

CALIFORNIA HIGH-SPEED RAIL PROJECT

San Jose to Merced Project Section

Revised Draft Environmental Impact Report/Supplemental Draft Environmental Impact Statement, Biological Resources Analysis

Prepared by the

California High-Speed Rail Authority

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1 New San Jose to Merced Project Section Document Focused on New Biological Resources Analysis Content

The California High-Speed Rail Authority (Authority) is issuing a limited revision to its previously published Draft Environmental Impact Report (EIR)/Environmental Impact Statement (EIS) for the San Jose to Merced Project Section of the California High-Speed Rail Project, pursuant to the California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA). 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 United States Code (U.S.C.) 327 and a Memorandum of Understanding dated July 23, 2019 and executed by the Federal Railroad Administration and the State of California.

This document is entitled *San Jose to Merced Project Section: Revised Draft Environmental Impact Report/Supplemental Draft Environmental Impact Statement, Biological Resources Analysis* (Revised/Supplemental Draft EIR/EIS). Pursuant to Section 15088.5(f)(2) of the CEQA Guidelines, this document is limited to the portions of the previously published Draft EIR/EIS that require revision. Information that has not been revised, including the methods for evaluating impacts under NEPA and the methods for determining significance under CEQA, as well as appendices that remain unchanged, can be found in the Draft EIR/EIS. The previously published Draft EIR/EIS, including Sections 3.7 and 3.19 and Chapter 12, is available on the Authority's website (www.hsr.ca.gov). The Authority requests that reviewers limit the scope of their comments to the revised information within the Revised/Supplemental Draft EIR/EIS.

The Revised/Supplemental Draft EIR/EIS has been prepared and is being made available pursuant to both CEQA and NEPA and presents new biological resources analysis that was not included in the Draft EIR/EIS, as follows:

Biological Resources – New Special-Status Species

Following the Authority's publication of the Draft EIR/EIS in April 2020, the Authority learned that the California Fish and Game Commission published a notice of findings, on May 1, 2020, to designate the

Southern California/Central Coast population (evolutionarily significant unit) of mountain lion (*Puma concolor*) as a candidate species under the California Endangered Species Act (CESA).¹ Additionally, the monarch butterfly (*Danaus plexippus*) became a candidate for listing under the federal Endangered Species Act (FESA) on December 15, 2020.²

These actions by the California Fish and Game Commission and the U.S. Fish and Wildlife Service (USFWS) make the Southern California/Central Coast mountain lion and monarch butterfly subject to the definition of special-status species used by the Authority for analysis:

- “Plants or wildlife listed or proposed for listing as threatened or endangered under the federal Endangered Species Act (FESA) (16 U.S.C. § 1531 et seq.), and
- Plants or wildlife listed or candidates for listing as threatened or endangered under the California Endangered Species Act (CESA) (California [Cal.] Fish and Game Code §§ 2050–2085).”³

Both the Southern California/Central Coast mountain lion and the monarch butterfly are assumed to be present in the resource study area for the San Jose to Merced Project Section alternatives, based on historical records and existence of suitable habitat for the species. As these are new potential impacts not included in the Draft EIR/EIS, the Authority directed that the analysis of these impacts should be included in a recirculated document. Accordingly, Section 3.7, Biological and Aquatic Resources, in this Revised/Supplemental Draft EIR/EIS includes additional analysis and revised and new mitigation measures related to the Southern California/Central Coast mountain lion and monarch butterfly.

Biological Resources – Impact of Noise on Wildlife

The Authority received comments on the Draft EIR/EIS pertaining to high-speed rail (HSR) noise and the associated impacts on wildlife. The Authority determined that additional analysis and mitigation was warranted in relation to these concerns and directed this additional information to be included in a recirculated document. The Authority conducted additional analysis of mammalian responses to HSR noise sources, which is included in this Revised/Supplemental Draft EIR/EIS as Appendix 3.7-E, Supplemental Noise Analysis on Terrestrial Wildlife Species. Section 3.7 includes a summary of this additional analysis and revised mitigation to further address noise impacts on wildlife.

Biological Resources – Impact of Lighting on Wildlife

The Authority also received comments on the Draft EIR/EIS pertaining to HSR lighting, especially at night, and the associated impacts on wildlife. Commenters disagreed with the less-than-significant CEQA conclusion for Impact BIO#47, Intermittent and Permanent Lighting Disturbance of Wildlife Using Corridors during Operations, in Section 3.7, Biological and Aquatic Resources, of the Draft EIR/EIS. The Authority determined that additional analysis and mitigation were warranted in relation to these concerns and directed this additional information be included in a recirculated document. The Authority conducted additional analysis of impacts from artificial lighting on wildlife, which is included in this Revised/Supplemental Draft EIR/EIS as Appendix 3.7-F, Supplemental Artificial Light Analysis on Terrestrial Wildlife Species. This additional analysis led to a revision in the CEQA conclusion, which is now significant under all four alternatives. Section 3.7 also includes revised mitigation and a new mitigation measure to minimize the impacts of operational lighting on wildlife species.

