DAVID RODGERS: Good afternoon, David Rodgers, Madera County supervisor. It's tough to speak with my back to people out here. I'm going to turn sideways, if that's okay. During the course of this project, over the last nine years, I have been a representative for District 2 in Madera County, and has evolved in a number of different ways. It has changed and continually changed, and we have come to another crossroads at this point, in which the governor has stated that the new plan will be to take a route from Bakersfield to Merced, and so I say in turn, I'm giving you this in terms of the change and in the spirit of change that has been brought forth from the governor's office.

Originally, we had two roots that were selected for possibilities, and that was alternative one and alternative two. Alternative two was the BNSF line, and then alternative one was the Amtrak line, which runs out through the country, down Santa Fe, and on over to Merced. At this juncture, the construction that has occurred in Madera County ends somewhere near Avenue 17 on Road 27 and a half. That's the extent of the construction, and it seems to follow that Amtrak line to that point. My suggestion is that it would be amiable and amicable to take that route out through the country on the Amtrak line, which would avoid the WYE all together, and you ask why would we do that? There's a very simple reason. I believe if you do a little analysis on that, on that particular section of the turning, the WYE, you'll find that going out the Amtrak route will save pretty close to a billion dollars in construction costs. When you talk about overpasses, going over the freeway, Interchanges that are going to be interrupted, and I believe, also, the turn, there's two turns that will take place, and you avoid those two turns. You'll just have a straight -- basically a straight line. It will be a little crooked, but it's not that bad. Not like two turns and jumping overrule Highway 99 and 152.

So that's my thoughts. I believe as the representative of District 2, that construction in Madera County is all within my district. So I speak for the residents of Madera County when I say that is a good alternative. Not only this, but I would assure you the board would look favorably upon that kind of change, the board of Supervisors would favor that kind of change, not only at cost savings to the taxpayers, but for the benefit of District 2 residents, which I represent.

We would do our job to help you get that through at Merced County as well. So thank you for your time, and I appreciate your -- the energy you're putting into making good things happen, hopefully, to come from this.
Response to Submission 266 (David Rodgers, Madera County Board of Supervisors, June 5, 2019)

The Authority appreciates the comments from Madera County supervisor Rodgers regarding considering an alternative that would continue along the BNSF/Amtrak rail line to the north from the currently underway HSR construction in Madera County, and not include a Central Valley Wye east-west connection. The Authority is continuing to plan for and environmentally evaluate the entire Phase 1 HSR system, from San Francisco to Los Angeles/Anaheim, through individual project section EIR/EISs. The Central Valley Wye and the east-west connection of the main stem of the HSR system in the Central Valley to the San Francisco Bay Area remains an integral component of the HSR Phase 1 system. An HSR system that is limited to a north-south track only, without a connection to the San Francisco Bay Area, would not address the purpose and need for the HSR system in California.
Submission 283 (Patrick Cavanah, Stanislaus County Environmental Review Committee, October 10, 2019)

Please see attached letter that came into the Authority's headquarters today regarding the Wye. Please let me know if you need the original copy.

Thank you for the opportunity to review the above-referenced project.

The Stanislaus County Environmental Review Committee (ERC) has reviewed the subject project and has no comments at this time.

The ERC appreciates the opportunity to comment on this project.

Sincerely,

Patrick Cavanah
Sr. Management Consultant
Environmental Review Committee

SUBJECT: ENVIRONMENTAL REFERRAL – CALIFORNIA HIGH-SPEED RAIL AUTHORITY – CALIFORNIA HIGH-SPEED RAIL PROJECT – MERGED TO FRESNO SECTION: CENTRAL VALLEY WYE DRAFT SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT/ENVIRONMENTAL IMPACT STATEMENT/EIS – NOTICE OF AVAILABILITY OF DRAFT SUPPLEMENTAL IMPACT STATEMENT – NEPA PUBLIC HEARING

Chapter 22 Local Agency Comments
Submission 283 (Patrick Cavanah, Stanislaus County Environmental Review Committee, October 10, 2019) - Continued
Response to Submission 283 (Patrick Cavanah, Stanislaus County Environmental Review Committee, October 10, 2019)

283-405
The comment indicating no further comments from Stanislaus County Environmental Review Committee is noted.
Chapter 22 Local Agency Comments

Submission 290 (Kristen Kortick, Abbott & Kindermann, Inc. on behalf of Wye Madera Task Force, October 28, 2019)

Merced - Fresno 2014+ Central Valley Wye - RECORD #290 DETAIL

Status: Action Pending
Record Date: 10/29/2019
Submission Date: 10/28/2019
Interest As: Local Agency
First Name: Kristen
Last Name: Kortick
Submission Content:

Dear California High Speed Rail Authority,

Please see attached comment letter to the Central Valley Draft Supplemental Environmental Impact Report/Environmental Impact Statement on behalf of the Wye Madera Task Force. Should you have any issues reading or downloading the document please feel free to contact our office at your earliest convenience. Thank you.

Sincerely,

Kristen Kortick
Law Clerk
[editimage001.png@01D58D04.E3A0FF60]
A Professional Corporation
2100 21st Street | Sacramento, CA 95818
tel: (916) 456-9595 | fax: (916) 456-9599

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Attachments: 191026 FINAL Comment Letter to HSR.pdf (5 mb)

VIA EMAIL on October 28, 2019
VIA HAND DELIVERY on October 29, 2019
California High Speed Rail Authority
Merced to Fresno Section: Central Valley Wye Draft Supplemental EIR/EIS
770 L Street, Suite 620 NS-
Sacramento, CA 95814
CentralValleyWye@calhighspeed.com

Re: Comments on Merced to Fresno Section: Central Valley Wye Draft Supplemental Environmental Impact Report/Environmental Impact Statement

Dear California High Speed Rail Authority:

The purpose of this correspondence is to comment on the Merced to Fresno Section: Central Valley Wye Draft Supplemental Environmental Impact Report/Environmental Impact Statement (collectively “DSEIR/EIS”) of the California High Speed Rail Project (“HSR”). These comments are submitted on behalf of Madera County as its capacity as representative of the Wye Madera Task Force (“Task Force”). The Task Force is a collaborative of agencies in Madera County with common interests pertaining to the HSR. The Task Force is comprised of the following legal entities:

- County of Madera
- City of Chowchilla
- City of Madera
- Madera County Transportation Commission
- Madera Unified School District
- Workforce Development Board of Madera County; and
- Madera County Economic Development Commission.

The Task Force agencies have a constituency of over 150,000 people and over 8,000 businesses in Madera County and the cities of Chowchilla and Madera. The comments herein

1 The DSEIR/EIS cover date is September 2018, but the document was not published for CEQA review until May 1, 2019 and was not available for CEQA review until September 1, 2019.
This correspondence is organized as follows:

I. Introduction and Procedural Summary
   A. Introduction
   B. Summary of HSR Procedural CEQA/NEPA History

II. Subsequent EIR/EIS: Fully Updating the 2012 Merced to Fresno EIR/EIS and the 2005 Program EIR/EA Addressing Changed Circumstances are Legally Required
   A. The DSEIR/EIS Analyses And Stated Benefits Must Reflect Current Uncertainties Regarding The Completion And Timing Of The HSR System
   B. A Subsequent EIR/EIS Must Address The Merced To Fresno Section And Not Be Limited To The Central Valley Wye
   C. The DSEIR/EIS Must Disclose And Evaluate Impacts In Light Of Modified Project Objectives
   D. The DSEIR/EIS Must Acknowledge That Construction Of The HSR Merced To Fresno Section Has Resulted In A Substantial Increase In The Severity Of
   E. A Subsequent EIR/EIS Is Required Because The Project Will Have One Or More Significant Effects Not Discussed In The Previous EIR/EIS
   F. A Subsequent Program EIR/EA For The Statewide California HSR System Must Be Prepared And Certified Prior To Further Preparation Of Section-Specific EIR/EISs Given Changed Circumstances And Uncertainties Regarding Statewide HSR Development
   G. Assuming Arguably Task To The DSEIR/EIS Was The Current Environmental Document, The Document Still Falls To Comply With CEQA And NEPA
   H. CHSRA Failed To Enter A Notice Of Preparation For The "Proposed Project," Thence Denying Local Agencies And Other Stakeholders The Ability To Provide Input On The Scope Of Items To Be Considered In The Additional Environmental Documentation
   I. The September 2019 DSEIR/EIS Falls To Comply With Procedural Requirements Of The July 2019 NEPA Assignment: MGU
   J. The DSEIR/EIS Falls To Meet CEQA And NEPA Requirements For Document

III. The DSEIR/EIS Does Not Properly Tier Off Or Incorporate By Reference The Prior Environmental Documents

IV. The DSEIR/EIS Contains A Legally Inadequate Project Purpose, Need, and Description
Submission 290 (Kristen Kortick, Abbott & Kindermann, Inc. on behalf of Wye Madera Task Force, October 28, 2019) - Continued

Chapter 22 Local Agency Comments

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V. The Focus of the DSIR/EIS on the Central Valley Wye Results in Improper Preambling of Environmental Analysis

VI. The DSIR/EIS Fails to Adequately Disclose, Analyze, and Mitigate Impacts

A. Impact Avoidance and Mitigation Measures Are Improperly Assumed in the Analysis

B. The DSIR/EIS Fails To Provide Legally Adequate Mitigation Measures

C. The DSIR/EIS Fails To Properly Analyze and Mitigate Traffic and Circulation Impacts

D. The DSIR/EIS Fails To Properly Analyze and Mitigate Agricultural Resources Impacts

E. The DSIR/EIS Fails To Properly Analyze and Mitigate Air Quality Impacts

F. The DSIR/EIS Fails To Properly Analyze and Mitigate Greenhouse Gas (GHG) Emissions

G. The DSIR/EIS Fails To Properly Analyze and Mitigate Noise and Vibration Impacts

II. The DSIR/EIS Fails To Fully Address Land Use Conflicts and Land Use Plan Inconsistencies

1) The DSIR/EIS Fails To Fully Evaluate and Mitigate Per Land Use Plan Inconsistencies

2) The DSIR/EIS Fails To Sufficiently Identify Land Use Incompatibilities Or Provide a Mechanism Per Local Land Use Plan And Zoning Updates To Accommodate HSR

I. The DSIR/EIS Fails To Fully Evaluate And Mitigate Aesthetic And Visual Resources

J. The Central Valley Wye Design Must Accommodate Utility Infrastructure

K. The DSIR/EIS Fails To Disclose And Mitigate Significant Effects Associated With Emergency Response Services

L. The DSIR/EIS Fails To Properly Address Long-Term Socioeconomic Impacts On Madera County

M. The DSIR/EIS Socioeconomic Analysis Is Flawed In Its Assumptions Regarding The Benefits Given Uncertainties Associated With Development Of A Statewide HSR System

N. The DSIR/EIS Fails To Fully Disclose Community Impacts And Relies On Inefficient Measures To Reduce Social Impacts

O. The DSIR/EIS Fails To Fully Disclose Community Impacts And Relies On Inefficient Measures To Reduce Relocation Impacts On Community Collection

P. The DSIR/EIS Fails To Fully Disclose And Address Environmental Justice Impacts

Q. The DSIR/EIS Improperly Concludes That HSR Will Result In Disproportionate Benefits To Disproportionate Communities

R. The DSIR/EIS Environmental Justice Analysis Relies On Speculative Mitigation Measures In Its Conclusion That Environmental Justice Impacts Would Be Less Than Significant

VII. The DSIR/EIS Fails To Provide A Legally Adequate Cumulative Impacts Analysis

VIII. The DSIR/EIS Fails To Consider And Evaluate Alternatives That Would Avoid Or Reduce Impacts Of The Proposed Project

IX. Conclusion

Attachment A. Impact Avoidance and Mitigation Feature Revisions

1. INTRODUCTION AND PROCEDURAL SUMMARY

A. Introduction

California’s HSR is an unprecedented undertaking for California with substantial economic, social, and environmental effects. The Task Force recognizes the magnitude of this undertaking and has been generally supportive of CHSRA’s efforts to develop the system. However, the Task Force also has concerns regarding local impacts and benefits as well as concerns regarding uncertainties surrounding full development of the HSR statewide system. In May of this year, CHSRA acknowledged in its 2019 Project Update Report to the California State Legislature that “the project is at a crossroad” and that “initial cost projections and timelines were simply unrealistic.” In fact, each of the DSIR/EISs for the Central Valley Wye is circulating for public review, CHSRA is reconsidering the feasibility of developing only certain segments and components of HSR due to unavailability of being able to finance the entire HSR. These current circumstances have substantial implications on the future of HSR and on the validity of environmental analysis and conclusions that are based on the assumption of a fully developed and operational statewide HSR system. Decision making and findings have relied on the optimistic assumption that the transportation, air quality, climate change, and other environmental and economic benefits anticipated from the statewide system will come to fruition. Yet, if the system is not fully developed or not developed in the previously anticipated timeframe, the benefits will be substantially reduced or not realized at all.

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Merced to Fresno Section: Central Valley Wye Final Supplemental EIR/EIS
Continuing this HSR priority is the continued construction of HSR facilities in the Central Valley, including Madera County, now underway. Madera County land use agencies, residents, and businesses are experiencing the effects of this construction, including air quality impacts, noise, permanent loss of agricultural land, construction impacts, and road closures.

The Central Valley Wye is a planned component of the HSR system intended to be the intersection of the San Jose to Merced and Merced to Fresno HSR sections. Each of the Central Valley Wye alternatives evaluated in the DS/EIS/EIS will result in a substantial and significant adverse environmental impacts, including noise and vibration, and will require the construction of permanent infrastructure. In this capacity, the Task Force seeks to ensure that decisions are based on the most current and relevant information and that decisions are not made based on previous data, assumptions, and funding expectations that may no longer be relevant or accurate.

CHSRA chose to evaluate the Central Valley Wye through preparation of a "supplemental" to the 2012 Merced to Fresno Section EIR/EIS. Both CEQA and NEPA require that when a subsequent or supplemental environmental document is prepared, the document must update the previous environmental document based, in part, on changed circumstances. The DS/EIS/EIS does not meet this standard. Substantial changes have occurred to the circumstance under which HSR is now being pursued as compared to the circumstances that existed in prior to 2012 when the Merced to Fresno EIR/EIS was certified. Thus, the DS/EIS/EIS must reflect these changed circumstances and not rely on previously anticipated HSR system outcomes where those outcomes are no longer reasonably foreseeable. Furthermore, the DS/EIS/EIS provides analyses only of the Central Valley Wye portion of the 2012 Merced to Fresno EIR/EIS and, by doing so, fails to update the 2012 EIR/EIS for other portions of the Merced to Fresno Section as required by CEQA and NEPA.

II. Summary of HSR Procedural CEQA/NEPA History

The 2008 Program EIR/EIS was a finger-primer analysis of the general effects of implementing the HSR system across two-thirds of the state (CHSRA 2009). The 2005 San Francisco Bay Area to Central Valley High-Speed Final Program EIR/EIS (CHSRA 2008) and the 2012 Bay Area to Central Valley HSR High-Speed Plan Partially Revised Final Program EIR (CHSRA 2012) were also first-tier, programmatic documents, focusing on the Bay Area to Central Valley corridor. Those earlier EIR/EIS documents were prepared with the intention of providing the Federal Railroad Administration (FRA) and CHSRA with the environmental analyses necessary to evaluate the overall HSR system and make broad decisions about general HSR alignments and station locations for further study in the second-tier EIR/EIS.

The 2012 Merced to Fresno Section EIR/EIS (CHSRA 2012) was a secondary tier EIR/EIS in that it provided project-level information for decision-making on the Merced to Fresno section of the HSR system. The Merced to Fresno EIR/EIS identified a location and also examined design options for an earthen embankment to the San Joaquin River. CHSRA certified the Merced to Fresno Final EIR/EIS under CEQA on May 3, 2012, and filed a Notice of Determination on May 4, 2012. The FRA issued a Record of Decision ("ROD") on September 18, 2012, and the Surface Transportation Board ("STB") issued a ROD on June 13, 2013. These second-tier approvals defined a decision on the alignment and design of the connection CHSRA referred to as the Central Valley Wye. That would provide the connection to the San Joaquin River and the Merced to Fresno section.

The 2013 DS/EIS/EIS that is the subject of this comment letter is CHSRA’s most recent step in the environmental review process to select a Central Valley Wye connection. The DS/EIS/EIS states that it evaluates the impacts and benefits of implementing the Central Valley Wye connection alternatives in the more geographically limited area of the Central Valley Wye connection between the cities of Merced and Modesto, and is based on additional project planning and engineering that has occurred over the last six years.

The DS/EIS/EIS was originally published by CHSRA on May 3, 2019, with a requirement that comments on the document be submitted by June 28, 2019. The May 2019 publication was for CEQA review only, as the federal land agencies, FRA, had not yet certified the publication of the document. CHSRA issued the Final EIR/EIS on June 14, 2019, the Task Force submitted a letter to CHSRA requesting extension of the comment period and requesting a public hearing on the subject of the Task Force comments. The Task Force was not formally notified of a decision on its request for additional time to comment. Therefore, the Task Force submitted its comment letter on June 20, 2019.

On July 1, 2019, and in response to a January 31, 2019, application by the State, FRA executed a memorandum of understanding ("MOU") with the State assigning FRA’s responsibilities for compliance with NEPA with respect to certain projects necessary for the design, construction, and operation of the HSR system, and expressly including the "Merced to Fresno Staging the Central Valley Wye Supplemental EIS". (MOU pg. 6). Subsequently, CHSRA published a Public Notice, Notice of Availability of Public Hearing, NEPA Only Release and Notice ("NEPA NOA") advising that the DS/EIS/EIS was available for review and comment for a 45-day period ending October 28, 2019.

This comment letter is submitted in response to the NEPA NOA. In this intent that CHSRA consider these comments pursuant to both CEQA and NEPA. The Task Force was advised by CHSRA staff that the CEQA comment period would not be extended, but that additional comment opportunities would be provided during the subsequent NEPA review circulation and that all comments submitted during the NEPA review period—whether addressing CEQA or NEPA issues—would be addressed by CHSRA. Where CEQA and NEPA are concurrently
applicable, CEQA provides built-in provisions for joint cooperation. However, the state agency must still ensure that CEQA is fully complied with, including those instances where the environmental documents are jointly produced.62


The 2005 EIR/ES does not comply with CEQA or NEPA mandates for appropriate environmental documentation. As a supplement to the 2012 Merced to Fresno EIR/ES, the 2005 EIR/ES was not sufficiently addressed in the Central Valley Wye component of the Merced to Fresno Section and does not sufficiently address the multitude of changes in circumstances that have occurred since 2012 or since the 2005 Project EIR/ES was prepared. Instead, two subsequent EIR/ESs must be prepared that fully update the 2012 EIR/ESs for the entire Merced to Fresno Section and the 2005 Program EIR/ES to reflect current circumstances, including circumstances associated with reasonably foreseeable outcomes based on current uncertainties associated with the statewide IFR system. As fully explained herein, the 2005 Program EIR/ES should be first in line with subsequent environmental analysis, followed by subsequent analysis for the 2012 Merced to Fresno Section.

As to CEQA, the general circumstances requiring the preparation of subsequent EIRs or supplements to EIRs, set forth in Public Resources Code sections 21062, essentially limits preparation of Subsequent EIRs to certain situations as identified in CEQA Guidelines sections 15102 and 15163.

In general, when an EIR has been certified, no subsequent EIR is required for that project unless the lead agency determinations, on the basis of substantial evidence in the light of the whole record, one or more of the following:

(1) Substantial changes are proposed in the project which will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
(2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
(3) New information of substantial importance which was not known and would not have been known with the exercise of reasonable diligence as of the date the previous EIR was certified as complete, shows any of the following:

(A) The project will have one or more significant effects not discussed in the previous EIR;
(B) Significant effects previously examined will be substantially more severe than shown in the previous EIR;
(C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative,
(D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially lessen one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

Additionally, a subsequent EIR shall be given the same notice and public review as required under CEQA, Guidelines, sections 15102 et seq.

On the other hand, a supplement to an EIR, the documents prepared by CHSRA, may only be prepared in lieu of a subsequent EIR when the following circumstances exist:

(1) The Lead or Responsible Agency may choose to prepare a supplement to an EIR other than a subsequent EIR if:
   (1) Any of the conditions described in Section 15102 would require the preparation of a subsequent EIR; and
   (2) Only minor additions or changes would be necessary to make the previous EIR adequately apply to the project in the changed situation.63

In sum, a supplemental EIR provides a short-term method where only minor additions or changes would be necessary in the previous EIR to make that EIR apply to the changed situation, or compared to a subsequent EIR that addresses significant changes in the project and changes in the circumstances under which the project would be undertaken. The Central Valley Wye environmental document clearly is not limited to “minor additions or changes” to the 2012 EIRs and, therefore, must be noticed and circulated as a subsequent EIR.

Under NEPA, significant new circumstances or information relevant to environmental concerns or substantial changes in the proposed action that are related to environmental concerns may necessitate preparation of a supplemental EIS following either the draft or final

The same is true of the 2012 Merced to Fresno EIR/EIS in terms of requiring review as a subsequent EIR and supplemental EIR. The 2019 DSEIR/EIS does not disclose and account for the current status of the various sections of HSR. The DSEIR/EIS analysis appears to be pursuit an outdated completed final approval of the various sections of the HSR system. This precaution is inaccurate. For the DSEIR/EIS analysis to be accurate and meaningful, the DSEIR/EIS should discuss the timing and phasing for interconnection of the San Joaquin-Merced Section to the proposed Central Valley Wye and the HSR/EIS should disclose the implications of selecting a configuration for the Central Valley Wye prior to completion of environmental review of the San Joaquin-Merced Section.

Other legal deficiencies in the DSEIR/EIS include, but are not limited to, the following:

1. The DSEIR/EIS does not incorporate information from the 2018 HSR Business Plan adopted nearly one year prior to publication of the DSEIR/EIS, nor does the DSEIR/EIS address current circumstances of HSR uncertainties in funding and full system development as outlined in the 2019 Project Update Report;

2. The DSEIR/EIS references and relies on information in the 2016 California High-Speed Rail Business Plan. However, a revised Business Plan was published in June of 2018, nearly one year prior to publication of the DSEIR/EIS on May 3, 2018. The 2018 Business Plan contains updated projections (e.g., ridership, finance, and funding) that directly impact impact analysis and other conclusions in the DSEIR/EIS. The 2018 Business Plan was completed nearly a year prior to publication of the DSEIR/EIS and information from the 2018 Business Plan should be used in the DSEIR/EIS, and;

3. The 2019 Project Update Report, which was published prior to publication of the DSEIR/EIS, CHSRA acknowledges regional uncertainties regarding the implementation of HSR. The 2019 Project Update Report notes that “the project is at a crossroads” and that “fiscal cost projections and timelines were simply unrealistic”.

