

22 Local Agency Comments

Part 4 of 4

Submission 293 (Mark Montelongo, San Joaquin Valley Air Pollution Control District, October 28, 2019)

Merced - Fresno 2014+; Central Valley Wye - RECORD #293 DETAIL

Status : Action Pending
 Record Date : 10/29/2019
 Submission Date : 10/28/2019
 Interest As : Local Agency
 First Name : Mark
 Last Name : Montelongo
 Submission Content :

Good Afternoon,

Please find attached, comments from the San Joaquin Valley Air Pollution Control District in relation to the above referenced project. Hard copies will follow in the mail.

Thanks,

Mark Montelongo
 Supervising Air Quality Specialist
 San Joaquin Valley Air Pollution Control District
 1990 E. Gettysburg Avenue
 Fresno, CA 93726-0244
 (559) 230-5905 (Phone)
 (559) 230-6061 (Fax)
Mark.Montelongo@valleyair.org

[HALlogo_horizontal-finalfinalfinal128dithered]<<http://www.healthyliving.org/>>
 Attachments : SJVAPCD Comments - Draft EIR-EIS for Central Valley Wye Project.pdf (189 kb)



California High-Speed Rail Authority
 Merced to Fresno Section: Central Valley Wye
 Draft Supplemental EIR/EIS
 770 L Street, Suite 620 MS-1
 Sacramento, CA 95814

Project: Draft Supplemental Environmental Impact Report/Environmental Impact Statement for the Merced to Fresno Section: Central Valley Wye

District CEQA Reference No: 20191125

To Whom It May Concern:

The San Joaquin Valley Unified Air Pollution Control District (District) has reviewed the Draft Supplemental Environmental Impact Report/Environmental Impact Statement (Draft EIR/EIS) for the Merced to Fresno Section: Central Valley Wye which consists of evaluating the environmental impacts associated with four wye alternatives that would create the high-speed rail connection between the San Jose to Merced section to the west and the north-south Merced to Fresno section to the east (Project). The Draft EIR/EIS has identified the State Route 152 to Road 11 wye as the preferred alternative. The wye connection is located between the cities of Merced and Madera. On June 20, 2019, the District issued comments on this Project during the California Environmental Quality Act (CEQA) public notice process (see enclosure). The District's previous comments under the CEQA public notice process still remain applicable to the Project and are summarized below:

1. Comments From District's June 20, 2019 Letter

a. Voluntary Emission Reduction Agreement (VERA):

The District recommends removing Air Quality Mitigation Measure AQ-MM#4 and replacing it with a measure to reflect the commitment in the Memorandum of Understanding (MOU) between the District and the High-Speed Rail Authority (HSRA).

293-555

Samir Shelkh
 Executive Director/Air Pollution Control Officer

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- 293-556 b. **Health Risk Assessment (HRA):**
 - i. The District recommends the Draft EIR/EIS, specifically Table 8 on Page E-18 and 11 in the HRA Summary Excel file be revised for consistency purposes.
 - 293-557 ii. The District recommends that the HRA be revised for consistency with District recommended approaches for calculating risk.
- 293-558 c. **District Rule 9510 Indirect Source Review (ISR):** the proposed Project is subject to Rule 9510 and requires the submittal of an Air Impact Assessment (AIA) application.
- d. **District Rules and Regulations:** the proposed Project may be subject to other District rules and regulations.

Please see the enclosed June 20, 2019, comment letter for additional details.

Furthermore, the District offers the following comments under the National Environmental Policy Act (NEPA) public notice process:

293-559 **2. General Conformity**

The General Conformity Determination, specifically Air Quality Mitigation Measure AQ-MM#4 (AQ-MM#4), requires the Project to offset NOx and VOC emissions generated by the Project through a VERA. However, AQ-MM#4 in the Draft EIR/EIS requires the Project to fully offset NOx emissions to net-zero and offset PM10 emissions to below the District's significance threshold through a VERA. The District recommends revising AQ-MM#4 in the General Conformity Determination and Draft EIR/EIS for consistency, and furthermore to reflect the commitment in the MOU between the District and the HSRA which requires the Project to fully offset NOx, VOC, PM10 and PM2.5 emissions.

As stated in the District's comment letter dated June 20, 2019, the proposed AQ-MM #4 in the Draft EIR/EIS incorrectly requires actual construction emissions of NOx to be mitigated to net-zero, and actual construction emissions of PM10 to be mitigated to below the District's significance threshold. In addition, AQ-MM#4 in the General Conformity Determination incorrectly requires the Project to mitigate VOC and NOx emissions, when in fact the Project's construction emissions of NOx, VOC, PM10 and PM2.5 shall be fully mitigated to net zero in accordance with the MOU.

On June 19, 2014, the District and HSRA entered into an MOU which establishes the framework for fully mitigating to net-zero construction emissions of NOx, VOC, PM10 and PM2.5 for the entire High-Speed Train Project throughout the San Joaquin Valley Air Basin. Therefore, the District recommends revising AQ-MM#4 in the Draft EIR/EIS and in the General Conformity Determination to both simply refer

293-559 to the MOU between the District and HSRA requiring full mitigation to net-zero actual construction emissions of NOx, VOC, PM10 and PM2.5 for the Project.

To date, the District and HSRA have worked closely to ensure construction air quality emissions of NOx, VOC, PM10, and PM2.5 are mitigated in accordance with the MOU. This MOU requires the HSRA to enter into a VERA with the District for any segment located in the San Joaquin Valley Air Basin that has been approved for construction by the HSRA, or any other applicable state or federal entity.

The District appreciates the HSRA's ongoing commitment to working with the District and appreciates the opportunity to aid the HSRA in identifying and mitigating impacts on air quality. If you have any questions or require further information, please contact Sharla Yang at (559) 230-6000.

Sincerely,

Arnaud Marjollet
Director of Permit Services



Robert Gilles
Program Manager

AM: sy

Enclosure: District Comment Letter dated June 20, 2019 & MOU

Response to Submission 293 (Mark Montelongo, San Joaquin Valley Air Pollution Control District, October 28, 2019)

293-555

Please refer to the response to submission MF2-252, comment 314.

293-556

Please refer to the response to submission MF2-252, comment 315.

293-557

Please refer to the responses to submission MF2-252, comments 316 and 317.

The Final Supplemental EIR/EIS has been revised to clarify that the HRA was prepared consistent with SJVAPCD guidelines.

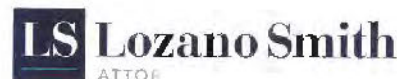
293-558

The Authority will submit an Air Impact Assessment as required per District Rule 9510. Refer to the response to submission MF2-252, comment 319.

293-559

Please refer to the response to submission MF2-252, comment 314.

Submission 296 (Akami Yang, On Behalf of City of Chowchilla, October 28, 2019)



Merced - Fresno 2014+; Central Valley Wye - RECORD #296 DETAIL

Status : Action Pending
Record Date : 10/29/2019
Submission Date : 10/28/2019
Interest As : Local Agency
First Name : Akami
Last Name : Yang
Submission Content :

Please see the attached Comment Letter submitted on behalf of the City of Chowchilla regarding the above-referenced matter. Thank you.

[LS Email Logo]<www.lozanosmith.com>
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Attachments : Merced to Fresno Section Central Valley Wye NEPA Draft Supplemental EIR-EIS Comments (00692787x7AD00).PDF (1 mb)

James Sanchez
Attorney at Law

E-mail: jsanchez@lozanosmith.com

October 28, 2019

*Via Email CentralValley.Wye@hst.ca.gov
And U.S. Mail*

Merced to Fresno Section Central Valley Wye NEPA Draft Supplemental EIR/EIS
California High-Speed Rail Authority
770 L Street, Suite 620 MS-1
Sacramento, CA 95814

Re: Merced to Fresno Section Central Valley Wye NEPA Draft Supplemental EIR/EIS Comments

Dear High-Speed Rail Authority:

We submit the enclosed comment letter dated October 28, 2019 on behalf of the City of Chowchilla. As our letter describes, we continue to work in good faith with the California High Speed Rail Authority, but request further consideration of the matters we've noted as significant to our local community and environment. Please contact us to work to resolve these matters before final approval decisions related to the Central Valley Wye.

Sincerely,

James Sanchez
Assistant City Attorney
for City of Chowchilla

JCS/ay

Enclosures

cc: Rod Pruitt, City Administrator
Mark E. Hamilton, Community & Economic Development Director
Dave Riviere, Chief of Police
Mary Lerner, City Attorney
Diane Kindermann Henderson
Bob Delp

Limited Liability Partnership

7404 N. Spalding Avenue Fresno, California 93720-3370 Tel 559-431-5600 Fax 559-261-9366

Submission 296 (Akami Yang, On Behalf of City of Chowchilla, October 28, 2019) - Continued



October 28, 2019

California High-Speed Rail Authority
770 L Street, Suite 620 MS-1
Sacramento, CA 95814

Subject: Comments on the Central Valley Wye NEPA Draft Supplemental EIR/EIS

Dear High-Speed Rail Authority:

The City of Chowchilla (City) offers the following comments on the Central Valley Wye Draft Supplement Environmental Impact Report/Environmental Impact Statement (SEIR/SEIS). These comments are in addition to, and incorporate by reference, previous comments by the City during the CEQA review period, including but not limited to the City's June 20, 2019 Comment Letter and all comments provided by the Wye Madera County Task Force and its member agencies on both the SEIR and SEIS:

A. Previous Litigation

As you are aware the City initiated a lawsuit in June 2012 to ensure the Project considered and addressed issues critical to the City. The California High Speed Rail Authority (CHSRA) and the City agreed to resolve the lawsuit in January 2013 with CHSRA commitments related to future Project considerations. We attach the Settlement Agreement as Exhibit A to this letter.

B. Impact Avoidance and Minimization Features (IAMFs)

1. Impact analyses assume implementation of IAMFs and therefore does not disclose environmental impacts that would occur if the IAMFs are not implemented. Lotus et al. v. Department of Transportation et al. (2014) 223 Cal. App 4th 645, directs that when a project incorporates measures to avoid or reduce environmental effects, an EIR must evaluate and disclose the effects in the absence of those measures. This is particularly relevant to the DSEIR in that the IAMFs do not provide sufficient commitments, detail, or performance standards to ensure they would be implemented or adequately reduce potential impacts, yet the DSEIR assumes they would be adequate and therefore fails to disclose impacts that would occur if the IAMFs are not more clearly defined and fully implemented.

Nexus/Mitigation/Corrective Action: Further analysis and assurance prior to certification of the EIS is needed.

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C. Mitigation Measures - General Comments

- 296-561 2. Many mitigation measures are brief phrases and do not provide substantive detail of implementation requirements or performance standards.

Nexus/Mitigation/Corrective Action: Further analysis and inclusion of language that assures implementation, prior to certification of the SEIR/SEIS, is needed.

- 296-562 3. The DSEIR is unclear regarding how the mitigation measures adopted for the 2012 Merced-Fresno segment relate to the mitigation measures identified in the Central Valley Wye EIR.

Nexus/Mitigation/Corrective Action: The Wye is a component of the Merced to Fresno segment, yet the SEIS appears to separate the Wye in terms of impact assessment, breaking it out as a separate project and diminishing the full assessment of impacts.

