CALIFORNIA HIGH-SPEED RAIL AUTHORITY

BOARD OF DIRECTORS MEETING

THURSDAY, APRIL 28, 2022
11:00 AM

TRANSCRIPT OF PROCEEDINGS

CALIFORNIA DEPARTMENT OF HEALTHCARE SERVICES

THE AUDITORIUM

1500 CAPITOL AVENUE

SACRAMENTO, CALIFORNIA 95814

Reported by:
E. Hicks
APPEARANCES

BOARD MEMBERS
Tom Richards, Chair
Nancy Miller, Vice Chair
Lynn Schenk
Ernest Camacho
Henry R. Perea, Sr.
James C. Ghielmetti
Martha M. Escutia
Margaret Pena
Anthony Williams

EX OFFICIO BOARD MEMBERS
Assembly Member, Dr. Joaquin Arambula
Senator Lena A. Gonzalez (Absent.)

STAFF
Brian P. Kelly, Chief Executive Officer
Boris Lipkin, Northern California Regional Director
Serge Stanich, Director of Environmental Services
Gary Kennerley, Northern California Director of Projects
Alicia Fowler, Chief Counsel
Moe Ramadan, Acting Board Secretary
Minming Wu Morri, In-House Counsel
APPEARANCES (Cont.)

PRESENTERS:

Brian P. Kelly, Chief Executive Officer

Boris Lipkin, Northern California Regional Director

Serge Stanich, Director of Environmental Services

Alicia Fowler, Chief Counsel

Minming Wu Morri, In-House Counsel

Jessica Tucker Mohl, Supervising Deputy Attorney General
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CHAIR RICHARDS: Good morning, ladies and gentlemen, and welcome back to the second day of our 2-day meeting for the month of April of 22. This is April 28th. We’ll follow the script as we have with regards to environmental documentation.

And with that let me restate good morning. We are now convening for the second day of the 2-day Board meeting.

I’d like the record to reflect that the Board as reconvened with all members present who were in attendance yesterday.

We have multiple agenda items today related to the San Jose to Merced project section and Final EIR/EIS.

We will start with Agenda Item Number 8, which is providing staff an opportunity to address any of the issues they believed were important in the public comments and any questions the Board asked about yesterday.

Mr. Lipkin, Mr. Stanich and Mr. Kennerley, you can take the stand so to speak.

MR. STANICH: Good morning, members of the Board.
We return today to provide some clarifications to the public comment yesterday, as well as questions from the Board.

Allow me to advance this slide. There we go. So, for an agenda today, the staff will provide a brief presentation on some of the comments received, questions from the Board, and then answer any questions or additional questions that may come up today.

Upon concluding our presentation, counsel will then walk the Board members through the approval documents. And those considerations include the certification of the Final EIR/EIS, as well as approval of the documents that include the Findings of Fact, Statement of Overriding Considerations, and the Mitigation, Monitoring and Enforcement Plan. And then, finally, a resolution to direct the CEO to sign the Record of Decision pursuant to the National Environmental Policy Act, and our assignment of responsibilities by the FRA.

So, issues that we identified for further clarification include some additional discussion with the Gardner community in San Jose, questions regarding the City of Morgan Hill and emergency vehicle response. The Vierra Ranch and questions regarding tenant farming and agricultural impacts. And then, a broader discussion on the Grasslands Ecological Area, particularly with respect
to our partnership agreements.

    So, from this point I will pass it to Boris
Lipkin.

    MR. LIPKIN: Good morning, Board members.
Yesterday, during the conversation, we had a number of
questions about the Gardner community, and so I just wanted
to touch on a few items in follow up to the conversation
yesterday.

    So, the first point just wanted to make, you
know, we, over the years, have had extensive outreach in
this community. That’s been diverse means with trying to
capture the sentiment of both kind of key parts of the
community, as well as just members of the public who live
there.

    And so, we’ve done that with the neighborhood
association, the parent group, and the administrators of
the school that we were talking about yesterday. We’ve
gone on community walks. That’s a picture from one of
them. We’ve canvassed and really had extensive engagement.
And that’s really been part of our key -- part of the
process of getting inputs, especially on the environmental
justice process. That’s one of the key components for our
we address environmental justice issues is by working with
the local communities. And so, that’s been a key part of
our process throughout each step of the way.
You know, one of the questions that came up yesterday was around what are some of the key impacts that we really worked on minimizing in the community. And one of the things that’s been of particular interest is residential displacements. This is a residential neighborhood.

And so, as we’ve been developing our design and alternatives, we’ve really focused on making sure that we can make the improvements that we need, but stay within the existing rail corridor. And so, we’ve been able to do that except for in the very end of Fuller Avenue we have to residential displacements at the very end of that street, as we’re adding an extra track over SR-87 in that location. But everywhere else, we’ve been able to stay within the existing rail corridor and not impact any additional residences.

The other topics that we’ve covered, one was focused on the proposed mitigation and improvements at the Gardner Elementary School. And so, we have additional information related to all of our environmental justice community improvements in, it’s Appendix 5-C. And this one is also in the Mitigation, Monitoring and Enforcement Plan as GWGOMM-1.

And so, the issue for the school, as you’ll remember from the map yesterday it’s located right next to
the freeway, SR -- oh, sorry, I-280. And so, the proposed
mitigation that we have, and this was based on the school’s
input to us of the effects that they were feeling. It’s
not from high-speed rail noise, it’s really from the
freeway.

But what we’ve proposed is either a sound barrier
just on the north side of the school, so I know our
graphics sort of showed the entire property, but really the
sound barrier is where the noise is coming from the freeway
on the north side. Or, building window insulation and
improvements to the buildings themselves. Again, focusing
on that key impact that they’re feeling from the freeway,
and reduce the effects that they’re seeing from historical
transportation investment in the community that had
unmitigated impacts, essentially.