At the October 15, 2019, CHSRA Board meeting, Agenda Item Number 2 discusses a “Policy Team Operator Site-by-Site Interim Analysis.” The staff report background summary indicates that in May 2019, CHSRA requested a side-by-side study to investigate and compare alternative potential early stage investments in the Central Valley, San Francisco Bay Area and Los Angeles-Orange High-speed rail corridors (2019 Project Memo). The focus of the work was to assess comparable investments within each corridor that could provide early return on investment. The side-by-side analysis includes a site-by-site analysis of identifying the project alternatives and potential regional operations (emphasis added). Further, the Authority is committed...
Submission 290 (Kristen Kortick, Abbott & Kindermann, Inc. on behalf of Wye Madera Task Force, October 28, 2019) - Continued

This comment letter need not provide an exhaustive summary of uncertainties, but the 2018 Business Plan, 2019 Project Update Report, and 2019 Project Memo are incorporated herein by reference, and clearly demonstrate that the future of HSR is not as originally conceived and approved in the 2005 Program EIR/EIS, as described and anticipated in the 2012 Merced to Fresno Draft EIR/EIS. Consequently, the 2005 Program EIR/EIS must be updated with subsequent CEQA and supplemental NEPA analyses before analysis of any future segments. Therefore, and for the reasons articulated herein, the DSR/EIS for the Merced to Fresno section, including the Central Valley Wye, must be the subject of subsequent CEQA and supplemental NEPA review and approval.

As discussed above, an essential component of a supplemental EIR/EIS is to provide updated evaluations in consideration of factors including changes in circumstances under which a project would be implemented. By not incorporating the information regarding the currently foreseeable future of HSR, the DSR/EIS fails to properly characterize and evaluate changed circumstances associated with ridership, construction planning, construction timing, and currently predicted factors of HSR development and operation. Without such an update, the DSR/EIS evaluation does not properly disclose the impacts of the modified project and relies on unrealistic and overly optimistic projections of future HSR benefits. Such a disclosure would contribute to impact significant determination in the DSR/EIS and those conclusions should, therefore, be updated.

B. A Subsequent EIR/EIS Must Address The Merced To Fresno Section And Be Limited To The Central Valley Wye

The DSR/EIS defines the project as the Central Valley Wye instead of describing and analyzing the Central Valley Wye as a change to the project evaluated in the 2012 Merced-Fresno EIR/EIS. While the DSR/EIS is described as a supplement to the 2012 Merced-Fresno EIR/EIS, the DSR/EIS treats the Central Valley Wye as a stand-alone “project” component of HSR, evaluating the impacts of the Central Valley Wye in isolation, in lieu of updating the analysis of the 2012 Merced-Fresno EIR/EIS. This approach does not provide a full and meaningful understanding of the impacts of the Merced-Fresno Section of HSR with incorporation of the proposed Central Valley Wye portion. Since the analysis is limited to the Central Valley Wye as a stand-alone project, the impact analysis and identification of mitigation is thus improperly limited.

C. The DSR/EIS Must Disclose And Evaluate Impacts In Light Of Modified Project Objectives

All objectives in the 2012 Merced-Fresno EIR/EIS states, “Develop a parallel and conventionally visible transportation system that can be implemented in phases by 2020 and generate revenues in excess of operations and maintenance (O&M) costs.” (Emphasis added.)
Submission 290 (Kristen Kortick, Abbott & Kindermann, Inc. on behalf of Wye Madera Task Force, October 28, 2019) - Continued

290-678

The 2019 DSER/EIS eliminates the 2020 implementation date from the project objectives\(^{20}\) (DSER/EIS, pgs. 5-6, 1-6) without explanation of the release of this change on the impact analyses and conclusions. The DSER/EIS must explain the reasons and purpose of this change and must describe the ramifications of this change on the entire Merced to Fresno Section, and the statewide HSR system. A change in the completion date will significantly affect the adverse impacts and benefits of the HSR system. These changes must be evaluated and described for the reasons set forth below.

290-679

Construction of HSR components in Madera County began in 2015. Since that time, Madera County consists of businesses, and local agencies have experienced and observed the direct negative effects and challenges of implementation of this substantial public infrastructure project. The Task Force has identified issues of concern pertaining to the proposed project presented in the DSER/EISs. These relate to temporary effects during construction of HSR facilities and permanent effects resulting from the changes in its communities and public infrastructure resulting from the permanent presence and operation of HSR facilities in the County. New construction-related impacts would likely be addressed through mitigation requiring clearly defined local agency involvement and approval. However, certain conditions are imposed on existing transportation infrastructure, and improved construction planning and phasing. Nonetheless, the DSER/EIS fails to consider existing conditions in its environmental analysis. This clearly is new information relevant to environmental concerns and impacts on the impacts of the project that must be considered in a subsequent EIR/EIS.\(^{21}\)

290-680

The current road closure situation at the Road 27 grade-separation project for HSR Construction Package 1 (CP 1) Extension north of Madera is illustrated with an increase in the severity of previously identified impacts that must be disclosed in a subsequent EIR/EIS for the Merced to Fresno Section. Road 27 is a north-south County road that services as one of two primary access routes to the Madera Area community, including Brandy Elementary School that serves approximately 550 students. Road 27 was permitted by the County to be closed for one year for HSR construction at the HSR crossing, in September 2016 resulting in all traffic being detoured to the remaining primary access route (Road 26). The county currently doubled the traffic using Road 26 access to the area, which led to significant congestion at the single access point. Detoured traffic loading on these roads, thereby accelerating the deterioration of the roadway and duration of the detour is resulting in increased air pollutant and GHG emissions that have not been evaluated, disclosed, or properly mitigated. Additionally, a significant portion of the traffic that would otherwise take access from Road 27 was routed through local neighborhood streets in access Road 26. This has increased the volume of traffic in neighborhoods that has negatively impacted the safety of children and pedestrians in those neighborhoods. After three years, construction at this location has not been completed and Road 27 remains closed, and these negative impacts remain. Occupying this roadbed, Hogtown Northern Station Site (HNSST) northward work in existing rail line south of the Road 27 location, resulting in a decrease that forced even more traffic onto the already heavily impacted Road 26. This traffic would have been detoured onto Road 27 were it not for the ongoing closure due to HSR construction. These overlapping closures have resulted in continuing the travel distance between Madera Access and the City of Madera by an additional two to four miles for each trip. Such construction-related impacts were not anticipated in the 2012 EIR/EISs, yet they have occurred. A subsequent EIR/EIS must acknowledge the increase in the severity of impacts associated with construction-related air pollutants and GHG emissions (due to extended construction activities and extended distances and durations of local traffic detours), additional VMT and traffic delays, and community effects caused by extended construction periods that have required significantly longer periods of time to complete than anticipated in the 2012 EIR/EIS, and a subsequent EIR/EIS must be prepared that reflects new information and changed circumstances and incorporated information now known as a result of ongoing construction work.

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E. A Subsequent EIR/EIS is Required Because the Project Will Have One or More Significant Effects Not Discussed in the Previous EIR/EIS.

As noted, the DSER/EIS defines the "project" as the Central Valley Wye instead of describing and evaluating the Central Valley Wye as a change to the project evaluated in the 2012 Merced-Fresno EIR/EIS. Because the DSER/EIS treats the Central Valley Wye as a changed "project" the DSER/EIS fails to evaluate the impacts of the Central Valley Wye as a component of updating the analysis of the 2012 Merced-Fresno EIR/EIS. This approach does not provide a full and meaningful understanding of the potential impacts of the Merced-Fresno Section of HSR with incorporation of the proposed Central Valley Wye portion of the Merced-Fresno Section. Instead, the analysis is limited to the Central Valley Wye and the impact analysis is therefore similarly limited.

Significant effects that have not been sufficiently evaluated and disclosed in the DSER/EIS include, but are not limited to, the following issues:

- Disproportionate adverse effects on disadvantaged communities (analysis concludes disproportionate benefits).
- Increased demand for emergency services and potential need for new emergency services facilities.
- Local Land Use Plan inconsistencies and failure to address state.
- Potential effects on the beneficial use of surface and groundwater rights and supplies and potential changes in groundwater recharge.
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F. A Subsequent Program EIR/EIS for the Statewide California HSR System Must Be Prepared and Certified Prior to Further Preparation of Section-Specific HSR EIRs Given Changed Circumstances and Uncertainties Regarding Statewide HSR Development

The CHSRA and the FRA prepared the 2005 Final Program EIR/EIS for the Proposed California High-Speed Rail System (2005 Statewide Program EIR/EIS (CHSRA, and FRA 2005), which provided a first-tier analysis of the general effects of implementing the HSR system across two-thirds of the state.

As stated in the 2005 Statewide Program EIR/EIS (Section 8.3, page 8-23),

The purpose of the proposed HSR system is to provide a reliable mode of travel, which links the major metropolitan areas of the state and delivers predictable and convenient travel times. Further objectives are to provide an interface with commercial airports, mass transit, and the highway network and to relieve capacity constraints of the existing transportation system as necessary travel demand in California increases in a manner sensitive to and protective of California’s unique natural resources. The system would be practical and feasible as well as economically viable. The system should minimize the use of existing transportation corridors and rights-of-way, be implemented in phases, and be completed by 2030.

The 2019 Merced to Fresno DSEIR/EIS discusses several instances in which CHSRA asserts that adverse impacts of the Central Valley Wye would be mitigated or nullified as a result of the “benefits” of the statewide HSR system. For example, the 2019 DSEIR/EIS states,

The Central Valley Wye alternative, as part of the HSR system, would decrease greenhouse gas (GHG) emissions, improve regional access, and result in a net savings in energy.

As discussed previously, in its 2019 Project Memo, which was published prior to circulation of the DSEIR/EIS, CHSRA acknowledges significant uncertainties regarding the implementation of HSR. The entire foundation of environmental review under both CHSRA and NTPA is no longer a valid basis on which section-specific environmental documents can rely. There is clearly a need for CHSRA to postpone decisions on individual HSR segment and re-evaluate the HSR statewide system. Identify an updated and realistic statewide system based on current circumstances, and prepare and issue for public review a subsequent.

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Program EIR/EIS for the statewide HSR system. Only with such a subsequent EIR/EIS for the entire system can CHSRA, responsible agency decision makers, and the public have the information needed to fully consider the environmental effects and benefits of a reasonably foreseeable outcome of HSR development based on current circumstances which have changed substantially since the 2005 Program EIR/EIS was certified and which, according to the October 15, 2019, CHSRA staff report, is now to provide “…high speed rail investment in a regional context (that) provide improved regional operations, “

Not only does the 2019 DSEIR/EIS rely on conclusions of an outdated, irrelevant 2005 base environmental document, but the 2019 DSEIR/EIS appears to intentionally omit information to avoid disclosing those facts to the public. The 2019 DSEIR/EIS purports to quote the 2008 Program EIR/EIS’s statement of objectives, and yet modifies the statement to eliminate reference to elements of the 2005 objectives. As presented in the 2019 DSEIR/EIS:

The purpose of the HSR system is stated as follows:

The purpose of the statewide HSR system is to provide a reliable high-speed rail service system that links the major metropolitan centers of the state, and has delivered predictable and convenient travel times. A further objective is to provide an interface with commercial airport, mass transit, and the highway network, and to relieve capacity constraints of the existing transportation system as necessary travel demand increase in California, in a manner sensitive to and protective of California’s unique natural resources. (Authority and FRA 2005) (2019 DSEIRS, pg. 8-7)

Although cited as a direct quotation from the 2005 Program EIR/EIS, the quotation instead revises the actual 2005 statement, “Further objectives are” in instead is “A further objective is” and then omits the remainder of the actual 2005 Program EIR/EIS objective statement which in the 2005 Program EIR/EIS includes: “The system needs to be practical and feasible as well as economically viable. The system should minimize the use of existing transportation corridors and rights-of-way, be implemented in phases, and be completed by 2030.”

This failure of the 2019 DSEIR/EIS to accurately represent the objectives of the statewide HSR system as evaluated in the 2005 Program EIR/EIS is not merely a simple omission of words. Completion of the statewide HSR system is central to the statewide benefits on which the 2019 DSEIR/EIS analysis and conclusions rely. CHSRA must fully evaluate and disclose the environmental effects of not only the Central Valley Wye, but the statewide HSR system in its entirety before making any further decisions regarding implementation of additional HSR sections or components. As the objectives of the statewide...
system appear to have changed, the new objectives must be identified, and a project or statewide program must be proposed that achieves the objectives. An impact analysis evaluating a project or program that does not achieve the basic objectives of the project or program serves no purpose and is legally deficient. As one of the key objectives of the 2005 Program HTP/EIS was to complete the statewide system "by 2030," the objectives clearly cannot be met based on current circumstances and the objectives and the statewide program must be modified to be consistent.

C. Assuming Argument That The DSEIR/EIS Was The Correct Environmental Document; The Document Still Falls To Comply With CEQA And NEPA

Assuming, arguendo, that the DSEIR/EIS was the appropriate environmental document for the Central Valley Wye, the DSEIR/EIS remains legally deficient for reasons that include, but are not limited to the following:

(i) CEQA Guidelines, § 15167(c) provides: "When the agency decides whether to approve the project, the decisionmaking body shall consider the previous EIR, as revised by the supplemental EIR. A finding under section 15100 shall be made for each significant effect shown in the previous EIR, as revised." Because the DSEIR/EIS does not identify the changes to impact identified in the Proposed Fresno EIR/ES that would result from the proposed Central Valley Wye component, the DSEIR/EIS does not provide the evidence that will be necessary for a finding for each significant effect, as revised," as required by CEQA and does not provide an opportunity for agencies and other stakeholders in the public to comment on such issues.

(ii) NEPA's CEQ regulations require that supplements to the EISs shall be prepared when there are "significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts." Thus, to meet NEPA's obligations, an agency generally cannot rely on an audited analysis to support its decision.

(iii) As the letter explains, the conditions upon which the agency evaluated impacts for the Central Valley Wye and HSR have changed significantly requiring further review for both the HSR project, and the 2012 Merced to Fresno Section in order to have legally defensible documents under both CEQA and NEPA.

H. CHSRA Failed To Issue A Notice Of Preparation For The "Proposed Project," Thereto Denying Local Agencies And Other Stakeholders The Ability To Provide Input On The Scope Of Issues To Be Considered In The Additional Environmental Documentation.

CEQA requires that either a subsequent EIR or a supplemental EIR shall be given the same notice and public review as required for its EIR under CEQA Guidelines Section 15067 or

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Section 15072.22 A subsequent EIR shall also state where the previous document is available and can be reviewed.

In addition to CEQA requirements and as noted above, NEPA mandates that a supplemental EIS should have been prepared. The supplemental EIS process should have commenced with publication of a notice of intent stating the agency's intent to prepare a supplemental EIS and then publishing the notice in the Federal Register. The notice of intent would provide a brief description of the proposed action and possible alternatives. It would also describe the proposed scoping process, including any readings and how the public could become involved. The Task Force understands that the CEQA NEPA Guidelines excludes the scoping process for a supplemental impact statement. Nonetheless, the CEC/NEPA regulations also require that an agency may prepare an EIS supplements when the agency determines that the purposes of NEPA will be furthered by doing so even if the other reasons. In light of the statewide and regional impacts of HSR, adequacy to a scoping process for a supplemental EIS would be appropriate and consistent with NEPA's goals for public notice.

Therefore, CHSRA may not CEQA, and should under NEPA have issued a Notice Of Preparation for the DSEIR/EIS and any subsequent EIRs that should be prepared. Both CEQA and NEPA require citizen involvement as key to implementing the policies and mandates of each statute. When faced with a statewide transportation project of this magnitude in geographic, technical, social and economic impact, NEPA would displace does CEQA, that the public responsible agencies, and resource agencies should have received a notice of preparation of this subsequent environmental review. In fact, had proper notice of the intent to prepare an environmental document for the Central Valley Wye been provided, we are confident than many of the Task Force concerns expressed in this letter would have been identified at this time and properly addressed by CHSRA in the environmental document. For a defensible CEQA/NEPA process, CHSRA must step back and issue a notice of preparation then proceed with preparing a subsequent Programmatic EIR/ES for the HSR project, and subsequent EIR/ES on the 2012 Merced to Fresno section for the Central Valley Wye.

Because the DSEIR/EIS evaluates the Central Valley Wye Alternatives, as a stand-alone "proposed project," and "preferred alternative" and not as a modification to the Merced-Fresno Section "project" evaluated in the 2012 EIR/EIS, a NOP should have been prepared for a subsequent EIR/ES.

Although the document is described as a supplement to the 2012 EIR/EIS, the DSEIR/EIS as written does not supplement the 2012 EIR in conformance with NEPA regulations and, instead, evaluates the Central Valley Wye as a standalone project component of the HSR. To evaluate the Central Valley Wye as a standalone project component of the HSR consistent with CHSRA's approach to other HSR components, the HSR Central Valley Wye EIR/ES
would need to be treated as a second tier EIR/EIS. As a second tier EIR/EIS, the CEQA and NEPA required public notice and an opportunity for input on the scope of issues to address in the environmental analysis/scoping process would have been provided. CSRA’s decision to not issue a NOP and to not conduct EIR scoping for the Central Valley Wye would be a local agency, other stakeholders, and the public the ability to consider the proposed project and provide comments on the scope of issues to address in the EIR/EIS.

As a result, the DSER/EIS is legally deficient and does not fully consider environmental and other issues important to the Task Force and relevant for consideration in preparing the draft environmental document. Both subsequent EIRs/EISs and supplements to EIRs/EISs must receive the same kind of circulation for public review required for other kinds of draft EIRs/EISs.14

I. The September 2019 DSER/EIS Fails To Comply With Procedural Requirements Of The July 2019 NEPA Assignment MOU

The July 2019 NEPA assignment MOU requires the State to comply with certain provisions. Among these include providing disclosure statements on the cover of documents included for public review. Section 3.1.2 of the MOU requires that “the cover page of each environmental impact statement (EIS) prepared for a rail project anticipated under this MOU, the State will insert the following language:”

The environmental review, consultation, and other actions required by applicable Federal environmental laws for this project are being or have been carried out by the State of California pursuant to 23 U.S.C. 327 and a Memorandum of Understanding dated July 31, 2019, and executed by the Federal Railroad Administration and the State of California.

Section 3.1.2 of the MOU also states that the “[t]he State will provide the same or substantially similar disclosure in the public agency as part of initial agency outreach and public involvement, including, in any notice of intent or scoping meeting notice, and in otherwise appropriate.”

Furthermore, Section 3.2.6 of the MOU requires that “[o]n the cover page of each biological evaluation or assessment, historical properties or cultural resources report, Section 4(c) evaluation, or other such reports prepared under the authority granted by this MOU and distributed to other agencies or the public, the State will insert the following language:”

The environmental review, consultation, and other actions required by applicable Federal environmental laws for this project are being, or have been, carried out by the State of California.

15 49 C.F.R. § 1.302(k)(3); 15123(a).
17 ORS 193.005.
18 49 C.F.R. § 1.302(k)(3).
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Under both CEQA and NEPA, the agency has a duty to provide the public with comprehensive information regarding environmental consequences of the proposed action and to do so in a readily understandable manner.

The DSER/EIS is legally deficient in its readability. The DSER/EIS does not provide a comprehensive summary of analysis methods and conclusions and does not provide a listing of specific mitigation requirements. The 2019 DSER/EIS is composed of a myriad of nearly 150 separate sections/documents to the 2012 Merced to Fresno DSER which also must be individually consulted since the 2019 DSER/EIS is not a subsequent document and therefore does not fully replace the 2012 DSER.

III. THE DSER/EIS DOES NOT PROPERLY TIE OFF OR INCORPORATE BY REFERENCE THE PRIOR ENVIRONMENTAL DOCUMENTS

The DSER/EIS references previous documents from which it is intended to "cited," but fails to provide the CEQA and NEPA required roadmap for how the evaluation of the currently proposed project flows from and relates to analyses conducted and presented to the documents from which it is derived.

The analytical process known as "tiersing" under CEQA allows a lead agency to prepare a series of EIRs, moving from general, regional concerns to more site-specific considerations with the preparation of each new document. "Tiersing" refers to "the generalization of matters in broader EIRs (such as a general plan or policy statements) with subsequent narrower EIRs or ultimately site-specific EIRs incorporating by reference the general discussions and concentrated solely on the issues specific to the EIR subsequently prepared." When in TTR incorporates an earlier environmental document by reference, "the incorporated part of the referenced document shall be briefly summarized where possible" and "the relationship between the incorporated part of the referenced document and the EIR shall be described."

NAPA similarly allows listing of environmental impact statements and notes that whenever a broad environmental impact statement has been prepared such as a program or policy statement and a subsequent statement or environmental assessment is then prepared for site-specific action, the subsequent statement or environmental assessment should summarize the issues discussed in the broader statement and incorporate discussions from the broader statement by reference.

The DSER/EIS supposedly relies on the analysis of prior first tier program documents including the Merced to Fresno Section Final EIR/ES (2012) second-tier project document. The DSER/EIS however, does not explain how the sequence of environmental documents certified after the 2005 programmatic EIR/ES for the entire HS system has updated and replaced the 2005 programmatic EIR/ES, nor how they are all linked. As noted herein, the DSER/EIS itself is a new project and not as a "supplement" to the Merced to Fresno Section Final EIR/ES (2012). Moreover, the DSER/EIS fails to explain how the analysis relies upon any of the previously prepared and certified documents.

CEQA statutory and case law are clear that when an EIR uses citing or incorporation by reference it must give the reader a better used map to the information it intends to convey.

The data in an EIR must not only be sufficient in quantity, it must be presented in a manner calculated to adequately inform the public and decision-makers, who may not be previously familiar with the details of the project. [Information "scattered here and there in EIR appendices" as a report "tossed in an appendix" is not a substitute for a good-faith reasoned analysis.

Since 2005, thousands of pages of CEQA analysis and technical reports have been compiled on HSRS and its Segments. Now, 14 years later, the DSER/EIS considering the Central Valley Wye, the only site for the entire HSRS system intended for northeast and west segments of the HSRS system, fails to provide the general public with a better road map to the information it intends to convey. The DSER/EIS fails to sufficiently walk the general public through the history of the project, the relationship between much CEQA/NEPA document and how each document reflects EIR/ES evolution. Also missing is a required summary of issues discussed in the prior first tier and second-tier EIR/ES and the DSER/EIS does not adequately incorporate by reference discussions from those prior environmental documents.

Therefore, the DSER/EIS does not adhere to tiering obligations under CEQA and NEPA.

IV. THE DSER/EIS CONTAINS A LEGALLY UNIN-complete PROJECT PURPOSE, NEED, AND DESCRIPTION

CEQA requires an EIR to have an accurate, stable project description. An accurate,
stable and finite project description is the sine qua non of an informative and legally sufficient EIR. "Among other things, a project description must include a clear statement of the object of the project, which will help the lead agency develop a reasonable range of alternatives to evaluate in the EIR and will aid the decision-makers in preparing findings or a statement of overriding considerations if necessary." The description must also include "[a] general description of the project's technical, economic and environmental characteristics, considering the principal engineering proposals if any and supporting public service facilities." As part of the project description, an EIR also must contain:

A statement of objectives sought by the proposed project. A clearly written statement of objectives will help the lead agency develop a reasonable range of alternatives to evaluate in the EIR and will aid the decision-makers in preparing findings or a statement of overriding considerations if necessary. The statement of objectives should include the underlying purpose of the project.

