



## **BRIEFING: OCTOBER 16, 2018 BOARD MEETING AGENDA ITEMS #1 & 3**

**TO:** Chairman Richard and Board Members

**FROM:** Diana Gomez, Central Valley Regional Director  
Mark McLoughlin, Director of Environmental Services

**DATE:** October 16, 2018

**RE:** Consider: (a) Certifying the Fresno to Bakersfield Section Final Supplemental EIR for the LGA under the California Environmental Quality Act (CEQA); and, (b) Approving the LGA from approximately Poplar Avenue near Shafter to and including a Station at F Street in Bakersfield, and Related Decisions Making CEQA Findings and Approving Mitigation Program

---

### **Summary of Requested Action:**

Staff recommends that the Board take two actions:

- Certify that the Fresno to Bakersfield High-Speed Rail Section Final Supplemental Environmental Impact Report (Final Supplemental EIR) is complete and adequate as an informational document for the Board, and that it has been completed in accordance with the California Environmental Quality Act (CEQA).
- Approve the High-Speed Rail alignment – *i.e.*, the Preferred Alternative – and associated facilities from just north of Poplar Avenue in the City of Shafter south to and including the Bakersfield Station location at F Street/Golden State Avenue.

### **Background**

The California High-Speed Rail Authority (Authority) certified the Fresno to Bakersfield Section California High-Speed Train Final Project Environmental Impact Report/Environmental Impact Statement (Fresno to Bakersfield Final EIR/EIS) in May 2014. While the Authority identified a Preferred Alternative and certified the analysis in the Fresno to Bakersfield Final EIR/EIS for the entire 114-mile Fresno to Bakersfield Section of the high-speed rail, the Authority's project approval included only the portion from the Fresno Station to 7th Standard Road, just south of Shafter.

Following the Authority's certification of the Final EIR/EIS, the Federal Railroad Administration (FRA) issued a Record of Decision for the Fresno to Bakersfield Section. In its Record of Decision, the FRA approved the same alignment and facilities as the Authority up to 7<sup>th</sup> Standard Road, but also approved the continuation of that alignment, generally following the existing BNSF/Amtrak alignment, to and including a station in downtown Bakersfield at Truxtun Avenue.

In a Settlement Agreement signed December 19, 2014, between the City of Bakersfield and the Authority, the two agencies agreed to work together to develop and study an alternative that would be acceptable to the City of Bakersfield while meeting the Authority's design requirements. This coordination between the Authority, the City, local agencies and stakeholders resulted in a new alternative from Shafter to downtown Bakersfield. The Authority Board of Directors in May 2016 directed staff to analyze the new alternative as part of the Fresno to Bakersfield Draft Supplemental EIR/EIS as the Preferred Alternative. Known as the Fresno to Bakersfield Locally Generated Alternative (F-B LGA), the alignment runs from Poplar Avenue just north of Shafter<sup>1</sup> to a station associated with the F-B LGA located at the intersection of F Street and State Route 204/Golden State Avenue (F Street Station). The F-B LGA also includes analysis of an additional (light) maintenance facility in Shafter for rail infrastructure maintenance equipment.

The Draft Supplemental EIR/EIS evaluates impacts, and proposes mitigation if necessary, of the high-speed rail alignment to a point a few miles southeast of the F Street Station in the vicinity of Oswell Street. This approach was necessary to disclose impacts of the tracks as they extend to the southeast beyond the F Street Station. However, the staff recommendation today is for Board approval only up to and including the F Street Station (specifically, to the intersection of 34th Street and L Street in Bakersfield). Approval of any alignment southeast of the station would follow environmental evaluation (in an EIR/EIS) of the Bakersfield to Palmdale Section, currently scheduled to be completed in 2020. Accordingly, mitigation measures for impacts related to the alignment southeast of the F Street Station would be included as part of the approval of the Bakersfield to Palmdale Section.