The other one that we talked a little bit about
was Fuller Park. And this is a picture from the park. As
we talked about yesterday, this is a key feature in the
community and something that’s been of pride. They worked
with the city to get that park built.

And so, the park improvement there was our
highest rated project as we went through our evaluation for
this community, and it had very strong community support.

And so, just to give a little bit more of a sense
of what we’re proposing is for the renovation it would
include children’s play areas with equipment, picnic benches, fitness equipment, bicycle racks, and other similar amenities as part of the improvement that we would do that. And again, that had very positive reaction from the community.

And this one, if you want to dig into it more, in the Mitigation, Monitoring and Enforcement Plan is GWGOMM Number 3. So, this is the additional description of it there.

So, that’s the Gardner piece. I’ll switch briefly to talk about Morgan Hill as well, and then I’ll turn it back to Gary and Serge.

Dr. Perea, I think you had asked sort of where -- you know, since 2019 where have we gotten to with Morgan Hill. And you may recall, when we were out there, there was still a lot of conversation around, you know, the city’s interest in us pursuing an alignment along the freeway versus downtown. So, I think we have made -- you know, we’ve engaged with them extensively, both before that visit and since then, and I think we have certainly made progress with the community and the town there.

They did write two letters to us. One was on the Business Plan and one was on the environmental document. You’ve received both of those previously. But where we’re really seeing some alignment is, you know, in their
Business Plan letter they were very focused on asking us to prioritize the Union Pacific agreement and the electrification of the rail corridor between San Jose and Gilroy.

And then, the issues that they raised were concerning grade separations, and especially emergency vehicle response time.

And so, I just wanted to quickly cover kind of our mitigation measure focused on emergency vehicle response, how it works, and how it ties into our continued engagement with them around grade separations as one of the next steps after today, as well.

So, just to kind of ground us, the way that our environmental document is set up we first start with the impact analysis and assessment of where we have impacts. And so, this is based on analysis of the gate downtime. So, basically as trains are going by the gates would be closed, and that might mean that an emergency vehicle might not be able to get through.

And so, the analysis that we did was very conservative. It really, basically, assumed that because they wouldn’t know when the gate might be up or down, that the emergency vehicles would essentially only be using the grade-separated routes in the community. So, there’s one in the north and one in the south. Which is, of course, a
much more conservative assumption.

And so, where we have a delay of more than 30 seconds that was found to be a significant impact. And so, from that we start to have a mitigation measure and this is SSMM Number 4 that deals with these potential effects.

And so, the first step, and there’s sort of three components to this mitigation measure, the first part is really focused on the monitoring and data collection piece of this. Because, you know, one of the things that the City of Morgan Hill brought up was that they’ve seen recently some deterioration in their existing response times

And as we look to the future, you know, this is really an operations issues when we build the system. So, traffic patterns, emergency response times, and others can evolve over time. And so, we start with data collection before we start service, and then monitor it afterwards to really measure where our impact is and what the significance of it is. And similarly, as we would increase service we would do a similar process.

And so in Morgan Hill, we’re really talking about the five at-grade crossings, and they’re listed on the slide, that we will be doing that analysis. Of course, we’ll be doing it in other communities up and down the corridor, as well.
The second step is preparing an emergency vehicle priority treatment plan. And so, what we’ve identified in the environmental document is a suite of measures that could be used to essentially reduce that emergency vehicle response delay or impact from the gate down time.

And so, it’s everything from preemption equipment for traffic signals, or other signal priority treatments, up to the construction of, say, a fire station on the other side of the tracks if we have -- if crossing the corridor is the issue.

And so, the exact measures would be based on the analysis at the time when we’re really getting into service and seeing the impact.

But because there’s this, you know, continued interest in grade separations, what we’ve also included is an alternative to that process, where the Authority and local agency can enter into an agreement where we can basically create an in lieu payment towards a grade separation or other, similar project that would have equivalent mitigating effect for the emergency vehicle response delay that we might see. And that would be a capital contribution that we would have otherwise made to those other improvements.

And so, we’ve talked extensively with Morgan Hill about this. We’ve also incorporated this measure and this
conversation with our MOU with San Jose. And we really see this at least as a path forward to be a constructive partner where our interests and Morgan Hill’s interest really can align.

And then finally, I’ll just mention in the Board resolution we have included an item about continuing to work with communities as they want to plan grade separations, and being a good partner with them. And so, and then reaching agreements as necessary to move that forward.

So, we think we have a constructive path forward. You know, it doesn’t mean that we’re signing up for every grade sep that everybody wants to do, but it certainly is a way that we can be a good contributor to the city as they’re moving forward with that process, and a good partner with them on it.

So, that’s kind of where we’re at with Morgan Hill. I guess that’s the wrap-up from the status report of what we’ve resolved and where we’re at.

CHAIR RICHARDS: Boris, if we can stop, we’re going to go ahead and let members ask questions as you go through this. Go ahead, Director Ghielmetti.

BOARD MEMBER GHIELMETTI: Thank you, Mr. Chairman. Boris, out of curiosity how many Caltrains currently run on that line? And it’s owned by UP --
MR. LIPKIN: Right.

BOARD MEMBER GHIELMETTI: -- and how many freight trains run on that line on a daily basis?

MR. LIPKIN: So, there’s three Caltrain trains in each direction today, per day. They have plans to increase that.

BOARD MEMBER GHIELMETTI: So, that’s six crossing.

MR. LIPKIN: Yes.

BOARD MEMBER GHIELMETTI: Okay, go ahead.

MR. LIPKIN: And then the freight trains, it’s somewhere -- it’s less than 10 a week, so it’s not a lot of service in that area right now.