The identification of the proposed objectives is crucial to the project consideration and analysis of the project, especially development of a reasonable range of alternatives to be evaluated in the EIR. As stated in the seminal "project description" interpretations of County v. City of Los Angeles, supra, 71 Cal. App. Third at PP 92-93:

A detailed or distorted project description may mislead the objectives of the reporting process. Only through an accurate view of the project may affected outsiders and public decision-makers balance the proposal's merits against its environmental costs, evaluate mitigation measures, assess the advantages of terminating the proposal (i.e., the "no project" alternative) and weigh other alternatives in the balance.

The adequacy of an EIR's project description is closely linked to the adequacy of the impact analyses. More specifically, the project description provides the analytical foundation for the entire EIR. It is therefore essential that the EIR has an accurate, well-conceived, stable, and finite project description. Thus, if the description is inadequate because it fails to discuss an aspect of the project, the environmental analysis will most likely suffer the same mistake. As demonstrated below, a distorted project description indicates both the assessment of impacts and consideration of meaningful alternatives.

Under NEPA, similar to CEQA requirements, the EIS must include a discussion specifying the underlying purpose and need of the project. The purpose of the EIS is to identify the range of alternatives to be discussed and evaluated in order to allow for the proper review of all reasonable alternatives. The purpose and need must be properly defined. If the agency construes the definition of the project's purpose and thereby excludes what may be reasonable alternatives, the EIS cannot fulfill its role. Nor can the agency satisfy the Act.

Finally, every EIR/EIS must contain a project description of a "project's technical, economic, and environmental characteristics." An EIR "is an informational document" that must be prepared with a sufficient degree of analysis to provide the decision-makers with information which enables them to make a decision which intelligently takes account of environmental consequences. CEQA requires the analysis of potential impacts to be "reasonable" and specific at the project level. CEQA Guidelines, section 15146 states "[t]he degree of specificity required in an EIR will correspond to the degree of specificity involved in the underlying activity which is described in an EIR," like CEQA, under NEPA, the information must be of high quality. Accurate scientific analysis, expert agency comments and public scrutiny are essential to implementing NEPA. The EIS must concentrate on the issues that are truly significant to the decision in question.

Finally, the EIR/EIS project description must also be stable and finite.

As evidenced in both CEQA and NEPA, the foundation of the proper EIR/EIS rests in the definition of the project's purpose, need and objectives. As explained herein, the Central Valley Wye and its DSEIR/EIS, CRESRA has failed to satisfy these basic tests by failing to clearly identify its purpose and need as described herein.

As noted, the Central Valley Wye has been improperly characterized and described as "the project" in the DSEIR/EIS. Instead, it should have been characterized and evaluated as a change to a component of the Merced-Fresno project. Alternatively, the Central Valley Wye could have been treated as a second stage EIR/EIS, evaluating the Central Valley Wye as an element of the overall EIR.

The DSEIR/EIS does not address "changed circumstances" as required by CEQA and is speculative with regard to implementation of other components of the HSRA and completion of...
the HSR system. Many of the conclusions in the DSER/EIS assume that the HSR system will be fully developed, which may no longer be accurate.

The 2019 Project Update Report discusses feasibility analyses conducted by the Early Train Operator (ETO) assessing the feasibility of two separate high-speed rail lines—one in the Central Valley and another from San Francisco to Oakland—as conditions for early interim service.” Studies by the ETO are ongoing, as is currently an update presentation to the CHSRA Board on October 16, 2019, it is clear that substantial delays to completion of the statewide HSR system are occurring and there is, in fact, significant uncertainty as to whether the system will ever be completed. In consideration of these factors, the ETO and CHSRA have recently discussed that the Central Valley Wye may initially be developed only in part to accommodate connections for the Merced to Fresno section, but without the currently proposed western segment for connection to the Bay Area. Such a change would substantially change the analysis and conclusions of any environmental review in terms of the overall environmental effects and the environmental and other benefits of the HSR system. By not updating the Merced to Fresno Section EIR/EIS to account for current circumstances, CHSRA is not adequately disclosing the environmental consequences of its actions. It may, in fact, be necessary for CHSRA to prepare a subsequent Program EIR/EIS for the entire HSR system in order to adequately evaluate and disclose environmental effects.

Given inconsistencies with regard to funding, final design, phasing, timing, and other factors, the DSER/EIS does not sufficiently disclose impacts of the Central Valley Wye, or the [all] Merced-Fresno Station in consideration of these uncertainties. The DSER/EIS should have provided updated information regarding assumptions pertaining to HSR system and should evaluate and disclose impacts based on reasonably foreseeable outcomes for HSR. Impact analyses and conclusions in the DSER/EIS that purport assessment of subsequent phases of HSR and future benefits (e.g., improved statewide mobility, reduced vehicle miles traveled (VMT), reduced traffic, reduced air pollutant and greenhouse gas [GHG] emissions) are speculative, overly optimistic, or worse yet, completely contradictory to conclusions in the 2019 Project Update Report and the 2019 Project Memo.24 Based on current circumstances and available information. Therefore, without a sufficient project description, the DSER/EIS cannot provide impact evaluations and conclusions that reflect only those components of HSR that are reasonably foreseeable given the current status of federal participation, funding, and other circumstances.

The Central Valley Wye should not be characterized as “the project” in the DSER/EIS and instead should be characterized and evaluated as a change to a component of the Merced-Fresno project or a second tier EIR should be prepared evaluating the Central Valley Wye as a component of the overall HSR. Consequently, the DSER/EIS contains a legally deficient project description under both CEQA and NEPA.

V. THE FOCUS OF THE DSER/EIS ON THE CENTRAL VALLEY WYE RESULTS IN IMPROPER PIECING TOGETHER OF ENVIRONMENTAL ANALYSIS

CEQA requires that environmental review documents analyze “the whole of an action.”25 California courts have strictly enforced CEQA’s prohibition on “piecemealing,” to ensure that an EIR process cannot be used to analyze “ad hoc or partial sections” of a project.26 Courts have required such an approach to ensure that environmental considerations not become subverted by chopping a large project into many little ones, each with a potential impact on the environment, which cumulatively may have significant consequences.

The Authority unilaterally chose to distinguish, in violation of CEQA, by failing to consider and link impacts associated with the Central Valley Wye to either the rest of the Merced to Fresno Section and the HSR system as a whole. By analyzing the impacts limited to the Central Valley Wye portion of the Merced to Fresno Section in isolation from the overall impacts of the entire Merced-to-Fresno Section, CHSRA denied the public and decisionmakers the information concerning the impacts of the Merced to Fresno Section when disclosure of such effects should, in fact, be the primary focus of the DSER/EIS.

VI. THE DSER/EIS FAILS TO ADEQUATELY DISCLOSE, ANALYZE AND MITIGATE IMPACTS

An EIR must provide adequate, complete, and full disclosure of the environmental impacts of a proposed project.27 Similarly, NEPA requires agencies to prepare an EIS for any agency action that significantly affects the quality of the human environment. This includes providing a detailed statement on the environmental impact of the proposed action, any adverse environmental effects which cannot be avoided should the project be implemented, alternative to the proposed action, and other obligations.28 An EIS complies with NEPA if it shows that the agency took a “hard look” at the environmental consequences of its proposed action.29

An agency fails to meet its “hard look” obligation when it relies on incorrect assumptions or data in drafting an EIS or presents information that is incomplete or misleading such that the decision-maker and the public cannot make an informed choice of alternatives.30

30 Napa Hotel & Grand Travelers Center v. County of Napa, 309 F.3d 1070, 1082 (9th Cir. 2002).
A. Impact Avoidance And Minimization Features Are Improperly Assumed In The Analysis

The DSER/EIS discusses Impact Avoidance and Minimization Features (IAMFs) that have been incorporated into the HSR project to avoid and minimize impacts as well as to mitigate expected impacts. Courts have concluded that an EIR can include CEQA, where it incorporates proposed mitigation measures, such as IAMFs, into the description of the project, and then bases its conclusion of less-than-significant impacts in part on those mitigation measures. The court found that this improperly considered the analysis of impacts and mitigation measures into a single issue.

Although the distinction between elements of a project and measures designed to mitigate impacts of a project may not always be clear, nonetheless, CEQA requires the proper identification of significant impacts and separately, the related mitigation measures. An EIR must include, among other things, a detailed statement setting forth “[a]n identification of significant impacts on the environment of the proposed project” and “[i]dentification of significant impacts on the environment of the proposed project” and “[t]he mitigation measures proposed to minimize significant environmental effects of the Proposed Project” and “[t]he mitigation measures proposed to mitigate the significant environmental effects of the Proposed Project.” For each significant effect, the EIR must identify specific mitigation measures, where several potential mitigation measures are available, each should be discussed separately, and the criteria for choosing one over the other should be stated. If the EIR identifies significant environmental effects, the public agency may approve the project only if it makes one or more of the following findings: “[1] Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment; [2] Specific economic, legal, social, technological or other considerations make infeasible the mitigation measures or project alternatives identified in the environmental impact report.” These findings must be made for each identified significant effect “accompanied by a brief explanation of the rationale for each finding.”

The importance of these procedural steps and findings can be explained as follows: “[T]he purpose of section 21006 is that there be some evidence that the alternative or mitigation measures in the EIR actually were considered by the decision making agency and, as the Supreme Court stated in a similar situation, that there be a disclosure of “the reasons the agency traveled from evidence to action.” Thus, when a project is approved that will significantly affect the environment, CEQA places the burden on the approving agency to affirmatively show that it has considered the identified means of lessening or avoiding the project’s significant effects and to explain its decision allowing those adverse changes to occur.”

The DSER/EIS fails to separately identify and analyze the significance of impacts before proposing mitigation measures. In this instance, what the DSER/EIS does is attempt implementing and efficiency of IAMFs as part of the project to not merely a hurdle for approval filling. This short-cutting of CEQA requirements subjects the purposes of CEQA by omitting information necessary for informed decision-making and informed public participation. It provides both identification of potential environmental consequences arising from the project and also provides an analysis of the sufficiency of measures to mitigate those impacts. The DSER/EIS is deficient for ensuring implementation and efficiency of IAMFs, as components of the project without first evaluating impacts that would occur in the absence of those IAMFs, and this deficiency cannot be considered harmless. As a result, the DSER/EIS fails to fully evaluate and disclose impacts associated with those resources affected for which IAMFs are identified, including aesthetics and visual quality, agriculture and farmland, air quality, biological resources, cultural resources, electromagnetic fields and electromagnetic interference, geologic resources, hazardous materials and waste, hydrology and water resources, land use and development, noise and vibration, parks and open space, public utilities and energy, safety and security, and transportation in compliance with CEQA and must be revised to fully evaluate and disclose impacts that would occur prior to implementation of mitigation measures, including IAMFs. Consequently, the DSER/EIS is legally deficient for failing to separately identify and analyze the significance of impacts before proposing mitigation measures.

Additionally, Attachment A of this comment letter provides specific revisions requested by the Task Force for understanding issues associated to certain IAMFs pertaining to Aesthetics, Agriculture, and Transportation that must be considered to ensure the IAMFs sufficiently define implementation responsibilities, provide opportunities for local agency input and approval, and establish clear requirements and performance standards. Without such additional specificity, the efficacy of the IAMFs as enunciated in the DSER/EIS analysis is insufficient and must be revised to provide analysis of impacts without the unreasonable assumption that the IAMFs would serve as effective mitigations. Although our specific suggestions in Attachment A are limited to IAMFs associated with Aesthetics, Agricultural and Farmland, and Transportation, similar detail is necessary for all IAMFs in order for the IAMFs to actually reduce impacts as intended and assumed in the DSER/EIS.

B. The DSER/EIS Fails To Provide Legally Adequate Mitigation Measures

Concrete enforceable mitigation measures must be “required in, or incorporated into” a project. An EIR must evaluate the efficacy of mitigation measures in order to properly disclose

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A project's environmental impacts on decisions and the public. For this reason, the adoption of deferred, vague, or inadequate mitigation measures violates CEQA. Oftentimes in the analysis of the feasibility and adoption of mitigation measures also violates CEQA.

Mitigation Measures in the DSEIR/EIS do not provide sufficient detail regarding implementation requirements or performance standards. Therefore, the DSEIR/EIS is unclear with regard to how the mitigation measures adopted for the 2012 Merced-Fresno Section relate to the mitigation measures identified in the Central Valley Wye DSEIR/EIS. Mitigation measures must: 1) be specific to the proposed project; 2) clearly state the performance standards they will achieve; 3) identify the party responsible for their implementation and funding; 4) identify the planning of implementation; and 5) ensure CHSRA is overseeing implementation and monitoring that measures are fully implemented. To the absence of specific commitments and performance standards, the conclusions in the DSEIR/EIS regarding the efficiency of mitigation measures at avoiding or reducing impacts are unsupported.

The DSEIR/EIS includes numerous impact areas in which the necessary impact disclosure was omitted and the adoption of concrete, enforceable mitigation measures was improperly deferred in violation of CEQA, including, but not limited to, those discussed in the sub-sections below.

Mitigation is an important NDEA mechanism that federal agencies can use to minimize potential adverse impacts associated with their actions. Agencies can use mitigation to reduce environmental impacts in several ways. These include avoiding an impact by marking a certain action or part of an action that minimizes the impact by limiting the degree or magnitude of the action and its implementation, rectifying an impact by repairs, restoring or restoring the affected environment, reducing or eliminating an impact over time through preservation and maintenance operations during the life of an action, and compensating for an impact.

C. The DSEIR/EIS Fails To Properly Analyze And Mitigate Traffic And Circulation Impacts

The DSEIR/EIS fails to update and disclose impacts associated with other portions of the Merced to Fresno sections based on changed circumstances and new information which is required of a subsequent/deemed EIR/EIS. The current road closure situation at the Road 27 grade-separation project for HSR Construction Package 1 (CP-1) Extension north of Modesto is illustrative of this deficiency. Road 27 is a north/south County road that serves as one of two primary access routes to the Madera Acres community, including Delplay Elementary School that serves approximately 850 students. Road 27 was closed by the County to be closed for one year for HSR construction in the HSR crossing in September 2016 resulting in all traffic being detoured to the remaining primary access route (Road 26). The detour essentially doubled the traffic using Road 26 access to the area, which led to significant congestion at the single access point and doubled traffic loading on these roads, thereby accelerating the depletion of the service life of this roadway and causing increased air quality and greenhouse gas emissions impacts. Additionally, a significant portion of the traffic that would otherwise take access from Road 27 was rerouted through local neighborhood streets to access Road 26. This has increased the volume of traffic in neighborhoods and the concern for the safety of children and pedestrians in these neighborhoods. After three years, construction at this location has not been completed and Road 27 remains closed. Compounding this situation, Burlington Northern Santa Fe ("BNSF") initiated work on its existing rail line south of the Road 27 location, resulting in a closure that forced even more traffic onto the already heavily impacted Road 26. This traffic would have been detoured onto Road 27 were it not for the ongoing closure due to HSR construction. These ongoing closures have resulted in extending the travel distances between Madera Acres and the City of Madera by an additional two to four miles for each trip.

Such construction-related impacts were not anticipated in the 2012 EIR/EIS, yet they have occurred. The DSEIR/EIS must reflect new information and changed circumstances and incorporate information now known as a result of ongoing construction work as part of CHSRA's obligation to identify, analyze, and mitigate impacts.

The DSEIR/EIS identifies LAMs intended to avoid or reduce project impacts on traffic and circulation; however, the LAMs as presented in the DSEIR/EIS fail to fully define the requirements, timing, and performance standards that must be achieved in order to reduce impacts as assessed in the analysis, including those associated with construction activities on traffic and circulation, including those associated with construction activities on traffic and circulation. Attachment A of this letter provides specific suggested revisions to LAMs that are needed to ensure that they are sufficient in addressing impacts on traffic and circulation.

Furthermore, the DSEIR/EIS does not fully evaluate the temporary and permanent effects of the Central Valley Wye on transportation and circulation. The DSEIR/EIS identifies that the proposed project would result in 57 road crossings and 33 pedestrian public road closures. Additional temporary road closures will be necessary during construction. The DSEIR/EIS does not provide the level of detailed evaluation on traffic congestion and vehicle miles traveled (VMT) associated with the road closures to enable DSEIR/EIS reviewers or decision makers to fully understand the impacts on traffic operating levels of service or VMT that will occur as a result of the proposed Central Valley Wye. Furthermore, the DSEIR/EIS does not adequately consider CEQA alternatives that would avoid or lessen the significant environmental effects (see Section VIII of this letter), and in this case, transportation impacts, of the proposed project.

Without detailed analyses of specific locations, the DSEIR/EIS does not properly evaluate and disclose the potential need for additional design measures, mitigation, and/or investigation of alternatives to reduce significant transportation impacts. It can be reasonably anticipated that the substantial number of road/construction closures and detours would result in significant traffic operations impacts and increased VMT on a local level. Additional analysis of traffic impacts associated with the temporary and permanent road closures must be conducted by CHSRA.
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The substantial amount of permanent road closures (over 50 percent of the roads crossed by the Central Valley Wye) will result in significant modifications to the existing and planned future road network in Madera County, and will create the need for local land use planning agencies and the Madera County Transportation Commission to update their transportation plans to account for these significant changes in future road volumes and travel patterns. Thus, the Task Force is requesting that CHSRA provide funding to support the updates required due to HSRR.

To address these inadequacies in the traffic and transportation analysis, the DSER/EIS must:

1. Clearly define, through project impact avoidance and mitigation measures (CIAMP) or mitigation measures, a mechanism for HSR construction practices that will minimize construction-related traffic issues (e.g., closures, diversions, increased VMT with specific requirements for construction scheduling and phasing), and include defined processes for review and approval of transportation management plans by affected local agencies in Madera County;

2. Provide a mechanism to establish specific mitigation measures for impacts to local transportation infrastructure due to construction activities (i.e., detour and road rotary);

3. Provide a mechanism to aid in funding the expansion and extension of Avenue 17 westward to SR 145 to compensate for westward road closures and the loss of connectivity resulting from HSRR and to secure emergency access and acceptable response times between east and west of HSRR factors;

4. Provide for the design, permitting, and construction of the Stone Route SR 99/SR 152 interchange with a design that includes on and off ramps to both northbound and southbound SR 99;

5. Analyze prepared SR 152 short-cuts and closures for County roads with respect to the County General Plan Circulation Element and SR 152 agreement between County and Caltrans and provide mitigation to address impacts associated with the closures, including increased VMT resulting from elimination of existing road options and

6. Provide specific measures to reconstruct and improve existing local roads and intersections sufficient to mitigate construction impacts and to accommodate increased use due to loss of other roads and future traffic.

D. The DSER/EIS Fails To Properly Analyze And Mitigate Agricultural Resources Impacts

The DSER/EIS analysis of the impacts to agricultural resources is incomplete and fails to provide information necessary for a supplemental/subsequent EIR/EIS for the Merced to Fresno Section. The DSER/EIS reports that the Central Valley Wye will result in permanent loss of over 2,000 acres of important farmland (ranging from 316 acres to 2,105 acres depending on the alternative).

State statutes expressly protect agricultural lands. See Pub. Resources Code, §21095; see also CEQA Guidelines, Appendix GII; Cal. Land Conservation Act of 1965 (Williamson Act), Gov. Code, §51200 et seq.; Cal. Environmental Conservation Program Act of 1945, Pub. Resources Code, §10200 et seq. Recognizing the importance of agriculture to the economy of the State of California, the Williamson Act was enacted to maintain agricultural uses on the state's agricultural land. CEQA requires careful impact analysis concerning agricultural resources.

NEPA does not dictate specific mitigation measures for agricultural resource impacts but does require consideration and analysis where there is a significant impact based on setting and surrounding circumstances. NEPA requires examination of the action's effects on the agricultural lands, rather than in the broader ecosystem or world as a whole. Where CEQA may require specific analysis for the agency to consider, NEPA holds the agency responsible for taking into consideration the immediate locale and impacts the project may have either directly or indirectly. As agricultural is central industry in the Central Valley, Wye, NEPA requires the DSER/EIS to carefully analyze the impacts the project may have on agriculture, even prior to finalization of the DSER/EIS.

The DSER/EIS identifies that each of the Central Valley Wye alternatives, including the proposed project/ preferred alternative, would be consistent with agricultural policies of the Madera County General Plan, 2014 Regional Transportation Plan and Sustainable Community Strategy, City of Chowchilla 2040 General Plan and Title 18 of the Madera County Code. The DSER/EIS concludes that, "if it is a state agency, the Authority is not required to adhere to local and regional projects that protect agricultural land from conversion to agricultural uses, and the Central Valley Wye Alternatives would involve conversion of agricultural land to non-agricultural use. Therefore, the inconsistency would not be remedied." Nonetheless, the DSER/EIS must discuss any inconsistencies between the proposed project and applicable local, state, and regional plans. The DSER/EIS fails to do so here. Additionally, the DSER/EIS fails to acknowledge that, regardless of CHSRA's obligation to adhere to these policies, the inconsistencies result in significant loss and the inconsistencies under both CEQA and NEPA


must be identified in such. Modesto County land use planning agencies will need to update their
General Plans, including the provision of detailed and costly studies addressing issues that
would otherwise not be necessary, and zoning to reflect the changes in land use and public
facilities and finance plans to account for the impacts associated with HSRA facilities and
operations.

The DSEIR/EIS presents a Land Use and Site Assessment ("LUSA") that provides a
relative point scoring for the evaluation of impacts associated with the loss of agricultural land
associated with the Central Valley Wye alternatives. A LUSA evaluation, the evaluation
must be updated to account for the occurrence of BSR facilities in Modesto County — including
areas previously evaluated in the 2012 BSRIS and the additional area now under consideration
for the Central Valley Wye. Importantly, the LUSA evaluation of the proposed Central Valley Wye
configuration (Alternative 4) is consistent with an impact rating score of 159 points. As discussed
in the DSEIR/EIS, an impact rating score of 100 points are given increasing levels of
protection. In the absence of a County-wide LUSA evaluation, CEQA has not properly
evaluated the impact to determine whether the County-wide LUSA impact rating score would
exceed 100 points and the potential need for additional mitigation and higher levels of
protection.

The loss of agricultural land associated with the Central Valley Wye and the loss of the
Mercado to Fresno section within Modesto County represents a significant impact associated
with the addition in agricultural land to agricultural commodity production, agricultural-related jobs,
income, and tax revenues. CEQA must accurately identify and quantify these impacts and
provide compensation to local agencies and communities for reduced jobs and income
associated with permanent loss of agricultural land and productivity as a result of the BSR.

The DSEIR/EIS identifies seven LAMPs intended to avoid or reduce project impacts on
agricultural resources; however, the LAMPs as presented in the DSEIR/EIS fail to fully define
the impacts or the requirements, timing, and performance standards that must be adhered to
in order to reduce impacts as measured in the analysis. Attachment A of this letter provides
specific revisions to LAMPs that will ensure their efficacy in addressing identified agriculture
impacts.

F. The DSEIR/EIS Fails To Properly Analyze And Mitigate Air Quality
Impacts

CEQA and NEPA both require an agency to consider the cumulative impacts of a
project's important air quality impacts. Under NEPA, a cumulative impact of the impacts on
the environment resulting from the incremental impacts of the action when added to other past,
present, and reasonably foreseeable future actions regardless of what agency undertakes such
other actions. Where air quality impacts are analyzed in an EIR/EIS, the Clean Air Act and
not NEPA is the primary force guiding agencies into air quality compliance. Where an agency
must comply with NEPA and the CEQA in an EIR/EIS, the agency is required to look to the
provisions outlined in the Clean Air Act, Title 1, to ensure full compliance prior to its adoption.