Both CEQA and NEPA provide guidance on the recirculation and supplementation of published environmental documents. Pursuant to pertinent requirements of both laws,⁴ the Authority, as lead CEQA

¹ California Department of Fish and Wildlife. 2020. *Keep Me Wild: Mountain Lion*. Available: <https://wildlife.ca.gov/keep-me-wild/lion>.

² United States Fish and Wildlife Service. 2020. *Questions and Answers: Extension of deadline for 12-month finding on petition to list the monarch butterfly under the Endangered Species Act*. Available: https://www.fws.gov/savethemonarch/extension_faqs.html.

³ California High-Speed Rail Authority. 2020. *San Jose to Merced Project Section: Draft Environmental Impact Report/Draft Environmental Impact Statement*, Section 3.7.5.3, Methods for Impact Analysis, page 3.7-19.

⁴ CEQA Guidelines, Section 15088.5; 40 Code of Federal Regulations (C.F.R.) Section 1502.9(c)(1)(ii). The Council on Environmental Quality (CEQ) issued new regulations, effective September 14, 2020, updating the NEPA implementing procedures at 40 C.F.R. Parts 1500–1508. However, because this project initiated the NEPA process before September 14, 2020, it is not subject to the new regulations. The Authority is relying on the regulations as they existed prior to September 14, 2020. Therefore, all

and NEPA agency for the San Jose to Merced Project Section, is issuing this Revised/Supplemental Draft EIR/EIS limited to the portions of the Draft EIR/EIS that require revision based on the new information described above. New information in this Revised/Supplemental Draft EIR/EIS includes background information, methodology, impact analysis, and mitigation measures.

To the extent practicable, a vertical line in the margin indicates a substantive change in the text since publication of the Draft EIR/EIS; minor editorial changes and clarifications are not identified. Changes in the Revised/Supplemental Draft EIR/EIS are primarily related to mountain lion and monarch butterfly but also include updates to other information as informed by the new or updated analysis. The Revised/Supplemental Draft EIR/EIS consists of excerpted text where updates or additions have been made. Ellipses are used to identify where text from the Draft EIR/EIS remains unchanged and, therefore, is not included in the Revised/Supplemental Draft EIR/EIS. All tables in the Revised/Supplemental Draft EIR/EIS present only information related to the new or updated analysis. The sections comprising the Revised/Supplemental Draft EIR/EIS are:

- Section 3.7, Biological and Aquatic Resources, excerpts of the following sections:
 - 3.7.4, Consultation with Regulatory Agencies for Federal Endangered Species Act Compliance
 - 3.7.5, Methods for Evaluating Impacts
 - 3.7.6, Affected Environment
 - 3.7.7, Environmental Consequences, specifically the following impacts have been updated or added.
 - Impact BIO#2b: Permanent Conversion or Degradation of Habitat for and Mortality of Monarch Butterfly
 - Impact BIO#26a: Loss of Breeding, Foraging, and Dispersal Habitat for and Direct Mortality or Disturbance of Mountain Lion
 - Impact BIO#32: Intermittent Disturbance or Degradation of Habitat for Special-Status Wildlife during Operations
 - Impact BIO#42: Temporary Disruption of Wildlife and Wildlife Movement
 - Impact BIO#43: Permanent Impacts on Wildlife Movement
 - Impact BIO#44: Intermittent Noise Disturbance of Wildlife Using Corridors during Operations
 - Impact BIO#45: Intermittent Vibration Disturbance of Wildlife Using Corridors during Operations
 - Impact BIO#46: Intermittent Visual Disturbance of Wildlife Using Corridors during Operations
 - Impact BIO#47: Intermittent and Permanent Lighting Disturbance of Wildlife and Wildlife Using Corridors during Operations
 - Impact BIO#48: Mortality Resulting from Train Strike during Operations
 - 3.7.8, Mitigation Measures, specifically the following mitigation measures have been updated or added.
 - BIO-MM#1: Prepare and Implement a Restoration and Revegetation Plan
 - BIO-MM#14: Avoid Direct Impacts on Bay Checkerspot and Monarch Butterfly Host Plants
 - BIO-MM#70: Prepare and Implement an Annual Vegetation Control Plan
 - BIO-MM#76: Minimize Impacts on Wildlife Movement during Construction
 - BIO-MM#77a: Design Wildlife Crossings to Facilitate Wildlife Movement
 - BIO-MM#77b: Monitoring and Adaptive Management of Wildlife Crossings
 - BIO-MM#80: Minimize Permanent Intermittent Noise, Visual, and Train Strike Impacts on Wildlife Movement

citations to CEQ regulations in this document refer to the 1978 regulations, pursuant to 40 C.F.R. Section 1506.13 (2020) and the preamble at 85 *Federal Register* 43340.