The Draft Supplemental EIR/EIS for the Fresno to Bakersfield Section was circulated for public review and comment between November 9, 2017 and January 16, 2018. The Supplemental EIR/EIS evaluates the potential environmental impacts from the F-B LGA and compares those alternative-specific environmental impacts with the environmental impacts of the May 2014 Project.

The Draft Supplemental EIR/EIS generally included:

- Volume I:
  - Introductory text about the Project, the F-B LGA, and the environmental process.
  - Detailed description of the F-B LGA, and all related and supporting high-speed rail facilities such as stations, maintenance facilities, electrification infrastructure, etc.
  - Detailed environmental impacts and mitigation analysis of the F-B LGA across 17 environmental resource areas, including biology, noise and vibration, visual, air quality and cultural resources.
  - Comparative analysis between the F-B LGA and the comparable portion of the 2014 Preferred Alternative from Poplar Avenue to Oswell Street (referred to as the May 2014 Project in the Draft Supplemental EIR/EIS).
- Volume II:
  - Technical Appendices supporting Volume I

---

<sup>1</sup> In developing the F-B LGA with the City of Bakersfield and others, Authority staff also worked with the City of Shafter to modify the project design through Shafter (generally converting from a viaduct to an elevated berm, which had the advantage of grade separating both high-speed rail and BNSF from certain city streets). Accordingly, the F-B LGA includes a revised vertical design (same horizontal location) through Shafter, even though the Board approved the prior viaduct design through Shafter.

- Volume III:
  - Preliminary Design Drawings and Alignment Plans/Map upon which environmental analysis is based.

During the Draft Supplemental EIR/EIS environmental review process, approximately 1,060 individual comments (contained in approximately 290 submissions) from the public and government agencies were received in writing and during public testimony. The purpose of the public review process is for the public and interested agencies to review the analysis and provide comment and feedback about environmental impacts that inform the final document.

The Draft Supplemental EIR/EIS was prepared as a joint document to meet all pertinent requirements of both CEQA and National Environmental Policy Act (NEPA). However, following publication of the Draft Supplemental EIR/EIS, the Authority determined that in order to meet its goals and objectives for the statewide system, the most effective and expeditious approach for the F-B LGA would be to complete and issue a Final Supplemental EIR, separate from the Final Supplemental EIS, for Board consideration.

The Authority is the project sponsor and owner, and is the lead agency under CEQA and preparer of the Final Supplemental EIR.<sup>2</sup> The Authority will collaborate with the FRA in the subsequent preparation of a Final Supplemental EIS and Supplemental Record of Decision for the Project in compliance with NEPA.

On October 5, 2018, the Authority issued the Final Supplemental EIR, and it was available the same day for review on the Authority's website at:

[http://hsr.ca.gov/Programs/Environmental\\_Planning/supplemental\\_fresno\\_bakersfield.html](http://hsr.ca.gov/Programs/Environmental_Planning/supplemental_fresno_bakersfield.html)

Elements of the Final Supplemental EIR in paper form are also included with this memorandum for the Board's convenience (see Attachments G and J).

The Final Supplemental EIR is a finalized form of the Draft Supplemental EIR/EIS document, but prepared for CEQA purposes only. Consistent with CEQA Guidelines Section 15132, the Final Supplemental EIR incorporates the Draft Supplemental EIR/EIS by reference and includes minor refinements to the Draft document. Where the discussion in the Final Supplemental EIR has changed and/or been refined from the Draft Supplemental EIR/EIS, the Final Supplemental EIR identifies the changes in shading. The Preface to the Final Supplemental EIR includes a summary discussion of changes.