CEQA Guidelines (15CECA 2.2) mandates an LAMPS "identify, focus on the significant environmental
effects of the proposed project, assess, and adjust changes in the existing physical
conditions on the affected area." and that discussions should include, "relevant specific
of health and safety problems caused by the physical changes." As part of the Health Risk
Assessment at the Central Valley Wye, and an agency must present "detailed comprehensive analysis...
wife and predict the potential NOx/sulfur oxides impacts in the environment and the potential
for exposure of human populations to and assess and quantify both the individual and
population-wide health risks associated with these levels of exposure." EIR/EIS are directed
directions to assess why the public at HQC is not feasible to provide an
analysis that assessed the air quality impacts to human health considerations. Further, CEQA
provides the need for a comprehensive cumulative impacts analysis. The cumulative impact
analysis is vital when considering air quality impacts in particular:

"because the full environmental impact of a proposed project cannot be
measured in a vacuum. One of the most important environmental impacts that
has been learned over time is that environmental damage often occurs incrementally
from a variety of sources. These sources are significant when considered individually
but assume meaningful dimensions when considered collectively with other sources with which they interact."**

The USEPA's analysis of air quality impacts is deficient for reasons which include those discussed below.

The DSEIR/EIS fails to sufficiently analyze the combined air quality impacts of the
Mercado to Fresno Section with the additional construction of the Central Valley Wye and
make the necessary assumptions that consequently omission of BSR and additional projects
will not occur. The DSEIR/EIS's focus solely on the Central Valley Wye excludes evaluation of
air quality impacts of the Mercado to Fresno Section as a whole. As discussed in this letter, a
subsequent/environmental document must provide updated analysis of the entire
project and this is not accomplished in the DSEIR/EIS.
The DSEIR/EIS presents predicted reductions in air criteria pollutant emissions based on assumed statewide buildout of HSR. Table 3.3-24 of the DSEIR/EIS presents predicted reductions for all criteria pollutants within the San Joaquin Valley and statewide, showing substantial reductions as a result of HSR. Footnote 1 of the table states “Because the Central Valley Wye alternatives would not exist in isolation without the rest of the HSR system, this table also applies to the larger HSR system.” (Ehlinger added.) This statement is inaccurate and misleading. As discussed in the DSEIR/EIS, CHSRA proposed to construct the Central Valley Wye in advance of full development of the HSR statewide system. Furthermore, as discussed in this comment letter, CHSRA has acknowledged substantial uncertainty with regard to the future full development of a statewide HSR system: First, for the reasonably foreseeable future, the Central Valley Wye and other sections of HSR within the Central Valley will likely exist in isolation. Since air pollutant emission reductions associated with HSR have been an important factor in decisions to approve HSR components (expressly stated in the 2013 Statement of Overriding Considerations for the Merced to Fresno Section, “the HSR system as a whole will provide substantial improvement in air quality”), the DSEIR/EIS must provide analysis and conclusions based on accurate and current information to facilitate fact-based decision making.

The DSEIR/EIS analysis concludes that construction of the Central Valley Wye could result in exceedance of the NOx significance threshold and identifies mitigation requiring the CHSRA to enter into a Voluntary Emissions Reduction Agreement (VERA) with the San Joaquin Valley Air Pollution Control District to offset NOx emissions to below the significance threshold. However, the DSEIR/EIS fails to explore and disclose the following pertaining to NOx emissions:

1. The health effects of NOx (and other criteria pollutant) emissions are not sufficiently disclosed. Although the mitigation measure anticipates offsetting NOx emissions to below the significance threshold, the DSEIR/EIS must discuss the environmental impacts associated with criteria pollutant emissions. Quantifying the emissions and comparison to thresholds is insufficient. In addition, the analysis must identify the health risk associated with the criteria pollutant emission or provide a discussion of why such health risk cannot be determined.

2. The DSEIR/EIS does not establish that the SJVAPCD has the ability to provide the required offsets in the timeframe and location sufficient to mitigate the project impact.

3. Construction-related NOx emissions will occur at construction sites. However, the location of NOx emission offsets that may be obtained through the VERA mitigation measure is unknown. The contribution of NOx emissions associated with construction of the Central Valley Wye to local source must be exhausted and disclosed in the DSEIR/EIS.

4. The DSEIR/EIS states that all of the Central Valley Wye alternatives “would avoid localized health effects on low-income and minority populations.” (DSEIR/EIS pg. 534.) The analysis fails to recognize the predicted NOx exceedance of the threshold. These NOx emissions offsets provided through the VERA directly combines location and timing with Central Valley Wye construction; therefore, these offsets are NOx emissions, and, more likely would result in increased health risks to disadvantaged communities within proximity to the Central Valley Wye. The effects of NOx emissions and proposed localized ozone formation and associated health risks must be evaluated, must consider the cumulative effect of other air pollutant emissions when combined with the potential increased health risk of NOx emissions.

The DSEIR/EIS identifies that AQ-MAP2 would contribute to reducing temporary direct impacts on implementation of an applicable air quality plan (impact AQ25). AQ1A/MAP2 requires the use of super-compliant or Clean Air Plan with lower VOC content than required by South Coast and Central Valley AQMD rules, “when available.” The impact analysis of AQ-MAP2 do not disclose the expected availability or lack thereof of such super-compliant or Clean Air Plan, or the extent to be used for a construction contractor to claim such point as unavailables. The analysis does not provide sufficient detail to assess the extent to which the requisite point type is assured in this equal and, thus, the DSEIR/EIS fails to disclose the potential health impacts associated with the lack of availability of the otherwise required point type.

DSEIR/EIS Air Quality and Global Climate Change section (at page 3.3-36) discusses that construction of the Central Valley Wye would not comply with Policy A1.1.4 and C1.1.1 of the Madera County General Plan Air Quality Element, that construction would result in exceedance of criteria pollutant thresholds. The discussion goes on to state that IAPMs and mitigation measures “would require the air quality to be in a better state, which would result in long-term benefits to air quality,” which would then result in no significant environmental impacts to the policies would occur. No reference is provided to analysis or conclusion to support the assertion of long-term benefits. As discussed previously in this letter, CHSRA has provided an updated analysis of the long-term reasonably foreseeable consequences of HSR. In the absence of supporting analysis, the DSEIR/EIS must conclude that construction of the Central Valley Wye would conflict with these policies. Furthermore, Policy A1.1.4 is one of four policies pertaining to AQ Objective C1.4 of the Air Quality Element which states the objective, “Integrate the County’s land use, transportation, and air quality planning efforts to achieve the most efficient and effective use of public resources to create a healthier and more livable environment.” Policy C1.1.1 is one of eight policies associated with AQ Objective C1.4 intended to further EQ Goal C1 of the Air Quality Element which is to “use air quality assessment and mitigation programs to minimize air pollution, related public health effects, and potential climate change impacts within the..."
County. Thus, Policies A1.1.4 and C1.1.1 are directly related to public health and the project's inconsistencies with these policies and the potential effects on public health must be discussed in the DSER/EIS. The failure to do so renders the DSER/EIS legally inadequate.

F. The DSER/EIS Fails To Properly Analyze And Mitigate Greenhouse Gas (GHG) Emissions

Under the new CEQA guidelines, an agency must attempt to "identify, calculate, or estimate" GHG emissions from a project, but the agency "in discretion as to how to execute said analysis." The California Supreme Court further held when assessing the significance of greenhouse gas emissions, the agency should consider these factors among others:

1) the extent to which the project may increase or reduce greenhouse gas emissions as compared to the existing environmental setting; 2) whether the project emits more or less than a threshold of significance that the lead agency determines applies to the project; 3) the extent to which the project complies with regulations or requirements adopted to implement a statewide, regional, or local plan for the reduction of mitigation of greenhouse gas emissions. Such requirements may be adopted by the relevant public agency through a public review process and must reduce or mitigate the project's incremental contribution of greenhouse gas emissions. If there is substantial evidence that the possible effects of a particular project are still cumulatively considerable notwithstanding compliance with the adopted regulations or requirements, an EIR must be prepared for the project. 10

The DSER/EIS analysis of GHG emissions during construction and associated mitigation measures further fails to evaluate GHG emissions from the production of materials used in construction. For example, the production of cement (i.e., the binding agent mixed with water, sand, and gravel to the production of concrete) creates very high GHG emissions. Cement production and use for concrete production for construction of the Central Valley Wye would be substantial and would decrease any overall HSR benefit of GHG reduction from transportation sources. The DSER/EIS must disclose estimated GHG emissions associated with the production of cement that would be consumed for construction of the Central Valley Wye and identify the significance of the GHG emissions and other GHG climate change.

Furthermore, the DSER/EIS must reflect changed circumstances and new information reflecting reasonably foreseeable outcomes of the statewide HSR system. To the extent that GHG emissions reductions of the statewide system are based on outdated information and assumptions regarding full implementation and timing of completion of the statewide HSR system, the DSER/EIS, and the documents from which it stems, must be updated to reflect current circumstances.

G. The DSER/EIS Fails To Properly Analyze And Mitigate Noise And Vibration Impacts

The CEQA Guidelines Checklist identifies three categories of noise impacts that may require further impact analysis. These categories include the following:

1) generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies; and

2) generation of excessive groundborne vibration or groundborne noise levels. 11

CEQA provides further guidance to the lead agency's determination of significance when evaluating and considering impacts. There are circumstances where an agency may clearly address permanent noise impacts like those in the Central Valley Wye.

A noise impact is considered significant if it were to result in exposure of persons over an extended period in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies; a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project; and result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project. An EIR may use various thresholds of significance designed to identify permissible increases in ambient noise levels; for example, permissible construction equipment noise may be considered significant. 12

The construction noise impact analysis in the DSER/EIS, however, is based on a flawed methodology that uses the "cumulative" of construction areas as the noise and vibration source location. Construction activities and the noise and vibration they generate can occur anywhere within the construction area. Construction noise and vibration impacts must be evaluated based on the actual limits of construction areas, so the DSER/EIS does not provide an explanation designed to identify susceptible increases in ambient noise levels; for example, permissible construction equipment noise may be considered significant. 13
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Mitigation Measure NV-MMP2 improperly defines mitigation and its implementation could result in significant environmental impacts. NV-MMP2 anticipates that HSR operations could result in noise levels that exceed those predicted in the evaluation and suggests that additional environmental analysis would be prepared at some future point in time based on final design and vehicle specifications. The mitigation measure states that it could lead to changes in final design and could lead to additional or modified mitigation measures. However, it is in the event that noise levels associated with HSR operations are in fact higher than those anticipated in the DSEIR/EIS, such subsequent mitigation could very well result in environmental impacts that are not disclosed in the DSEIR/EIS. Such mitigation could include the need to construct noise barriers, to acquire and vacate additional property, and other actions that would result in environmental effects. It is reasonably foreseeable that HSR vehicles could vary from the specifications anticipated in the DSEIR/EIS; in fact, it is reasonably foreseeable that HSR facilities may be used by diesel-powered locomotives for an undetermined amount of time. Such future use and potential increased vibration impacts must be evaluated and disclosed.

Furthermore, Mitigation Measure NV-MMP3 calls for implementation of "noise and vibration mitigation guidelines" and such guidelines appear to include physical actions that could result in environmental effects not disclosed in the DSIIR/EIS. The mitigation measure states that the guidelines include installation of sound barriers which could have significant visual and aesthetic effects. The potential for such barriers and an evaluation of their potential visual and other environmental effects, such as potential changes to streamwater runoff and surface drainage, must be provided. The mitigation measure also states that the guidelines also include CHSRA's acquisition of noise easements whereby CHSRA would establish an agreement with a property owner who at turn would accept future noise conditions and release the right to property CHSRA regarding future noise levels and disruptions. Such a measure is impracticable and would not mitigate the noise impact.

11. The DSEIR/EIS Fails To Fully Address Land Use Conflicts And Land Use Plan Inconsistencies

1) The DSEIR/EIS Fails To Fully Evaluate And Mitigate Land Use Plan Inconsistencies

Section 15125 of the CEQA Guidelines obligates an EIR to discuss any inconsistencies between the proposed project and applicable general plans, specific plans, and regional plans. Under section 15125.2(d) of the CEQA Guidelines, the EIR must discuss "the ways in which the proposed project could foster economic or population growth, or the construction of additional housing, either directly or indirectly, in the surrounding environment." The DSEIR/EIS fails to discuss any inconsistencies between the project and applicable land use plans.

The failure of the DSEIR/EIS to identify and address inconsistencies between the proposed project and applicable land use plans also means that the project's impacts could affect the environment, either individually or cumulatively. NEPA's policy goals are intended to foster cooperation with local and state governments. However, where federal agencies coordinate with local land use policies, federal agencies must apply NEPA with more care.

DSEIR/EIS Appendix 1.3 provides CHSRA's assessment of project consistency with general and specific policies of various local general plans. Although the table lists "Consisted" for the majority of the identified goal and policies, no rationale is provided to explain the determinations. Furthermore, the table's listing of policies is substantially abbreviated and does not provide the full text of each policy and therefore fail to fully assess and explain the determinations.

For instance, the following is one example of a Modesto County General Plan policies included in the table. Under the heading "Applicable Local and Regional Plans," the table lists Modesto County General Plan Policy 1112 as, "New development will incorporate wild and conservative practices." The table fails to state the project will be consistent with this policy but provides no rationale for this determination. Furthermore, Modesto County General Plan Policy 1112 reads as follows:

1.1.2. The County shall require that new development incorporate sound and conservation practices and minimize land alterations. Local alterations should comply with the following guidelines:
   a. Land use and site plans;
   b. Limit grading to the smallest practical area of land;
   c. Limit land exposure to the shortest practical amount of time;
   d. Plan relocated areas to ensure establishment of permanent cover before the next rainy season;
   e. Create grading contours that blend with the natural contours on site or follow the contours that would naturally occur; and
   f. Protect existing wetland.

Another example involves the City of Chowchilla. In Chowchilla, the land use consistency analysis fails to consider the impacts on the City's planned Industrial Park as a result of the project. The result is not only the likely loss of a critically important industrial-zoned land, but the impacts crease into related planned land use policies for recreational trail corridors, such as a bike and pedestrian path, due to the project coming off planned access to south Modesto County.

The failure of the DSEIR/EIS to present and consider the full text and context of such policy and to provide a rationale for the determinations makes the analysis meaningless. These deficiencies must be corrected for all goals and policies evaluated in the DSEIR/EIS.

40 40 C.C.R. § 15125.
41 C.C.R. § 15125.2(d).
44 See Section 15126.4, 42 U.S.C. 4331(a).
2) The DSFR/EIS Fails To Specify ‘Identify Land Use Inconsistencies or Provide a Mechanism For Local Land Use Plan And Zoning Updates To Accommodate HSR

As noted herein, the DSFR/EIS must address inconsistencies with local land use plans.\textsuperscript{18} DSFR/EIS Impact PLA discussions that the Central Valley Wye alternatives would permanently correct existing land use to transportation uses within the permanent rights-of-way. The impact acknowledges that numerous road changes would occur, reducing and restricting access between portions of communities. The impact discussion suggests that the impact would be less substantial given that “permanently closed segments of road would typically be less than 1 mile and access to properties adjacent to these closed roads would be maintained” and because new grade-separated interchanges approximately every 2 miles, would maintain access throughout communities and would change access to the current property of land use.  We reject the notion that a disruption of travel meaning loss of additional travel options for maintaining access, especially in consideration of bicycle and pedestrian travel. Such changes create a substantial, barrier to movement and will, in fact, significantly alter use patterns and should be identified as a significant and unavoidable land use conflict and significant impact. Although improperly avoiding the impact, the DSFR/EIS does acknowledge that “this disruption of land and reductions in access to city bus stops could result in direct impacts through altered land use patterns and corresponding changes in land use and zoning designations.” (Emphasis added.)

Although it acknowledges changes in land use patterns and identifies several inconsistencies between the project and local land use plans, the DSFR/EIS still fails to address the consequences of these inconsistencies on local land use planning. As noted above, the DSFR/EIS references “corresponding changes in land use and zoning designations,” but provides no mechanism for such changes in designations to be made, nor does it include any consideration of potential environmental effects resulting from this. Changing land use and zoning designations is not a simple task for local land use authorities. Accommodating the significant changes that will occur from land use, transportation, community structure, utilities, hazards, noise, aesthetics, and other significant changes to communities resulting from the Central Valley Wye will require substantial resources to be expended by local agencies. The Central Valley Wye will not simply result in changes in land use and zoning designations; these changes and full upheaval to current plans policies and land use and circulation maps, and updates to zoning codes and zoning designations will be needed to ensure that local agencies are properly integrating HSR into their future land use decisions and accounting for HSR in environmental studies and impact mitigation efforts.

CHSRA must provide assistance and funding for the planning efforts, local land use agencies will need to undertake to update general plans, transportation plans, zoning, and other related planning activities necessary as a result of the substantial permanent changes to land use, circulation, and other conditions caused by the development and operation of HSR facilities in the County. The Task Force’s most populated areas and most traveled routes are substantially affected by HSR. With HSR facilities becoming a permanent fixture in the County, the Task Force’s land use and planning agencies must update general plans, zoning codes, land use and zoning designations, and infrastructure and circulation plans to accommodate HSR.

1. The DSFR/EIS Fails To Fully Evaluate And Mitigate Aesthetics And Visual Resources

The DSFR/EIS includes LAMs intended to address visual impacts. As discussed previously, the DSFR/EIS fails to fully disclose impacts of the Central Valley Wye in the absence of these features, as required by CEQA. Furthermore, the LAMs do not provide sufficient procedures to impact standards to ensure the adverse viewed in the DSFR/EIS Attachment A of this statement list includes revisions to AVS-IAMPS\textsuperscript{1} (Design Standards) and AVS-IAMPS2 (Context Sensitive Solutions) that provide process and performance criteria to ensure that local land use authorities are provided an opportunity to review and influence the aesthetic design of HSR facilities affecting their communities. In this absence of this process, the LAMs are legally insufficient as they do not require a full review upon to sufficiently minimize impacts.

J. The Central Valley Wye Design Must Accommodate Utility Infrastructure

DSFR/EIS Impact PLA discussions that existing utilities may be located within HSR right-of-way and that the right-of-way would be permanently formed and secured after construction. The discussion provides that underground utilities that would intersect with HSR right-of-way would be relocated explicitly to accommodate HSR facilities. The impact discussions that access provisions would be made for utility service providers to access such utility systems for repair and replacement when needed.

Development of the Central Valley Wye would create a substantial impediment to future installation of utility infrastructure. The need for future infrastructure connectivity between service facilities (e.g., water treatment plants, wastewater treatment plants) has been established and is not speculative, and it is anticipated that the environmental effects associated with installation of infrastructure would be increased when design provisions, alignments, and other factors would need to accommodate HSR facilities. Thus installation of such infrastructure or components to accommodate future installations (e.g., conduit or sleeves) crossing the HSR right-of-way during construction of HSR would provide opportunities to retain environmental impacts that could otherwise occur. This issue has been raised by the Task Force in discussions with CHSRA staff, and staff has indicated a willingness to incorporate installation of infrastructure crossing HSR right-of-way during construction of HSR facilities. The DSFR/EIS project description must be reviewed to include components for such utility installations. Task Force member agencies would coordinate directly with CHSRA to provide...
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290-726
The DSER/EIS project description must be modified to incorporate such utility infrastructure to address the stated impacts.

290-730
**K. The DSER/EIS Fails To Disclose And Mitigate Significant Effects Associated With Emergency Response Services**

Section 3.11 of the DSER/EIS evaluates impacts of the Central Valley Wye on safety and security. A basis for the analysis and conclusions is the underlying erroneous assumption of the DSER/EIS that existing local emergency response services are adequate to provide the additional emergency response services required during construction and operation of HSR. In fact, emergency service providers in Madera County are not prepared nor equipped to respond effectively to the types of specialized emergency situations that would be associated with HSR. They do not have excess capacity in terms of personnel, vehicles, equipment, training, or funding to provide the additional emergency response services associated with HSR. To provide for safety of Madera County residents and HSR users, emergency services providers will need specific supplemental training, acquisition of response equipment and vehicles, potential expansion of existing facilities and construction of new facilities. In the absence of a funding source, local emergency responders will have insufficient resources to provide the additional emergency services that will be required by HSR. Furthermore, the potential need for expansion of existing or construction of new facilities would result in potential effects on the environment that are not identified in the DSER/EIS.

**CISRA must identify mitigation that provides a mechanism to assess the need for supplemental training, equipment, vehicles, and facilities needed for local emergency service providers and must provide a direct source of funding for the provision of these needs.** CISRA must also provide assistance for funding for long-term ongoing training and equipment and facilities maintenance needed for local emergency service providers to respond to HSR emergencies. In the absence of such provisions, the Central Valley Wye will result in significant and unavoidable impacts on emergency services, resulting in increased risk to HSR passengers and local residents.

The DSER/EIS Impact S322 acknowledges the potential for permanent increases in emergency response times in rural areas, including Madera County, associated with “longer response times in rural areas that could occur for emergency response providers traveling across the Central Valley Wye construction and operation zones.” The evaluation notes that “this impact would be regional because responders from multiple jurisdictions may be involved” and identifies that “the distance between emergency areas or underwriting would vary from less than 2 miles to approximately 5 miles where other roads are perpendicular to the proposed HSR alignment.” Notwithstanding the acknowledged impacts of up to approximately 5 miles of additional travel distance for emergency responders, the DSER/EIS concludes that roadways modifications would provide sufficient access and would not be expected to affect the ability of local jurisdictions to meet response times, offset service locations, or other performance objectives for emergency services.” This conclusion is flawed and the DSER/EIS fails to evaluate and disclose impacts associated with delayed emergency services.

In conclusion, emergency service response travel distances by up to 5 miles would increase response travel times by 10 minutes or longer depending on the specific modes, traffic conditions, speed of traffic, and other factors. It is impossible to conclude that such increases in response times are incremental and such increases would, in fact, result in significant impairment of local emergency response times.

290-731
Increasing emergency service response travel distances by up to 5 miles would increase response travel times by 10 minutes or longer depending on the specific modes, traffic conditions, speed of traffic, and other factors. It is impossible to conclude that such increases in response times are incremental and such increases would, in fact, result in significant impairment of local emergency response times.

290-732
**L. The DSER/EIS Fails To Properly Address Long-Term Socioeconomic Impacts On Madera County**

The Central Valley Wye would result in several adverse socioeconomic and community effects, including loss of jobs and housing, reduction in residents and businesses, reduced agricultural yields and productivity, reduced wages, and reduced property and income taxes, and the potential environmental impacts associated therewith. The project will also divide established communities and adversely affect disenfranchised communities and individuals. Although the DSER/EIS discusses these concerns, the DSER/EIS’ de minimis statements that many of these impacts would be less than significant, avoided, or even beneficial are flawed.

“Land agencies should analyze socioeconomic and potential impacts of a project on communities because social or economic impacts may lead to physical changes in the environment that are significant. Economic harm, for example, can result in business closures or physical deterioration of a community. Where the circumstances exist, the Court in City of Vernal v. County of San Diego, 27 Cal.3d 922 held (the agency) should consider these problems to the extent that potential to demonstrate an initial significant adverse environmental effect of the proposed project.”