D. Transportation

- 296-563 4. Existing road network access will be closed, and that traffic will be funneled to fewer access points, with increased and unanticipated loading at those points, with need for additional ROW acquisition, road widening, signalization, etc.

Nexus/Mitigation/Corrective Action: The City Engineer shall be provided with the opportunity for review and acceptance of all construction and long-term decisions affecting road improvements made by CHSRA. Sufficient funding should also be provided by CHSRA and the Federal Railroad Administration (FRA) in compensation for City staff involvement supporting the project.

- 296-564 5. The project, both during construction and long-term, will reduce the number of existing access ways into and out of the City's urban core, will restrict traffic flows, and cause increased response times for emergency responders. Slower response times will increase the potential for fatalities and loss of property. Slower calculated response times will erode the City's Insurance Service Office (ISO) rating, driving up municipal corporation costs and reducing the City's attractiveness to future developers and investors. This is not adequately addressed in the Draft SEIR/SEIS.

Nexus/Mitigation/Corrective Action: Police and fire stations will need to be increased to meet the standards for emergency response time. The CHSRA and the FRA shall fund the cost of law enforcement and fire station facilities and vehicles. Additionally, consider additional roadway access cross-overs, intersections, and interchanges to ensure adequate emergency response times and a basic level of service.

- 296-565 6. The project will result in redirected traffic flows to Robertson Blvd and SR 99.

Nexus/Mitigation/Corrective Action: The effects on this interchange should be analyzed further, with mitigation to increase Robertson Blvd to at least 4 lanes with adequate pedestrian access as well. The increased traffic will also require Robertson Blvd to be signalized on both sides of SR 99.

296-560

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- 7. The City of Chowchilla's transportation infrastructure will be overburdened and degraded due to construction activities (i.e. detour and haul routes).

Nexus/Mitigation/Corrective Action: Traffic control plans/measures, safety precautions, staffing, signs, to identify and employ the strategies designed to safely mitigate the impact of construction, maintenance, and incident management on roadways to maintain mobility and worker safety are needed. This includes both installing and removing traffic control measures, from start to stop of all construction activities. The City Engineer shall be provided with the opportunity for review and acceptance of all construction and long-term decisions affecting road improvements made by CHSRA. Sufficient funding should also be provided by CHSRA and the FRA in compensation for City staff involvement supporting the project.

296-567

- 8. The project's proposed at-grade crossings on City roads conflicts with the City of Chowchilla General Plan.

Nexus/Mitigation/Corrective Action: Analysis of proposed SR 152 at-grade crossings for City roads with respect to the General Plan, and Freeway agreements with Caltrans for SR 152 is needed. These prior plans and agreements must be fully recognized, honored and compensated. CHSRA and HSR must pay for the General Plan to be updated, and not simply updated to conform to the rail system imposed on the City, but compensated for a full General Plan Update and related California Environmental Quality Act (CEQA) Environmental Review including all elements of the City's 2040 General Plan that would be impacted by the operation of a High Speed Rail Train system including: Land Use, Circulation, Open Space, Public Facilities, Public Safety, Noise, and Housing Elements to ensure to ensure the City of Chowchilla is better able to address the impacts and assist moving forward as the trains begin operation.

296-568

- 9. Identify specific phasing for construction of segments/intersections to minimize concurrent construction and cumulative traffic impacts associated with interchange and/or grade separation structure construction; and avoid starting construction without having all ROW and/or utility clearance issues resolved to minimize potential for construction delays once started.

Nexus/Mitigation/Corrective Action: The phasing schedule shall include the opportunity for the City to review and accept the terms proposed by CHSRA. Do not commence construction without having all ROW and/or utility clearance issues resolved, with concurrence from the City Engineer.

296-569

- 10. The City should be provided the opportunity to review and approve/concur with construction impact analyses, mitigation requirements, facility design, and construction monitoring of HSR-related construction or reconstruction of City roads and other infrastructure and be subject to Chowchilla Department of Public Works encroachment permits. CHSRA/FRA and all its contractors should be required to fully comply with conditions of local agency permits and this provision should be included in any contracts CHSRA enters with any contractor who is designing/constructing HSR-related facilities. If not in existing contracts for facilities in Chowchilla, the provision should be added.

Nexus/Mitigation/Corrective Action: The schedule shall include the opportunity for the City to review and accept the terms proposed by CHSRA/FRA.

296-570

- 11. As part of the project construction and the significant impacts of permanent road closures resulting from HSR facilities, there should be designed and constructed a full access interchange at SR 152 and SR 99 providing full access in all directions.

Nexus/Mitigation/Corrective Action: Full access interchange including the purchase of land for right of way at SR 99 and SR 152 because HSR impacts access at numerous locations elsewhere in the City (i.e., access from SR 99 to SR 152 west and SR 152 to SR 99 north).

296-571

- 12. Road closures and route modifications analyses considered "representative" roadway segments, but should evaluate ALL affected routes, including Avenue 25 which is a main agricultural thoroughfare into the City.

Nexus/Mitigation/Corrective Action: Avenues 24 & 25 are main thoroughfares into and out of the City. Avenues 24 and 25 are considered a future collector roadways within the 2040 General Plan and as such should be included within the traffic evaluation and able to traverse through the HSR Rail Line with an undercrossing. Avenue 25 shall be included in a traffic evaluation, needs identified, and necessary improvements funded.

296-572

- 13. Establish mechanism to minimize construction-related traffic effects (detours, closures) through construction scheduling and phasing; and

Nexus/Mitigation/Corrective Action: Traffic control plans required throughout the entire length of the construction phase of the Wye. Affected agencies shall have the opportunity to review and approve of construction traffic management plans.

296-573

- 14. It has been observed that once construction contractors begin their work, accountability for compliance with mitigation requirements is challenging.

Nexus/Mitigation/Corrective Action: Mechanisms must be established now to ensure construction contractors are accountable to CHSRA, FRA and the City for adherence to construction/traffic management plans and mitigation requirements. The City's Public Works Director and City Engineer must be allowed to provide oversight and be compensated by CHSRA and FRA with a reasonable budget commensurate with his/her time expended.

296-574

- 15. The permanent loss of four existing access points into the City's south side, and loss of visibility into Chowchilla and the industrial park from SR 152, which will be substantially diminished by the proposed rail line atop an 8-foot high berm, will have a permanent detrimental impact on present and planned circulation. Additionally, traffic eastbound on SR 152 that presently exits SR 152 and enters the City northbound on Road 17 1/2 will be shunted southbound on SR 99, away from Chowchilla, since there is no northbound ramp onto SR 99.

Nexus/Mitigation/Corrective Action: CHSRA and FRA should consider providing for a full interchange at SR 152 and Road 17 1/2, and construction of a frontage road parallel and north of the HSR alignment that would connect Road 16, Road 17, Road 17 1/2, and Road 18, and between Robertson Blvd and Road 15. Due to the HSR Rail line traversing along the northern boundary of the current Highway 152 corridor and severing all four (4) access points into the City's

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industrial area, the CHSRA should consider upgrading the Road 17 1/2 roadway overcrossing into an all access interchange with Highway 152 to ensure the accessibility into the industrial area is not severely compromised and the value is not fully diminished.

Nexus/Mitigation/Corrective Action: CHSRA and FRA should consider providing a northbound access ramp from eastbound Highway 152 to northbound Highway 99. The addition of this access ramp combined with the proposed High Speed Rail line will not only reduce travel times it will also improve the area's circulation and reduce the number of semi-trucks idling within the City of Chowchilla. The proposed access ramp from Highway 152 to Highway also has the potential to reduce of greenhouse gases from carbon emissions from Semi-trucks Trucks currently utilizing the Highway 233 corridor. The installation of a northbound ramp completing this connection would assist the City of Chowchilla with ensuring the future economic development success of the City's Industrial area. With the installation of this connection, goods produced within the Central Valley would have easier access to various northern connections along Highway 99. With the installation of this northbound ramp, it could be assumed there would be a reduction in greenhouse gasses, vehicle miles traveled, and idling times of semi-trucks that are currently required to move their locally produced products through the City of Chowchilla.

296-575

- 16. Restore and improve existing local roads to mitigate construction impacts and to accommodate increased use due to closure of other roads. The SEIR/SEIS has not addressed the impacts of construction material hauling and other construction upon rural City roads. Many existing roads are in poor condition and the addition of material hauling vehicles and other construction equipment may significantly deteriorate or destroy them.

Nexus/Mitigation/Corrective Action: The City's entire road network must be upgraded to handle the increase in material hauling. Mitigation must include restoration of roadways back to original condition damaged by construction activities and vehicles, and improvements as needed for closure of other roads as a result of said construction activities.

296-576

E. Air Quality and Climate Change

- 17. Particulate matter generated by trains moving at 220 MPH needs to be discussed and appropriately mitigated. Road closures and very large overcrossings in industrial areas. These large overcrossings and raised track will have impacts upon climatic conditions (temperature and wind patterns). The document does not appear to sufficiently evaluate health effects of criteria air pollutants as required per Sierra Club vs. Fresno County (CA Supreme Court, 2018). Appendix C.12-3 (Children Health Risk) oversimplifies project benefits without discussion of air quality impacts at specific locations due to road system modifications.

Nexus/Mitigation/Corrective Action: Mitigation measures should be coordinated with local landowners and City officials, with delineation of specific areas that will be impacted and specificity on type and degree of impacts. Ensure that the HSR does not adversely affect the region's ability to comply with Federal Clean Air Act "Transportation Conformity" requirements.

296-577

F. Noise and Vibration

- 18. Effects of decelerating and accelerating trains on the south and west sides of Chowchilla have not been fully addressed. It is noted that the CHSRA and FRA will work with affected communities to develop performance criteria for noise mitigation and to also develop design guidelines. Such efforts may be helpful after the fact but push off formulating mitigation to a future unknown time, and additionally impose such mitigation on the City and its residents rather than on the source of the noise and vibration - the HSR Wye project. This must be resolved to the satisfaction of the community prior to certifying the Final SEIR/SEIS. The long-term effects of vibration and electrolysis to pipelines and agricultural and municipal wells needs to be addressed and disclosed, and adequately mitigated. There will be a problem for those impacted landowners to acquire operational financing to deal with the long-terms effect once HSR is ongoing and effects become apparent.

Nexus/Mitigation/Corrective Action: CHSRA and FRA must work with the City of Chowchilla to develop performance criteria and design guidelines for noise and vibration mitigation based on known standards at this time, prior to certification of the SEIR/SEIS, update those measures and guidelines based on any ongoing, interim, and/or long term impacts, and provide commensurate mitigation to the community

296-578

G. Environmental Justice

- 19. The Wye project imposes an enormously negative and disproportionate degree of impact on the City of Chowchilla, its community and its people. Chowchilla is in the center of the State's largest economically disadvantaged region, the Southern San Joaquin Valley. Chowchilla has a high minority demographic, a low median household income, and among the highest unemployment rates in the State - twice the State and national averages - and is deemed a "Very High Unemployment Area." No other community in the State will have HSR track and trains wrapping it on two sides. No other community will be enclosed in such a manner. HSR, while positive for many people of the State in many ways, is not a benefit to Chowchilla, but intensely damaging to our infrastructure, our safety, our plans, our future, and our quality of life. Whether running east-west or north-south, every train will pass through our City, and pass it by. There will be no station here, but there will be the constant drone of engines winding-down and spooling-up, and the hum and strain of steel wheels on rail, decelerating and accelerating around the curves of a mere intersection of a massive rail project that Chowchilla will become, carrying riders who can afford it, between the great population centers of California. The long-term economic impact on Chowchilla is unimaginable, and certainly the Draft SEIR/SEIS has made little effort to assess it.