BOARD MEMBER GHIELMETTI: At full build out how many trains do we expect to go through there?

MR. LIPKIN: Why don’t you go ahead.

MR. KENNERLEY: I can say. Yeah, so for the actual trains what’s scheduled is there’s the three Caltrain in each direction, and there is an additional three -- oh, sorry, two Amtrak, one in each direction, and two freight. So, that’s a total of six movements in each direction per day, so a total of 12 train movements each day currently in that section.

BOARD MEMBER GHIELMETTI: And at full build out for us, how many trains will we have going through there?
MR. KENNERLEY: With the initial, it would add initial service to 47, including charging at the beginning of the day. And then, ultimately, full capacity is, I believe 176 is what we’re designing for maximum capacity.

BOARD MEMBER GHIELMETTI: 107 crossings a day?

MR. KENNERLEY: And that covers both directions.

BOARD MEMBER GHIELMETTI: Wow. Okay.

MR. KENNERLEY: Because we are designing for up to 7 trains an hour. That’s the system capacity, rather than the actual -- the number of trains will be determined by the service plan. I’m just talking about what our design capacity is in that section.

BOARD MEMBER GHIELMETTI: All right, thank you.

CHAIR RICHARDS: And Boris, just another question quickly.

MR. LIPKIN: Sure.

CHAIR RICHARDS: If you could maybe just explain with regard to the document, we talk about a number of things that we can do, how do we get from how we can do into what we will do? Based upon negotiations, I assume, or how does that change from can do or will do, with regards to the document?

MR. LIPKIN: Yeah, so I think the first -- I think you’re talking about this slide that has the suite of measures that are included in the measure, in the
mitigation measure. And so, the first part is the analysis of what is the impact that we have? Where is it significant? So, more than a 30-second threshold. And this, again, gets to the monitoring piece of -- the first part is the monitoring, so what’s the data, what is the impact. And then, it is very much working with the local jurisdiction. Because, you know, A, what’s effective, but B, most of these things would be something that we would do in collaboration with the local partner because we’re not the ones providing emergency response services, obviously.

And so, you know, that would be the -- our work with the local jurisdiction as we get through that process.

CHAIR RICHARDS: Okay, thank you. Go ahead.

MR. LIPKIN: That was actually it for me, and I was going to turn it over to -- back to Gary, to talk about the Vierra Ranch property that we talked about yesterday, briefly.

MR. KENNERLEY: Thank you, Boris.

So, yes, yesterday we did have some questions regarding the tenant farmworker housing. So, let me just move to the -- okay, so just for location purposes, in the bottom right is sort of the preferred alternative. The star is the location of the Vierra property, which on the bigger map is shown in the red, the red square there.

So, what this is, this is an excerpt from our
Appendix 3.1-A. It shows the project footprint as it crosses over the Vierra property. And in the inset you can see, although there are three buildings, houses on the property, we only have a direct displacement to one of the properties.

And as we presented yesterday, one of the benefits of the preferred alternative was really to look at the minimization of residential displacements throughout the corridor, and we continued this effort through the San Joaquin Valley.

We did look at alignments to the north of Vierra property. We identified there, there would actually be additional residential displacements if we moved the alignment to the north.

And we did look at moving to the south, but just to the west by I-5 there’s a large solar farm which prevents us moving our alignment to the south.

So, as a result of our review, we determined that we need to stay with the preferred alternative as it was the least impactful option that we had.

So, once we have actually identified that there are displacements, the Authority follows established process as to property acquisition. And this was actually presented in greater detail to the Board as part of the Bakersfield to Palmdale project, back in August of ’21.
But in summary, once we do identify a need to displace, a displacement, we reach out to the owner or the tenants in this case. We provide advisory services to help determine what are the appropriate payments. These can include, if you’re an owner, including the purchase of the property, including any improvements on that property such as houses or other structures, incidental payments such as the moving costs. And, if applicable, we also do look at providing mortgage interest differential payment if your, you know, interest rate changes.

Here we’re talking about tenant occupants. The really two options we have is we would either provide rent differential payments if --

Oh, sorry. Thank you. There was another slide here so you could see what I was talking about. This is why we have legal backing me up. Thank you.

And so, for tenant occupants there are two ways to look at this. Either if we find an appropriate property there would be rent differential payments. Or, we’ve found a lot of tenants have taken this opportunity to become homeowners, and then we would provide assistance with actual down payment, should they decide to do that.

One thing we did identify, particularly in Merced County, is often there isn’t a surplus of available housing. So, we have added in our environmental document a
specific mitigation measure that where there is no suitable available properties, the Authority will actually support construction of suitable replacement facilities on the property. And this is described in our Mitigation Measure, the Socioeconomics MM Number 1.

One other item I’d just like to mention, and if you can maybe just go back to the previous slide, there are other properties in proximity to the alignment that aren’t directly displaced. And these would also be considered by the Authority on a case-by-case basis as consequential displacement. And should the Authority, in conversations with the tenants and the owner determine that those would be consequential displacements, then those tenants or owners would be -- would have the same benefits as if it was a direct displacement. So, they would also be addressed as well.

And that is the end of the portion on the Vierra property. And any questions? Or, I’ll pass it to Serge to discuss the Grasslands Ecological Area.

CHAIR RICHARDS: Director Williams.

BOARD MEMBER WILLIAMS: Yeah, I just did have a quick question. So, I just got the letter back up in front of me, so I will review it. But some -- this is different from just a residential displacement and just a business displacement, right, because they both live there and the
land is attached to their -- you know, their business, and their living.

MR. KENNERLEY: Yes.

BOARD MEMBER WILLIAMS: So, I guess the first question is that I’m assuming we’re going to be acquiring the entire parcel there?