The Final Supplemental EIR is organized into six main sections as follows:

- Executive Summary.
- Chapter 16, Changes to the Final Report Resulting from Comments on the Draft Report.
- Technical Appendix 2-I, Interim Terminal Station.
- Section H, Sound Barrier Plans.<sup>3</sup>

<sup>2</sup> Authority Board's document certification action would be a CEQA action based on the Final Supplemental EIR document. CEQA's federal equivalent is the National Environmental Policy Act (NEPA), which requires EIS documents. Generally, an EIR and EIS are very similar. Accordingly, for a project like the high-speed rail system that involves approvals by state and federal entities, EIRs and EISs are often combined into one document, as was done for the Draft Supplemental EIR/EIS. Such approach does not prohibit separating the documents at the Final stage, however. Accordingly, the Final Supplemental EIR was prepared, and done so pursuant to CEQA Guidelines Sections 15088, 15089, and 15132.

<sup>3</sup> These inadvertently were not included with the Draft Supplemental EIR/EIS.

- Standard Responses.
- Comments on the Draft Supplemental EIR/EIS and Responses to Comments.

The Final Supplemental EIR was not issued for public review and comment, as that step is not required under CEQA. CEQA requires that the proposed response to any comment received from a public agency be provided to that public agency at least 10 days prior to Board certification of the Final EIR. The Authority satisfied that requirement by posting the Final Supplemental EIR on its website, and providing associated notice 11 days before the proposed certification on October 16th.

### **Prior Board Action**

On May 7, 2014 the Board certified the Fresno to Bakersfield Section Project Final EIR/EIS (Resolution # HSRA 14-09, Attachment A). In a subsequent resolution, the Board approved the Preferred Alternative from the Fresno station to 7th Standard Road just south of Shafter (Resolution # HSRA 14-10, Attachment B). In that resolution the Board directed staff to continue working with Bakersfield to resolve outstanding issues with the alignment into and through Bakersfield.

Based on the analyses contained in the technical reports in preparation of the Administrative Draft Supplemental EIR/EIS, staff identified a Preferred Alternative in May 2016 for the Bakersfield area. The Locally Generated Alternative was the Preferred Alternative. The Board directed staff (Resolution # HSRA 16-13, Attachment C) to seek concurrence from USACE and EPA that the Preferred Alternative is the preliminary LEDPA and prepare a Draft Supplemental EIR/EIS that identifies a Preferred Alternative. LEDPA (preliminary) concurrence was achieved in May 2017 and the Draft Supplemental EIR/EIS was published in November 2017 for public review.

### **Discussion**

The purpose of CEQA is to ensure the public and government decision makers are informed, through CEQA documents, of the potential environmental consequences of a proposed government action. Public comment on draft EIRs helps provide information and feedback on the proposed action to the public and ultimately decision makers.

The first step is for the Board to certify that the Final Supplemental EIR is adequate as an informational document about environmental consequences of the proposed project. That certification takes the form of the draft Resolution #HSRA 18-16 attached as Attachment D. This action states that the Final Supplemental EIR was completed in compliance with CEQA, has been presented to the Board and that the Board has reviewed and considered the information, and that the document represents the Authority's independent judgment. Certification of the Final Supplemental EIR is a prerequisite to approving the project, but certification by itself does not approve the project.

The second step is for the Board to consider whether to approve the project, in light of the environmental consequences disclosed in the Fresno to Bakersfield Project Section Final EIR/EIS (May 2014), as revised by the Final Supplemental EIR. That approval takes the form of draft Resolution #HSRA 18-17 attached as Attachment E. This step also involves making written acknowledgments (called "Findings") about the environmental consequences (as stated in the Final Supplemental EIR) that will flow from the approval, and requiring feasible mitigation to minimize those consequences. For environmental consequences that cannot be

mitigated, this step also involves making written conclusions that the benefits of implementing the project outweigh the unmitigated consequences – called a Statement of Overriding Considerations (SOC). The Findings, SOC and a mitigation chart (called a Mitigation Monitoring Reporting Plan or MMRP) are included in Exhibits A and B to the draft project approval Resolution.

The requested actions, therefore, involve:

- Board certification of the Final Supplemental EIR as an adequate informational document in compliance with CEQA; and
- Board approval of the F-B LGA alignment and associated facilities from just north of Poplar Avenue in the City of Shafter south to and including the F Street Station (see Attachment F). This approval would include adoption of the Findings, SOC and MMRP.