Further, the Guidelines state, “If the construction of a new freeway or rail line divides an existing community, the construction would be a physical change, but the social effect on the community would be the basis for determining that the effect would be significant.” Consequently, the Central Valley Wye would result in short-term expenditures in Madera County. There are no assurances, however, that the construction workforce would draw from local residents and businesses in a manner that would create economic benefit to the County. Additionally, as noted in the DSER/EIS, “the Central Valley Wye alternative... does not include any interstate with the public causes as stations or a maintenance facility that could generate permanent employment.”

**Construction of the Central Valley Wye would result in short-term expenditures in Madera County. There are no assurances, however, that the construction workforce would draw from local residents and businesses in a manner that would create economic benefit to the County. Additionally, as noted in the DSER/EIS, “the Central Valley Wye alternative... does not include any interstate with the public causes as stations or a maintenance facility that could generate permanent employment.”**

**Memorandum from Office of the Attorney General, Environmental Justice and the Local and Regional Level Legal Endorsement, May 1, 2012, CAL. CODE § 11444.8;**


**CAL. CODE § 14, § 11444.8, §§ 11444.8(b), 11444.8(c).**
290-732
regarding available positions to ensure that local residents benefit from available employment
during the construction phase and long-term employment in any HSR-related facilities that may
ultimately be located in Madera County.

To date, there is no commitment for a permanent HSR station or stop in Madera County.
Thus, any regional or eventual statewide transportation and socioeconomic benefits of the HSR system
would be substantially diminished in Madera County. In fact, future economic prosperity
that might have been more evenly distributed among all Central Valley counties could shift away
from Madera County as a result of investment in HSR stations and facilities in other Central
Valley counties.

290-733
It is imperative that CSRA fully evaluate and address socioeconomic effects of the
Central Valley Wye and that CSRA implement measures to ensure that residents and
businesses in Madera County share in the transportation and socioeconomic benefits of the HSR system.
In implementing HSR, in a manner that avoids eliminating the adverse socioeconomic effects in Madera County, the Task Force urges CSRA to:

1. Establish the HMT in Madera County to provide for efficiencies to the HSR
system and to help offset the disproportionate environmental, economic, and
community impacts of HSR in Madera County;

2. Include “local hire” requirements in agreements with construction contractors
working on various phases of HSR in Madera County, and specify consultation
with Madera County’s Workforce Development Board, the cities of Chłevis and
Madera, and Madera County regarding available positions to assure with ensuring local residents benefit from available employment
associated with HSR construction and operation;

3. Provide funding to local agencies in Madera County sufficient for updating land use plans, transportation plans, and other planning documents as necessary due to HSR effects on land use compatibility, parcel acquisition and
division, effects on established communities, and effects on the County’s
transportation network (existing and planned roads and bicycle/pedestrian
facilities);

4. Provide funding to local land use authorities in Madera County sufficient for
updating zoning designations as necessary due to HSR effects on land use and
properties;

5. Provide financial assistance sufficient to fund local agency
completeness/adequacy of work completed at various HSR construction sites as
necessary due to HSR funding delays or shortfalls;

6. Provide for developing and permanently retaining an HSR Madera Station in
Madera County to ensure continued value of infrastructure and access

provisions developed for the proposed temporary station and to enable HSR to
serve residents and businesses in Madera County;

7. Provide funding for upgrades to local emergency service equipment and
personnel training as needed to provide emergency response associated with
HSR operations and facilities;

8. Provide a source of long-term ongoing funding for operation and maintenance
of the Oakhurst Elementary School property after transferring it back to
Madera County for operation and maintenance as a community center, as
proposed in the BFR;

9. Establish a mechanism for HSR construction practices that will minimize
environmental-related traffic effects (e.g., increased vehicle miles traveled (VMT)) with specific requirements for construction scheduling
and phasing, and induce defined processes for review and approval of
construction traffic management plans by affected local agencies in Madera
County;

10. Establish mechanisms to ensure construction contractors are accountable to
CSRA and to local agencies for adherence to transportation management plans and mitigation requirements;

11. Provide a mechanism to aid in funding the extension and connection of Avenue
17 from CR 418 to CR 419 to compensate for east-west road closures and the loss of connectivity resulting from HSR and to ensure emergency access and
acceptable response times between areas east and west of HSR facilities;

12. Provide for the design, permitting, and reconstruction of the State Route (SR)
99/SR 122 interchange with a design that includes on- and off-ramps to both
northbound and southbound SR 99;

13. Provide specific measures that will ensure permanent closures of local roads
and road crossings are minimized;

14. Provide specific measures to reconstruct and improve existing local roads and
intersections sufficient to mitigate construction impacts and be accommodable
increased use due to closure of other roads and future traffic;

15. Provide analysis and measures sufficient to ensure the phased development of
the HSR system, in consideration of initial components in Madera County and
the Central Valley, does not adversely affect the region’s ability to comply
with Federal Clean Air Act Transportation Conformity requirements;
16. Provide compensation to local agencies and community groups for the economic and community impacts of HSR in Madera County.

17. Provide compensation to local agencies for loss of property tax revenue from properties acquired for HSR facilities or otherwise decreased in value as a result of HSR (e.g., payments in lieu of taxes).

18. Provide compensation to local agencies and communities for reduced jobs and income associated with permanent loss of agricultural land and productivity as a result of HSR.

19. Provide enhanced aesthetic features, with Task Force involvement, in the design of HSR structures and other infrastructure to be developed or reconstructed as a result of HSR, including cut and fill, overpasses, and elevated track structures.

20. Provide a mechanism, with Task Force involvement, to design, fund, install, and maintain a minimum of eight (8) “Welcome to Madera County,” “Welcome to the City of Chowchilla,” and “Welcome to the City of Madera” high-quality, brightly colored signs along HSR facilities to promote Madera County and its cities to HSR users.

21. Provide a mechanism to ensure that surface water and groundwater rights associated with acquired or otherwise affected properties are sufficient for maintaining local access to groundwater and acquire for regional water supply and groundwater recharge needs.

22. Provide opportunities for shared utility use of the HSR corridor and fund and install utility connections when available and feasible for communities adversely affected by HSR (e.g., installation of conveyance facilities for water and sewer services to the affected community of Florence) and.

23. Provide funding for training, equipment, vehicles, and facilities as needed for local emergency response agencies to supplement their capabilities to provide emergency response for HSR-related construction and operations.

NEPA requires federal agencies to determine if an undertaking would significantly affect the environment. NEPA establishes that the federal government will use all practicable means to ensure all Americans safe, helpful, productive and aesthetically and culturally pleasing surroundings. For example, to implement this mandate, the Federal Highway Administration (FHWA) in its implementation of NEPA

... final decisions regarding projects are to be made in the best overall public interest, taking into account adverse environmental impacts including among others: (1) economic impacts on the regional and local economy, such as the effects of the proposed alternatives on development, tax revenues and public expenditures, employment opportunities, accessibility, and retail sales; (2) impacts on the economic viability of existing highway related businesses and results in impacts on the local economy; and (3) impacts on established business districts.

The CEQA/NEPA regulations echo this multi-faceted commitment in its definition of “efforts.” It defines efforts and impacts as being synonymous and explains that efforts include ecological (such as the effects on natural resources and on the components, situations and functioning of affected ecosystems), aesthetic, cultural, economic, social, or health; whether direct, indirect, or cumulative.

Under the CEQA prism, economic and social effects of a project can be used to determine the significance of physical changes caused by a project.

In a Transit Report, the BFWA evaluates the potential for demographic economic and fiscal impacts that could arise from the construction and operation of the proposed rail corridor project. It describes the fiscal and economic conditions which include local and regional demographic and employment levels and property tax revenues. These are the conditions for which the project alternatives are assessed. Also evaluated in the Transit Report are the direct and indirect economic impacts, conservation related employment, real output, labor income impacts, and value-added construction related impacts as the county regional economy, cumulative benefits and potential mitigation measures for the project. In addition to documenting potential economic impacts due to the construction and operation of the train system in the project study area, as well as potential fiscal impacts associated with losses to the tax base due to property acquisitions required to construct the project, the analysis also included the potential for proposed alternatives to facilitate greater development of jobs and housing in proximity to the transit system. The Transit Report provides significant thresholds. With regard to tax sources and revenue, it states that property tax losses in excess of 1% of the project study area base would be considered an adverse effect under NEPA and a significant effect under CEQA.
In contrast to the Transfix Report prepared for the referenced Southern California transit corridor project, which is a local project, the Central Valley Wye ESI/EIS fails to identify and analyze the demographic, economic and fiscal impacts that would arise from construction and long-term operation of HSR. Even if something as simple as identifying and analyzing the total value of property acquisitions received from the county is being done if the cost property tax (even if an adverse effect under NEPA was further investigated not analyzed by CHSRA. Similarly, a project of HSR magnitude warrants the same, if not a more robust identification of demographic, economic and fiscal impacts that would arise from the construction and long-term operation of this multimillion-dollar statewide project.

M. The ESI/EIS Socioeconomic Analysis Is Flawed In Its Assumptions Regarding The Benefits Given Uncertainties Associated With Development Of A Statewide HSR System

The ESI/EIS states that the long-term assessment of sales tax revenues examined the ongoing sales tax revenues that could result from the purchase of goods and services associated with the continued operations and maintenance of the Central Valley Wye alternatives and from new economic development through improved connectivity with the rest of the state (pg. 3.12-19). As discussed elsewhere in this comment letter, doubts regarding the completion of the statewide HSR system preclude CHSRA from guaranteeing that the system will be fully developed within the timeframe previously anticipated, if at all. The ESI/EIS socio-economic analysis must reflect a reasonably foreseeable outcome of the HSR system based on current circumstances.

N. The ESI/EIS Fails To Fully Disclose Community Impact And Relies On Insufficient Measures To Reduce Such Impacts

The ESI/EIS discusses the temporary impacts on communities and community cohesion. The impact discussion states that "Impact would continue to be provided for all residences and businesses." However, construction of the Central Valley Wye would result in displacement of residences and businesses and impact SOI does not acknowledge that such displacement would occur as a result of construction. The ESI/EIS indicates the temporary construction-related impact on community cohesion would be less than significant. In fact, using SDAMF to reduce potential impacts. SDAMF requires the construction contractor to include "measures that minimize effects on low-income households and minority populations in the Construction Management Plan (CMP)." The ESI/EIS states that the CMP would include measures related to site location, the quality of life, noise, aesthetics, and traffic, but does not provide, and the ESI/EIS does not explain, what such measures would consist of or how such measures would reduce and minimize effects on low-income households and minority populations. In the absence of specific measures or performance standards that would reduce impacts to acceptable levels, the ESI/EIS legally deficient and cannot be relied on to reduce impacts.

O. The ESI/EIS Relies On Insufficient Measures To Reduce Displacement And Relocation Impacts On Community Cohesion

The ESI/EIS Impact SOI 2 discusses that the project would result in the displacement of businesses and residents and relies on IAMFs in the ESI/EIS to reduce the impact of those relocations on community cohesion.

SO-IAMF provides for "displacement assistance" in compliance with federal law. However, the IAMF solely provides for a process to assist displaced residents but does not address or reduce the negative effects of such displacement on community cohesion. Nevertheless, the ESI/EIS relies on the IAMF as a means to reduce impacts on community cohesion.

Similarly, SO-IAMF requires development of a "relocation mitigation plan" but the plan's focus is on "minimizing the economic disruption related to relocation" and does not address or reduce the effect of relocations on community cohesion. Yet the ESI/EIS analysis relies on the IAMF as a means to reduce impacts on community cohesion. Furthermore, the IAMF includes measures that are insufficient. For instance, one element of the relocation mitigation plan is to "mitigate a less-family to minimize the permanent closure of businesses and nonprofit agencies because of property acquisition." However, the footprint of the Central Valley Wye and the relocations required as a result have already been identified; therefore, such a measure would have no practical effect.

Impact SOI must be revised to acknowledge the impacts associated with community cohesion without improperly relying on ineffective IAMFs.

P. The ESI/EIS Fails To Fully Disclose And Address Environmental Justice Impacts

Government Code section 11135, subdivision (d), provides "No person in the State of California shall, on the basis of race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, genetic information, or disability, be unlawfully denied full and equal access to the benefits of, or be unlawfully subjected to discrimination under any program or activity that is conducted, operated, or administered by the state or by any state agency, that is funded directly by the state, or receives any financial assistance from the state." California agencies such as the CHSRA are prohibited by Government Code section 11135 from approving activities with disproportionately high adverse and significant environmental justice impacts.

Title VI of the federal Civil Rights Act, Section 601, provides that "no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving federal financial assistance. This provision prohibits discrimination on the basis of race, color, or national origin, exclusion from participation in, denial of the benefits of, or discrimination under any program or activity that receives federal funds. The CHSRA receives federal funding for the Merced to Fresno section and HSR. Section 602 of the Civil Rights Act allows a
violation to be established by proof of disparate impact. Agencies receiving federal funds are
required by Executive Order 12250 and Title VI of the Civil Rights Act of 1964 to avoid such
impacts. The DSER/EIS fails to disclose or mitigate for significant impacts related to
environmental justice issues.

Q. The DSER/EIS Inappropriately Concludes That HSR Will Result In
Disproportionate Benefits To Disadvantaged Communities

The DSER/EIS (pp. 5-45, 46) states that, “the Central Valley Wye alternatives would
result in local and regional benefits to the low-income and minority populations that constitute
a large percentage of the region beneficiate would include improvements in mobility within the
region, air quality improvements, and new employment opportunities during construction and
operations. Because low-income and minority populations comprise the majority of the
population within the area, these project benefits are likely to accrue to a greater degree to
low-income and minority populations.” (Redacted added). This conclusion is flawed. First, as
discussed elsewhere in this comment letter, uncertainty regarding completion of the statewide
HSR system prompts CSRA from assuming that the previously anticipated statewide benefits
will actually occur. Furthermore, even if previously anticipated statewide benefits were
achieved, there is no evidence to suggest that these benefits would somehow accrue to a greater
degree to low-income or minority populations. Moreover, in the absence of a Masters County
step, community members will experience the negative effects of EIS without realizing benefits
of the HSR system.

R. The DSER/EIS Environmental Justice Analysis Relies On Speculative
Mitigation Measures In Its Conclusion That Environmental Justice Impacts
Would Be Less Than Significant

The DSER/EIS conclude that "the mitigation measures proposed to address environmental
justice effects on the community of Fairmont would reduce the negative effect of
existing stressors in the community, improve the quality of life of Fairmont residents, and
reduce a constraint to development in Fairmont" (pp. 5-55).

The rural residential community of Fairmont is located southwest of Chowchilla. The
DSER/EIS identifies that 39 percent of the population live below the poverty level and that the
community has a minority group representation of 8 percent in 2014 (pp. 5-218).
The DSER/EIS does not consider environmental justice impacts. Although there are additional
flaws in the analysis and conclusions in the environmental justice analysis, this focuses on the
DSER/EIS mitigation measures.

Two mitigation measures are identified in the DSER/EIS “to mitigate the environmental
justice impacts associated with construction” (pp. 5-41) of the alternatives that would affect
the community of Fairmont. For the reasons discussed below, the mitigation measures as
proposed in the DSER/EIS are insufficent and the DSER/EIS must be revised to incorporate
reasonable

mitigation measures to reduce environmental justice impacts; otherwise, the DSER/EIS must
conclude that the environmental justice impact is significant and unavoidable.

Mitigation Measure EM-MW#1 envisages the potential acquisition of Fairmead
Elementary School lot and when closed by the Chowchilla Elementary School District and
the transfer of this school property to Madera County for operation and maintenance of the facility
as a community center. The mitigation measure is contrary to CSRA funding standards, provides no
funding mechanism, and has no relationship to construction impacts in the community of Fairmont
for which the mitigation measure is intended to address.

Additionally, the need for such a community center is not established and the nexus between
construction impacts and the mechanism through which a community center would reduce those
impacts has not been established. The absence of a long-term funding source for operation and
maintenance of such a community center further discounts the viability of this measure. For
such a measure to be effective and relied upon as mitigation, the DSER/EIS must more specifically
describe the relationship between the community center and the project impacts it would reduce
and must describe a process to fully implement a community center with a long-term funding
source. Otherwise, the DSER/EIS cannot rely on this mitigation measure to reduce environmental
justice impacts, and the impact to disadvantaged communities must be identified as significant and unavoidable.

Mitigation Measure EM-MW#2 identifies that CSRA would provide funding assistance
and work with Madera County to secure grant funds for Fairmont to connect to the nearest safe
and reliable municipal water supply. As with EM-MW#1, this measure is speculative and
has no relationship to construction impacts in the community of Fairmont for which the
mitigation measure is intended to address. The DSER/EIS does not identify a source of
municipal water supply infrastructure or water supply assessment to determine if such water
supply would be available from a municipal water supply. The measure is not specific with respect to
funding sources, timing, facilities that might be required for such a system, and the DSER/EIS does
not evaluate environmental impacts associated with the installation of water supply infrastructure
that would be required for such water supply system. For such a measure to be effective and
relied upon as mitigation, the DSER/EIS must more specifically describe the relationship
between the water supply and the project impacts it would reduce and must describe a process to fully
implement the water supply. The DSER/EIS must also provide a water supply assessment
demonstrating the availability of water from the municipal water provider that would serve the
proposed water supply system and must evaluate the environmental effects of installing and
operating the system. Otherwise, the DSER/EIS cannot rely on this mitigation measure to reduce
environmental justice impacts, and the impact to disadvantaged communities must be
identified as significant and unavoidable.

VII. THE DSER/EIS FAILS TO PROVIDE A LEGALLY ADEQUATE
CUMULATIVE IMPACTS ANALYSIS

CEQA requires cumulative consideration of project impacts. More specifically, the
language, “cumulatively considerable” means that the incremental effect of an individual
project is considerable when viewed in connection with the effects of past projects, the effects
of other current projects, and the effects of probable future projects. Consequently, NEPA requires that the EIR must include full and fair discussion of significant environmental impacts and inform decision-makers and the public of the reasonable alternatives which would avoid or minimize adverse impacts or enhance the quality of the human environment. An EIR must list and analyse all projects that may lead to cumulative impacts, including those outside the control of the agency. An EIR also must define the geographic scope of the area affected by each type of cumulative impact and explain its use of any particular limitation on that scope. Pursuant to CEQA Guidelines §15130, an agency must adequately assess the significant cumulative impacts of projects by providing a summary of projections contained in an adopted local, regional or statewide plan or related planning document, that describes or evaluates conditions contributing to the cumulative effect. The DESERES "failure to update the project-specific analysis for the full Merced to Fresno section similarly fails to include the cumulative impact analysis. In addition, deficiencies in the project-specific analysis discussed in preceding sections must be considered before a proper cumulative impact analysis can be completed. CEQA mandates a lead agency adopt feasible alternatives or feasible mitigation measures that can substantially lessen the projects significant environmental impacts. For that reason, the core of an EIR is the mitigation and alternative sections. The purpose of an environmental impact report is to identify the significant effects of a project on the environment, identify alternatives to the project, and to indicate the manner in which those significant effects can be mitigated or avoided. The EIR must describe a range of reasonable alternatives to the project, or to the location of the project, which would fulfill all or most of the same objectives of the project, and evaluate the comparative merits of the alternatives. The alternatives discussion must focus on alternatives that could substantially lessen any significant effects of the project. The range must be sufficient to permit a reasonable choice of alternatives as far as environmental aspects are concerned. Although no rule governs the number of alternatives that must be considered, the range is covered by the "rule of reason." The range of alternatives must be selected and discussed in a manner that allows for meaningful public participation and informed decision-making. The fact that CEQA does not require a specific number of alternatives does not excuse the agency's failure to request any feasible, less environmentally damaging options to the proposed project.

In addition to a reasonable range of alternatives, those alternatives evaluated within the EIR must be capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors, as well as reasonably accomplishing most of the basic objectives of the project and avoiding or substantially lessening one or more of the significant effects. After analyzing alternatives within the EIR, the determination of whether an alternative is feasible is made in two stages. The first stage involves identifying a range of alternatives that will satisfy basic project objectives while reducing significant impacts. Alternatives that are not "potentially feasible" are excused at this stage, as there is no point in studying alternatives that cannot be implemented. In the second stage, the final decision on the project, the agency evaluates whether the alternatives are actually feasible. At this point, the agency may reject or refine alternatives that were identified in the EIR as potentially feasible.
Similar to CEQA, NEPA regulations have explicit requirements regarding the adequacy of the alternatives analysis within the EIS. Specifically, NEPA requires that an EIS "minimally explore and objectively evaluate all reasonable alternatives.\textsuperscript{10} To be adequate, an environmental impact statement must consider every reasonable alternative.\textsuperscript{11} An EIS is rendered inadequate by the existence of a viable, unexplored alternative.\textsuperscript{12} Further, if the lead agency initially considers alternatives that would meet the purpose and need of the proposed action but decides to not examine them, the EIS must describe the reasons for the elimination of those alternatives.\textsuperscript{13} As stressed under both NEPA and CEQA, it is especially important for the lead agency to fully document the reasons for eliminating the alternative from additional detailed study in order to fully inform the public.

The DSRER/EIS does not comply with CEQA requirements to consider alternatives that would reduce impacts of the proposed project. CEQA requires an alternatives analysis to first identify and evaluate alternatives to the proposed project that would avoid or reduce significant environmental effects of a proposed project. The DSRER/EIS identifies that the proposed project would result in significant environmental effects but fails to consider alternatives to the proposed project that would avoid or lessen these significant effects. The alternatives analysis process described in the DSRER/EIS discusses the method used to select the preferred alternative/proposed project among the other alternatives but it is not a CEQA alternatives analysis. Such analysis must be conducted to consider whether alternatives are available to avoid or reduce significant effects of the proposed project.

The DSRER/EIS does not explain how the proposed project (Central Valley Wye Alternative 4) results in a change or new impacts as compared to impacts identified in the 2012 EIR/EIS and the DSRER/EIS does not indicate how the Central Valley Wye alternatives would change previously identified impacts in the 2012 EIR/EIS.

As a result, the Alternatives evaluation analysis does not comply with CEQA or NEPA requirements to identify alternatives that would reduce the impacts of the proposed project.
Submission 290 (Kristen Kortick, Abbott & Kindermann, Inc. on behalf of Wye Madera Task Force, October 28, 2019) - Continued

ATTACHMENT A

IMPACT AVOIDANCE AND MINIMIZATION FEATURE REVISIONS

Below are specific requested revisions for (underlined through text) to specific Impact Avoidance and Mitigation Measures (IAMM) provided in the Merced to Fresno Section: Central Valley Wye Draft Supplemental Environmental Impact Report/Environmental Impact Statement (DSEIR/EIS) pertaining to Aesthetics, Agriculture, and Transportation that must be incorporated to ensure the IAMMs sufficiently define implementation responsibilities, provide opportunities for local agency input and approval, and establish clear requirements and performance standards.

