the location and the width of the corridors evaluated in the Final Program EIR/EIS and whether the environmental analysis has accurately depicted the impacts of the HST system. Mr. Flashman's comment letter has images attached that are reproduced from Google Maps to illustrate the comments. The comment further questions the feasibility of the Pacheco Pass network alternatives in light of recent correspondence from Union Pacific indicating its objections to the HST using or occupying any of its right-of-way.

Mr. Flashman further suggests the responses to comments in the Final Program EIR/EIS are inadequate, that the document inappropriately fails to acknowledge the potential for a shift in travel mode from automobile to other modes based on high petroleum costs, and that therefore the ridership studies need to be redone. The comment also questions whether the cost of grade separation and other construction needs were factored in to the comparison of Pacheco and Altamont.

Authority staff disagrees with the comments characterizing UPRR's recent correspondence as rendering the preferred Pacheco Pass network alternative infeasible. There are locations in the Bay Area to Central Valley study region where the environmental analysis is based on a conceptual alignment for the HST within the UPRR right-of-way. The selective placement of the HST system within the UPRR right-of-way, or other rights-of-way, has been part of the Authority's strategy to minimize environmental impacts. At the same time, in most locations the conceptual HST alignments have been placed adjacent to the transportation rights-of-way, rather than within them. This is illustrated in the profiles and cross sections contained in Appendix 2. If future circumstances preclude the use of the UPRR right-of-way, it is feasible to place the HST adjacent to the right-of-way.

We further disagree that the issue of the UPRR right-of-way availability renders the EIR inadequate. As explained in the response to Mr. Flashman's letter of June 2, 2008 (section 1.2.8 above), the EIR evaluated the environmental impacts of the HST system based on a geographic scope that exceeds the maximum HST right-of-way needed.

The Metropolitan Transportation Commission undertook a sensitivity analysis which assumed higher automobile and air transportation costs, similar to the conditions being experienced with the substantial recent increase in oil prices. (Bay Area/California High-Speed Rail Ridership and Revenue Forecasting Study [Cambridge Systematics, July 2007].) These assumptions and data were used in the Final Program EIR/EIS to help define the potential impacts of the HST. The EIR concluded that both the Altamont and Pacheco Pass network alternatives have high ridership potential and that ridership was not a determining factor for identifying the preferred alternative. The focus of the HST system is to serve longer distance travel between major metropolitan areas rather than commuter trips.

The responses to comments comply with CEQA. CEQA requires that a Final EIR include responses to the most significant environmental issues raised, and offer a good-faith, reasoned analysis supported by substantial evidence. The combination of the standard responses to the most frequently raised issues and the individual responses complies with CEQA requirements.

The costs of grade separation were adequately considered. Appendix 4-A includes, among other things, costs for earthwork, structures/tunnels/walls, grade separation, rail and utility relocation, right-of-way acquisition, and environmental mitigation. This appendix provides appropriate information for comparison of the alternative HST networks.

### **Mr. Arthur Ringham, self**

- Mr. Ringham stated that HST would share tracks with Caltrain. He wanted to know who would schedule trains. This is an issue that is beyond the program level and will be addressed at the project level. The Authority has an MOU with Caltrain JPB to work cooperatively in the corridor.
- Mr. Ringham stated that HST needs dedicated and more tracks. Dedicated tracks in the Caltrain corridor were considered but rejected in Final Program EIR/EIS. See Chapter 2 of the EIR/EIS. The Preferred Alternative assumes a four track system between San Jose and San Francisco.
- Mr. Ringham suggests use of elevated structures on US 101 or I-280. These were considered but rejected as part of the Final Program EIR/EIS. See Chapter 2 of the EIR/EIS.
- Mr. Ringham stated ridership was overly optimistic. Comment noted.

### **Ms. Rosemary Maulbetsch, self**

- Ms. Maulbetsch stated that more attention needs to be made to residential areas; did not look closely at visual and noise impacts. These comments were addressed in other responses on the Draft Program EIR/EIS. See Response to Comment L014.
- Ms. Maulbetsch stated that this project would be a duplication of service (with Caltrain). The HST and Caltrain serve different markets and are complimentary services.
- Ms. Maulbetsch stated had concerns about separating communities. This was addressed in Section 3.7 of the Final Program EIR/EIS and is discussed in the CEQA Findings.

### **Mr. James Janz, Mayor of Atherton**

- Mr. Janz expressed local concerns through Atherton and said that a high berm would be devastating. See Response to Comment L014 in the Final Program EIR/EIS.
- Mr. Janz wants the Authority to look at I-280 to I-380 to San Francisco and US 101. These were considered but rejected in the Final Program EIR/EIS. See Chapter 2 of the Final Program EIR/EIS.
- Mr. Janz expressed concern about the capacity of Caltrain tracks. This was considered as part of the engineering for the Final Program EIR/EIS. The

program level conclusion is that a four track system between San Jose and San Francisco would provide adequate capacity for both Caltrain and HST.

- Mr. Janz stated that if using Caltrain, then a trench should be selected. This will be evaluated in the project level environmental analysis. See Response to Comment L014 in the Final Program EIR/EIS.
- Mr. Janz wanted to know why there is a stop on the peninsula. There is a preferred station at Millbrae to provide access to SFO and a potential station at either Redwood City or Palo Alto. Whether or not there will be a mid-peninsula station, will be determined at the project level. If there is a stop, it will be based on increased connectivity and other benefits, as well as ridership and revenue potential.