Nexus/Mitigation/Corrective Action: The City requests that as a matter of mitigation and of justice, the future Heavy Maintenance Facility (HMF) be located in Madera County, consistent with the City's previous requests and resolutions, to assist in partially offsetting this impact by providing employment and business opportunity. The criteria for siting must not be based strictly on operational needs, but on the needs of people, people who should be served by infrastructure rather than be victims of it. CHSRA and FRA should provide a dedicated bus or trolley service

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296-578 | *from either the proposed Merced station or Fresno station to Chowchilla and all its businesses and events.*

296-579 | **H. Public Utilities, Services, Safety and Energy**

20. The City of Chowchilla wastewater treatment plant (WWTP) is nearing capacity, and the General Plan calls for a second WWTP to be constructed west of the City along the north side of SR 152. The City is presently cooperating with the California Water Resources Control Board's request that the City provide wastewater treatment to the Community of Fairmead, also, which at present is at risk of contaminating the groundwater supply. The new trunk line from Fairmead will absorb a substantial portion of the City's remaining capacity. However, the proposed Wye alignment runs through the proposed new WWTP site as designated on the General Plan Land Use Diagram. In addition to conflicting with the adopted General Plan, the City would not expect to find an alternative WWTP site easily, nor to acquire it without a fight given that all other possible locations are presently designated and zoned for income-producing uses.

Nexus/Mitigation/Corrective Action: The City will need CHSRA and FRA to acquire and construct the new WWTP in a suitable location identified by the City.

296-580 | 21. The Fairmead sewer trunk line will be constructed along the east side of SR99 from the Community of Fairmead north to Avenue 24. If construction of the HSR line precedes construction on the Fairmead sewer line, a sleeve beneath the HSR line will need to be provided for the sewer line, since we expect that CHSRA will not allow excavation beneath the rail line. A second sleeve will also be needed in the event of failure of the sewer line at or near the rail line.

Nexus/Mitigation/Corrective Action: The City needs assurance/confirmation from CHSRA that the sewer lines can be excavated when needed or that sleeves will be provided for said sewer lines. A second sleeve will also be needed in case of sewer line failure. The City would ask that a 30 - 40 foot wide (extending the full width of the CHSRA project area) Public Utility Easement (P.U.E.) be dedicated to the City at all points along the High Speed Rail line where a roadway access point are being proposed to be removed. This is necessary to ensure the City will be able to extend vital City Infrastructure to existing land located within the City for future projects.

296-581 | 22. The City of Chowchilla's planned industrial area was recently designated an Opportunity Zone through the federal Tax Cuts and Jobs Act of 2017. The City subsequently invested further in the industrial area by conducting a public process to visualize and develop the industrial area, culminating in the Chowchilla Industrial Specific Plan adopted by the City Council. Recruitment of private developers and industries is underway to invest in the City and fund the industrial park's infrastructure. Permanent restricted access along the south side of the City caused by the HSR alignment's 8-foot high raised berm, in effect a wall, and permanent closures of existing roads along SR 152, will diminish the visibility to, and attractiveness of, the City's industrial park to investors, and stagnate development of needed infrastructure that would otherwise be built out by developers. Developers will question the ability to bring materials into the city, and get products out, with ease and timeliness. It is a perception, and negative perception kills projects and economic

296-581 | development. The City is being expected to give up a lot of access; these access points will never come back, and there will never be new ones. The rail line's raised berm will be a permanent physical and visual barrier. The impacts will be significant and permanent. *This is our only opportunity to address this significant impairment to our future.*

Nexus/Mitigation/Corrective Action: ROW acquisition, and construction of water and sewer trunk lines and streets, consistent with the City's accepted Industrial Park Specific Plan, must be funded by CHSRA and FRA. The proposed HSR Rail Line as proposed will have an impact to the existing infrastructure currently located with the community. City want to ensure that CHSRA will fairly compensate the City for any impacts to the City at-grade are underground infrastructure components and any and all improvement shall be required to extend to the furthest reasonable juncture even with the most reasonable juncture extends beyond the project site area. Additionally, if the CHSRA intends to purchase the City's future waste water treatment facility, CHSRA will fairly compensate the City with either or a combination of financial and in-kind improvements made to the City's current waste-water treatment facility.

296-582 | 23. In the event of an emergency related to HSR, the Chowchilla Fire and Police Departments will provide rescue, extraction, and fire suppression services inside and outside the City. The Chowchilla Fire Department does not own apparatus capable of reaching elevated track and cars in an emergency. A ladder truck will be needed. If HSR, the only bullet train in the country, should become a target of terrorism, Chowchilla Police will respond, will plan for such an event, and must be adequately provisioned to do so. This scenario remains to be addressed. Assurances must be given to the City now that the resources to meet its emergency response obligations to come to the assistance of CHSRA passengers and property will be in place.

Nexus/Mitigation/Corrective Action: City of Chowchilla police and fire facilities and equipment will need to be increased to meet the standards for emergency response time. The CHSRA and FRA must fund apparatus and staff sufficient to provide standard emergency services to the HSR.

296-583 | 24. There is currently one fire station in Chowchilla, located north of the downtown core. A fire station is planned for the Industrial Park and will be needed south of Berenda Slough within Planning Subarea 8 (Chowchilla General Plan). This fire station will be needed with development of the HSR line in order to achieve timely response to emergencies on or near the HSR and must be funded by CHSRA and FRA. CHSRA and FRA must ensure that this safety need will not be left unmet, that it will be fully accounted for through an agreement with the City before the Final SEIR/SEIS is certified.

Nexus/Mitigation/Corrective Action: A new fire station provided by CHSRA and FRA with appropriate apparatus will be needed to meet the standards for emergency response time.

296-584 | 25. The City's drainage master plan and the Chowchilla General Plan call for regional drainage basins to collect storm water. Chowchilla is in a low-lying area with active flowing sloughs inside the City that pose flood hazards.

Nexus/Mitigation/Corrective Action: The loss of open and available lands along the south and west sides of the city as a result of the Wye alignment that would otherwise be suitable for such basins

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296-584 | should be compensated by CHSRA and FRA with acquisition and construction of appropriately located and sized basins.

296-585 | 26. The Draft SEIR/SEIS acknowledges impacts to surface hydrology and to the 100-year floodplain. The Wye configuration, with rail on raised berm along the south and west sides of the City, may have the effect of acting as a dam in the event of flooding from upslope – east and northeast- along the two sloughs. This potential safety issue should be addressed.

Nexus/Mitigation/Corrective Action: The potential for flooding related to both Berenda Slough and the Ash Slough, and pooling within the City as a result of the HSR’s raised berms, should be fully addressed and mitigation provided.

296-586 | I. Aesthetics/Visual

27. The Draft SEIR description diminishes the level of visual impact by stating that the CHSRA’s preferred Wye alignment isn’t as bad as one of the other alignment options that Chowchilla doesn’t want. The proposed elevated rail alignment along the north side of SR 152 will have aesthetic and economic impacts on Chowchilla that need further attention than is provided for in the Draft SEIR/SEIS. Views of Chowchilla from SR 152 will literally be blocked by the elevated berm and rail line, which will suppress interest, commerce and development in Chowchilla. The City’s urban core and tree line, and the new industrial park, will no longer be visible from SR 152, which will effectively truncate the City’s potential for attracting investors. Visibility is crucial.

Nexus/Mitigation/Corrective Action: Extensive landscaping along the berm, within the HSR ROW, as it passes through the city, is needed to offset this negative impact and restore a sense of place to the City.

296-587 | 28. Provide high quality, high visibility signage at Chowchilla’s “Gateways,” which are those roads that will not be permanently closed – Robertson Blvd at SR152 and Road 16 at SR152, the requested Road 17 ½ interchange, as well as at Avenue 24 at SR99, to include arches reminiscent of the City’s historical entry arch, with City approval of final design and funding by HSR.

Nexus/Mitigation/Corrective Action: The City request that CHSRA fund the design and construction of high visibility signage with the review and approval of the City of Chowchilla. The signs shall be decorative and reflective of the community’s rich history and shall include the language of “Welcome to the City of Chowchilla,” with the City of Chowchilla granted ownership of said signage for future maintenance and improvements.

296-588 | 29. It can be expected that there will be physical deterioration of areas underneath elevated guideways and alongside at-grade track, including vandalism, graffiti, and blighting. There must be specific programs identified for easements and parks, with architecturally attractive features built into the rail infrastructure, with maintenance and operations to be the responsibility of the CHSRA, and park and ride lots identified with maintenance to be the responsibility of the CHSRA.

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296-588 | Nexus/Mitigation/Corrective Action: Alignment that parallels SR 152 including underpass (es) should be architecturally pleasing and well-lighted to visitors for both the industrial park as well as the City, with the ROW maintenance program subject to review and acceptance by the City.

296-589 | 30. The loss of our way of life, the loss of generational legacy, and deterioration of community cohesiveness – all must be recognized, assessed and quantified as much as possible, and mitigated. The Draft SEIR/SEIS does not presently address this.

Nexus/Mitigation/Corrective Action: Without going into detail of our city’s colorful history, the people that live here, and why they call Chowchilla their home, the construction of a wall and rail line along two sides of our city and state highway on the third will have a profound impact on that. Compensation would be difficult to measure; and, as a result, difficult to mitigate. A commitment is needed so that the City can work with CHSRA and FRA to further address this issue of profound importance to our community.

296-590 | J. Biological Resources

31. Ensure that funding or direct habitat conservation provisions are provided by CHSRA and FRA for any future roadway or other public facilities that may need to be constructed or reconstructed by a public agency as a result of the HSR.

Nexus/Mitigation/Corrective Action: Ensure that funding or direct habitat conservation provisions are provided by CHSRA and FRA for the impact of new HSR construction and associated activities.

296-591 | K. Cumulative Projects Analysis

32. Table 2-2 should include Chowchilla’s Sessions Tentative Subdivision Map, 200 SFR lots that was approved in April 2019. The Fox Hills Community Plan in Merced County is no longer a factor, it has been abandoned for ten years. This may also be the case for the Villages of Laguna San Luis.

Nexus/Mitigation/Corrective Action: These projects should be reviewed for consideration in the cumulative analyses.

296-592 | L. Alternatives Evaluation

33. The City requests CHSRA and the FRA return to the Ave 21 & Road 11 alignment option, and select this as the preferred, and environmentally superior, project alternative.

Nexus/Mitigation/Corrective Action: Consider relocating the alignment to Ave 21 and Road 11, this modification would reduce the future impacts to the City, reduce the costs of realigning Highway 152, increase the distance of the HSR WYE from the City of Chowchilla from 2.2 miles to 3.5 miles, and would reduce the impacts to the community of Fairmead. This change would exponentially reduce the fiscal costs of the project and lessen the impacts to two disadvantaged communities (City of Chowchilla and Fairmead).