The Final Supplemental EIR has undergone extensive internal and public review. Staff believes it is a satisfactory informational document in compliance with CEQA. Staff believes the F-B LGA alignment and F Street Station is an appropriate approval choice because the F-B LGA would require fewer displacements (86 versus 384), result in fewer total direct impacts on waters (17.14 acres versus 20.14 acres) and result in fewer permanent impacts to Important Farmlands (372 acres versus 485 acres) than the May 2014 Project.

Additionally, on September 12, 2018, the City of Bakersfield concurred with the Section 4(f) *de minimis* impact finding for the F-B LGA. The City did not concur with the *de minimis* impact finding for the May 2014 Project. Compared to the May 2014 Project, the LGA is approximately one mile shorter, is anticipated to cost less to construct, and has a higher design speed that would maintain an operating speed of 220 miles per hour, resulting in a more efficient system.


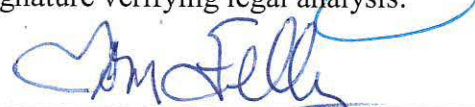
For all of these reasons, and because these documents are the culmination of a thorough public outreach and input process, the staff is recommending the Board take the requested actions today.

**Legal Approval**

The Authority’s Legal Office has verified that the Board is legally authorized to take the actions requested by this Board item. Attorneys under the direction of the Chief Counsel have been involved in the development of the Supplemental Final EIR and the certification and approval documents presented in this item.

**Budget and Fiscal Impact**

This request does not have an additional cost impact at this time.

<b>REVIEWER INFORMATION</b>	
Reviewer Name and Title: <b>Russell Fong</b> <b>Chief Financial Officer</b>	Signature verifying budget analysis: 
Reviewer Name and Title: <b>Tom Fellenz</b> <b>Chief Counsel</b>	Signature verifying legal analysis: 

## **Recommendation**

Staff recommends that the Board adopt the attached draft resolutions #HSRA 18-16 and #HSRA 18-17:

- #HSRA 18-16 certifies the completeness and adequacy of the Fresno to Bakersfield Section Final Supplemental EIR for compliance with CEQA;
- #HSRA 18-17 approves the F-B LGA alignment, F Street Station and associated facilities from just north of Poplar Avenue in Shafter south to and including the F Street Station; adopts the CEQA Findings of Fact and Statement of Overriding Considerations, Mitigation Monitoring and Reporting Program; and directs staff to file a CEQA Notice of Determination with the State Clearinghouse.

## **Attachments/Enclosures**

- \_ Attachment A. Final Resolution #HSRA 14-9
- \_ Attachment B. Final Resolution #HSRA 14-10
- \_ Attachment C. Final Resolution #HSRA 16-13
- \_ Attachment D. Draft Resolution #HSRA 18-16
- \_ Attachment E. Draft Resolution #HSRA 18-17
  - o Exhibit AA – Map of Preferred Alternative
  - o Exhibit A – CEQA Findings of Fact and Statement of Overriding Considerations
  - o Exhibit B – Mitigation Monitoring and Reporting Program
- \_ Attachment F: Map of the Preferred Alternative (i.e., the F-B LGA alignment, F Street Station and associated facilities)
- \_ Attachment G: Executive Summary of the Fresno to Bakersfield Section Final Supplemental EIR
- \_ Attachment H: Highlights of Fresno to Bakersfield Section Final Supplemental EIR
- \_ Attachment I. Brochure of Fresno to Bakersfield Section Final Supplemental EIR
- \_ Attachment J. Printed copy of Standard Responses to most frequently raised comments
- \_ Attachment K. Printed copy of the Executive Summary of Fresno to the Bakersfield Section (2014) Final EIR/EIS ; the entire document is available at:  
[http://hsr.ca.gov/Programs/Environmental\\_Planning/final\\_fresno\\_bakersfield.html](http://hsr.ca.gov/Programs/Environmental_Planning/final_fresno_bakersfield.html)