### **Mr. David Schonbrunn, TRANSDEF**

- Mr. Schonbrunn claims the Final Program EIR/EIS is a hack political job. The Authority staff do not agree with this comment.
- Mr. Schonbrunn claims the Final Program EIR/EIS is intellectually dishonest. The Authority staff do not agree with this comment.
- Mr. Schonbrunn claims the Response to Comments were defective; rehashing of positions and did not address the substance of comments. The Authority staff do not agree with this comment.
- Mr. Schonbrunn states the Final Program EIR/EIS did not show red-lined text. This is not a requirement of CEQA or NEPA.
- Mr. Schonbrunn states that there was no agreement with UPRR. Agreements regarding right-of-way are premature at the program level.
- Mr. Schonbrunn claims there was a false statement in the Staff Report related to transportation corridors being used to minimize environmental impacts. The Authority staff do not agree with this statement. Use of transportation corridors include and go beyond use of existing transportation rights-of-way and that being in or adjacent to existing transportation rights-of-way does, in fact, minimize environmental impacts.
- Mr. Schonbrunn claims Altamont Pass was discarded without full analysis. The Altamont Pass was fully considered in this Program EIR/EIS.
- Mr. Schonbrunn claims the Final Program EIR/EIS minimizes differences between the alternatives, but ridership was the primary basis for the choice of Pacheco. The Authority staff do not agree with this comment. Ridership was not a determining factor in the selection of the Preferred Alternative, and was not included as an argument for the selection of the Pacheco Pass Network Alternative. See Chapter 8 of the Final Program EIR/EIS.
- Mr. Schonbrunn claims that the Final Program EIR/EIS did not evaluate alignments adjacent to rail lines and highways. See response to 1.2.8, above.
- Mr. Schonbrunn claims the Final Program EIR/EIS is inadequate and needs to be redone. The Authority staff do not agree with this comment.
- Mr. Schonbrunn states that the Staff Report indicates that the Authority would pursue agreements with railroads. Mr. Schonbrunn claims that this is a false statement because there are no agreements. Agreements regarding right-of-way are premature at the program level and would be pursued at the project-level.

### **Mr. Andy Cohen, Mayor of Menlo Park**

- Mr. Cohen stated that the city visioning process overwhelmingly supports a trench and the opportunity for a trench should be kept open. Use of a trench and other design variations will be considered during the project level review. See Response to Comment L014 in the Final Program EIR/EIS.

### **Mr. Martin Engel, self**

- Mr. Engel *prefers* trench through Menlo Park. See Response to Comment L014 in the Final Program EIR/EIS. Use of a trench and other design variations will be considered during the project level review.

### **Mr. Walter Strakosch, self**

- Mr. Strakosch has issue with responses to previous comments related to cost comparisons. Refer to Response to Comment PH-S9-3. Note that the reference to Table S.9-1 should have been Table S.8-1 in the Final Program EIR/EIS. The segment south of Stockton through Merced was included with both the Altamont Pass and Pacheco Pass to provide for a fair comparison of capital costs.
- Mr. Strakosch has issue with responses to previous comments related to the Sacramento market. Standard Response 3 in the Final Program EIR/EIS does discuss the superior travel times between Sacramento/Northern San Joaquin valley and the Bay Area, and that there is great potential for serving long-distance commuters in this corridor.
- Mr. Strakosch has issue with responses to previous comments related to logistical and seismic issues. Standard Response 3 discusses these issues and their influence in the selection of the Preferred Alternative.
- Mr. Strakosch has issue with responses to previous comments related to ridership numbers. The ridership numbers in Table S.8-1 should have been updated in the Final Program EIR/EIS. Ridership was not a determining factor in the selection of the Preferred Alternative.
- Mr. Strakosch has issue with responses to previous comments related to catchment areas. See Standard Response 3 and Chapter 8 of the Final Program EIR/EIS.

### **Kenneth Gusting, Executive Director, Transportation Involves Everyone (TIE)**

The written comment suggests that the Addendum/Errata to the Final Program EIR/EIS lacks sufficient attribution for it to be considered by the Board, and also contains significant new information that triggers recirculation of the Program EIR. The comment also suggests the response to a comment fails to acknowledge the potential for species such as California condor to expand their range into areas that may be affected by this project. The comment claims that the Addendum/Errata is not compliant with a settlement between the California Attorney General and the County of San Bernardino over the County's general plan update and greenhouse gas emissions.

The Addendum/Errata was prepared by HST staff with input from consultants. The basis for the Addendum/Errata is explained on the first page of the document. The

new information contained in the document does not trigger recirculation of the EIR because it does not raise any new or more severe impacts, but rather clarifies the level of environmental benefit the project offers in the areas of reducing vehicles miles traveled, air pollution, and energy consumption.

The Final Program EIR/EIS recognizes the potential for California condor to fly over the HST, but notes that no critical habitat would be affected by the Pacheco Pass network alternatives. More detailed study of potential impacts to wildlife movement and habitat will occur at the project level of environmental review.

The referenced settlement agreement regarding greenhouse gas emissions is not relevant to the current environmental process. The HST system, both statewide and in the Bay Area to Central Valley study region, is part of the State's solution to reducing greenhouse gas emissions.

**Jacques Gulbenkian, P.E., Prestress Service International**

- Mr. Gulbenkian states that both branches north of Merced should be constructed. The identified Preferred Alternative includes the Union Pacific alignment but commits to further review of the BNSF Alignment in the project level analysis. Mr. Gulbenkian states that there should be either a 220 mph train rail system or faster maglev system. The Authority considered and rejected a maglev system for HST in California as part of the program environmental process for the California HST system in 2005. The choice of rail technology is not at issue in this environmental review process.