MR. KENNERLEY: It really depends on the choice of the owner.

BOARD MEMBER WILLIAMS: Okay.

MR. KENNERLEY: We’re certainly, most likely, looking at the small, what I’ll call sort of the remnant piece on the north side. As you say, in the letter they’ve identified that’s most likely not going to be usable for their equipment.

But typically, it would be in discussion. It would be a choice. If the owner would want to, you know, have the entire property purchased, that was something the Authority would look at. If the owner would rather keep the majority and just sell this remnant portion, that’s also what we -- but that would really be determined in those discussions with the owner and their preference.

BOARD MEMBER WILLIAMS: Got it. So, there is at least the possibility that you could relocate the residents and they could still farm whatever is accessible to farm on that land, right?
MR. KENNERLEY: Yes.

BOARD MEMBER WILLIAMS: Yes.

MR. KENNERLEY: And so, that’s the idea of the Mitigation Measure.

BOARD MEMBER WILLIAMS: Right.

MR. KENNERLEY: Now, as you see in the valley here’s there’s quite a bit of -- quite a large property, so there’s certainly adequate to reconstruct the property somewhere else within that limit.

BOARD MEMBER WILLIAMS: Got it. And just is there any -- is there anything more specific we can say about those mitigation measures that would help them to understand that those options are available, on the record.

MR. KENNERLEY: Uh --

BOARD MEMBER WILLIAMS: Because I think, you know, if we’re generally saying yes, we will -- you know, there are mitigation measures available and we will pursue them, that’s fine. But if there was any signaling or, you know, just a little bit more specificity that would help them understand what those options are, I think that might be helpful just in terms of what they express as their concerns. And, you know, what we have indicated to date?

MR. KENNERLEY: I would say, well, initially, yeah, we have ongoing discussions with Vierra, so we can certainly reach out to them and make sure they’re aware of
all the available services to them.

But it looks like Minming might have something else to add.

MS. MORRI: Sure. And I would just add, you know, in response to comment to the Vierra Family, we did not specify that Socio MM Number 1 was available. So, in the letter that Gary mentioned, we can ensure that that’s crystal clear.

BOARD MEMBER WILLIAMS: Yeah, that’s great.

Thank you.

CHAIR RICHARDS: All right. Any other questions at this point from members of the Board?

All right, thank you, Gary.

MR. KENNERLEY: Thank you.

MR. STANICH: So, I’ll spend a few minutes discussing consideration of the Grasslands Ecological Area. We appreciate the Grasslands Water District’s comments. And, quite frankly, we really appreciate their partnership throughout the years. They’ve been a very good stakeholder and have engaged the Authority with just an excellent partnerships to provide us recommendations and consideration of --

CHAIR RICHARDS: Serge, could you pull your mic a little bit closer to your mouth?

MR. STANICH: Certainly. Is this better. Okay.
CHAIR RICHARDS: Bend over a little bit.

(Laughter)

MR. STANICH: Will do. So, I want to assure the Board that the staff at the Authority, and our consultants, have taken this resource very, very seriously.

I’ll give some evidence. I have personally surveyed the area, so I’m familiar with it. We have a couple of examples of the habitat and the resources that are present, that are considered both in the Biological Resources Section 3.7, and the Agricultural Section.

Grasslands Water District is an important stakeholder here that is providing water both for conservation groups and for the farming activities in the valley.

As we discussed briefly yesterday, the GEA is a complex mosaic of aquatic habitat, approximately 160,000 acres that provide habitat for birds, particularly on the Pacific flyway.

And as part of that consideration we’ve incorporated a number of mitigation measures to lessen the effects. We’ve recommitted the commitment that was part of the program document to conserve 10,000 acres in and around the GEA. And this will help to reduce urban encroaching into the Grasslands area. As well as there will also be some restoration activities to upgrade some of the habitat.
value for wildlife. This will also, ultimately, contribute to the Governor’s 3030 goal as far as conservation of land.

Additionally, we included an additional exhibit here from what was presented yesterday. The Grasslands Ecological Area has a number of kind of overlapping boundaries and designations with the Audubon important bird area, as well as the Fish and Wildlife Service designation.

There’s also a lot of conserved lands. These are lands that are already under protection.

And so, in the areas where we’ve established the protections are in this highest value area. So, the bird tube is on the eastern portion of the Grasslands Ecological Area where we have conserved lands and habitats on both sides.

And then to the west, near the Volta Wildlife Area, we have the sound wall. That will be about a mile and a half. About 8,000 feet, and 17 feet tall, noise barrier that will protect habitats for wildlife for hunting, and for recreational use.

We also have a number of dedicated undercrossings, as well as viaduct sections to ensure wildlife movement.

Some of the questions that were raised yesterday from the Directors include the Implementation Agreements. The Authority routinely enters into partnerships with the
various stakeholders. We’ve already started discussions with Grasslands Water District on a potential MOU, and we’re prepared to do that. We think it really facilitates the partnership to ensure successful working relationships.

I also have to emphasize, the Grasslands Water District provides water just for -- not only for conservation, but for agricultural. So, it’s in our interest to have a successful relationship.

There was a question raised by, or a comment raised by the District regarding the adequacy of the mitigation measures. I’d like to note in biological resources alone, there’s over 89 individual measures that are specific to species and to habitats, and each one of them includes specific measures for who will be implementing, when it will be implementing, and how it will be monitored. And we’ll recommit to the partnership to work with Grasslands so we can assure not just accountability, but trust and a working relationship.

There was also some comments to recreation. The sound wall and the noise enclosure will help reduce the effects of noise, as well as any sort of light and other disturbance to reduce and minimize any effects to hunting, to wildlife viewing, and to trail use.

And upon review of the comments that we received, we don’t see any information that would change our
 recommendation to the Board to approve the project.