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296-593 34. Alternatives identification are reasonable for developing the preferred alternative/proposed project; however, the Draft SEIR/SEIS does not comply with CEQA requirement to consider alternatives that would reduce impacts of the proposed project. Alternatives that would avoid or reduce significant impacts of the proposed project are not identified or evaluated in compliance with CEQA and NEPA. The alternatives evaluation process described in the Draft SEIR/SEIS describes the method for selecting the preferred alternative/proposed project; however, a CEQA identification and evaluation of alternatives to the proposed project that would avoid or reduce significant environmental effects of the proposed project was not presented. The CEQA alternatives analysis, therefore, must be done after the proposed project is identified and not as part of the process of selecting the proposed project.

Nexus/Mitigation/Corrective Action: We request that the CEQA alternatives analysis, therefore, be done after the proposed project is identified and not as part of the process of selecting the proposed project.

296-594 M. Land Use

35. The HSR will effectively box the city into a triangle with State-owned linear infrastructure, a containment not addressed by the City's General Plan. We will need help from the State to ensure that Chowchilla is not cut-off from our residents, agricultural economy, commerce, and our neighboring communities.

Nexus/Mitigation/Corrective Action: Requires adequate access from SR 99, Avenue 25, Road 13 or future planned eastside extension of Wye, southern access from SR 152. The elevated Wye and SR 99 will act as walls encircling the City, cutting it off from visibility on the south side and access on the west side unless additional access is provided. CHSRA should conduct a traffic study to identify the detrimental impact of access to the city because of the Wye and provide improved access as necessary access (i.e., interchanges, below grade crossings, other means). Adequate access includes a full interchange Road 17-1/2 and SR 152 instead of just the limited flyover access. Caltrans has already identified and dedicated land for a full interchange with on/off ramps at this location. Adequate access for the city's industrial park and its associated businesses is critical for its success.

296-595 36. The CHSRA and FRA should provide funding to the City to update the General Plan and the Industrial Specific Plan, the water, sewer, and drainage master plans, and other local planning documents as necessary due to HSR's impacts on existing and planned land uses, effects on land use compatibility, parcel acquisition and division, effects on the established community, and effects on transportation system (existing and planned roads and bike/pedestrian facilities).

Nexus/Mitigation/Corrective Action: The City's General Plan, the Chowchilla Industrial Park Specific Plan, and the water, sewer, and drainage master plans will be impacted by the Wye Alignment that had not been previously included in the updates to each of these plans. The CHSRA and FRA must fund the cost for plan updates and new plans.

296-596 37. Fairmead Elementary School will be displaced, and it remains unclear how this will be

296-596 sufficiently mitigated.

Nexus/Mitigation/Corrective Action: Fairmead ES is in the Chowchilla School District. Distance from residences to the school will increase due to impacts of the Wye. There is likely a need for increased bus service or a new elementary school to replace it. Since the Fairmead Elementary School serves the 5th and 6th graders of the City of Chowchilla, the impact to this school creates an impact to the residents within the City of Chowchilla whom have children in attendance at this school location. The City of Chowchilla requests that the CHSRA shall coordinate with the City to ensure the future location of this school, if relocated to an alternate location, not place an unjust burden accessing the new school location.

296-597 38. The Draft SEIR/SEIS greatly underestimates the preferred alignment's effects on land use. The assessment does not account for our planned Industrial Park, which we have invested in but is not built-out and will likely not ever be built-out with placement of the HSR within it. The rail alignment will cause valuable industrial land to be lost from the south end of the City's industrial park. Once the HSR is constructed and in-place, it will be extremely unlikely that LAFCO will allow the City any annexations beyond the rail line, as it will be seen as the most significant "natural boundary." The City will be effectively divided and not allowed to grow south or west. There will be no new replacement area for the industrial land lost to the HSR and to the HSR's negative impact on economic development.

Nexus/Mitigation/Corrective Action: To help offset this, the CHSRA and FRA should relocate the Chowchilla Municipal Airport to a suitable site west of the City, allowing the existing airport site to become available for industrial development. Locating the Airport beyond the HSR line, will free-up the present airport site for the lost industrial land and will help mitigate this impact. Additionally, the CHSRA shall assist the City with completing the necessary CEQAS and NEPA environmental Reviews for the Industrial park, this assistance will allow the City the ability to apply for future Federal and State agency grants which would assist in mitigating the impacts to the Industrial and Airport Areas.

296-598 39. The SEIR/SEIS states that there will be no impact on future development of recreational trail corridors. Chowchilla has planned for a broad bike trail and pedestrian path along the south side of Berenda Slough within the Industrial Park, the Berenda Slough Trail, with a 50-foot native landscaped corridor, to connect with the City's Bikeway System. This will not be built if the Industrial Park is not built, and the HSR Wye alignment within the Industrial Park will likely kill investor-developer interest here.

Nexus/Mitigation/Corrective Action: The Wye as it parallels SR 152 will impact Class III Bikeways along SR 152, Road 17-1/2 and Road 16, cutting bicyclists off from access to southern Madera County unless mitigation measures include adequate rights of way parallel to SR 152 and below grade access (i.e., tunnels with lighting) as needed.

296-599 N. Socioeconomics

40. HSR will have adverse effects on employment and the community.

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296-599

Nexus/Mitigation/Corrective Action: Provide compensation, as well as work force training, for economic and community effects of HSR in the City.

296-600

- 41. Provide compensation for loss of property tax revenue from properties acquired for HSR facilities or otherwise affected by HSR (e.g., payments in lieu of taxes).

Nexus/Mitigation/Corrective Action: Properties will be lost as a result of the construction of HSR. The Chowchilla Water District operates under the rules as set forth by the California State Water Code. Tax revenue lost includes the following.

General Assessment results in an assessment of \$24 per acre for agricultural property and an average assessment of \$37 (depending on the parcel size) for individual parcels in the City of Chowchilla. The District collects about \$1.9 million dollars in assessments each year. The assessment revenue is used to pay for water purchased for groundwater recharge and the operation and maintenance costs of the District.

Supplemental Assessment of \$16 per acre for all agricultural property larger than five acres was instituted on April 29, 2005, following its approval by the landowners in an election held by the District (Prop 218 election). The District collects about \$1.2 million dollars in supplemental assessments each year.

Capital Repayment Assessment. The Chowchilla Water District Board of Directors instituted a \$22 per acre Capital Repayment Assessment on April 12, 2014, following its approval by the landowners in an election held by the District (Prop 218 election). Capital Repayment Assessment of \$22 per assessed acre applies to all agricultural land parcels of five acres or more eligible to receive water from the District. The capital repayment assessment will continue for a period of 14 years, or through 2025, or until such earlier date that the Board in its discretion deems that it is no longer necessary.

We ask that these very real impacts be identified, and that appropriate mitigation provided in the Final SEIR/SEIS.

Source: <https://www.cwdwater.com/index.php/8-faq?start=10>. Chowchilla Water District

296-601

- 42. With the junction of the San Jose-Merced and Merced-Fresno segments inside Chowchilla city limits, it is reasonable to expect that the HMF facility would be located, and should be located, in Madera County near the Wye. Locating the Wye in Chowchilla results in the HSR having greater and disproportionate impacts in Chowchilla due to the extra track miles needed to accommodate the Wye intersection of the San Jose-Merced and Merced-Fresno segments.

Nexus/Mitigation/Corrective Action: Select the Heavy Maintenance Facility (HMF), and light maintenance and ROW, in Madera County, consistent with those resolutions previously provided to CHSRA. Locate the HMF in Madera County so as to provide revenues/jobs that will contribute to offsetting adverse effects of the Wye rail line's catastrophically disruptive impacts on the area. The CHSRA and FRA should coordinate with the Wye Madera County Task Force for selection of an HMF site.

296-602

- 43. The HSR Wye project's removal of access points into the City on the south will have the cumulative effect of exacerbating the existing delays and disruptions to Downtown at the at-grade SP Railroad, which include disrupted vehicle traffic flows, diminished economic access, lessening of aesthetic values, and reduced private development and sales tax revenue for public frontage improvements.

Nexus/Mitigation/Corrective Action: The Final SEIR/SEIS should do more to quantify and address this loss, and to provide mitigation.

296-603

- 44. The loss of property values within the community will be substantial. The rail alignment along SR 152 will impact the existing land uses, and those uses for which the parcels are zoned and upon which the City has heavily invested for its future. The rail project has the potential to further divide the City, and to make development costs prohibitive in the industrial area. We ask that these very real impacts be identified, and that appropriate mitigation provided in the Final SEIR/SEIS.

Nexus/Mitigation/Corrective Action: We ask that these very real impacts be identified, and that appropriate mitigation provided in the Final SEIR/SEIS.

296-604

O. Agriculture

- 45. Provide compensation for reduced jobs and income associated with permanent loss of agricultural land and productivity. Assessed valuation decreases- Ag land being displaced for the rail will cause decrease in value. There will be reduced ability to issue bonds, and reduced property tax for operations. Property tax in-lieu should be provided to the City.

Nexus/Mitigation/Corrective Action: Overall, the high-speed rail authority's preferred route from Merced to Fresno would impact at least 1,200 to 1,500 acres of prime and important farmland, estimating that the agricultural production that stands to be lost could be valued between \$30 million and \$50 million. Analysts described the acreage figure as a fraction of the project's total, potential impact on agricultural land resources. A fraction of this figure has not yet determined but should be determined by CHSRA and FRA, and be reimbursed to the local community of Chowchilla. We ask that these very real impacts be identified, and that appropriate mitigation provided in the Final SEIR.

Source: "High-speed Rail: Route Decision Disappoints Affected Farmers" by Christine Souza. *AgAlert Weekly Newspaper for California Agriculture*. April 25, 2012.

296-605

P. Groundwater

- 46. The Draft SEIR/SEIS states there will be no impacts to groundwater. The City has no surface water source and relies on groundwater. The City may in the future be required to find new well sites outside the urban boundary and south and west of the proposed Wye rail alignments. We expect that the CHSRA/FRA will not allow excavation or horizontal drilling beneath the rail line if water trunk lines are needed.

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296-605 Nexus/Mitigation/Corrective Action: The City needs assurance/confirmation from CHSRA and FRA that the water lines can be excavated when needed or that sleeves will be provided for said water lines. Multiple sleeves should be installed and dedicated to ensure the lines can be installed accordingly beneath the rail line during construction at various locations (preferably where existing roadway intersect with the future High Speed Rail Line) to allow for future municipal water lines. Alternatively, the CHSRA and FRA should participate in the cost of developing a surface water alternative for the City. CHSRA shall coordinate with the City Public Works Director and City Engineer to ensure the future infrastructure 'sleeves' are properly sized and the Public Utility Easements are properly spaced and designed accordingly.

296-606 47. Access groundwater and recharge to preserve groundwater rights on lands acquired by SRA and/or segmented by HSR facilities. Provide a mechanism to ensure that groundwater rights associated with acquired properties are sufficient for retaining local access to groundwater and aquifer for regional water supply and groundwater recharge needs.