AVRAM REF: Design Standards

Prior to construction, the contractor should address differences from the DSEIR/EIS, which discusses the principles for context-sensitive solutions to guide the design of stations, and how the Authority's adopted design standards and guidelines, such as the Authority Technical Memorandum – Aesthetic Guidelines for Non-Station Structures (Authority Technical Memorandum – Aesthetic Guidelines for Non-Station Structures 2011, IM 200-06), have been integrated into the evaluation. The evaluation shall be conducted to achieve aesthetic compatibility with the surrounding environment. Prior to the Authority, a general review of the design and construction proposal will be conducted by the Authority to ensure aesthetic compatibility with the surrounding environment. The Authority shall have the opportunity to review the contractor's technical recommendations and the proposed design solutions, and the Authority shall have the opportunity to review the contractor's technical recommendations and the proposed design solutions. The Authority shall have the opportunity to review and provide comments on the proposed design solutions. The Authority shall have the opportunity to review and provide comments on the proposed design solutions. The Authority shall have the opportunity to review and provide comments on the proposed design solutions. The Authority shall have the opportunity to review and provide comments on the proposed design solutions. The Authority shall have the opportunity to review and provide comments on the proposed design solutions.

AVRAM REF: Design Review Process

Prior to construction, the contractor shall provide documentation for the Authority's design review process. This documentation shall be submitted to the Authority for review and approval.

AGFAMPPS: Environmental Permits

AGFAMPPS: Environmental Permits

Prior to disturbance-causing activities affecting any segment of the project, the Authority shall submit a permit application to the appropriate regulatory agency for the completion of construction activities. The Authority shall submit a permit application to the appropriate regulatory agency for the completion of construction activities. The Authority shall submit a permit application to the appropriate regulatory agency for the completion of construction activities. The Authority shall submit a permit application to the appropriate regulatory agency for the completion of construction activities. The Authority shall submit a permit application to the appropriate regulatory agency for the completion of construction activities.

AGFAMPPS: Permit Assistance

Prior to disturbance-causing activities affecting any segment of the project, the Authority shall submit a permit application to the appropriate regulatory agency for the completion of construction activities. The Authority shall submit a permit application to the appropriate regulatory agency for the completion of construction activities. The Authority shall submit a permit application to the appropriate regulatory agency for the completion of construction activities. The Authority shall submit a permit application to the appropriate regulatory agency for the completion of construction activities. The Authority shall submit a permit application to the appropriate regulatory agency for the completion of construction activities.
AG-LAMDPS: Merchant Consolidation Program

The Authority would establish and administer a merchant consolidation program to sell remnant parcels to neighboring landowners or for conversion with adjacent land or properties. Upon request, the program would acquire land and provide the owner of remnant parcels in selling those remnants to adjacent landowners. The purpose of this program is to provide for continued agricultural use on the maximum feasible amount of remnant parcels that otherwise may not be economically feasible to farm. The program would be available for remnant parcels available at all secured remnant parcels, including those that were under Williamson Act or Farmland Security Act contract at the time of right-of-way acquisition and more became too small to remain in the local Williamson Act or Farmland Security Act program. The program would enable landowners in obtaining lot size adjustments where appropriate to incorporate remnant parcels with a larger parcel that is consistent with the requirements under the local government regulations.

The program would operate for a minimum of 5 years after construction of the service is completed and longer as may be necessary to accomplish the reclamation specified herein. The Authority would establish procedures in implementation of this measure through issuance of a preliminary memorandum after the minimum operation period. Each year until all requirements of 5 years less 180 days have been satisfied for all affected areas. The program would require a surface demonstration that the requirements of this measure are being satisfied and shall be filed annually with Environmental Mitigation Management and Assurances Program (EMMMP) and deputies shall be submitted to the local land use authority and farm bureau.

Transportation (TIP)

TR-1MP-1: Obtain and Supply with Local Agency Encumbrance Permit for All Construction Activities Affecting Local Roads

All Authority contractors shall obtain encumbrance permits from the applicable local land agency (city, county, or other agencies) for all work on or affecting local roads, and the contractor shall comply with any conditions established through the encumbrance permit process. The Authority shall include this requirement in its contracts with construction contractors, and the Authority shall be responsible for ensuring compliance with this requirement. The local agency encumbrance permit process shall include an initial performance review and annual inspection of CTPs and the requirements and provisions specified therein.

TR-1MP-1: Protection/Reconstruction of Public Roadways Damaged during Construction Sufficient to Accommodate Future Traffic Volumes

The Authority shall ensure that all costs damaged during construction of the HSR are reimbursed in full, or in coordination with other encumbrance improvements needed for or as a result of the HSR are required to be equal to or better than the road's original condition with sufficient structural and design capacity for projected future traffic volumes including increased traffic volume resulting from closures of larger roads due to HSR.

Prior to initiation of construction on a given section of an HSR facility, the contractor would develop a site plan to be used for the site construction and would provide for a topographic and engineering assessment documenting the condition of the public roads along the project route to be used for providing access to the construction areas. As part of the process, the local land agency agreement permit process, and prior to initiation of construction activities, the contractor would submit the topographic survey to an agency responsible for road maintenance and the Authority's approval. The contractor would be responsible for the repair of any unsatisfactory damage to public roads caused by HSR construction or construction access, removing any damaged sections to the equivalent of their original pre-HSR construction structural condition or better. The contractor would survey the condition of the public roadways and make recommendations for access to the project area. The contractor would complete a社会效益 and after-survey report and submit it to the Authority for review, indicating the location and extent of any damage.

TR-1MP-1: Construction Transportation Plan

The contractor would prepare a detailed construction transportation plan (CTP) for administering the impact of construction and construction traffic on adjacent parcels, and crashes and other potentially affected roadways in close consultation and with the approval by the local transportation agency. The Authority would review and approve the CTP before the contractor submits any construction activities. A CTP shall include the activities to be carried out in each construction phase, with the requirement of maintaining citizens and local circulation, managing traffic flow, the maintenance of traffic, and road closures during all times and specifically during peak travel periods. Such activities would include and shall be submitted at each CTP shall, but are not limited to the routing and scheduling of railroad delivery, materials, storage, and storage areas, construction equipment storage and destorage schedules, and temporary road closures, among others. The contractor shall ensure the maintenance of traffic at intersections for the duration of construction activities, the CTP shall be considered as an alternative to temporary closures when practicable and on a traffic flow that would not result in a traffic deficit. The CTP includes provisions for temporary road closures—alternating one-way traffic would be considered as an alternative to temporary closures when practicable and when it would result in a traffic deficit.

Identification levels for construction traffic and temporary disruptions to ensure the use of such routes by construction workers and materials delivery truck drivers:

- Temporary signage for delays and detours to the construction area
- Flag persons or other methods of traffic control to ensure and facilitate movement
- Traffic control and speed limitations in construction areas
- Temporary speed limits
- Provisions for traffic management during the temporary road closures
- Detour provision for temporary road closures—alternating one-way traffic would be considered as an alternative to temporary closures when practicable and where it would result in a traffic deficit
- Identified routes for construction traffic and temporary disruptions to ensure the use of such routes by construction workers and materials delivery truck drivers
- Modifications to existing streets and alterations for construction access
- Precautions for safe pedestrian and bicycle use throughout the work zone
- Precautions for convenient access for pedestrians and bicycle transportation
- Precautions for minimum additional distance and travel times for pedestrians and bicyclists
- Precautions to minimize access disturbances to residents, businesses, customers, delivery vehicles, and buses to the extent practicable—where road closures are required during construction, limit to the extent possible disturbances to access for the adjacent land uses
- Precautions for minimization of audible alternations or equipment access
- Precautions for 24-hour access by emergency vehicles and vehicle access routes and through construction areas

Submission 290 (Kristen Kortick, Abbott & Kindermann, Inc. on behalf of Wye Madera Task Force, October 28, 2019) - Continued
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290-775

- State preference for safe vehicular and pedestrian access to local businesses and residences during construction. The plans would provide:
  - Procedures for schedule access where construction would otherwise impair such access.
  - Where an existing bus stop is within the work zone, the contractor would provide a temporary bus stop at a safe and accessible location away from where construction is occurring in close coordination with the transit operator. Adequate measures would be taken to ensure coordination and pedestrian safety,
- Adverse provisions to separate businesses and properties away from and limit temporary bus stops from construction areas and roads.
- Procedures for adequate notifications to the local school district of construction activities and
- Procedures for improved maintenance traffic control at all school bus loading zones, to provide for the safety of schoolchildren.
- Review existing or planned route needs to achieve with school districts and emergency responders to incorporate roadway modifications that maintain existing traffic patterns and fulfill response route and access needs during project construction and MRR operations.
- Identification/procure to avoid or minimize potential safety risks to children associated with project construction. Development of these provisions shall involve identification and assessment of the potential safety risks of project construction to children. Especially in areas where the project is construction-related activities will be located near schools, day care centers, and parks. or other locations where children can reasonably be expected to be present.
- Informational/provisions to promote of child safety within and near the project area. For example, such provisions shall include, but not be limited to providing ensuring priority access through construction-related vehicles and or areas where schools, day care centers, and parks or other locations where children can reasonably be expected to be present.
- CTPs would consider and account for the potential for overlapping construction projects.

290-776

- With on-site parking areas, if adequate parking cannot be provided on site adjacent to a construction site, the contractor would designate a temporary parking lot on property adjacent and any required notices to the public local land use authorities to inform in advance of a remote parking area and the contractor shall arrange for the use of shuttle busses to and from the public parking site.

290-777

- The contractor will provide specific construction-related pedestrian access management plans to address maintenance of pedestrian access during the construction period. Actions that limit pedestrian access shall be avoided or minimized to the maximum extent feasible, but not limited to, pedestrian closures, bridge closures, road closures, or pedestrian rerouting at intersections, placement of construction-related materials within pedestrian pathways or sidewalks, and other actions that may affect the mobility or safety of pedestrians during the construction period. If sidewalks are maintained along the construction site footprint, the plan shall identify the contractor shall provide covered walkways and meeting between construction areas and the road. If sidewalks are maintained along roadways that will be used by construction vehicles, the plan shall identify the contractor shall provide barriers between construction and adjacent roadway.
- The plan objective shall be to minimize pedestrian access whenever the maximum extent feasible. The plan shall be designed and implemented to maintain safety for pedestrians while reducing the impact on safety for pedestrian use.

TR-1AMP-19: Maintenance of Bicycle Access

The contractor would provide specific construction-related bicycle access management plans to address maintenance of bicycle access during the construction period. Actions that limit bicycle access shall be avoided or minimized to the maximum extent feasible, but not limited to, bicycle lane closures or rerouting, bike path closures or rerouting, closure or narrowing of streets that are designated bike routes, bridge closures or rerouting, or closing a bike lane by building a bridge across, or a bike lane by constructing a barrier, by requiring a change of bicycle route. Placement of construction-related materials within designated bike lanes or along bike routes, and other actions that may affect the mobility or safety of bicyclists during the construction period. The plan shall provide bicycle access wherever the maximum extent feasible. The plan shall be designed and implemented to maintain bicycle safety while reducing the impact on safety for bicycle use.

TR-1AMP-19: Restriction on Construction Hours

The contractor would limit construction activities to 7 a.m. and 9 a.m. and between 6 p.m. and 6 a.m. on weekdays to minimize impacts on traffic by reducing noise and minimizing work hours. The contractor would limit the number of construction workers serving at any one time on weekends and holidays, and any activities that would present any risk to public safety. The contractor would identify and provide adequate pedestrian access for all construction-related vehicles, including work vehicles, throughout the construction period to minimize impacts on public parking areas that could otherwise be affected.

TR-1AMP-19: Construction Truck Routes

The contractor would ensure that all construction-related movements and materials are delivered to the site using the appropriate truck routes as specified in the CTP, and work vehicles prohibit heavy construction vehicles from using alternative routes beyond the areas in which construction will occur.
290-780

from the local land use authority. Truck routes would be established away from schools, day care centers, and businesses, and along routes with the least impact identified by the Authority. These requirements shall be addressed in the CTPs.

TR-AMP#8: Construction During Special Events

The contractor would provide a mechanism to prevent roadway construction activities from reducing roadway capacity during major street events or other special events that substantially (10 percent or more) increase traffic in roadways affected by project construction. Mechanisms may include arranging for the presence of police officers to manage and direct traffic, provisions for establishing special-event parking, use of within-the-curb parking, or shoulder lanes for through traffic, and traffic cones. This measure would be addressed in the CTP.

290-791

TR-AMP#9: Protection of Freight and Passenger Rail during Construction

The contractor would repair any structural damage to freight or public railways that may occur during the construction period and return any damaged structures to their original structural condition. If necessary, during construction, a "shoo Fly" track would be constructed to allow existing train lines to bypass any areas closed for construction activities. Upon completion, tracks would be opened and repaired or new rail line track would be constructed, and the "shoo Fly" would be removed. Contractor repair responsibility would be included in the design-build contract. A matrix associated with any such shoo Flies shall be reviewed by the contractor and the Authority, who shall collectively identify plans consistent with the requirements of CTS. This measure would be addressed in the CTP.

290-782

TR-AMP#10: Maintenance of Transit Access

The contractor would prepare specific construction management plans to address maintenance of transit access during the construction period. Actions that limit transit access would be minimized, but if not, would be limited to roadway lane closure or narrowing, closure or narrowing of routes that are designated transit routes, and stop closures or access restrictions. Bridge closures, placement of construction-related materials within designated transit lanes, stop or layover zones, or alignment moves, and other actions that may affect the mobility or safety of bus transit during the construction period. Moreover, the plans shall contain transit access plans related to construction activities, design, safety, and accessibility with the California High-Speed Rail Authority. These requirements shall be addressed in the CTP. The Authority shall be responsible for ensuring contractor compliance.
Response to Submission 290 (Kristen Kortick, Abbott & Kindermann, Inc. on behalf of Wye Madera Task Force, October 28, 2019)

290-660
The Authority is duly considering and responding to all comments from the Task Force, as well as all comments provided by its constituent agencies. The Final Supplemental EIR/EIS, once certified by the Authority as lead agency, will be available for use by CEQA responsible agencies.

290-661
All comments received during the CEQA and NEPA comment periods are treated equivalently and are duly responded to in the Final Supplemental EIR/EIS joint document.

290-662
The Authority acknowledges the interests of the Task Force as identified in the comment. In addition to several specific responses to detailed comments in this letter, please also refer to:
CVY-Response-GENERAL-6: Small Business Employment Benefits
CVY-Response-SO-01: HSR Project Will Lower Property Values Due to Nearby Alignment
CVY-Response-AGRICULTURE-2: Farmland Impacts - Remnant Parcels

290-663
Here and in subsequent comments, the commenter asserts that changed circumstances require not only the 2012 Merced to Fresno but also the 2005 Statewide programmatic environmental documents to be substantially revised.

As described in Chapter 2, the Authority and the Federal Railroad Administration (FRA) prepared two programmatic or "Tier 1" environmental documents for the statewide HSR system. These Tier 1 documents supported the two agencies making decisions on corridors and station locations to advance for further study in "Tier 2" EIR/EISs. The Authority divided the statewide HSR system into individual project sections for Tier 2 environmental review, one of which was the Merced to Fresno Project Section. The Authority and FRA completed the Final EIR/EIS and approved portions of the Merced to Fresno Project Section in 2012. The Authority and FRA identified their plan to provide further environmental review of Central Valley Wye alternatives in both the Draft and the Final EIR/EISs for the Merced to Fresno Project Section and in the agencies' respective approval documents.

Because only the Central Wye Valley Wye portion of the Merced to Fresno Project Section geography would have any change as a result of the Authority's proposed changes to the prior Wye Design Options and east-west alignments in the Final EIR/EIS, the analysis in the Supplemental EIR/EIS was appropriately focused on this geographic area.


290-664
Please refer to the response to submission MF2:290, comment 661.
Response to Submission 290 (Kristen Kortick, Abbott & Kindermann, Inc. on behalf of Wye Madera Task Force, October 28, 2019) - Continued

290-665
The Authority respectfully disagrees that it is required to revisit and prepare a new Tier 1 or Program EIR/EIS. The Merced to Fresno Project Section Final EIR/EIS and this Supplemental EIR/EIS are appropriately treated from the prior Tier 1 EIR/EIS documents. Neither NEPA nor CEQA require a lead agency to continuously update a Tier 1 EIR/EIS. The Authority also disagrees with the comment that it is required to prepare a subsequent EIR under CEQA that updates the entire prior analysis of the Merced to Fresno Project Section as a whole. The Supplemental EIR/EIS is appropriately focused on proposed project changes related to the Central Valley Wye. Please refer to the response to submission MF2-290, comment 663.

The comment’s reference to changed circumstances describes “uncertainties associated with the statewide HSR system.” The potential uncertainty in funding the statewide HSR system is a changed circumstance. The Authority has consistently represented a phased approach to implementation of the HSR system, building the Phase 1 system between San Francisco and Los Angeles/Anaheim incrementally over time as funding becomes available.

290-666
In this comment, the commenter largely recites portions of the CEQA Guidelines and asserts that the Central Valley Wye supplemental document is not limited to “minor additions” and thus should have been circulated as a “subsequent” EIR instead of a “supplemental EIR.”

CEQA does not require a response to comments that recite legal standards. The Authority does not agree that it was required to use a subsequent EIR rather than a supplemental EIR. Chapters 1 and 2 of the Supplemental EIR/EIS provide the history of the Merced to Fresno Project Section EIR/EIS and the planning efforts particular to the Central Valley Wye. The geographic focus of the Supplemental EIR/EIS on the Central Valley Wye area, and the proposed changes to the project within that geographic area, was reasonable.

Please also refer to CVY-Response-GENERAL-7: Relationship Between the Merced to Fresno Final EIR/EIS and Central Valley Wye Final Supplemental EIR/EIS Documents as well as the responses to submission MF2-290, comment 663 and comment 665. Please also refer to responses to submission MF2-290, comments 668 to 691, discussing more specific comments about the adequacy of the Supplemental EIR/EIS under CEQA.
The comment recites NEPA requirements for preparation of a supplemental EIS and contends this Supplemental EIR/EIS does not meet those standards.

NEPA does not require a response to comments that recite legal standards. Chapters 1 and 2 of the Supplemental EIR/EIS provide the history of the Merced to Fresno Project Section EIR/EIS and the planning efforts particular to the Central Valley Wye. The geographic focus of the Supplemental EIR/EIS on the Central Valley Wye area, and the proposed changes to the project within that geographic area, was reasonable.

Please refer to the response to submission MF2-290, comments 663 and 665. Please also refer to responses to submission MF2-290, comments 668 to 691, discussing more specific comments about the adequacy of the Supplemental EIR/EIS under NEPA.

This comment raises legal arguments addressing the adequacy of the Draft Supplemental EIR/EIS. Because this comment raises legal arguments rather than environmental issues, a response is not required here. Please also refer to the response to submission MF2-290, comment 665.

Please refer to the response to submission MF2-290, comment 663. The Supplemental EIR/EIS analyzes the impact of HSR operations in the Merced to Fresno Project Section based on an assumption of the Phase 1 system between San Francisco and Los Angeles/Anaheim being constructed and beginning operations in 2020 and reaching full operations by 2040. The service plan assumptions are included in Appendix 6A. The analysis of operations is conservative. If it takes longer for the Phase 1 system to be funded, constructed, and operational, the level of operations-related impacts described in the EIR/EIS will occur later in time. Put another way, the impacts and benefits of HSR in the horizon year of 2040 may be less than described in the Supplemental EIR/EIS.

A final selection of the Central Valley Wye will not influence the selection of an alternative in the San Jose to Merced Project Section because all Central Valley Wye alternatives share a common western endpoint at Carlucci Road.

Please refer to the response to submission MF2-245, comment 136.

Please refer to the response to submission MF2-245, comment 136. Text has been added to Section 2.3 to clarify the continued reliance on the 2016 Business Plan Ridership Forecasts.


Consistent with its enabling legislation, the Authority is continuing to pursue a statewide HSR system, with a priority on Phase 1 between San Francisco and Los Angeles/Anaheim. The reference in the comment to Board Meeting materials from October 15, 2019, for an Early Train Operator “Side by Side Interim Analysis” does not detract from the Authority’s continued efforts for a statewide HSR system between San Francisco and Los Angeles/Anaheim. As the memorandum for this agenda item explains, in May 2019, the Authority Board requested a side-by-side study to investigate and compare options for potential early service investments in the Central Valley, San Francisco Bay Area, and Los Angeles/Anaheim HSR corridors. The analysis was prepared to provide support for future Board investment decisions. The potential for early HSR service, prior to completion of the entire Phase 1 system, is not new. The Authority has consistently focused on how it can offer HSR service incrementally, in advance of the entire Phase 1 system being operational, as described in its Business Plans as early as 2012, and through to 2020.

The Authority respectfully disagrees with the commenter’s assertion that the October 2019 Board materials show significant impacts not discussed in the Merced to Fresno Final EIR/EIS, that impacts will be more severe than described in the Final EIR/EIS, or that mitigation measures may be infeasible due to lack of funding. The comment does not specify what impacts would be new or more severe than those described in the Merced to Fresno Final EIR/EIS, or in the current Supplemental EIR/EIS. Further, the comment merely speculates that required mitigation measures, whether those identified in the Merced to Fresno Final EIR/EIS or this Supplemental EIR/EIS will not be implemented due to funding constraints.

Please also refer to the response to submission MF2-200, comment 666.
Response to Submission 290 (Kristen Kortick, Abbott & Kindermann, Inc. on behalf of Wye Madera Task Force, October 28, 2019) - Continued

The comment suggests the following significant effects are not sufficiently evaluated and disclosed in the Draft Supplemental EIR/EIS with its geographically limited focus:

- Disproportionate adverse effects on disadvantaged communities
- Increased demand for emergency services and potential need for new emergency service facilities
- Local land use plan inconsistencies and failure to address them
- Potential effects on beneficial use of surface and groundwater rights and supplies and potential changes in groundwater recharge.

The comment does not explain what about the Draft Supplemental EIR/EIS analysis is insufficient, other than suggest the Authority was required to revisit and update its analysis for the entire Merced to Fresno Project Section. The Supplemental EIR/EIS evaluates environmental justice in Chapter 5; emergency response in Section 3.11; land use in Section 3.13; and hydrology and water resources in Section 3.8. These chapters and sections appropriately address the above topics in the geographic context of the Central Valley Wye alternatives where the Authority has proposed a project change. Please also refer to Standard Response: CVY-Response-GENERAL-7: Relationship between the Merced to Fresno Final EIR/EIS and Supplemental EIR/EIS documents.

The Authority respectfully disagrees with the commenter’s suggestion that there is a need for the Authority to postpone decisions on individual project sections of the HSR system and re-evaluate the entire Statewide HSR system in a new program EIR based on information the comment refers to from an October 2019 Authority Board presentation.

The Authority’s 2005 Program EIR/EIS (Tier 1) provided a foundation from which the Authority and the Federal Railroad Administration (FRA) made decisions on train technologies, vehicle types, and the selection of corridors and station locations for most of the state for further study in Tier 2, or project-level, EIR/EISs. Through the 2008 Bay Area to Central Valley Program EIR/EIS (Tier 1) and 2012 Bay Area to Central Valley Partially Revised Final Program EIR, the Authority and FRA selected corridors and station locations between the San Francisco Bay Area and Central Valley for further study in Tier 2 EIR/EISs. The NEPA purpose and need and CEGA project objectives, underlying those Tier 1 EIR/EISs remain as valid today as when the documents were finalized. California continues to face significant increases in intercity travel demand that the existing transportation systems (airports, highway network, conventional rail) cannot meet.