One more. I have one more slide. Okay. And then --

CHAIR RICHARDS: Serge, are you moving beyond Grasslands now, then?

MR. STANICH: Well, this is the final slide from the presentation.

CHAIR RICHARDS: Okay, fine.

MR. STANICH: And this is part of the overall commitment to acknowledge the importance of protecting resources.

We have had a robust stakeholder outreach program with respect to biological resources and conserving habitats for wildlife movement. We’ve received several letters. We’ve put the logos for some of these organizations. But these are three separate comment letters that we received.

And I think it’s important to state this in the record, the comments that we received from the USEPA, the Environmental Protection Agency, they commented: We commend the Authority for the extensive proactive coordination that has occurred with the local conservation organizations on project design changes and mitigation measures to ensure hydrological and ecological connectivity is maintained through the Coyote Valley, Soap Lake
Floodplain, Pacheco Pass, and the Grasslands Ecological Area.

From the Santa Clara Valley Habitat Agency, they said in a letter: In a win for the CEQA/NEPA public engagement process, appropriate mitigation for cumulative impacts to wildlife movement and landscape connectivity was identified, and consensus was reached for continued collaboration on this increasingly important issue.

And then, on a joint letter we received from the Peninsula Open Space Trust, and the Open Space Authority, as well as the Habitat Agency, and the Nature Conservancy they stated: We appreciate the effort that has gone into the FEIR/EIS to address the project’s impacts to wildlife connectivity and biodiversity, and applaud the Authority’s commitment to partner with our organizations to build a wildlife overcrossing in the Pacheco Pass segment of the project in advance of project impacts.

And I appreciate these agencies. They’ve been tremendous partners in working with us. This gives evidence to our efforts as far as working relationships and developing a strong project.

And with that, that concludes the presentation for the topics we heard yesterday. We’re available to answer any questions.

CHAIR RICHARDS: Serge, I’d just say a quick
thing about the Grasslands Ecological Area. Not only is it and the Water District important to the Central Valley, it’s really important to the entire State of California.

MR. STANICH: Agreed.

CHAIR RICHARDS: And the leadership is not only committed, but incredibly reasonable. And I’m going to tell you that from where we were two years ago, you and the entire team are really to be congratulated for the moves that have been made in a very positive way in the relationship between ourselves and Grasslands. And I, for one, could not be happier. It’s really a job well done.

MR. STANICH: We sincerely thank you. They are a very good partner. Ellen Wehr and Rick Ortega have been excellent.

CHAIR RICHARDS: Okay. All right, thank you Serge. Any --

MR. STANICH: There may be a question.

CHAIR RICHARDS: Yes, Margaret.

BOARD MEMBER PENEA: Thank you. Going back to the Gardner community, Gardner Elementary, you had mentioned yesterday about with the mitigation measures, the window insulation that would also include upgrading ventilation systems, but it’s not mentioned here. Should I just assume a part of that or --

MR. LIPKIN: Sure, I can provide a little
clarification. I think when we were talking about that it was insofar as if we change the windows, it changes the ventilation inside.

BOARD MEMBER PENA: Correct.

MR. LIPKIN: And so, there would be essentially a knock on effect that would be part of the project. Otherwise, it was only related to the improvement that we were proposing for the noise insulation.

BOARD MEMBER PENA: Okay, it would be a part of the project if the windows were upgraded, correct?

MR. LIPKIN: If that’s upgrade created a change.

BOARD MEMBER PENA: Okay, thank you.

CHAIR RICHARDS: Do you have anything else, Director Pena?

BOARD MEMBER PENA: No.

CHAIR RICHARDS: Okay, thank you.

All right, first of all, before we move on, CEO Kelly have you got anything you’d like to add?

MR. KELLY: No, I do not, other than congratulations to the team for a great presentation and excellent work on the issue. Thank you.

CHAIR RICHARDS: From my colleagues on the Board, in addition to the comments that have already -- or the questions that have already been raised or comments made, are there any other questions or comments from members of
the Board? All right, thank you. Seeing none.

Ladies and gentlemen, we’re now going to move on to the three agenda items that involve Board decisions. The first two, Agenda Items 9 and 10, involve the Board and its role under the California Environmental Quality Act. And the third, Item 11, involves the Board in its role under the National Environmental Policy Act.

Since these are Board actions that have legal compliance elements to them, we have -- we’ll have counsel assist us in walking through these one by one.

We’ll start with Chief Counsel, Alicia Fowler.

MS. FOWLER: Thank you, Chairman Richards.

As the Board knows, the Authority has the benefit of working with attorneys who have great expertise in both California and federal environmental laws. We have both Supervising Deputy Attorney General Jessica Tucker Mohl with us, as well as our own in-house counsel, Minming Wu Morri, here to walk us through Agenda Items 9, 10, and 11.

You’ve received the materials for this agenda in your packet, as well as a staff memo on the steps we’re about to take. These materials have been posted on the Board’s website for anybody who wants to follow along. And they are behind the Tabs 9, 10, and 11 in terms of the resolution language, if you want to bring those up.

And with that, I’m going to ask for Jessica
Tucker Mohl to join us and walk through Items 9 and 10 with us.

MS. WU MORRI: Apologies. I think we’re going to start with me and then we’ll do an intro into both of them.

MS. FOWLER: Perfect.

MS. WU MORRI: Thank you. Good morning, Chairman Richards and members of the Board. My name is Minming Wu Morri. And we very much appreciate your consideration over the past two days of the environmental decision items.

And so, we ask that you bear with us just for a little bit more to go through some of the required discussion regarding the decisions before you.

So, the three items are the environmental decision items for the Board regarding the San Jose to Merced project section and its Environmental Impact Statement and Report.