Nexus/Mitigation/Corrective Action: Provide a mechanism to ensure that groundwater rights associated with acquired properties are sufficient for retaining local access to groundwater and aquifer for regional water supply and groundwater recharge needs.

296-607 Q. Schools

48. The Draft SEIR has identified EJ-MM#1 as a mitigation measure to minimize environmental justice impacts associated with the construction of the three alternatives involving SR-152. EJ-MM#1 states the Authority would pursue the purchase of Fairmead Elementary School ("Fairmead Elementary") from the Elementary District, only after Fairmead Elementary is closed and a new school is built in Chowchilla. EJ-MM#1 further states that after such purchase, the Authority would transfer the school site to the County of Madera ("County") for operation and maintenance as a community center for the residents of Fairmead. EJ-MM#1 is inadequate for the reasons stated below. CEQA requires that "mitigation measures must be fully enforceable through permit conditions, agreements, or other legally-binding instruments." (Cal. Code Regs., tit. 14, § 15126.4(a)(2).) The purpose of this requirement is to ensure that feasible mitigation measures will actually be implemented as a condition of development, and not merely adopted and then disregarded. (*Federation of Hillside and Canyon Associations v. City of Los Angeles* (2000) 83 Cal.App.4th 1252, 1261.) EJ-MM#1 is insufficient because it lacks a legally binding commitment for its implementation. EJ-MM#1 simply indicates that the Authority will "pursue" the purchase of Fairmead Elementary from the Elementary District. Of course, "pursue" does not equal "purchase," and thus, the measure does not constitute a "fully enforceable" commitment. Similarly, EJ-MM#1 states that the Authority would "coordinate" with the County for identification of long-term funding mechanisms for the operation, maintenance, and insurance of the community center. Again, this "coordination" does not constitute an enforceable commitment. EJ-MM#1 lacks sufficient detail to support a finding that such measures "have been required in, or incorporated into, the project" as required by Public Resources Code section 21081(a)(1).

Nexus/Mitigation/Corrective Action: The Authority must reach a binding agreement with the

296-607 Elementary District for the purchase of the Fairmead Elementary site prior to approving the Final SEIR/SEIS.

296-608 49. The Authority has identified various socioeconomic impacts to community cohesion resulting from construction activities themselves on any of the three SR-152 alternatives. For example, the Authority notes that construction activities would "introduce a visible and functional barrier that could deter neighbors from interacting, participating in community activities, and supporting each other, and could result in a perception by area residents that they have been separate from their community." (pg. 5-32.) Additionally, the SR-152 alternatives would create a permanent linear feature that would divide the northern and southern portions of the community, so that the residential northern part of the community would be separated from both residents and community facilities located south of Avenue 23. (pg. 5-33.) The long-term, permanent effect of the rail-on-berm presence, as a physical and visual barrier, is of immense concern to the City of Chowchilla and to the future of our schools, our children, and our way of life.

Nexus/Mitigation/Corrective Action: Part of the remedy is to come to an agreement with the Elementary District prior to adoption of the Final SEIR/SEIS that ensures EJ-MM#1 can be implemented in a timely manner.

296-609 50. The California Education Code limits the amount of general obligation bonds that elementary school districts may sell during any fiscal year to 1.25% of the total taxable property within the school district. (Ed. Code, § 15102 and 15268.) Thus, a school district's bonding capacity is directly tied to the total assessed value of property within its boundaries. The Authority recognizes that the project would result in the acquisition and displacement of residents, which would remove some private property from the local property tax rolls and reduce the local property tax revenues available to school districts. (See Impact SO #11.) However, the EIR fails to address how the net reduction in the number of taxable properties within the Elementary District will also adversely impact the Elementary District's future bonding capacity, and thus the Elementary District's ability to maintain and construct school facilities for children in the community.

Nexus/Mitigation/Corrective Action: The CHSRA and FRA should consider and address the level of significance of the adverse impact to the Elementary District's bonding capacity.

R. Conclusion

The Final SEIR/SEIS needs to recognize these impacts, the mitigation recommended here, and provide for ongoing dialogue and agreements to address them before the Final SEIR/SEIS is certified.

The City of Chowchilla City Council and residents of Chowchilla thank you for considering the City of Chowchilla, County of Madera, as a potential home for the HSR heavy maintenance facility or other future HSR facility's generating future fulltime employment for the residents of the City of Chowchilla and the County of Madera. The City of Chowchilla will continue to work collectively with the CHSRA, the State of California, and the FRA, on the HSR route alignment that is supported by the local residents and by the previously approved Resolution Nos. 27-10,

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81-15, and 25-16. It is imperative that suitable mitigation measures be provided and an agreement with CHSRA and the City of Chowchilla to off-set the impacts previously mentioned and within this letter. Thank you for your awareness of the integral role our City plays in the success of HSR.

We sincerely appreciate your attention to our commitment to support the HMF site in Madera County, consistent with previous requests, that aligns itself in close proximity to existing transportation corridors, the rail alignment, and which continues to provide for the protection of valuable agricultural and industrial land of Madera County and the City of Chowchilla.

Sincerely,



Rod C. Pruett, CPA
Interim City Administrator & Director of Finance
City of Chowchilla

EXHIBIT A

Submission 296 (Akami Yang, On Behalf of City of Chowchilla, October 28, 2019) - Continued

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is made and entered into as of January 23, 2013 ("Effective Date") by and between Plaintiff/Petitioner CITY OF CHOWCHILLA (the "City") and Defendant/Respondent CALIFORNIA HIGH SPEED RAIL AUTHORITY ("HSRA"). The City and HSRA are collectively referred to as the "Parties" and sometimes individually referred to as a "Party."

This Agreement memorializes the understanding of the Parties and is entered into by the Parties to fully resolve the following pending matter: *City of Chowchilla v. California High Speed Rail Authority* (Sacramento County Superior Court Case No. 34-2012-80001166) (filed June 1, 2012) (the "Chowchilla Lawsuit").

RECITALS

A. On May 3, 2012, HSRA, through its Board of Directors and by means of a series of resolutions, certified pursuant to the California Environmental Quality Act (Public Resources Code § 21000 *et seq.*) ("CEQA") the Final Environmental Impact Report ("FEIR") and approved a proposed project known as the Merced to Fresno Section of the High Speed Train System (the "Approved MF Project"). The approval resolution did not include approval of high-speed train elements contained within the area ("Wye Area") depicted in the rectangular box shown in Figure 2 (attached hereto as Attachment A) of Exhibit A to approval Resolution 12-20, which area includes all of the City limits, but rather specified that high-speed train elements in this area shall be carried forward for further study and analysis in a further CEQA document such as but not limited to the pending San Jose to Merced EIR.

B. The first portion of the statewide system HSRA intends to construct is located generally between the Avenue 17/Burlington Northern Santa Fe railroad track intersection east of Madera and Kern County near Bakersfield ("Initial Construction Segment" or "ICS").

C. On May 3, 2012, the HSRA filed a Notice of Determination with the State Clearinghouse in the Governor's Office of Planning and Research.

D. On June 1, 2012, the City filed the Chowchilla Lawsuit, which consists of a Petition for Writ of Mandate and Complaint ("Petition") challenging HSRA's approval of the Approved MF Project under CEQA and alleging violations of the Bagley-Keene Open Meeting Act (California Government Code Section 11120, *et seq.*). The City requested under Public Resources Code Section 21167.6(a) that HSRA prepare the administrative record ("Record").

E. On June 1 and June 4, 2012, respectively, two other cases were filed in Sacramento Superior Court against the FEIR and Approved MF Project containing most of the same allegations and legal theories as the Chowchilla Lawsuit— case numbers 34-2012-80001165 and 34-2012-80001168 ("Related Lawsuits").

F. By judicial order, the Chowchilla Lawsuit and the Related Lawsuits are consolidated in Department 29 for case management (including administrative record matters), briefing and trial purposes only. A hearing on the merits in the Chowchilla Lawsuit and Related Lawsuits is scheduled for April 19, 2013.

G. In 2012, HSRA completed and certified the Record and lodged it with Department 29. The Record is the same for the Chowchilla Lawsuit and the Related Lawsuits.

H. The Parties to this Agreement believe that their mutual interests will be best served if the Chowchilla Lawsuit is dismissed, per the terms of this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises and/or covenants contained in this Agreement and any other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. **Recitals and Definitions Incorporated.** Each recital and definition set forth above is incorporated herein by reference and is made part of this Agreement.
2. **No Admissions.** All Parties understand and agree that nothing in this Agreement, or in the execution of this Agreement, shall constitute or be construed as an admission of wrongdoing by any Party or of any inadequacy or impropriety in connection with HSRA's approval of the Approved MF Project.
3. **Dismissal of Petition with Prejudice.** Within ten (10) days after this Agreement is fully executed by all Parties, the City shall execute and file and serve a dismissal of the Chowchilla Lawsuit in its entirety with prejudice (the "Dismissal"). The Dismissal shall be in the exact form (except the addition of a signature by someone representing the City with requisite authority) as the Dismissal form attached hereto and incorporated herein as Attachment B, which form is acceptable to the Parties. HSRA agrees to waive any affirmative defenses based on the fact of the City's dismissal of the Chowchilla Lawsuit in any future lawsuit filed by the City against any future CEQA document on the Wye Area related to its decision to remove the Wye Area from the Approved MF Project approved on May 3, 2012 via HSRA Resolution 12-20, as described in the FEIR certified by the HSRA Board in Resolution 12-19. The City reserves its rights as described in paragraph 6 below.

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4. HSRA's Obligations Regarding Wye Area.

4.1. HSRA acknowledges that the City is concerned that high-speed rail elements within the Wye Area, once approved and constructed by HSRA and as operational, would be unacceptable to the City if the elements include an alignment along Avenue 24, such as that depicted in Attachment A. HSRA acknowledges that such an Avenue 24 alignment would traverse a large area recently approved by LAFCO for annexation and that it could have a negative economic impact on the City if it were chosen as the preferred high-speed rail alignment because of the City's plan for a large multi-use commercial, entertainment and industrial development in the annexation area, which could be negatively impeded by an Avenue 24 alignment. HSRA acknowledges that this development is very important to the City. HSRA will consider these factors when it determines whether an Avenue 24 alignment is feasible under CEQA.

4.2 HSRA acknowledges that the City is concerned that high-speed rail elements within the Wye Area, once approved and constructed by HSRA and as operational, would be unacceptable to the City if the elements include an alignment along the Union Pacific/State Route 99 corridor within the City, such as that depicted in Attachment A. HSRA acknowledges that the Union Pacific railroad tracks and State Route 99 already transect a near-center area of the City's limits, which impedes connectivity and cohesiveness. HSRA further acknowledges that its preliminary estimate of the cost of constructing high-speed rail infrastructure along a Union Pacific railroad/State Route 99 ("UPRR/SR99") alignment is almost half a billion dollars (\$.47 billion) more than the next most expensive non-UPRR/SR99 alignment within the Wye Area that HSRA currently is evaluating. HSRA will consider these factors when it determines whether a UPRR/SR99 alignment is feasible under CEQA. The attached map (at Attachment C) shows the Wye Area routes being recommended by HSRA staff to be carried forward for environmental evaluation. If the UPRR/SR99 alignment is selected and approved as the preferred alternative route, the HSRA will consult and work with the City in good faith to address the City's above issues and carry forth appropriate means to ameliorate those issues.