- BIO-MM#81: Minimize Permanent Intermittent Impacts on Terrestrial Species Wildlife Movement
- BIO-MM#86: Provide Compensatory Mitigation for Impacts on Monarch Butterfly Habitat
- BIO-MM#87: Conduct Pre-Construction Surveys and Implement Avoidance and Minimization Measures for Mountain Lion Dens
- BIO-MM#88: Provide Compensatory Mitigation for Impacts on Mountain Lion Habitat
- BIO-MM#89: Minimize the Impacts of Operational Lighting on Wildlife Species
- 3.7.9, Impact Summary for NEPA Comparison of Alternatives
- 3.7.10, CEQA Significance Conclusions
- Section 3.19, Cumulative Impacts, specifically excerpts of the following section have been updated:
 - 3.19.6.6, Biological and Aquatic Resources
- Chapter 12, References, specifically excerpts of the following sections have been updated:
 - Section 3.7, Biological and Aquatic Resources
 - Section 3.19, Cumulative Impacts
- Appendix 3.7-A, Special-Status Species Subject to Project Impacts
- Appendix 3.7-D, Supplemental Species Habitat Model Descriptions
- Appendix 3.7-E, Supplemental Noise Analysis on Terrestrial Wildlife Species
- Appendix 3.7-F, Supplemental Artificial Light Analysis on Terrestrial Wildlife Species

The Authority reviewed other sections of the Draft EIR/EIS and found, based on research and a review of the evidence, that no other substantive changes would be required for this Revised/Supplemental Draft EIR/EIS. All other appendices to Section 3.7, as well as all technical reports supporting Section 3.7 of the Draft EIR/EIS, remain unchanged.

2 Publication of the Revised/Supplemental Draft EIR/EIS

Pursuant to both CEQA and NEPA requirements, this Revised/Supplemental Draft EIR/EIS is being issued for a minimum 45-day public review and comment period, which is equivalent to the required public notice periods for the CEQA and NEPA distributions of the Draft EIR/EIS. The Authority is also providing notification in a similar manner as the Draft EIR/EIS distributions to property owners and/or occupants, stakeholders, and other interested parties. Notifications will be published in the same newspapers as notices were for the Draft EIR/EIS distributions, including five English-language newspapers and one of each of the following in-language newspapers: Spanish, Chinese, and Vietnamese.

3 Next Steps

The Authority welcomes comments on the content of this Revised/Supplemental Draft EIR/EIS. The public review period will begin on **April 23, 2021** and end on **June 9, 2021**. Please see the Notice of Availability for the Revised/Supplemental Draft EIR/EIS for details on how to comment.

The Draft EIR/EIS is available on the Authority's website (www.hsr.ca.gov). Electronic copies of the Tier 1 EIR/EISs, the Merced to Fresno Final EIR/EIS, and the Merced to Fresno Central Valley Wye Final Supplemental EIR/EIS are available by calling the Authority at (800) 455-8166 and can also be viewed, in printed and/or electronic format, during business hours at the Authority's Northern California Regional Office at 100 Paseo de San Antonio, Suite 300, San Jose, CA 95113 and the Authority's Headquarters at 770 L Street, Suite 620 MS-1, Sacramento, CA 95814. These documents are not currently part of the public review and comment process; however, they are available for review and reference. Authority offices may have reduced open days/hours, as required by coronavirus public health and safety directives. Please consult www.hsr.ca.gov for up-to-date information. The Authority does not discriminate on the basis of disability and, upon request, will provide reasonable accommodation to ensure equal access to its programs, services, and activities. People with sensory disabilities may contact the Authority by phone or via the Authority website to request accessibility support.

The Final EIR/EIS will include the Authority's responses to comments received on the previously circulated Draft EIR/EIS, in addition to responses to comments received on this Revised/Supplemental Draft EIR/EIS. The Authority anticipates publishing the Final EIR/EIS in winter 2021/2022. The new mitigation measures included in Section 3.7 will be incorporated into the Mitigation Monitoring and Enforcement Plan as part of the CEQA/NEPA decision documents. After publishing the Final EIR/EIS, the Authority Board of Directors will consider whether to certify the Final EIR and approve the Preferred Alternative pursuant to CEQA. In addition, the Authority, as NEPA lead agency, will also consider whether to issue a Record of Decision approving the Preferred Alternative.