The first two items are related to CEQA and the last item is related to NEPA compliance. All three decisions relate to whether staff have demonstrated that the Final EIR/EIS fulfills its role first as an information document on potential environmental impacts.

And second, all three also relate to whether to adopt the Final EIR/EIS’s preferred alternative as the San Jose to Merced project. Again, that alternative is the alternative with the at-grade alignment between San Jose
and Gilroy.

Both CEQA and NEPA require that the Authority’s decision makers, here the Board, adopt the written findings that state the decision and explain its basis, if the Board decides to adopt the project.

So, I’ve asked Ms. Tucker Mohl to walk us through the first item, as she serves as the outside counsel for us here, HSR, since the Program EIR of the project section brings important historic knowledge. And we are very appreciative of both her and the Attorney General’s Office steadfast counsel through the years.

MS. TUCKER MOHL: Thank you, and good morning.

My name is Jessica Tucker Mohl.

As Ms. Wu Morri has just stated, we are at Agenda Item 9 under CEQA. For this agenda item, the Board will certify -- excuse me, the Board will consider whether to take the first step, required by CEQA certification, that the Final EIR/EIS before you is adequate as an information document for CEQA purposes.

And as this Board was recently asked to take this step in connection with the Burbank to Los Angeles project section, just a few months in January, you may remember how this step proceeds.

You have before you Draft Resolution 22-10. It is a two and a half page resolution. It’s Attachment D to
the Board memo in your packet.

This Draft Resolution, 22-10, proposes three important certifications that the Board would make if it adopts this resolution. There are a bunch of whereas clauses, and then it’s labeled as A, B and C in your resolution.

Certification A, that the Final EIR/EIS has been completed in compliance with CEQA.

Certification B, that the Final EIR/EIS has been presented to the Board as the Authority’s decision making body, for the San Jose to Merced project section decision.

CHAIR RICHARDS: Can you get the microphone a little bit closer to your mouth?


That the Board has reviewed it and considered it before taking action on the San Jose to Merced project section preferred alternative.

Certification C, that the Final EIR/EIS reflects the Board’s independent judgment.

With respect to the first certification, the staff recommendation is that the EIR/EIS meets this CEQA standard, providing the Board information that allows you to evaluate the environmental consequences of the San Jose to Merced project section.
And the second certification, staff has provided the Board members, individually, with the entire 4 volume EIR/EIS, shortly after it was made available to the public in February of 2022, so that the Board could review it to prepare for this meeting.

And the third certification, regarding independent judgment, means that the Board embraces the Final EIR/EIS analysis as its own.

I will turn it back to the Chair for consideration of this item.

CHAIR RICHARDS: Okay. Thank you very much.

Do any Board members have questions with regards to Agenda Item Number 9?

BOARD MEMBER PEREA: I’d like to make a motion to approve.

CHAIR RICHARDS: Okay.

BOARD MEMBER CAMACHO: Second.

CHAIR RICHARDS: And we have a motion and a second.

Would the Secretary please call the roll.

MR. RAMADAN: Chair Richards?

CHAIR RICHARDS: Yes.

MR. RAMADAN: Director Camacho?

BOARD MEMBER CAMACHO: Yes.

MR. RAMADAN: Vice Chair Miller?
VICE CHAIR MILLER: Yes.

MR. RAMADAN: Director Perea?

BOARD MEMBER PEREA: Yes.

MR. RAMADAN: Director Ghielmetti?

BOARD MEMBER GHIELMETTI: Yes.

MR. RAMADAN: Director Williams?

BOARD MEMBER WILLIAMS: Aye.

MR. RAMADAN: Director Pena?

BOARD MEMBER PENA: Yes.

MR. RAMADAN: Mr. Chairman, the motion carries.

CHAIR RICHARDS: Thank you, Mr. Secretary.

We’ll now move on to Item Number 10. Ms. Tucker Mohl, can you please briefly walk the Board through this item and the proposed resolution?

MS. TUCKER MOHL: Certainly. Thank you, Mr. Chair.

Turning to Agenda Item 10, now that the Board has adopted Resolution 22-10, certifying the Final EIR/EIS, the Board can now consider the second step, adoption of Resolution 22-11 to approve the preferred alternative for the San Jose to Merced project section, and adopt related documents as required by CEQA.

Resolution 22-11 is a 3-page -- it is Attachment E to the Board memo, it’s a 3-page document. It has three attachments. Attachment A is a map of the preferred
alternative proposed for Board approval.

Attachment B is a large document, a draft of the CEQA Findings of Fact and Statement of Overriding Considerations.

And Attachment C, another large document, is a draft of the Mitigation, Monitoring and Enforcement Plan.

The Resolution, 22-11, has three sections. I will describe the first two before I pass the baton to Ms. Wu Morri to describe the third section.

Section 1 of Resolution 22-11 involves approval of the required CEQA documents, which I’ll describe briefly.

Resolution 22-11 would approve what are called the CEQA Findings of Fact. Again, these Findings are attached as Attachment B, and are required by CEQA. The Findings essentially recount that the Authority has adopted all feasible mitigation measures for significant adverse impacts.

Resolution 22-11 would also approve what is called the Statement of Overriding Considerations. It’s also part of Exhibit B. CEQA requires the Board to explain to the public why the benefits of this project outweigh those significant environmental impacts that remain, even with the implementation of feasible mitigation measures.

And Resolution 22-11 would adopt a Mitigation,
Monitoring and Enforcement Plan, which is required by CEQA. Again, this document is attached as Exhibit C. It lists out the mitigation measures the Board is adopting and identifies the implementation mechanism for each measure. That’s Section.

Section 2 of Resolution 22-11 would approve the San Jose to Merced project section preferred alternative, as described here in the resolution and depicted on the map, included as Exhibit A to the Resolution.