4.3 HSRA agrees to consider in good faith the City's concerns and potential issues set forth in subsections 4.1 and 4.2 above, as the City has expressed in more detail in various communications to HSRA and as the City may further express as HSRA's development of alternatives in the Wye Area evolves, as alternatives may be eliminated from further consideration, and in ultimately selecting an alignment within the Wye Area. HSRA will not select an alignment in the Wye area solely based upon the May 3, 2012 Final Environmental Impact Report ("FEIR") approved by the HSRA Board as Resolution 12-19.

4.4 HSRA will work with the City to draft and execute appropriate cooperative agreements to address issues such as, but not limited to, utility relocations, relocation assistance and the like.

5. Legal Fees and Other Costs.

5.1 HSRA agrees to pay the City \$300,000 related to the City's attorney fees and costs incurred in connection with filing and pursuing the Chowchilla Lawsuit. HSRA will make the payment after HSRA finalizes and certifies the CEQA document on the Wye Area and approves a Wye alignment and the statute of limitations for a CEQA lawsuit challenging that CEQA document has run. HSRA will not make the payment if HSRA approves a Wye Area alignment that does not include a UPRR/99 or Avenue 24 alignment within City limits (i.e., if HSRA avoids making a decision that would be unacceptable to the City) and the City sues HSRA anyway.

5.2 HSRA shall not pursue recovery from the City of any costs incurred by HSRA in its preparation of the Record or otherwise associated with the preparation of the Record for the Chowchilla Lawsuit. By agreeing not to pursue recovery of such costs from the City, HSRA is not explicitly or implicitly waiving its rights to seek recovery from the petitioners and plaintiffs in the Related Lawsuits of the full amount of costs HSRA incurred in preparing the Record.

6. Reservation of Rights. Nothing in this Agreement, including the dismissal of the Chowchilla Lawsuit, shall affect the rights of the City in seeking to enforce or obtain a remedy for, or in connection with, any future approvals made by HSRA regarding the San Jose to Merced Section EIR or any EIR or other CEQA document that is the basis for a selection of alignments by HSRA in the Wye Area. HSRA waives any rights to claim in any such lawsuit that the City by entering the Agreement waived any arguments or claims regarding the San Jose to Merced Section EIR or any EIR or other CEQA document that is the basis for a selection of alignments in the Wye Area, except to the extent the City relies on such arguments or claims in seeking to enjoin or obtain a writ equivalent to an injunction stopping or suspending the ICS.

7. Notices. All notices, requests, demands, and other communications required or permitted under this Agreement shall be given in writing by regular mail, overnight courier, facsimile, or as attachments to emails to:

If to HSRA:
California High Speed Rail Authority
Chief Counsel
770 L Street, Suite 800
Sacramento, CA 95814
Phone: (916) 324-1541
Fax: (916) 322-0827
tfellenz@hsr.ca.gov

Submission 296 (Akami Yang, On Behalf of City of Chowchilla, October 28, 2019) - Continued

With a copy to:
James Andrew
Deputy Attorney General
1300 I Street
P.O. Box 944255
Sacramento, CA 94244
Phone: (916) 323-1722
Fax: (916) 327-2319
Email: james.andrew@doj.ca.gov

If to the City:

City of Chowchilla
City Administrator
130 S. Second Street
Civic Center Plaza
Chowchilla, CA 93610
Phone: (559) 665-8615
Fax: (559) 665-7418
Email: mlewis@ci.chowchilla.ca.us

With a copy to:

Thomas Ebersole
Cota Cole LLP
730 North I Street, Suite 204
Madera, CA 93637
Phone: (559) 675-9006
Fax: (559) 675-9050
Email: tebersole@cotalawfirm.com

8. Representations and Warranties: General Provisions. Each of the Parties represents, warrants, and agrees as follows:

8.1 The descriptive headings and titles used in this Agreement are for convenience only and shall not affect the meaning of any provision of this Agreement.

8.2 Each Party to this Agreement has received independent legal advice from its attorneys with respect to the advisability of making the settlement provided for herein, and with respect to the advisability of executing this Agreement.

8.3 This Agreement contains all of the representations and the entire understanding and Agreement among the Parties with respect to the matters described in the Agreement. Correspondence, memoranda, and oral and written Agreements that

5

originated before the date of this Agreement are replaced in total by this Agreement unless otherwise expressly stated in this Agreement.

8.4 This Agreement may be modified or amended only by written agreement executed by all of the Parties.

8.5 Nothing in this Agreement, express or implied, is intended to confer upon any person, other than the Parties, any rights or benefits under or by reason of this Agreement. There are no third party beneficiaries of this Agreement.

8.6 In any litigation between the Parties regarding this Agreement, the prevailing party shall be entitled to recover, in addition to such other relief as may be granted, its reasonable costs and expenses, including reasonable attorneys' fees and court costs.

8.7 This Agreement may be executed in multiple counterparts, each of which shall be deemed an original and all of which together shall constitute one Agreement. One or more signatures on this Agreement may be executed and delivered by facsimile or by PDF or JPEG attachment to an email, and each such signature shall constitute an original and valid signature. This Agreement shall become effective immediately following execution by all of the Parties on the latest date appearing below.

8.8 If any term, provision, covenant, or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the Parties shall amend this Agreement and/or take other action necessary to achieve the intent of this Agreement in a manner consistent with the ruling of the Court.

8.9 The individuals signing this Agreement on behalf of each Party represent and warrant that they have full authority and are duly authorized to do so on behalf of the Party they represent.

8.10 The Parties shall cooperate to ensure that the steps necessary to implement this Agreement are carried out. The Parties to this Agreement agree to execute any further documentation that may be required to carry out the purpose of this Agreement and perform all acts necessary to effectuate the provisions of this Agreement. If any dispute related to the terms of this agreement arise between or among the Parties, the Parties will first meet and discuss the dispute in good faith in an attempt to resolve it.

8.11 The Parties agree that specific performance is an appropriate remedy for enforcement of this Agreement.

6

Submission 296 (Akami Yang, On Behalf of City of Chowchilla, October 28, 2019) - Continued

9. Judgment. The Parties shall endeavor to have the terms of this Agreement incorporated into a judgment, but this Agreement is valid and binding even if a judgment cannot be obtained despite the best efforts of the Parties.

Dated: January 22, 2013 CITY OF CHOWCHILLA, a California
Municipal Corporation



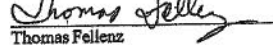
Mayor Dennis Haworth


Dated: January 24, 2013 CALIFORNIA HIGH SPEED RAIL
AUTHORITY, a California State Agency



CEO Jeff Morales

APPROVED AS TO FORM:

Dated: January 24, 2013 
Thomas Fellenz
Chief Counsel
California High Speed Rail Authority

Dated: January 22, 2013 
Thomas Ebersole
City Attorney
City of Chowchilla

Response to Submission 296 (Akami Yang, On Behalf of City of Chowchilla, October 28, 2019)

296-560

Please refer to the response to submission MF2-247, comment 177.

296-561

Please refer to the responses to submissions MF2-247, comment 178 and MF2-249, comment 304. No further revisions to mitigation measures are required.

296-562

Please refer to the response to submissions MF2-245, comment 146 and MF2-247, comment 179.

Also refer to CVY-Response-GENERAL-7, Relationship Between the Merced to Fresno Final EIR/EIS and Central Valley Wye Final Supplemental EIR/EIS Documents.

296-563

Please refer to the response to submission MF2-247, comment 180.

296-564

Please refer to the response to submission MF2-247, comment 181.

Section 3.11.6.3 of the Draft Supplemental EIR/EIS provides an analysis of temporary, permanent, and continuous interference with emergency response times for each of the Central Valley Wye alternatives (please refer to Impact SS#1, Impact SS#2, and Impact SS#8). Sufficient access would be provided, and none of the alternatives would be expected to affect the ability of local jurisdictions to meet response time goals, affect service ratios, or affect other performance objectives for emergency services. Grade-separated interchanges proposed as part of the Central Valley Wye alternatives would provide a benefit by reducing traffic delay at current at-grade intersections and would provide direct access for emergency responders across the HSR right-of-way.

296-565

Please refer to the response to submission MF2-247, comment 182

296-566

As set forth in TR-IAMF#1, prior to construction, the contractor will provide a photographic survey, documenting the condition of the public roadways that would provide access to the project area for trucks. Following construction, the contractor will be responsible for repairing structural damage to the roadways to return them to pre-construction condition or better. The contractor will be required to submit a before-and-after road conditions report to the Authority for review. This will ensure that the project will not result in deterioration on local streets and rural roads from use by construction traffic.

As required by TR-IAMF#2, during final design, the project contractor will prepare a detailed CTP, which will describe protection of public roadways during construction; sequencing construction operations, temporary closures, and detours; provisions for off-street parking for construction-related vehicles as well as parking during special events; maintenance of pedestrian, bicycle, and transit access; and restrictions on construction hours and truck routes. As set forth in TR-IAMF#2, the CTP would be developed and implemented in close consultation with affected jurisdictions, offering ample opportunity for local jurisdictions' concerns to be understood and incorporated. In addition, specific traffic control plans will be prepared during each phase of construction.

As stated on page 3.2-13, and in several impact discussions, the Authority will continue to coordinate with local jurisdictions, including the Chowchilla Department of Public Works, through final design to identify construction impacts, mitigation requirements, facility designs, traffic control plans, and construction monitoring activities.

Response to Submission 296 (Akami Yang, On Behalf of City of Chowchilla, October 28, 2019) - Continued

296-567

Please refer to the response to submission MF2-247, comment 184.

Please also note that local government land use plans are not applicable to the HSR project because the HSR project is a state project, and, as such, is not subject to local government's jurisdictional issues of land use. Additionally, because long-term land use planning needs in the city of Chowchilla must consider circumstances beyond the proposed project, the Authority respectfully declines the request for funding to support such updates.

296-568

Please refer to the response to submission MF2-247, comment 185.

As stated on page 3.2-13, and in several impact discussions, the Authority will continue to coordinate with local jurisdictions, including the Chowchilla Department of Public Works, through final design to identify construction impacts, mitigation requirements, facility designs, traffic control plans, and construction monitoring activities.

296-569

Please refer to the response to submission MF2-247, comment 186.

296-570

Please refer to the response to submission MF2-247, comment 187.

The transportation impact analysis reviewed both the temporary and permanent proposed roadway closures and modifications, including grade separations, that would be caused by the Central Valley Wye alternatives to determine possible traffic rerouting. This analysis was completed for the current (15 percent) level of design; final design of the roadways and interchanges will occur at a later stage in the process (refer to Section 3.2.4.3, page 3.2-13). The Authority has coordinated with and will continue to coordinate with Caltrans and local jurisdictions regarding potential impacts on roadways. The comments on roadway connections are noted.

296-571

Please refer to the response to submission MF2-247, comment 188.

296-572

Please refer to the response to submission MF2-147, comment 189.