Uncertainties about funding for the entirety of the Phase 1 HSR system do not undermine the validity of the Tier 1 EIR/EISs or the decisions the Authority and FRA made based on them.

The Authority has structured its Tier 2 EIR/EIS process to environmentally evaluate individual project sections of the system. The Authority is proceeding to complete all Tier 2 EIR/EISs for the Phase 1 HSR system by the end of 2022. Completion of the Tier 2 EIR/EISs will ensure the remainder of the HSR system, beyond the current construction in the Central Valley, will be ready for implementation when funding becomes available.

Please also refer to the response to submissions MF-2-290, comment 674 regarding the October 2019 Board materials referenced in the comment.
Response to Submission 290 (Kristen Kortick, Abbott & Kindermann, Inc. on behalf of Wye Madera Task Force, October 28, 2019) - Continued

290-683
Please refer to the responses to submission MF2-245, comment 137.

290-684
The Authority respectfully disagrees with the comment. The Draft Supplemental EIR/EIS provided information sufficient to enable meaningful public comment. Please refer to the responses to submission MF2-290, comments 663 and Standard Response: CVY-Response GENERAL-7: Relationship between the Merced to Fresno Final EIR/EIS and the Supplemental Final EIR/EIS documents.

290-685
Please refer to the responses to submission MF2-290, comments 672, 674 and the response to submission MF2-245, comment 134.

290-686
Please refer to the responses to submission MF2-290, comments 672, 674, and the response to submission MF2-245, comment 134.

290-687
Please refer to the response to submission MF2-245, comment 132.

290-688
The comment provides legal argument contending the Authority is treating the Central Valley Wye as a stand-alone project, and that the Draft Supplemental EIR/EIS does not function as a supplement under CEQA. No response to the legal argument in the comment is required. Regarding the factual comments about the scope of the Supplemental EIR/EIS, please refer to the responses to submission MF2-245, comment 132 and 133.

290-689
The Draft Supplemental EIR/EIS was complete and ready for publication under both NEPA and CEQA in June 2018 and was provided to the FRA for signature. However, the Authority did not assume NEPA Assignment until July 23, 2019, when the MOU with the FRA was executed. The technical reports, including the Biological Assessment and cultural resources reports, were all finalized prior to NEPA assignment in coordination with and approval from the FRA.

The Final Supplemental EIR/EIS, including the Section 4(f) Evaluation, has been revised to clarify the Authority’s role and responsibilities under NEPA consistent with the July 2019 MOU.

The language required by Section 3.1.2 of the MOU is provided on the signature page (second page) of the Draft Supplemental EIR/EIS. In addition, the Notice of Availability, agency and public notices, and newspaper ads contained similar language as required by Section 3.2.6 of the MOU.
Response to Submission 290 (Kristen Kortick, Abbott & Kindermann, Inc. on behalf of Wye Madera Task Force, October 28, 2019) - Continued

290-691
The comment does not specifically identify how or why the document is legally deficient as a result of its readability. As explained in Section 3.1.2, Changes in Analysis since the Merced to Fresno Final EIR/EIS, there are some differences in the document structure between the 2012 Merced to Fresno Final EIR/EIS and the Draft Supplemental EIR/EIS. These differences in structure are outlined and described so the reader can readily discern what has changed. Contrary to what the comment states, the Draft Supplemental EIR/EIS does provide a description of the methods for analysis along with a description of any substantive differences between the Draft Supplemental EIR/EIS and the Merced to Fresno Final EIR/EIS. Potential temporary and permanent impacts resulting from construction and operation are provided for each of the Central Valley Wye alternatives and each section contains an impact summary for NEPA as well as CEQA significance conclusions. Proposed mitigation measures are also provided in the seventh subsection of each section.

Regarding the relationship between the analysis in the Supplemental EIR/EIS and the analysis in the Merced to Fresno Final EIR/EIS, Section 1.1 explains to the reader how the two documents relate to each other, provides a figure showing the Merced to Fresno Project Section as a whole and the Wye area deferred for further study in 2012 (Fig. 1-1), and a figure showing the Central Valley Wye Alternatives and related infrastructure in the context of the Merced to Fresno Project section north/south alignment. Please also refer to Standard Response: CVY-Response GENERAL-7: Relationship between the Merced to Fresno Final EIR/EIS and the Final Supplemental EIR/EIS documents.

290-692
The Merced to Fresno Final EIR/EIS, Chapter 1, subsection 1.5 and Standard Response MF-Response-GENERAL-1: Tiering and Level of Detail in Analysis and Mitigation, explain the Authority’s tiering process and how the Merced to Fresno Final EIR/EIS builds on earlier technology, corridor and station location decisions made in the Authority’s programmatic or “Tier 1” EIR/EISs. That text provides a tiering roadmap by explaining how the Merced to Fresno Project Section was consistent with the Tier 1 corridor and station location decisions and fits within the statewide HSR system, but provided a more detailed, Tier 2 or project-level environmental analysis of implementing HSR in the more limited geography of the Merced to Fresno Project Section.

The following summarizes the Merced to Fresno Final EIR/EIS explanation of tiering and provides further clarification:

The Final Program Environmental Impact Report/Environmental Impact Statement (EIR/EIS) for the Proposed California High-Speed Train System (2005 Statewide Program EIR/EIS) provided a programmatic analysis of implementing the HSR system across the state and compared it to the impacts of a no project alternative and a “modal alternative” that involved expanding airports, freeways, and conventional rail to meet the state’s future transportation needs. The HSR alternative included consideration of different train technologies and vehicle types, as well as potential corridors and station locations. At the conclusion of the 2005 Statewide Program EIR/EIS, the Authority and FRA made the following decisions:

**2005 Tier 1 Decisions**

| Selection of transportation option | Selected the HSR alternative over the modal alternative (expanded airports and freeways) and the no project alternative (do nothing) to serve California’s growing transportation needs. |

California High-Speed Rail Authority

Merced to Fresno Section: Central Valley Wye Final Supplemental EIR/EIS
Response to Submission 290 (Kristen Kortick, Abbott & Kindermann, Inc. on behalf of Wye Madera Task Force, October 28, 2019) - Continued

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<td>Selection of train technology</td>
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<td>Selection of preferred alignment corridors</td>
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<td>Selection of preferred station locations</td>
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<td>Adoption of mitigation strategies</td>
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Sources: Authority/FRA 2005.

After completing the 2005 Statewide Program EIR/EIS, the Authority and FRA prepared a second program EIR/EIS to identify corridor and station locations for the HSR connection between the Bay Area and the Central Valley, examining connections through the Pacheco Pass, the Altamont Pass, or both (i.e., the Final San Francisco Bay Area to Central Valley High-Speed Train Final Program Environmental Impact Report/Environmental Impact Statement [2008 Bay Area to Central Valley Final Program EIR/EIS]). In 2008, the Authority and FRA selected a Pacheco Pass connection, with corridors and station locations to be further examined in Tier 2 environmental reviews. As a result of litigation, the Authority prepared additional programmatic environmental review for the Bay Area and the Central Valley section, and again selected the Pacheco Pass connection (in the Bay Area to Central Valley Partially Revised Final Program Environmental Impact Report).

2008/2012 Tier 1 Decisions

| Selection of preferred alignment corridors | Selected preferred corridors for connecting the Bay Area to the Central Valley north of Fresno to be studied in more detail in Tier 2 EIR/EIS. |
| Selection of preferred station locations | Selected stations along the preferred corridors to be studied in more detail in Tier 2 EIR/EISs. |
| Adoption of mitigation strategies | Adopted broad mitigation strategies to be refined and applied at Tier 2, as part of project planning and development and environmental review. |

Source: FRA 2008; Authority 2012

These Tier 1 decisions established the broad framework for the HSR system that serves as the foundation for the Tier 2 environmental review of individual projects.

As noted in the Merced to Fresno Final EIR/EIS, MF-Response General-1, there is no requirement to incorporate the program EIR/EISs by reference. Rather, the Authority is using CEQA and NEPA tiering rules to move from the Tier 1 to the Tier 2 EIR/EISs.
290-693
The Authority respectfully disagrees that the Draft Supplemental EIR/EIS contained an inadequate description of the project purpose and need under NEPA, and objectives under CEQA. Section 1.2 explains that the text is presenting the purpose and need from the Merced to Fresno Final EIR/EIS, with some updates to reflect new information and current conditions.

Please refer to the responses to submission MF2-245, comment 132, 133, and 134.

290-694
Please refer to the responses to submission MF2-290, comments 663 and 674.

290-695
Please refer to the responses to submission MF2-290, comments 663 and 674.

290-696
Please refer to the response to submission MF2-245, response 133 as well as CVY-Response-GENERAL-7: Relationship Between the Merced to Fresno Final EIR/EIS and Central Valley Wye Final Supplemental EIR/EIS Document.

290-697
The Authority respectfully disagrees with the comment suggesting that its approach to environmental analysis of the Central Valley Wye has resulted in improper piecemealing under CEQA. The prohibition in CEQA against piecemealing a project is to prevent the environmental consequences of the whole of the project from being disclosed. The opposite has occurred here. The Merced to Fresno Draft and Final EIR/EISs analyzed two design options for the Central Valley Wye, but the Authority elected to defer a decision on that component of the Merced to Fresno Project Section and provide more consideration of Wye alternatives, more environmental analysis, and more opportunity for public input and disclosure. Figure 1-1 shows the geographic limits of the Authority’s 2012 decision on a north/south alignment for the Merced to Fresno Project Section, the relationship of that decision to the Central Valley Wye, and the anticipated additional analysis of the Wye. The Authority has been transparent about its approach to providing more analysis of the Central Valley Wye, including documenting its decision to do so in its May 3, 2012, Resolution 12-20.

The Authority has therefore appropriately focused the Supplemental EIR/EIS on the Central Valley Wye component of the Merced to Fresno Project Section, shown in Figure 1-2, because the Authority proposes to make a new discretionary decision to select a Central Valley Wye alternative, consistent with the plans it described back in 2011 in the Merced to Fresno Draft EIR/EIS and 2012 in the Merced to Fresno Final EIR/EIS and decision documents. No similar new discretionary decision is proposed for the north/south alignment, much of which is already under construction. A decision on the Central Valley Wye does not affect the previously disclosed impacts of the north/south alignment from the Final EIR/EIS. Similarly, the current construction of the Merced to Fresno Project Section does not affect the analysis in this Supplemental EIR/EIS on the Central Valley Wye.

As to the relationship between the environmental analysis in the Merced to Fresno Final EIR/EIS and Supplemental EIR/EIS, please refer to CVY-Response-GENERAL-7: Relationship Between the Merced to Fresno Final EIR/EIS and Central Valley Wye Final Supplemental EIR/EIS Documents.
Response to Submission 290 (Kristen Kortick, Abbott & Kindermann, Inc. on behalf of Wye Madera Task Force, October 28, 2019) - Continued

290-698
Please refer to the response to submission MF2-247, comment 177 regarding the Authority's Impact Avoidance and Minimization Features (IAMFs) and how they are discussed in the environmental analysis.

290-699
Each of the proposed changes to certain IAMFs in Attachment A to submission MF2-290 has been considered as a separate comment in the respective sections cited. The identical list of proposed changes to IAMFs was submitted by the commenter in submission MF2-245. Regarding transportation, please refer to the responses to submission MF2-245, comments 155 through 166. Regarding aesthetics, please refer to the responses to submission MF2-245, comments 127 and 149 through 151. Regarding agriculture, please refer to the responses to submission MF2-245, comments 152 through 154.

290-700
The comment suggests the mitigation measures in the Supplemental EIR/EIS are insufficiently detailed, deferred, and/or lack performance standards. The commenter does not identify any particular mitigation measures that it believes are inadequate. The Draft Supplemental EIR/EIS provides adequate detail on the nature of mitigation measures to allow for the consideration of how such measures address identified environmental effects. Refer to, for example, Mitigation Measure AG-MM#1, which provides extensive detail and a performance standard.

290-701
Please refer to the response to submission MF2-245, comment 105.

290-702
The Authority respectfully declines to incorporate the terms of these proposed revisions to the IAMFs because they would be inconsistent with federal and state authority. Please also refer to response to comment MF2-260, comment 699 regarding the revisions proposed in Attachment A to the comment letter.

290-703
Please refer to the response to submission MF2-245, comment 140.

290-704
Please refer to the response to submission MF2-245, comment 140.

The Authority acknowledges that road modifications will require local transportation plans to be updated. The Authority will coordinate with local planning agencies and the Madera County Transportation Commission to supply required information and data, traffic modeling, and transportation plans during final design that can be used to update local transportation plans. The request for direct funding to update long-term transportation planning documents in Madera County is noted. However, funding to update local transportation plans is not necessary to avoid or mitigate a physical environmental impact.
Response to Submission 290 (Kristen Kortick, Abbott & Kindermann, Inc. on behalf of Wye Madera Task Force, October 28, 2019) - Continued

As required by TR-IAMF#2, during final design, the project contractor will prepare a detailed CTP, which will describe protection of public roadways during construction, sequencing construction operations, temporary closures, and detours; provisions for off-street parking for construction-related vehicles as well as parking during special events; maintenance of pedestrian, bicycle, and transit access; and restrictions on construction hours and truck routes. As set forth in TR-IAMF#2, the CTP would be developed and implemented in close consultation with affected jurisdictions, offering ample opportunity for local jurisdictions' concerns to be understood and incorporated. In addition, specific traffic control plans will be prepared during each phase of construction.

As stated on page 3.2.13 and in several impact discussions, the Authority will continue to coordinate with local jurisdictions through final design to identify construction impacts, mitigation requirements, facility designs, traffic control plans, and construction monitoring activities. Please also refer to the response to submission MF-245, comment 117.

Please refer to the response to submission MF-245, comment 117.

As stated on page 3.2.13 and in several impact discussions, the Authority will continue to coordinate with local jurisdictions, including the Chowchilla Department of Public Works, through final design to identify construction impacts, mitigation requirements, facility designs, traffic control plans, and construction monitoring activities.

Please refer to the response to submission MF-245, comment 119.

A detailed discussion of potential permanent impacts on the response time of emergency service providers is provided in Section 3.11, Impact SS#2, Permanent Interferences with Emergency Response Times. The request for funding has been noted but is not required to mitigate a significant environmental impact.

Please refer to the response to submission MF-245, comment 120.

Please refer to the response to submission MF-247, comment 184.

Please refer to the response to submission MF-245, comment 122.
Response to Submission 290 (Kristen Kortick, Abbott & Kindermann, Inc. on behalf of Wye Madera Task Force, October 28, 2019) - Continued

290-711
The Authority respectfully disagrees with the comment that the Draft Supplemental EIR/EIS insufficiently addresses impacts to agricultural resources, including consistency with plans.

The Central Valley Wye Draft Supplemental EIR/EIS provides a NEPA analysis for both direct and indirect impacts on Important Farmland and land under Williamson Act or Farmland Security Zone contract, discussed in Section 3.14.6, Environmental Consequences, and summarized in Section 3.14.8, Impacts Summary for NEPA Comparison of Alternatives. This analysis takes into account local impacts, as quantified in the Natural Resources Conservation Service (NRCS) Land Evaluation and Site Assessment (LESA) analysis and geographic information systems analysis for acreage impacts as a result of temporary use, permanent conversion, creation of remnant parcels, and impacts on land under Williamson Act contract; and as analyzed qualitatively for disruption of agricultural infrastructure, interference with aerial spraying activities, and wind-induced effects. These impacts are also considered in the statewide context, acknowledging that loss of Important Farmland is a statewide concern. The analysis also provides CEQA impact conclusions for those topics.

The Draft Supplemental EIR/EIS also identifies and provides an analysis of inconsistencies between the Central Valley Wye and local plans and policies related to agricultural resources. This analysis is summarized in Section 3.14.3, Compatibility with Plans and Laws, and presented in detail in Appendix 3.14-A, Agricultural Farmland Local and Regional Plans and Laws Consistency Analysis: Constructing HSR in the Merced to Fresno Project Section will require the conversion of agricultural land to non-agricultural uses. The Supplemental EIR/EIS therefore identified this conversion as not consistent with Madera County and Chowchilla General Plan policies that promote retaining agricultural land for agricultural use. Figure 3.14-1 depicts the Central Valley Wye alternatives on a map showing Important Farmlands, which illustrates how it is not possible for the Authority to avoid converting Important Farmland. Impact AG#2 describes the conversion of Important Farmland to HSR, and characterizes it as a significant impact under CEQA.

The commenter suggests that Madera County land use planning agencies will be required to update their general plans, but does not identify any physical impact on the environment that has been insufficiently addressed in the Draft Supplemental EIR/EIS.

290-712
The NRCS LESA analysis was performed for the Central Valley Wye study area only, not including the area for the entire Merced to Fresno Project Section. Because there were no other changes to the Merced to Fresno study area currently proposed, the LESA analysis for the Central Valley Wye focused on its study area, rather than including any of the study area from the Merced to Fresno environmental analysis.

The commenter incorrectly states that "an impact rating score of 160 points [is] given increasing higher levels of protection." To clarify, guidance for the NRCS LESA analysis states that for projects that have alternatives with scores over 160 that receive federal funding and that convert Important Farmland to nonagricultural uses, the alternative with the lowest score should be selected. The guidance does not specify that projects with scores over 160 should be given "increasingly higher levels of protection" as the comment suggests.
Response to Submission 290 (Kristen Kortick, Abbott & Kindermann, Inc. on behalf of Wye Madera Task Force, October 28, 2019) - Continued

290-713
The Merced to Fresno Final EIR/EIS identified the permanent conversion of Important Farmland, characterized it as significant under CEQA, and proposed mitigation that the Authority and FRA subsequently adopted, AG-MM#1. This Final Supplemental EIR/EIS provides an analysis of the the Central Valley Wye alternatives that similarly describes the permanent conversion of Important Farmland, characterizes it as significant under CEQA, and proposes AG-MM#1. Those impact discussions fully disclose the impacts related to conversion of agricultural land.

As described in Impact SO#19, Permanent Impacts on Regional Employment, on page 3.12-67 of the Draft Supplemental EIR/EIS, the HSR project would improve state and regional connectivity while facilitating access to employment and educational opportunities, creating job opportunities throughout the region. The HSR project is expected to result in net employment growth, which would benefit the regional economy, including the economy of Madera County.

The Authority acknowledges that there could be some permanent impacts on the agricultural economy, as described in Impact SO#20, Permanent Impacts on Agricultural Economy, on pages 3.12-68 and 3.12-69 of the Draft Supplemental EIR/EIS. The Authority would alleviate the impacts through financial compensation, provided during the right-of-way acquisition process, and help property owners file claims so they can receive compensation for economic losses related to farm productivity.

The impact discussions provide a full and adequate representation of the potential economic impacts that could occur as a result of construction and operation of the Central Valley Wye alternatives.

290-714
Please refer to the responses to submission MF2-245, comments 152, 153, and 154. The IAMFs as presented in the Draft Supplemental EIR/EIS are appropriate and effective standard practices that reduce impacts on Important Farmland as part of the proposed Central Valley Wye alternatives. For example, Impact AG#1 on temporary conversion of agricultural land to non-agricultural use explains that AG-IAMF#1 would require the construction contractor to restore Important Farmland temporarily used for construction to as close to pre-construction conditions as possible so that parcels remain viable for agricultural use, and do not become additional, permanently converted Important Farmland. Similarly, Impact AG#3, on remnant parcels, explains that AG-IAMF#3 is the Authority’s Farmland Consolidation Program, in which it provides neighboring landowners the ability to acquire remnant parcels so that such parcels remain in agricultural use.
290-715
The Merced to Fresno Final EIR/EIS, Chapter 3.3, provided a discussion of anticipated air quality impacts of constructing the project section as a whole. Chapter 3.3 of this Supplemental EIR/EIS evaluates the air quality impacts of constructing the Central Valley Wye portion of the Merced to Fresno Project Section, including the increased construction associated with the extension of the project section to Carlucci Road on the west. The analysis focuses on the Central Valley Wye component of the section because this is the area proposed for a new discretionary decision on an alignment.

The Draft Supplemental EIR/EIS presented a discussion of cumulative impacts for air quality and global climate change starting on page 3.19-8 under subsection 3.19.6.2 (Air Quality and Global Climate Change). The resource study area for air quality was the San Joaquin Valley Air Basin and the San Francisco Bay Area Air Basin. For global climate change, the resource study area was the state of California. The cumulative impact analyses were conducted consistent with CEQA requirements that past, present and foreseeable future projects be considered.

With respect to the Clean Air Act and General Conformity, projects whose net construction- and operations-period criteria pollutant emissions fall below General Conformity de minimis levels are deemed to conform to the State Implementation Plan. The Authority has entered into an MOU with the SJVAPCD to offset project construction emissions to zero via SJVAPCD’s Voluntary Emission Reduction Agreement program. As such, project construction emissions would be offset to zero. A copy of this MOU has been included as an attachment to this Final Supplemental EIR/EIS. With respect to long-term project operations, the proposed project would result in a net reduction in all criteria pollutant emissions, as detailed in the Draft Supplemental EIR/EIS in Table 3.3-19 on page 3.3.68. As such, the proposed project would not impede the region’s ability to demonstrate conformity under the federal Clean Air Act.

An air toxics HRA was prepared for this project, and is discussed under subsection Impact AQ#6: Temporary Direct Impacts on Air Quality - Localized Health Impacts, starting on page 3.3-34 in the Draft Supplemental EIR/EIS. As disclosed therein, impacts on human health would be less than significant. The HRA was prepared consistent with SJVAPCD and California Office of Environmental Health Hazard Assessment guidelines.

290-716
The commenter refers to Table 3.3-24 and suggests the table shows an overly optimistic estimate of air pollution reduction from HSR operations. Impact AQ #7, which includes Table 3.3-24, describes how operations of the HSR Phase 1 system, including the Central Valley Wye, will lead to reduced air pollution emissions from automobiles, power plants, and aircraft. If the Central Valley Wye is constructed and operates as part of a more limited HSR system for a period of years, the air pollution reductions described in Impact AQ #7 would be less, but would continue to accrue over time, including past the 2040 horizon year included in the environmental analysis. The analysis, however, does not rely on indirect emissions decreases to demonstrate that direct air pollution emissions from HSR operations would be less than significant. First, HSR trains would be 100 percent electricity powered, and as such, would have no exhaust emissions. Second, per the 2013 Policy Directive POLI-PLAN-03, the Authority has adopted a goal to purchase 100 percent of the HSR system’s power from renewable energy sources. For these reasons, project direct emissions would be negligible. As such, air quality impacts from HSR operations would be less than significant even if the Central Valley Wye were part of a more limited initial operation of the HSR.
This comment regarding NOX emissions, and the MOU[1] that the Authority has entered into with the SJVAPCD to offset all project construction emissions to zero via the SJVAPCD's Voluntary Emission Reduction Agreement) program, raises four issues. Each issue is addressed below, separately.

