



CALIFORNIA HIGH-SPEED RAIL RESOLUTION #HSRA 22-12

San Jose to Merced Project Section

Direct Authority Chief Executive Officer to Issue the Record of Decision for the San Jose to Merced Project Section Selecting Alternative 4 with a San Jose Diridon Station, Downtown Gilroy Station, a South Gilroy Maintenance-of-Way Facility, and associated facilities and refinements, and Complying with Other Federal Laws

Whereas, pursuant to the California High-Speed Rail Act, Public Utilities Code Section 185000, et seq., the California High-Speed Rail Authority (“Authority”) was created in 1996 to direct the development and implementation of intercity high-speed rail (“HSR”) service that is fully integrated with the state’s existing intercity rail and bus network;

Whereas, the Authority has chosen to use a tiered environmental review and decision-making process to select alignments and station locations for the HSR system;

Whereas, the Authority and the FRA completed two first-tier, programmatic environmental documents pursuant to the California Environmental Quality Act (“CEQA”) and the National Environmental Policy Act (“NEPA”) for the statewide HSR system and approved general alignments and station locations for further study in second-tier, project-level environmental documents;

Whereas, the Authority and FRA divided the statewide HSR system into individual project sections for second-tier environmental analysis, one of which is the San Jose to Merced Project Section;

Whereas, the Authority and FRA commenced preparation of a second-tier San Jose to Merced Project Section EIR/EIS in 2009;

Whereas, the Authority engaged in a public scoping process, development and screening of potential alternatives, and public and agency outreach efforts during the preparation of project-level technical studies supporting the second-tier San Jose to Merced Project Section EIR/EIS, including the preparation of Alternatives Analysis reports to explore alignment alternatives in an iterative process from 2010 to 2017 and the continued refinement of alternatives and development of design options;

Whereas, the San Jose to Merced Project Section geographically overlaps with the previously approved Merced to Fresno Project Section at the Central Valley Wye, where the north/south and east/west legs of the HSR system connect;

Whereas, the San Jose to Merced Project Section as a whole was comprised of three “project extents” as shown in Figure 2-2 of the Final EIR/EIS, including (1) the San Jose to Central Valley Wye Project Extent (Scott Boulevard in Santa Clara to Carlucci Road in Merced County); (2) the Central Valley Wye Project Extent (connecting the east-west portion of HSR from the San Francisco Bay Area to the Central Valley with the north-south portion from Merced to Fresno); and (3) the Ranch Road to Merced Project Extent (Ranch Road in the south to the Merced Station in the north);

Whereas, the Authority approved the Preferred Alternative for the Merced to Fresno Project Section, inclusive of the Ranch Road to Merced Project Extent, in May 2012, following certification of the Merced to Fresno Section Final EIR/EIS;

Whereas, the Authority approved the Preferred Alternative for the Central Valley Wye, inclusive of the Central Valley Wye Project Extent, in September 2020, following the certification of the Merced to Fresno Project Section Final Supplemental EIR/EIS;

Whereas, the Authority therefore focused the San Jose to Merced Project Section Draft and Final EIR/EIS on the San Jose to Central Valley Wye Project Extent that begins on Scott Boulevard in Santa Clara and ends at Carlucci Road in Merced County, connecting from there to the already approved Central Valley Wye project extent;

Whereas, on September 17, 2019, in Resolution #HSRA 19-06, the Authority Board concurred with the staff recommendation to designate Alternative 4 as the Authority's Preferred Alternative for the San Jose to Merced Project Section and directed staff to consider coordination with Diridon Station Planning; issues related to grade separations in the vicinity of the Gardner neighborhood, Morgan Hill and San Jose; and feasible mitigation through the Grasslands Ecological Area;

Whereas, under 23 U.S. Code section 327, the FRA and the State of California executed a NEPA Assignment Memorandum of Understanding ("MOU"), dated July 23, 2019, pursuant to which the State of California, acting through the California State Transportation Agency and the Authority, assumed FRA's responsibilities under NEPA and other federal environmental laws, for projects necessary for the design, construction, and operation of the California HSR System;

Whereas, in its role as CEQA and NEPA lead agency, the Authority circulated the San Jose to Merced Project Section Draft EIR/EIS for a public review and comment period between April 24, 2020, and June 8, 2020 and identified Alternative 4 as the Authority's Preferred Alternative and the CEQA Proposed Project ;

Whereas, on May 22, 2020, due to the uncertainty caused by the outbreak of COVID-19 and in response to public requests, the Authority extended the comment period for the San Jose to Merced Project Section Draft EIR/EIS to June 23, 2020 and elected to hold community open houses and public hearings as online teleconference meetings in light of public health and safety requirements;