As stated on page 3.2-13, and in several impact discussions, the Authority will continue to coordinate with local jurisdictions, including the Chowchilla Department of Public Works, through final design to identify construction impacts, mitigation requirements, facility designs, traffic control plans, and construction monitoring activities.

296-573

The Authority is committed to reducing the potential for interruptions for residences, businesses, schools, and emergency vehicles during construction activities. As required by TR-IAMF#1 and TR-IAMF#2, the project contractor will protect public roadways during construction and prepare a detailed CTP, which will describe construction phasing and schedules; provisions to minimize access disruptions for residents, businesses, delivery vehicles, and buses to the extent practicable; and the protection of public roadways during construction. As set forth in TR-IAMF#2, the CTP would be developed and implemented in close consultation with affected jurisdictions, offering ample opportunity for local jurisdictions' concerns to be understood and incorporated. The request for funding is noted.

296-574

The Authority has coordinated with and will continue to coordinate with Caltrans and local jurisdictions regarding potential impacts on roadways. Your comments on roadway connections are noted.

296-575

Please refer to the response to submissions MF2-247, comment 193 and MF2-247, comment 194.

Response to Submission 296 (Akami Yang, On Behalf of City of Chowchilla, October 28, 2019) - Continued

296-576

A detailed discussion of wind-induced dust related to HSR travel was provided in the Draft Supplemental EIR/EIS on page 3.14-27, under the subheading Impact AG#7: Wind-Induced Effects. As discussed therein, "...an HSR train traveling at 220 mph would generate a wind gust up to 22 mph lasting less than 1 second at a distance of approximately 10 feet from the train tracks. Wind speed is estimated at approximately 3 mph at the edge of the HSR right-of-way." As stated on page 3.3-35 under the subheading Meteorological Conditions, mean wind speeds in the project vicinity typically range from 5 to 8 miles per hour. Given that train-induced wind speeds would be less than the mean ambient wind speed at the edge of the HSR right-of-way, impacts related to train-induced fugitive dust generation would be less than significant.

Construction of new railroad and grade separation improvements would have no material effect on local climate conditions.

In response to the recent *Sierra Club v. County of Fresno* decision, the air quality discussion in this Final Supplemental EIR/EIS has been expanded to include a discussion of health risks related to criteria pollutant emissions.

Sensitive Receptors were identified in Table 3.3-5 on page 3.3-35 of the Draft Supplemental EIR/EIS. Localized impacts on these sensitive receptors were evaluated under subsection Impact AQ#6: Temporary Direct Impacts on Air Quality - Localized Health Impacts, starting on page 3.3-64. As disclosed therein, localized construction emissions impacts on sensitive receptor locations would be less than significant.

Projects whose net construction- and operations-period criteria pollutant emissions fall below General Conformity de minimis levels are deemed to conform to the State Implementation Plan. With respect to the proposed project, the Authority has entered into an MOU with the SJVAPCD to offset project construction emissions to zero via SJVAPCD's Voluntary Emission Reduction Agreement program. As such, project construction emissions would be offset to zero. A copy of this MOU has been included as an attachment to this Final Supplemental EIR/EIS.

With respect to long-term project operations, the proposed project would result in a net reduction in all criteria pollutant emissions, as detailed in the Draft Supplemental

296-576

EIR/EIS in Table 3.3-19 on page 3.3-66. As such, the proposed project would not impede the region's ability to demonstrate conformity under the federal Clean Air Act. Additional requirements to demonstrate federal Clean Air Act conformity are not required.

296-577

The decrease and increase in noise from accelerating and decelerating between 150 miles per hour and 220 miles per hour would be negligible given the electric operating technology. There would be no change in the conclusions regarding noise effects.

Typically, only vibrations caused by earthquakes have the potential to affect water wells. This is because an earthquake can shift the well pipe at its connecting joints or break the pipe welding at the connecting joints. Because vibration from trains can only travel efficiently along the ground surface, the trains are typically not capable of generating sufficient vibration to dislocate the well pipe.

296-578

Please refer to the analyses in Section 3.12 regarding socioeconomic impacts generally and Chapter 5 for the assessment of effects on identified minority and low-income communities. In addition, please also refer to the related responses to submission MF2-247, comments 212, 222, and 228.

296-579

Please refer to the response to submission MF2-247, comment 202.

Response to Submission 296 (Akami Yang, On Behalf of City of Chowchilla, October 28, 2019) - Continued

296-580

Please refer to the response to submission MF2-247, comment 308.

The comment is noted. The Authority will continue to engage with the community of Fairmead regarding proposed construction timing and coordination with pending city projects. During the next project design phase, the Authority will develop a process by which local agencies can coordinate with the Authority regarding utility facility right-of-way access needs. The comment does not introduce any new environmental issue.

296-581

Please refer to the response to submission MF2-247, comment 218.

296-582

Please refer to the responses to submission MF2-245, comments 205 and 115.

296-583

Please refer to the response to submission MF2-245 comment, 115 and submission MF2-247, comment 206.

296-584

Please refer to the response to submissions MF2-247, comment 207 and MF2-247, comment 208.

296-585

Please refer to the response to submission MF2-247, comment 208.

296-586

The simulations for every KVP are not included in the Draft Supplemental EIR/EIS. The simulation for KVP 10, looking from SR 152 toward Chowchilla, under the SR 152 (North) to Road 13 Wye Alternative may be found in the Merced to Fresno Project Section Central Valley Wye Aesthetics and Visual Resources Technical Report as Figure 6-6, KVP 10, SR 152 near Road 17½. The tree line and various buildings are still visible from the highway. Views of the same are also visible, to a lesser degree, in the simulation for the SR 152 (North) to Road 19 Wye Alternative, shown in the Draft Supplemental EIR/EIS on Figure 3.16-25. The statement regarding the relative visual impacts of the alternatives in the Draft Supplemental EIR/EIS is correct. The statement that visual effects will have adverse economic effects is highly speculative and unsupported.

AVR-IAMF#1, Design Standards, and AVR-IAMF#2, Context Sensitive Solutions, explain the process whereby the Authority and local jurisdictions will develop aesthetic treatments, including landscaping, to visually integrate the HSR infrastructure with the local aesthetic.

Aesthetic and Visual Resources mitigation measures AVR-MM#4 and AVR-MM#5 describe actions that will be undertaken by the Authority to address ongoing maintenance of landscaping and structures. These measures include commitments to initial landscape installation, irrigation, and maintenance.

296-587

Please refer to the response to submission MF2-247, comment 210.

296-588

Please refer to the response to submission MF2-247, comment 211.

Response to Submission 296 (Akami Yang, On Behalf of City of Chowchilla, October 28, 2019) - Continued

296-589

Please refer to the response to submission MF2-247, comment 212.

In accordance with Section 15064(e) of the CEQA Guidelines, “economic and social changes resulting from a project shall not be treated as significant effects on the environment.” Accordingly, the purported impacts related to “loss of our way of life, the loss of generational legacy” that the commenter noted would not be considered environmental impacts under CEQA.

296-590

Please refer to the response to submission MF2-247, comment 215.

296-591

Please refer to the response to submission MF2-247, comment 214.

296-592

Please refer to the response to submission MF2-247, comment 215 as well as CVY-Response-GENERAL-2: Alternatives Analysis and Selection for CVY.

296-593

Please refer to the response to submission MF2-247, comment 216.

296-594

Please refer to the response to submission MF2-247, comment 217.

296-595

Please refer to the response to submission MF2-247, comment 218.

Please also note that local government land use plans are not applicable to the HSR project because the HSR project is a state and federal government project, and, as such, is not subject to local governments’ jurisdictional issues of land use. The request for funding is noted, though as the preemptive State agency, the Authority respectfully declines this request. However, the Authority will incorporate a formal process by which local agencies may request to install utilities underneath the right-of-way where necessary and justified by local agencies. This formal process will be codified during the next design phase, which will establish a means by which local utilities may work with the Authority for such utility planning activities.

296-596

Please refer to the response to submission MF2-247, comment 219.

296-597

Please refer to the response to submission MF2-247, comment 220.

296-598

Please refer to the response to submission MF2-247, comment 220.

Response to Submission 296 (Akami Yang, On Behalf of City of Chowchilla, October 28, 2019) - Continued

296-599

As described on page 3.18-21 of the Draft Supplemental EIR/EIS, the Authority is committed to helping lower-income persons, persons receiving public assistance, single parents, persons with no high school or General Education Development diploma, and those who suffer from chronic unemployment compete for available jobs. In addition, through the Community Benefits Agreement, the Authority requires each prime contractor of an awarded construction package to commit 30 percent of all construction dollars to hiring small businesses, with separate goals for hiring disadvantaged and disabled-veteran businesses.

With respect to the suggestion about implementing a formal economic impacts mitigation measure, the impact discussions referenced in the response to submission MF2-245, comment 124, fully represent the potential economic impacts that could occur as a result of construction and operation of the Central Valley Wye alternatives. The measures described would provide fair compensation in areas where the impacts would not be otherwise outweighed by the local and regional benefits of the HSR project.

The Authority respectfully disagrees with the assertion that the Authority needs to “comply with its CEQA obligations to implement feasible mitigation measures.” As described earlier in this response, the potential economic and employment impacts are fully and adequately represented in the Draft Supplemental EIR/EIS. Furthermore, in accordance with Section 15064(e) of the CEQA Guidelines, “economic and social changes resulting from a project shall not be treated as significant effects on the environment.” Accordingly, the purported impacts that the commenter identifies would not be identified as a potentially significant and therefore would not require mitigation under CEQA.

Lastly, although some individuals may experience indirect employment changes as a result of construction of the HSR project, the region as a whole would experience economic benefits and employment opportunities from construction and operation of the HSR project, as described in response to submission MF2-245, comment 124.

296-600

As described in Impact SO#15, Permanent Impacts on County and City Property Tax Revenues from Property Acquisition, on pages 3.12-63 and 3.12-64, and in Impact SO#21, Permanent Impacts on County and City Property Tax Revenues from Changes in Property Values, on pages 3.12-69 and 3.12-70 of the Draft Supplemental EIR/EIS, the Authority acknowledges that there would be some decrease in property tax revenues as a result of construction of the Central Valley Wye alternatives. However, the loss would represent a small percentage of the total tax revenues collected by the counties. In addition, the loss in property tax revenues would be partially offset by anticipated increases in sales tax revenues (described in Impact SO#22, Permanent Impacts on Sales Tax Revenues, on page 3.12-70 of the Draft Supplemental EIR/EIS). Furthermore, as described on page D-11 in Appendix 3.12-D, Economic Effects on School Districts, of the Draft Supplemental EIR/EIS, the regional benefits of the HSR project could increase property values in some areas of the San Joaquin Valley as a result of the region’s increased connectivity to the rest of the state, partially counteracting some of the decrease in local property tax revenues.

296-601

Please refer to Standard Response: CVY-Response-GENERAL-4: Heavy Maintenance Facility.

296-602

Please refer to submission MF2-247, comment 227.

296-603

Please refer to the responses to submission MF2-247, comment 220, regarding the proposed industrial park, and submission MF2-247, comment 228, regarding property values in Chowchilla. Additionally, please refer to CVY-Response-SO-01: HSR Project Will Lower Property Values Due to Nearby Alignment.

