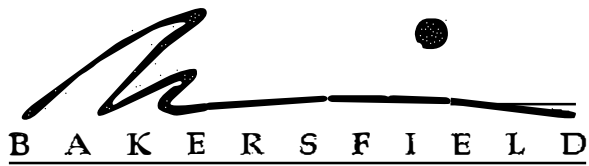


APPENDIX E: SECTION 4(F) CONCURRENCE LETTER

This page intentionally left blank



1600 Truxtun Avenue
Bakersfield, Ca 93301
(661) 326-FUNN (3866)
(661) 852-2140
www.bakersfieldparks.us

*Recreation and Parks enhances the quality of life through
a variety of programs, parks and partnerships.*



Fax

To: Mark McLoughlin From: Dianne Hoover
email: mark.mcloughlin@hsr.ca.gov Pages: 5
Fax: mark.mcloughlin@hsr.ca.gov
Phone: 916-324-1541 Date: 9/17/18
Re: HSR - Bakersfield - Section 4(F) cc: 1

- Urgent For Review Please Comment Please Reply Please Recycle

• Comments:



September 4, 2018

BOARD MEMBERS

Dan Richard
CHAIR

Thomas Richards
VICE CHAIR

Ernest M. Camacho

Daniel Curtin

Bonnie Lowenthal

Lorraine Paskett

Michael Rossi

Lynn Schenk

EX-OFFICIO
BOARD MEMBERS

Honorable
Dr. Joaquín Arambula

Honorable Jim Beall

Dianne Hoover
Director of Recreation and Parks
City of Bakersfield
City Hall North, 1600 Truxtun Avenue, 3rd Floor
Bakersfield, California 93309

Subject: Request for a *De Minimis* Concurrence on a Section 4(f) Resource

To Whom It May Concern,

The California High-Speed Rail Authority (Authority) and the Federal Railroad Administration (FRA) are currently preparing a supplemental environmental impact statement/environmental impact report (EIS/EIR) for the Fresno to Bakersfield Locally Generated Alternative (F-B LGA) portion of the statewide High-Speed Rail program in accordance with the National Environmental Policy Act (NEPA) and the California Environmental Quality Act (CEQA). This Supplemental EIS/EIR involves engineering, environmental analysis, public and agency involvement, and ensuring compliance with state and federal environmental laws and regulations. One federal law, Section 4(f), is the subject of this concurrence request.

Section 4(f) of the United States Department of Transportation (USDOT) Act of 1966, as amended, and codified in 49 United States Code (USC) §303, declares that “it is the policy of the United States Government that special effort should be made to preserve the natural beauty of the countryside and public park and recreation lands, wildlife and waterfowl refuges and historic sites.”

In general, Section 4(f) specifies that the USDOT agencies may only approve a project that “uses” the resources mentioned above, if (1) there is no prudent and feasible alternative that completely avoids Section 4(f) resources and (2) the project includes all possible planning to minimize harm to those resources. In lieu of making these findings, the USDOT also can approve the use of a Section 4(f) resource if the USDOT determines that the project will have a “de minimis” impact on that resource and the official with jurisdiction over the resource concurs in that determination. For historic properties, the official with jurisdiction generally is the State Historic Preservation Officer (SHPO). For parks, recreation areas, and refuges, the official with jurisdiction is the agency (or agencies) that owns or administers the property.

The FRA has determined that the Kern River Parkway and Weill Park are Section 4(f) resources, are within the resource study area of the F-B LGA, and that your agency is the official with jurisdiction with respect to these resources. The purpose of this letter is request your agency’s concurrence in a finding of de minimis impact that FRA has made with respect to the Kern River Parkway and Weill Park. The basis for this finding is set forth below.

EDMUND G. BROWN JR.
GOVERNOR



Kern River Parkway

The F-B LGA section of the HSR project would cross above the Kern River Parkway on a viaduct (guideway) at a height of approximately 40 feet (from surface elevation to the bottom of the guideway) in an area of the Kern River Parkway that contains a pathway available for use by bicyclists and pedestrians and features that serve floodway purposes.

The HSR would be on an elevated structure spanning a portion of the parkway that is undeveloped except for the bicycle and pedestrian pathway. Footings for the columns that would support the guideway would be constructed within the Kern River Parkway, permanently impacting 0.66 acre, and the completed guideway would span the bicycle and pedestrian pathway. Except for the footings, no portion of the Kern River Parkway would be purchased by the California High Speed Rail Authority (Authority) because the guideway would completely span the property and the park underneath the elevated guideway would remain available for park use.

Temporary closure of the parkway would be required during construction. The bicycle/pedestrian pathway would not be closed during the entire construction period, and no physical impacts on the bicycle pathway itself would occur. No physical changes would occur to the resource; following construction of this segment of the viaduct, the pathway would be reopened for use. The Authority and the FRA would coordinate with the City of Bakersfield prior to project construction to develop an alternate route for bicycle pathway users during the temporary closure. Areas in proximity to construction would be closed temporarily. The bicycle pathway would be restored to the pre-project construction condition, and following construction of this segment of the viaduct, these facilities would be reopened for use. Permanent impacts to the Kern River Parkway would therefore be de minimis.

Noise impacts due to operation of the HSR system over the Kern River Parkway would result in a moderate increase in noise levels (from 56 A-weighted decibels [dBA] equivalent continuous sound level [Leq] to 63 dBA Leq). While evident, this is not a considerable enough increase to substantially impair the attributes that qualify the facility for protection under Section 4(f).