Regarding health effects related to NOX (and other criteria pollutant) emissions, the commenter asserts that health effects are not sufficiently disclosed; however, the health effects of criteria pollutants (that include NOX) and diesel particulate matter are discussed in the Draft Supplemental EIR/EIS starting on page 3.3-64 under the subheading Impact AQ86: Temporary Direct Impacts on Air Quality - Localized Health Impacts. Described therein, localized dispersion modeling demonstrated that criteria pollutant concentrations (that include NOX concentrations) would not exceed NAAQS nor CAAQS. As explained on page 3.3-4 of the Draft Supplemental EIR/EIS, these air quality standards are established to protect human health. As such, impacts to human health would be less than significant.

Regarding SJVAPCD's ability to provide the required offsets in the timeframe and location sufficient to mitigate project regional emissions impacts during construction, by virtue of entering into the agreement, the SJVAPCD acknowledges that sufficient offsets are available.

With respect to matching the VERA offset reductions to specific local emissions locations during construction, this is not necessary because VERA offset reductions are required to mitigate project regional emissions. Regional emissions reductions can occur anywhere within the San Joaquin Valley Air Basin. Local pollutant concentrations would not exceed NAAQS nor CAAQS, and as such, would be less than significant. Also note that there would be no ozone formation related to project construction emissions, since project construction emissions would be offset to zero via the VERA program.

With respect to the commenter's final point, the commenter is conflating regional pollutant emissions and local pollutant concentrations. Even without a VERA program offset agreement, local pollutant concentrations would be less than significant. This is because dispersion modeling demonstrates that criteria pollutant concentrations would not exceed NAAQS nor CAAQS. As explained on page 3.3-4 of the Draft Supplemental EIR/EIS, the NAAQS and CAAQS are established to protect human health. Since there would be no pollutant emissions that exceed NAAQS or CAAQS at any location, there would be no disproportionate effect on disadvantaged communities.

[1] A copy of this MOU has been included as an attachment to this Final Supplemental EIR/EIS.
Madera County General Plan Air Quality Element Policy A1.1.4 states the following: "During project review, approval, and implementation, work with Caltrans, ARB, SJVAPCD, and MCTC to minimize the air quality, mobility, and social impacts of largescale transportation projects on existing communities and planned sensitive land uses."

Madera County General Plan Air Quality Element Policy C1.1.1 states the following: "Assess and mitigate project air quality impacts using analysis methods and significance thresholds recommended by the SJVAPCD and require that projects do not exceed established SJVAPCD thresholds."

The proposed project is consistent with both policies for the following reasons. First, the Authority has entered into an MOU with the SJVAPCD to offset project construction emissions to zero via SJVAPCD's Voluntary Emission Reduction Agreement program. As such, project construction emissions would be offset to zero.

Second, HSR trains would be 100 percent electricity powered and, as such, would have no exhaust emissions.

Third, per the 2013 Policy Directive POLI-PLAN-03, the Authority has adopted a goal to purchase 100 percent of the HSR system's power from renewable energy sources.

For these three reasons cited above, project direct emissions would be negligible. Air quality impacts would remain less than significant, even without anticipated indirect emissions reductions.

The commenter's assertion is not accurate. Construction-period greenhouse gas (GHG) emissions and impacts are discussed starting on page 3.3-60 under the subheading Impact AQI4: Permanent Direct and Indirect Impacts on Global Climate Change - Greenhouse Gas Emissions. Operations-period GHG emissions and impacts are discussed starting on page 3.3-75 under the subheading Impact AQI9: Continuous Permanent Direct and Indirect Impacts on Global Climate Change - Greenhouse Gas Emissions - On-Road Vehicle, Power Plant, Electrical Equipment, and Aircraft Emissions.

The GHG analysis (1) quantified GHG emissions for project construction and operation, (2) discussed project GHG emissions relative to the baseline condition, (3) made a significance determination based on substantial evidence, and (4) discussed project consistency with statewide, regional, and local plans.

The commenter also raises the issue of upstream, or life-cycle, analysis of GHG emissions. Neither CEQA nor NEPA require the quantification of upstream emissions. However, California specifically addresses "Industry Sector" GHG emissions in its 2017 Climate Change Scoping Plan. Per the Scoping Plan, GHG emissions related to cement, steel and glass production are included amongst the Industry Sector emissions addressed in the plan. Therefore, while not specifically accounted for as part of this proposed project's CEQA and NEPA environmental review requirements, a large part of upstream GHG emissions related project construction would be accounted for in the State's 2017 Climate Change Scoping Plan.

Please refer to the response to submission MF2-290, comment 716.
Please also refer to CVY-Response-GENERAL-7: Relationship Between the Merced to Fresno Final EIR/EIS and Central Valley Wye Final Supplemental EIR/EIS Documents.
Response to Submission 290 (Kristen Kortick, Abbott & Kindermann, Inc. on behalf of Wye Madera Task Force, October 28, 2019) - Continued

Section 10.1.3 of the FRA High Speed Ground Transportation Noise and Vibration Assessment manual states that for general assessment, pieces of equipment are assumed to operate at the center of the project, or centerline, in the case of a guideway or highway construction project. The reason that construction noise analysis is based on the centerline is because most of the work that will be performed in constructing the tracks and structures to support the tracks are near the centerline. The manual assumes that there would be multiple pieces of construction equipment operating concurrently for each construction activity; however, the major noise emitting equipment like concrete saws, rail saws, augurs, cranes, work trains, and excavators are expected to be working near the centerline and more specifically not near the outer limits of the construction site.

As noted on page 3.4-26, NV-MM#1, the construction monitoring program would implement temporary noise barriers when applicable. The barriers should provide 5 decibels or higher noise reduction to the impact area. Furthermore, the monitoring program permits the contractor to reschedule operations to minimize noise during sensitive hours.

The Authority developed the cited mitigation measure in recognition of the potential for final design and equipment considerations to result in differences from what was assumed in the environmental document. The Draft Supplemental EIR/EIS was prepared based on the best available information and does not reflect speculation. The cited mitigation measure provides further assurance that any final design or equipment changes are fully and appropriately assessed under pertinent requirements of CEQA and NEPA.

Furthermore, the project description in Chapter 2 is very clear that the proposed alignments would be used exclusively by electric-powered trains. The possibility raised by the commenter that louder diesel-powered trains would use the Central Valley Wye alignments is entirely speculative and therefore the impacts of such a speculative scenario are not included in the Draft or Final Supplemental EIR/EIS.

The Authority previously evaluated, as part of the Fresno to Bakersfield Project Section, whether utilization of the initial construction in the Central Valley for Amtrak would lead to higher noise impacts than with HSR operations and determined that it would not. Please refer to the Fresno to Bakersfield Final EIR/EIS, General Response #13. A portion of that response is excerpted below for reference.

For the noise analysis of the non-electrified interim use option, the noise level for the non-electrified passenger train was estimated to be 90 dBA Lmax at 100 feet throughout the length of the ICS. This noise level is based on 40 CFR 201 Section 201.12(b) requirements for maximum noise emission standards for interstate rail carriers rather than the lower expected noise emissions of such a train, so the estimate conservatively overstated noise as a reasonable upper limit.

Using this noise emission level, The Fresno to Bakersfield Project section modeled all the sites between Fresno and Rosedale in the Bakersfield metropolitan area that are representative of the range of sensitive receptors present along the full ICS. These receptor sites were residences and institutional facilities where people are sensitive to noise such as schools, churches, and rest homes. The same receptors used for the analysis of HST noise impacts were used for the non-electrified passenger train service. The modeling showed that the noise projected for the HST would be greater or equal
290-723
than the noise projected for a non-electrified passenger train operating at 125 mph for all noise sensitive sites. Therefore, noise impacts to sensitive receptors along the ICS would be less for a non-electrified passenger train than for the HST and this would hold true for the Fresno to Merced Section.

290-724
As stated in Section 3.4 of the Draft Supplemental EIR/EIS, sound barriers will be installed in locations where they would avoid or lessen severe impacts on at least 10 receivers. There are no such locations along any of the Central Valley Wye alternatives (refer to page 3.4-38 of the Draft EIS/EIR). Moreover, the cited mitigation measure is program-wide (in other words, not specific to the Central Valley Wye) and therefore should not be interpreted to mean that barriers will be installed. Accordingly, no analysis of secondary effects of sound barriers was necessary for the Supplemental EIR/EIS.

290-725
The commenter asserts that policy consistency analysis cannot be considered complete or meaningful unless the environmental document "...present[s] and consider[es] the full text and context of each policy..." The Authority respectfully disagrees with this assertion. The commenter asserts that the findings of "consistent" are incomplete but does not provide any specific instance in which a consistency determination was incorrect. Please also note that local government land use plans are not applicable to the HSR project because the HSR project is a state and federal government project, and, as such, is not subject to local governments' jurisdictional issues of land use. The Draft Supplemental EIR/EIS does assess the extent to which the alternatives would be consistent or inconsistent with such plans. A finding of inconsistency should not be considered equivalent to a significant environmental impact under CEQA.

290-726
Please refer to the responses to submission MF2-247, comment 184 and submission MF2-290, comment 725. Please also note that local government land use plans are not applicable to the HSR project because the HSR project is a state and federal government project, and, as such, is not subject to local governments' jurisdictional issues of land use.

290-727
Please refer to the responses to submission MF2-247, comment 184 and submission MF2-290, comment 725.

290-728
Please refer to the response to submission MF2-247, comment 177 regarding the commenter’s assertion that the IAMFs provided in the Draft Supplemental EIR/EIS do not meet the standards of mitigation measures under CEQA and cannot be relied upon to sufficiently minimize impacts. Please also refer to the responses to submission MF2-245, comments 147 through 151 regarding the similar earlier comments from the commenter as well the commenter’s proposed revisions to AVR-1AMF#1 and AVR-1AMF#2.

290-729
While the commenter correctly cites Impact PUE#6, the timing of other needed infrastructure improvements is uncertain relative to the likely construction of the Central Valley Wye alternatives.

In the next design phase, the Authority will identify and establish a process by which local utility agencies can maintain access below the railroad right-of-way, similar to how Caltrans provides opportunities for local agencies to maintain infrastructure access at Caltrans’s facilities. From this process, new utility crossings will be located where justified and necessary by the local agencies. Please also refer to the response to submission MF2-298, comment 565.
Response to Submission 290 (Kristen Kortick, Abbott & Kindermann, Inc. on behalf of Wye Madera Task Force, October 28, 2019) - Continued

290-730
Please refer to the response to submission MF2-245, comment 115.

290-731
The Authority's policy is to provide roadway overpasses approximately every 2 miles, resulting in no more than 1 mile of out-of-direction travel for vehicles to cross the HSR tracks. However, in rural areas, the distance between overcrossings or undercrossings would vary from fewer than 2 miles to approximately 5 miles where other roads are perpendicular to the proposed HSR alignment. The project design would include coordination with emergency responders to incorporate roadway modifications that maintain existing traffic patterns and fulfill response route needs, resulting in negligible effects on response times by service providers.

290-732
Please refer to the response to submission MF2-242, comment 79.

290-733
Please refer to:
CVY-Response-SO-01: HSR Project Will Lower Property Values Due to Nearby Alignment

Please also refer to Standard response, CVY-Response-GENERAL-4: Heavy Maintenance Facility.

290-734
Please refer to the responses to submission MF2-242, comment 79 and submission MF2-290, comment 732.

290-735
The request for funding to update local plans is noted and will be considered by the Authority outside the environmental review process.

290-736
Please refer to the response to submission MF2-245, comment 115.

290-737
Please refer to the response to submission MF2-245, comment 113.

290-738
Please refer to the response to submission MF2-245, comment 114.

290-739
Please refer to the response to submission MF2-245, comment 115.

290-740
Please refer to the response to submission MF2-245, comment 116.

290-741
Please refer to the response to submission MF2-245, comment 117.

290-742
Please refer to the response to submission MF2-245, comment 118.
Response to Submission 290 (Kristen Kortick, Abbott & Kindermann, Inc. on behalf of Wye Madera Task Force, October 28, 2019) - Continued

290-743
Please refer to the response to submission MF2-245, comment 119.

The comment suggests changes to proposed roadway closures as well as compensation for closure-related issues.

The Authority's policy is to provide roadway overpasses approximately every 2 miles, resulting in no more than 1 mile of out-of-direction travel for vehicles to cross the HSR tracks. However, in rural areas, the distance between overcrossings or undercrossings would vary from fewer than 2 miles to approximately 5 miles where other roads are perpendicular to the proposed HSR alignment. The project design would include coordination with emergency responders to incorporate roadway modifications that maintain existing traffic patterns and fulfill response route needs, resulting in negligible effects on response times by service providers. Section 3.11.0, Environmental Consequences (Safety and Security), of the Draft Supplemental EIR/EIS provides additional detail regarding emergency response time during HSR operations.

290-744
Please refer to the response to submission MF2-245, comment 120.

290-745
Please refer to the response to submission MF2-245, comment 121.

290-746
Please refer to the response to submission MF2-245, comment 122.

290-747
Please refer to the response to submission MF2-245, comment 141 regarding the applicability of Transportation Conformity and General Conformity.

With respect to the Clean Air Act and General Conformity, projects whose net construction- and operations-period criteria pollutant emissions fall below General Conformity de minimis levels are deemed to conform to the State Implementation Plan. The Authority has entered into an MOU with the SJVAPCD to offset project construction emissions to zero via SJVAPCD's Voluntary Emission Reduction Agreement program. As such, project construction emissions would be offset to zero. A copy of this MOU has been included as an attachment to this Final Supplemental EIR/EIS. With respect to long-term project operations, the proposed project would result in a net reduction in all criteria pollutant emissions, as detailed in the Draft Supplemental EIR/EIS in Table 3.3-19 on page 3.3-66. As such, the proposed project would not impede the region's ability to demonstrate conformity under the federal Clean Air Act.

290-748
Please refer to the response to submission MF2-245, comment 124.

290-749
Please refer to the response to submission MF2-245, comment 125.

290-750
Please refer to the response to submission MF2-245, comment 124.

290-751
Please refer to the response to submission MF2-245, comment 127.

290-752
Please refer to the response to submission MF2-245, comment 128.

290-753
Please refer to the response to submission MF2-245, comment 129.
Response to Submission 290 (Kristen Kortick, Abbott & Kindermann, Inc. on behalf of Wye Madera Task Force, October 28, 2019) - Continued

290-754
Please refer to the response to submission MF2-245, comment 130.

290-755
Please refer to the response to submission MF2-245, comment 115.

290-756
The comment asserts that the Draft Supplemental EIR/EIS "fails to identify" and analyze the demographic, economic, and fiscal impacts that could arise from construction and long-term operation of HSR.

The demographic, economic, and fiscal impacts of the project are analyzed and disclosed in several components of the Draft Supplemental EIR/EIS, including but not limited to Section 3.12, Socioeconomics and Communities. Within Section 3.12, Impacts SO#9 through SO#16 assess demographic, economic, and fiscal impacts consistent with pertinent federal and state requirements.

290-757
The comment asserts that the socioeconomic analysis is flawed because it assumes the HSR system will be fully developed. The Authority respectfully disagrees with this comment. Chapter 3.12 in the Draft Supplemental EIR/EIS evaluates economic impacts of Central Valley Wye construction, including effects such as employment, school district funding, agricultural economic effects, and impacts on property and sales tax revenues. These construction-related effects, positive and negative, are not influenced by construction of other sections of the HSR.

The Draft Supplemental EIR/EIS also evaluates operations-related economic impacts on regional employment, the agricultural economy, and property sales tax revenues. These operational impacts are assumed for the Central Valley Wye as part of the overall statewide system. Impacts SO#19 and SO#22 identify beneficial economic operations period effects. In the event that the Authority temporarily operates a smaller initial HSR system, such as only within the Central Valley, such benefits would be lesser. Similarly, the adverse operational period effects (refer to Impacts SO#20 and SO#2) would likely be incrementally lower for a smaller initial operating system. The full extent of economic benefits and adverse effects would likely not be realized until the statewide system extends into the San Francisco Bay Area and the Los Angeles basin.

Consistent with the CEQA Guidelines, no CEQA conclusions were included for economic impacts in the Supplemental EIR/EIS.
Response to Submission 290 (Kristen Kortick, Abbott & Kindermann, Inc. on behalf of Wye Madera Task Force, October 28, 2019) - Continued

Please refer to the response to submission MF2-242, comment 66.

Section 3.12's analysis related to community cohesion and displacement is organized in the following numbered impacts: Impact SO#1: Temporary Impacts on Communities—Community Cohesion; Impact SO#2: Permanent Impacts on Communities—Community Cohesion; Impact SO#3: Displacements and Relocations of Residences; Impact SO#4: Displacements and Relocations of Commercial and Industrial Businesses; Impact SO#5: Displacements and Relocations of Agricultural Operations; Impact SO#6: Displacements and Relocations of Community and Public Facilities.

The commenter is correct that, with respect to Impact SO#1, the Draft SEIR/EIS concludes that the temporary impacts to community cohesion caused by construction (as distinct from the permanent impacts caused by operation) are less than significant under CEQA. The analysis of Impact SO#1 explains that IAMFs including SO-IAMF #1 (as set forth in full in Appendix 2-B) will help address certain impacts, but discloses that construction-related traffic, noise, and visual quality issues will cause annoyance and potentially affect the quality of life of residents. However, for the particular category of temporary impacts to community cohesion caused by construction, this would not result in the physical division of an existing community, which is the criterion for evaluating a significant impact under CEQA.

The commenter observes that where a residence or business will be relocated, it is unclear to what extent, during construction, "continued access" will be maintained for such a residence or business (that is being relocated). As a logical matter, if a residence or business has been relocated, that residence or business no longer has a need for continued access to the prior location. However, the Draft SEIR/EIS clearly acknowledges and analyzes displacements within Impacts SO#3 - #6, evaluating displacements for various types of land uses, explaining the relocation process and describing the benefits available to assist residents and businesses/non-profits subject to relocation.

Please refer to the responses to submission MF2-242, comment 66 and submission MF2-290, comment 758.

SO-IAMF#2 describes the Authority’s compliance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act, as amended (Uniform Act). Assisting residents, businesses and non-profits with relocations, including through financial and technical assistance as provided for under SO-IAMF#2, would minimize potential impacts on communities as a result of such displacements. Similarly, SO-IAMF#3, describing the relocation mitigation plan, would likewise minimize potential impacts on communities by facilitating relocations. Displacement (and associated relocations) are not, in and of themselves, impacts under CEQA, based on Section 15064(e) of the CEQA Guidelines. Nevertheless, the Authority has analyzed the permanent impacts of the project on community division in Impact SO#2, concluding that even with the beneficial effects of SO-IAMF’s #2 and #3, there will be a significant impact under CEQA.

SO-IAMF#3, describing the relocation mitigation plan, is not infeasible: physical relocation of a business or non-profit does not have to mean permanent closure of that business or non-profit’s ongoing operations.

The commenter does not cite any specific deficiency regarding the environmental justice conclusions in the Draft Supplemental EIR/EIS. The Draft Supplemental EIR/EIS discusses environmental justice in Chapter 5. Section 5.8 describes the preliminary determination that with mitigation for the community of Fairmead, there would be no disproportionately high and adverse effects. Please also refer to the response to submission MF2-242, comment 281 and MF2-290, comment 761.
Response to Submission 290 (Kristen Kortick, Abbott & Kindermann, Inc. on behalf of Wye Madera Task Force, October 28, 2019) - Continued

290-761
The commenter states that the conclusion of project-related benefits noted in the environmental justice chapter is flawed.

First, Chapter 5 of the Draft Supplemental EIR/EIS made a preliminary environmental justice determination, which is based primarily on an assessment of whether low-income and minority populations would experience disproportionately high and adverse effects as a result of construction or operation of any of the Central Valley Wye alternatives. The preliminary determination of disproportionately high and adverse effects is based primarily on the effects that would be experienced in the community of Fairmead. The preliminary determination cited the potential effects of the SR 152 alternatives as well as the highly specific mitigation measures developed following extensive outreach with the community of Fairmead.

After citing the adverse effects and benefits, the preliminary determination also cites the benefits associated with the mitigation measures associated with the SR 152 alternatives. The preliminary determination does not cite the general benefits indicated by the commenter. However, the Authority notes that such benefits would be expected long-term for the statewide project as a whole, and that the initial operating concepts would also provide benefits in terms of construction-related employment, and improved regional mobility and air quality. Please also refer to the response to submission MF2-290, comment 757.

The Final Supplemental EIR/EIS includes the Authority's final environmental justice determination, stating that low-income and minority populations would not experience disproportionately high and adverse effects as a result of construction or operation of any of the Central Valley Wye alternatives. This conclusion is based on the revised discussion of mitigation measures, in particular, those measures proposed to address the environmental justice effects on the community of Fairmead.

290-762
Please refer to the response to submission MF2-247, comment 234.

290-763
Please refer to the response to submission MF2-247, comment 234.

290-764
Please refer to the response to submission MF2-247, comment 234.

290-765
The Authority respectfully disagrees that the cumulative impacts analysis is insufficient for failure to update the analysis for the entire project section. Section 3.19.1 explains that it describes new and relevant information for cumulative impacts of the Central Valley Wye component of the Merced to Fresno Project Section, including with reference to adjacent sections of the HSR system. Section 3.19.4.3 describes that analysts updated the cumulative project lists from the Merced to Fresno Final EIR/EIS, including in Merced, Madera, and Fresno Counties, and considered cumulative projects outside the geographic area of the Central Valley Wye. The analysis, however, reasonably focuses on the Central Valley Wye alternatives and their contribution to cumulative effects as part of the Merced to Fresno Project Section within Madera and Merced Counties because this is the portion of the Project Section for which the Authority proposes to make a new discretionary decision.

290-766
Please refer to the response to submission MF2-245, comment 139. Please also refer to Standard Response: CVY-Response-GENERAL-2: Alternatives Analysis and Selection for CVY regarding considerations of corridor selection. Additionally, this comment raises legal arguments addressing the adequacy of the Draft Supplemental EIR/EIS and cites legal authority pursuant to CEQA and NEPA. These legal comments and recitations of the law do not require a response.
Response to Submission 290 (Kristen Kortick, Abbott & Kindermann, Inc. on behalf of Wye Madera Task Force, October 28, 2019) - Continued

290-767
Please refer to the response to submission MF2-245, comment 149.

290-768
Please refer to the response to submission MF2-245, comment 150.

290-769
Please refer to the response to submission MF2-245, comment 151.

290-770
Please refer to the response to submission MF2-245, comment 152.

290-771
Please refer to the response to submission MF2-252, comment 153.

290-772
Please refer to the response to submission MF2-252, comment 154.

290-773
Please refer to the response to submission MF2-245, comment 155.

290-774
Please refer to the response to submission MF2-245, comment 156.

290-775
Please refer to the response to submission MF2-245, comment 157.

290-776
Please refer to the response to submission MF2-245, comment 159.

290-777
Please refer to the response to submission MF2-245, comment 160.

290-778
Please refer to the response to submission MF2-245, comment 161.

290-779
Please refer to the response to submission MF2-245, comment 162.

290-780
Please refer to the response to submission MF2-245, comment 163.

290-781
Please refer to the response to submission MF2-245, comment 164.

290-782
Please refer to the response to submission MF2-245, comment 165.

290-783
Please refer to the response to submission MF2-245, comment 166.