I’ll turn it back to Ms. Wu Morri to discuss the third part of Resolution 22-11.

CHAIR RICHARDS: Thank you, Ms. Tucker Mohl.

Do any Board members have questions?

Oh, I’m sorry. I’m sorry.

MS. WU MORRI: No worries. I’m just going to describe the last section of the resolution. This is the same resolution that Ms. Tucker Mohl just went through. So, she went through Sections 1 and 2.

And then Section 3, in addition to the CEQA findings, this Resolution proposes a number of next step directives in Section 3. I will walk you through just a few key ones as I understand, you know, you’ve reviewed the Resolution.

So, Section 3-B is if the Board chooses to adopt the project, and the preferred alternative, Section 3-B is
your standard direction following environmental approval, allowing staff to advance design, acquire right of way, negotiate agreements upon the -- once funding is secured. Section 3-C also directs staff to report annually to the Board, once funding is secured, on the progress of implementing mitigation measures related to environmental justice and community impacts.

This was something that staff recommend in part due to concerns and interest raised by Director Williams, Pena, and Miller.

Section 3-E also directs staff to support cities, such as Morgan Hill. And Director Perea mentioned his concerns there. So, their efforts to plan an advanced grade separation projects and to develop agreements to memorialize work between the Authority and cities.

Section 3-F directs staff to explore the feasibility of advanced mitigation, as well as joint planning and implementation agreements with stakeholders such as the Grasslands Water District.

And Chair Richards, thank you for, you know, mentioning the importance of the resources that the District is charged with.

And finally, the last section is Section 3-G, which requires that staff update the Board on all of the above within one year of receipt of funding, and the
progress of staff in advancing all of the above.

So, this concludes our counsel description of this Resolution 22-11. And we are available for further questions. And with that, I turn it over to Chair Richards.

CHAIR RICHARDS: And thank you for your comments, also, Ms. Wu Morri.

Do any Board members have questions of Ms. Tucker Mohl or Ms. Wu Morri on Item Number 10?

BOARD MEMBER CAMACHO: Mr. Chairman, move approval.

CHAIR RICHARDS: And a second, please.

BOARD MEMBER GHIELMETTI: Second.

CHAIR RICHARDS: We have a motion and a second. Would the Secretary please call the roll.

MR. RAMADAN: Chair Richards?

CHAIR RICHARDS: Yes.

MR. RAMADAN: Director Camacho?

BOARD MEMBER CAMACHO: Yes.

MR. RAMADAN: Vice Chair Miller?

VICE CHAIR MILLER: Yes.

MR. RAMADAN: Director Perea?

BOARD MEMBER PEREA: Yes.

MR. RAMADAN: Director Ghielmetti?

BOARD MEMBER GHIELMETTI: Yes.
MR. RAMADAN: Director Williams?

BOARD MEMBER WILLIAMS: Aye.

MR. RAMADAN: Director Pena?

BOARD MEMBER PENA: Yes.

MR. RAMADAN: Mr. Chairman, the motion carries.

CHAIR RICHARDS: Thank you, Mr. Secretary.

And we’ll now move on to Agenda Item Number 11.

And this involves NEPA, the National Environmental Policy Act.

So, I’ll ask that Ms. Wu Morri help us with this item, also.

MS. WU MORRI: Thank you, Chair Richards.

The final agenda item is with respect to the Board’s role as the NEPA assignment lead agency decision-making body. This Agenda Item 11 is the proposed record of decision for NEPA and related Federal Environmental Laws.

Resolution Number 22-12 directs the Authority’s CEO to sign the Draft Record of Decision. The Resolution would direct the CEO to sign the Draft ROD as generally presented in your Board attachments, and with the customary additions to the Draft ROD to reflect public comments that were made at this Board meeting today, as well as relevant staff and Board response to those comments.

So, as you deliberate on whether to approve the Resolution, note that under NEPA a Record of Decision, or
ROD, Section 40 cfr 1505.2 must state a certain number of findings.

And these findings, just a few unique ones I just want to mention because while NEPA and CEQA are very similar in some ways, NEPA distinguishes itself from CEQA in a few areas. So, the Record of Decision requires findings in some areas that are not found in the CEQA approvals or documents that you just approved.

A few of these areas include, first and foremost environmental justice. Unlike CEQA, NEPA requires consideration of environmental justice. And whether, after mitigation, environmental impacts that might disproportionately affect minority or low-income communities have been mitigated to the extent practicable.

Also 4-F, unlike CEQA, NEPA requires heightened Section 4-F review of project impacts on parks and recreational areas, including urban parks, as well on wildlife and water fowl refugees -- sorry, refuges.

Clean Air Act conformity, unlike CEQA, NEPA requires conformity with regional and State Clean Air Act implementation plans, which means that for air quality basins with lesser air quality we are, unlike NEPA, affirmatively required to offset emissions that exceed a de minimis threshold.

There’s also compliance with the Federal
Executive Order on Flood Plain Management. And Mr. Kennerley mentioned, for example, some design refinements that we undertook in the Soap Lake Plains Floodplains in order to avoid and minimize risk for flood risk.

So, these are a few examples of where NEPA is distinct in addition to CEQA requirements. All of these findings are in your attachments and are in the NEPA Record of Decision, in Section 9 of the Record of Decision.

The Office of the Chief Counsel has reviewed the Draft Record of Decision, and advises that the Draft is legally sufficient with respect to the requirements under Section 1505.

So, with that introduction of this last and final San Jose to Merced Project Section Resolution, I -- we are available for any further questions and I defer to the Chair.

CHAIR RICHARDS: Thank you, Ms. Wu Morri. And do any Board members have any questions for Ms. Wu Morri regarding Agenda Item Number 11?