While these visual and noise impacts would be noticeable to parkway users, the preliminary determination is that the impacts would not substantially impair the attributes and features that qualify the parkway for protection under Section 4(f) and, therefore, would not constitute a Section 4(f) constructive use.

Weill Park

The F-B LGA would cross above Weill Park on an elevated structure at a height of approximately 58 feet (from surface elevation to the bottom of the guideway) in an area that contains a grass field. Footings for the columns that would support the guideway would be constructed within Weill Park and would permanently impact 0.099 acre. Except for the footings, no portion of Weill Park would be purchased by the Authority because the guideway would nearly span the property and the park underneath the elevated guideway would remain available for park use.

Construction would require temporary closure of park facilities for safety purposes when construction occurs over the park. Other than the placement of the footings described above, no physical changes would occur to the resource; following construction of this segment of the viaduct, the park under the viaduct would be reopened for use. The Authority and the FRA would coordinate with the city of Bakersfield prior to project construction to develop an alternate route for pathway users during the temporary closure. Areas in proximity to construction would be closed temporarily. The park underneath the viaduct would be restored to pre-construction condition.

Although introduction of the HSR viaduct above Weill Park would introduce a new visual transportation element that did not previously exist, the park is currently in an urban setting with various existing transportation features directly adjacent. The park is adjacent to industrial uses, and the existing BNSF Railway railroad right-of-way is in the vicinity of the park. Additionally, measures to minimize harm (similar to those described above for the Kern River Parkway) would be employed to reduce these impacts. These measures would ensure coordination regarding guideway and column design, alternative routes for bicycles and pedestrians, and opportunities to reduce impacts such as minimizing the vertical clearance of the guideway. Additionally, construction noise would be monitored to ensure that impacts to park users are minimized. A full list of measures is located in Table 4-4 of the Draft Supplemental EIR/EIS. After construction is complete, Weill Park would be revegetated as necessary and restored to preproject construction condition.

Noise impacts due to operation of the HSR system would result in a moderate increase in noise levels (from 62 dBA Leq to 65 dBA Leq). The projected vibration level from the HSR is 74.7 VdB and this vibration level would not exceed the threshold of 75 VdB for Category 3 land uses (Institutional land uses with primary daytime use including parks). While evident, these are not considerable enough increases to substantially impair the attributes that qualify the facility for protection under Section 4(f).

While these visual and noise impacts would be noticeable to parkway users, the determination is that the impacts would not substantially impair the attributes and features that qualify the parkway for protection under Section 4(f) and, therefore, would not constitute a Section 4(f) constructive use.

The FRA's intent to make a de minimis impact determination for the Kern River Parkway and Weill Park was discussed at several coordination meetings between the Authority, FRA, and city of Bakersfield beginning in November 2015. These meetings were established for coordination purposes on the project and have led to the incorporation of specific avoidance, minimization, and mitigation measures (as described above) to reduce the impact to the parks owned or administered by the city of Bakersfield within the proposed project corridor. In addition, the public has been given an opportunity to comment on this determination during the 60-day comment period of the Draft Supplemental EIS/EIR.

Based on information set forth above, the FRA has determined that the project would not adversely affect or otherwise restrict the public's use of the parks nor will it adversely affect the features, attributes, or activities that make the parks eligible for Section 4(f) protection as parks. The FRA seeks your concurrence in this determination. A concurrence clause is provided at the end of this letter for this purpose. If you do not concur in this Section 4(f) de minimis impact determination, the FRA will need to conduct a full Section 4(f) evaluation for one or both of these properties.

We respectfully request your reply to this matter within two weeks of receipt of this letter. We look forward to continuing our successful working relationship with you and should you have any questions or need additional information, please feel free to contact us.

Please return a scanned copy of this letter by email to mark.mcloughlin@hsr.ca.gov.

If you have any questions, please contact Andrew Bayne, Project Section Environmental Manager, at andrew.bayne@hsr.ca.gov or 916-384-0580.



CALIFORNIA High-Speed Rail Authority

Sincerely,

Mark A. McLoughlin
Director of Environmental Services, California High-Speed Rail Authority

BOARD MEMBERS

Dan Richard
CHAIR

Thomas Richards
VICE CHAIR

Ernest M. Camacho

Daniel Curtin

Bonnie Lowenthal

Lorraine Paskett

Michael Rossi

Lynn Schenk

**EX OFFICIO
BOARD MEMBERS**

**Honorable
Dr. Joaquin Arambula**

Honorable Jim Beall

CONCURRENCE:

Based on the information set forth in this letter and on the documents and coordination referenced herein, the city of Bakersfield concurs with FRA's determination that the Fresno to Bakersfield Locally Generated Alternative will not adversely affect the activities, features, or attributes that make the Kern River Parkway and Weill Park eligible for Section 4(f) protection. Therefore, the city of Bakersfield concurs in the FRA's determination that the Fresno to Bakersfield Locally Generated Alternative will have a de minimis impact on the Kern River Parkway and Weill Park in accordance Section 4(f) of the USDOT Act.

Dianne Hoover
Director of Recreation and Parks
City of Bakersfield

9/12/18
Date

EDMUND G. BROWN JR.
GOVERNOR