Whereas, following the Authority's publication of the Draft EIR/EIS, the Authority learned that the Southern California/Central Coast population of mountain lion was a candidate for listing under the California Endangered Species Act and that the monarch butterfly had been designated as a potential candidate for listing under the federal Endangered Species Act; accordingly, in its role as CEQA and NEPA lead agency, the Authority prepared and issued a Revised Draft EIR/Supplemental Draft EIS limited to the portions of the Draft EIR/EIS that would require revision based on the new information about the species and about impacts of HSR noise and lighting on wildlife, which circulated for public review and comment between April 23, 2021, and June 9, 2021;

Whereas, the Authority determined it was appropriate to complete the San Jose to Merced Project Section environmental analysis in the form of a Final EIR/EIS, consistent with NEPA, because, following circulation of the Revised Draft EIR/Supplemental Draft EIS, none of the circumstances meriting supplementation pursuant to 40 Code of Federal Regulations section 1502.9(c)(1) existed;

Whereas, the Authority completed and published the San Jose to Merced Project Section Final EIR/EIS on February 25, 2022 and made it publicly available on the Authority website and provided broad public notice thereof;

Whereas, the Final EIR/EIS evaluates the impacts and benefits of the No Project Alternative and of implementing four end-to-end build alternatives, a maintenance of way facility, a maintenance of way siding, and proposed stations at San Jose Diridon and Gilroy;

Whereas, the Final EIR/EIS identifies Alternative 4 with a San Jose Diridon Station, Downtown Gilroy Station, South Gilroy Maintenance-of-Way Facility (MOWF), and associated facilities and refinements including the Diridon Design Variant and the Tunnel Design Variant, as the Preferred Alternative for the San Jose to Merced Project Section, which is depicted on the maps included in the Draft Record of Decision for the San Jose to Merced Project Section, attached hereto as Exhibit "A"; and

Whereas, the Authority has adopted Resolution #HSRA 22-11, as required by CEQA, selecting the Preferred Alternative as identified and described in the Final EIR/EIS.

Therefore, it is resolved:

- a. The Board approves the Draft Record of Decision for the San Jose to Merced Project Section selecting the Preferred Alternative as identified in the Final EIR/EIS (Alternative 4 with a San Jose Diridon Station, Downtown Gilroy Station, South Gilroy Maintenance-of-Way Facility), and complying with other federal laws;
- b. The Board directs the Chief Executive Officer as follows:
 1. To sign the Draft Record of Decision for the San Jose to Merced Project Section and issue it as a Final Record of Decision reflecting the final decision of the Authority Board, including any required notices pursuant to NEPA or other federal laws;
 2. To take all necessary steps for publication of the federal Limitations on Claims notice in the Federal Register;
 3. To take any other necessary steps to obtain permits, approvals, and rights that would allow for construction and approval, when funding becomes available, including working with the Peninsula Corridor Joint Powers Board (Caltrain), the Santa Clara Valley Transportation Authority, and Union Pacific Railroad to establish rights to introduce HSR into the existing corridor between San Jose and Gilroy;
 4. To continue outreach to potentially affected communities, and as soon as practicable but not less than annually after funding has been approved for this Project Section, report to the Board on measures taken to avoid or address potential disproportionate effects on environmental justice communities, as these communities are defined in the EIR/EIS, including reporting on development of implementation agreements for environmental justice offsetting mitigation measures, as defined in the NEPA Record of Decision;
 5. To continue to actively engage and coordinate with partners in the project section region with interfacing or adjacent projects or plans such as the Diridon Integrated Station Concept Plan, the Diridon Station Area Plan, the Google Downtown West Development, the VTA expansion of BART service to San Jose, plans for rail service to Monterey County, Caltrain's long-range service vision and business plan, and South Bay Rail Corridor Planning;
 6. To continue to support cities' (such as San Jose, Morgan Hill, and Gilroy) efforts to plan and advance grade separation projects in their communities, and

to develop agreements, as appropriate, formalizing these collaborative efforts between the Authority and relevant cities;

7. To continue to work in partnership with the City of Santa Clara, City of San Jose, City of Morgan Hill, City of Gilroy, the County of Santa Clara, the County of San Benito, and the County of Merced and other regional stakeholders as the San Jose to Merced Project Section of the high-speed rail project is implemented;
8. To continue outreach to interested stakeholders on wildlife protection as project design advances and the project is implemented, and to explore the feasibility of advanced mitigation, to the extent legally permissible, and joint planning and implementation agreements with stakeholders such as the Grasslands Water District, the Santa Clara Habitat Agency, the Nature Conservancy, Peninsula Open Space Trust (POST), and/or the Santa Clara Valley Open Space Authority (OSA); and
9. To update the Board and the public on the status of staff efforts to develop the partnerships and related agreements as reflected in (b.3.) - (b.8.) within one year of the project section's securing funding.

Vote: Richards; Miller; Pena; William; Camacho; Perea; Ghielmetti

Yes: 7

No: 0

Absent: Escutia; Schenk

Date: April 28, 2022

Exhibit A: Draft Record of Decision for the San Jose to Merced Project Section