BOARD MEMBER GHIELMETTI: Move approval.

BOARD MEMBER CAMACHO: Second.

CHAIR RICHARDS: Okay, motion and a second. Call the roll, please, Mr. Secretary.

MR. RAMADAN: Chair Richards?

CHAIR RICHARDS: Yes.
MR. RAMADAN: Director Camacho?
BOARD MEMBER CAMACHO: Yes.
MR. RAMADAN: Vice Chair Miller?
VICE CHAIR MILLER: Yes.
MR. RAMADAN: Director Perea?
BOARD MEMBER PEREA: Yes.
MR. RAMADAN: Director Ghielmetti?
BOARD MEMBER GHIELMETTI: Yes.
MR. RAMADAN: Director Williams?
BOARD MEMBER WILLIAMS: Aye.
MR. RAMADAN: Director Pena?
Yes.
MR. RAMADAN: Mr. Chairman, the motion carries.
CHAIR RICHARDS: Thank you, Mr. Secretary.
And ladies and gentlemen this -- this concludes our three --
BOARD MEMBER WILLIAMS: Mr. Chair, before we wrap up can I just make a statement?
CHAIR RICHARDS: Sure.
BOARD MEMBER WILLIAMS: I just wanted to again commend you, and Mr. Kelly, for your extraordinary leadership in guiding us through this, and giving guidance and direction to staff who have worked so hard to make this happen. And I think a reflection of that work is in how these deliberations have gone over the last two days, and
how fluid and dare I say easy, which is not a
representation of all the hard work that has gone -- and is
a representation of the hard work that has gone into this.

So, I want to again thank you all for all that
you’ve done, all the hours that you’ve put in that we don’t
know about.

But also, just want to give a big nod of
gratitude and thanks to our federal partners, our local
government partners who also weighed in and made this
possible.

And then, because this is always where my heart
is, it’s the members of the public, the people who are
impacted both positively and brought that to us, and those
who are impacted negatively who, you know, took the time
and effort to express that to us, so that we can make sure
that we did this in the most just way possible.

So, I think it’s a reflection of the previous
work and the future work ahead of us, and would encourage
that to continue from all of those important stakeholders.

So, thank you, Mr. Chairman.

CHAIR RICHARDS: Thank you, Director Williams.

BOARD MEMBER PEREA: Mr. Chairman, I do have a
quick comment, too.

CHAIR RICHARDS: Yes.

BOARD MEMBER PEREA: Other than to again, also,
echoing that and thanking all the staff for all your hard work. In yesterday’s discussion we were talking about the station planning, we talked about -- a couple of us talked about possibly having an agenda item, Mr. Chairman, for the next meeting, either an item or a workshop to talk about how we manage expectations of the cities as we move forward with building stations, as well as talking about proactively the opportunities that we may have as an Authority to create revenue streams within those structures.

And in speaking to Ms. Cederoth this morning, she advised that there is a Board subcommittee to deal with that. So, maybe at the next meeting we could talk about appointing a couple of Board members to work with that committee to work with staff to do some visioning.

CHAIR RICHARDS: Thank you, Director Perea.

All right, that concludes our three action items on the San Jose to Merced project section.

I want to thank you to the public for providing your comments. Thank you to the staff for all of your work.

And as all of us on the dias know very clearly and certainly, that since our CEO came onboard in 2018 he made a prime initiative out of the completion of the environmental processes in Phase 1. And this is clearly a
strong representation of that commitment, as it was in February, I think it was, when we approved Burbank to LA Union Station.

So, with that I’m going to ask our CEO Kelly if you have any comments or reflections?

MR. KELLY: No, just again, Mr. Chairman, just gratitude to the staff. The work that goes into each of these environmental documents, I mean the Board heard it yesterday, in some cases 10 years, 11 years, 12 years, 13 years. It’s astonishing how much work is put into this, the level of analyses. And then, to prepare to bring these to the Board and work with the public.

I’m humbled by the amount of work our staff does and the professionalism with which they do it. So, all the credit goes to that team. And I’m just pleased to work with them. So, thank you.

CHAIR RICHARDS: I’m not going to kiss you on the cheek right now.

(Laughter)

MR. KELLY: Thank you, Mr. Chairman.

CHAIR RICHARDS: Anyway, without overdoing all this, I think you can also get an appreciation of the amount of work that goes into trying to get up to speed on taking the actions that we’ve taken today. And I mean that by the Board members, who clearly should not be spending
full time on this project, it was never intended. But the only way to get through what we’ve done today was at least for the -- since we’ve had these documents to become as thoroughly familiar as we could with them, before we passed out late into the evenings.

So, I thank each and every one of you for your participation, your support, and your commitment to this project. And as I’ve said before, it’s a real honor to be upon this dais with each of you.

So, with that ladies and gentlemen, we are out of here. The meeting is adjourned. Thank you all very much.

(The California High-Speed Rail Authority was adjourned at 11:58 a.m.)

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CERTIFICATE OF REPORTER

I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were reported by me, a certified electronic court reporter and a disinterested person, and was under my supervision thereafter transcribed into typewriting.

And I further certify that I am not of counsel or attorney for either or any of the parties to said hearing nor in any way interested in the outcome of the cause named in said caption.

IN WITNESS WHEREOF, I have hereunto set my hand this 6th day of May, 2022.

ELISE HICKS, IAPRT CERT**2176
TRANSCRIBER'S CERTIFICATE

I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were transcribed by me, a certified transcriber.

And I further certify that I am not of counsel or attorney for either or any of the parties to said hearing nor in any way interested in the outcome of the cause named in said caption.

IN WITNESS WHEREOF, I have hereunto set my hand this 6th day of May, 2022.

Barbara Little
Certified Transcriber
AAERT No. CET**D-520