296-604

Please refer to the responses to submission MF2-243, comment 94, regarding Section 3.12, Agricultural Farmland, and submission MF2-245, comment 124.

Response to Submission 296 (Akami Yang, On Behalf of City of Chowchilla, October 28, 2019) - Continued

296-605

The comment is not challenging any specific assertion of the Draft Supplemental EIS/EIR, but is rather making a speculative case about the city of Chowchilla's possible future water needs.

During the next project design phase, the Authority will develop a process by which local agencies can coordinate with the Authority regarding utility facility right-of-way access needs. The comment does not introduce any new environmental issue.

While the Authority is sympathetic to the concerns expressed in the comment, the comment is beyond the scope of the proposed project. There is no clear nexus between the project's footprint through the city of Chowchilla and the request for participation in the cost of developing a surface water alternative source.

296-606

Please refer to the responses to submission MF2-247, comments 232 and 233.

296-607

Please refer to the response to submission MF2-247, comment 234.

296-608

Please refer to the response to submission MF2-247, comment 235.

296-609

Please refer to the response to submittal MF2-247, comment 236.

Submission 298 (James Traber, Fagen, Friedman, Fulfrost, LLP on behalf of Chowchilla School District, October 28, 2019)

Merced - Fresno 2014+; Central Valley Wye - RECORD #298 DETAIL

Status : Action Pending
Record Date : 10/29/2019
Submission Date : 10/28/2019
Interest As : Local Agency
First Name : James
Last Name : Traber
Submission Content :

Attached is a comment letter on behalf of Chowchilla Elementary School District.

[cid:image001.png@01D58D7E.5EAEFE20]<http://www.f3law.com/>

James Traber

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Attachments : 10.28.19 CESD Comment letter Draft Supplement EIS EIR for Merced to Fresno.pdf (1 mb)



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October 28, 2019

Via U.S. Mail and E-Mail
CentralValley.Wye@hsr.ca.gov

Attn: Draft Supplemental EIS/EIR for the
Merced to Fresno Project Section
California High-Speed Rail Authority
770 L Street, Suite 620 MS-1
Sacramento, CA 95814

Re: Chowchilla Elementary School District's Comments on the Draft Supplemental EIS/EIR for the Merced to Fresno Section

To Whom it May Concern:

We act as general counsel to the Chowchilla Elementary School District ("District"). On behalf of the District, we are writing to provide these comments in response to the Draft Supplemental Environmental Impact Report/Environmental Impact Statement ("EIS") for the Merced to Fresno Section of the California High-Speed Rail Project ("Project"). The District objects to the Project, and requests that the California High-Speed Rail Authority ("Authority"), as lead agency, consider and address the environmental impacts as discussed herein in order to adequately comply with the National Environmental Policy Act ("NEPA").

Background

The District notes that it owns a property within approximately 300 feet of the Project's footprint whereupon both a preschool ("Fairmead Head Start") and an Elementary School ("Fairmead Elementary") operate. These sensitive receptors are located adjacent to various farming operations which themselves create an environment containing dust and fumes at higher levels than normal for this community. Additionally, under the District's bussing program, students are transported to schools based on their *grade level* as opposed to their neighborhood. A significant number of the District's students use school busses, and thus road closures and changes in transportation routes have a significant effect on a large number of students and parents, as well as the District itself.

Submission 298 (James Traber, Fagen, Friedman, Fulfrost, LLP on behalf of Chowchilla School District, October 28, 2019) - Continued

October 28, 2019
Page 2

Legal Standard

Under NEPA, the requirement that agencies prepare an environmental impact statement (“EIS”) considering the environmental impacts of a proposed action and evaluating alternatives to the proposed action before the agency takes major action significantly affecting the quality of the human environment serves two important functions: (1) it ensures that the agency, in reaching its decision, will have available, and will carefully consider, detailed information concerning significant environmental impacts, and (2) it also guarantees that the relevant information will be made available to the larger audience that may also play a role in both the decision making process and the implementation of that decision. (*Rags Over the Arkansas River, Inc. v. Bureau of Land Management* (D. Colo. 2015) 77 F. Supp. 3d 1038.)

NEPA requires that an agency fairly evaluate environmental consequences of a project and, in so doing, that it discuss a mitigation plan in sufficient detail to demonstrate that the agency took a hard look at the impact of a project. (*See* 42 U.S.C. §§ 4321-4347; *West Branch Valley Flood Protection Ass’n v. Stone*, (1993), 820 F. Supp. 1.)

Under the regulations implementing the NEPA EIS requirement, an agency must discuss mitigation measures in sufficient detail to ensure that environmental consequences have been fairly evaluated. (42 U.S.C. § 4332.; 40 C.F.R. §§ 1502.14(f), 1502.16(h); *Wetlands Water Dist. v. U.S. Dept. of Interior*, (Cal. 2004) 376 F.3d 853.) Doing so helps to ensure that the agency has taken a “hard look” at the environmental consequences of its proposed action. (*Id.*) Implicit in NEPA’s requirement that an EIS include a detailed statement regarding any adverse environmental effects that cannot be avoided is the understanding that the EIS will discuss the extent to which steps can be taken to mitigate adverse environmental consequences; omission of a reasonably complete discussion of possible mitigation measures would undermine the action-forcing function of NEPA and prevent the agency and interested parties from properly evaluating severity of adverse effects. (National Environmental Policy Act of 1969, § 102(2)(C)(ii); 42 U.S.C. § 4332(2)(C)(ii); *Laguna Greenbelt, Inc. v. U.S. Dept. of Transp.*, (Cal. 1994) 42 F.3d 517.)

298-616

1. EJ-MM #1 And Related Sections of the EIS Fail to Ensure that Environmental Impacts, Mitigation Measures and Alternatives Have Been Fairly Evaluated or Addressed

a. *EJ-MM#1 Commits The Project to the Purchase of Fairmead Elementary*

The Authority has identified EJ-MM#1 as a mitigation measure to minimize impacts associated with the construction of the three alternatives involving SR-152 (“Central Valley Wye Alternatives”) that would pass through the community of Fairmead.

As acknowledged in the EIS, Fairmead Elementary is one of a limited number of locations that serves as one of the Fairmead community’s only gathering places. (*See* EIS, Chapter 5, Section 5.4.1.2.) The school is “an important meeting place for community members

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after school hours and hosts meetings of Fairmead Community and Friends, a citizen-organized group that advocates for community improvements.” (*Id.*)

The EIS also notes that construction of the Central Valley Wye Alternatives would result in temporary and permanent adverse impacts on the community cohesion of Fairmead. (*Id.* at Section 5.6.3.1.) Community Cohesion is defined as “the degree to which residents have a sense of belonging to their neighborhood, a level of commitment to the community, or an association with neighbors, groups, and institutions, usually as a result of continued association over time.” (*Id.*) Specifically, the Authority acknowledges in the EIS that construction activities for the Central Valley Wye Alternatives, which would occur over a 1- to 3-year period at any given location, would introduce a visible and functional barrier that could deter neighbors from interacting, participating in community activities, and supporting each other, and could result in a perception by area residents that they have been separated from their community. (*Id.*)

Under EJ-MM#1, the Authority committed to the purchase of Fairmead Elementary from the District. EJ-MM#1 anticipates such purchase *after* Fairmead Elementary is closed and the Elementary District builds a new school in Chowchilla. (*Id.* (emphasis added).) Under EJ-MM#1, after the purchase, the Authority would transfer the school site to the County of Madera for operation and maintenance as a community center for the residents of Fairmead. (*Id.*)

The EIS notes that the purchase of Fairmead Elementary would provide residents a permanent meeting place for community gatherings and events. (*Id.*) The EIS further notes that this mitigation measure, in conjunction with EJ-MM#2, provision of water and sewer service for the Fairmead community, would reduce the adverse impacts on community cohesion from construction of any of the three SR 152 alternatives.

298-616

b. *EJ-MM#1 Improperly Conditions The Need to Mitigate Impacts On the Closure of the School (Instead of the Implementation of the Project)*

As discussed above, EJ-MM#1 anticipates that HSR would purchase the Fairmead Site *after* it is vacated by the District, but also **provides that if the District does not vacate the site, no mitigation will be necessary.** To be clear, the impact on community cohesion is being created by the Project, and not the school closure. The closure of the school affects only the *availability of one possible mitigation measure*, and does not dictate whether there is a significant impact on the environment.

For example, regardless of the closure of Fairmead Elementary, the EIS recognizes that, “[c]onstruction of any of the SR 152 alternatives would have localized temporary impacts on noise, visual quality, and transportation, which could, in turn, have implications on community cohesion and social engagement in Fairmead.” (Section 5.6.3.1.) As addressed above, the EIS also states that construction activities for the Central Valley Wye Alternatives would introduce a visible and functional barrier and could, among other

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impacts, result in a perception by area residents that they have been separated from their community. (*Id.*)

The EIS assumes that if the District retains the Fairmead Site, it will satisfy the need to mitigate the impact on community cohesion. This assumption is improper because there is nothing securing the Fairmead Site for long-term or interim community use. The EIS should contain a more thorough and meaningful study of the short and long term measures needed (and options available) to mitigate the impact on community cohesion. Potential alternative measures and related considerations include:

- the construction of a new and stand-alone community center;
- a joint use agreement with the District for community use of Fairmead Elementary (which could include a lease of a portion of the site and/or site improvements to provide a space specific to community use);
- a sale-leaseback transaction whereby the Authority agrees to purchase Fairmead Elementary and lease it back to the District until the District relocates (allowing for community use of the site during the leaseback period). This seems to be anticipated on page 8-16, but the parameters of the duration and type of community use are not meaningfully explored.

298-617

c. *Further Study (And A Supplemental EIR/EIS) Would Be Needed to Analyze Other Mitigation Options and Their Effects*

Although EJ-MM#1 commits the Authority to purchasing Fairmead Elementary, we understand that the Authority has recently been also considering the construction of a new Community Center in Fairmead. Of course, this would be a departure from the long-standing conversations between the Authority and the District and would directly conflict with the content of the current EIR/EIS.

Whereas EJ-MM#1 would have required the purchase of Fairmead Elementary, the abandonment of that mitigation measure would mean that the Project's transportation, noise, and dust impacts on the Fairmead Elementary site would last much longer than initially anticipated by the District.

If a new Community Center is to be constructed to mitigate the impacts of the Project, that action would itself create significant environmental impacts that should have been considered as part of the overall impacts of this Project within this EIS. Further study would be needed to evaluate the impacts of the construction of a new Community Center, as well as the longer-term impacts of the Project on the Fairmead Elementary and the families that attend there.

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298-618

2. The EIS Fails to Adequately Address the Impacts on Air Quality, Noise, Transportation, and Future Bonding Capacity and Mitigation Measures Regarding the Same.

A key requirement under NEPA is the analysis of a project's environmental impacts. Under NEPA, the environmental consequences section of an EIS must discuss direct and indirect impacts of the proposed project. (40 C.F.R. § 1502.16(a)-(b)). The NEPA regulations define "effects" as "direct effects, which are caused by the action and occur at the same time and place" (40 C.F.R. § 1508.8(a)). Indirect effects include effects "later in time or farther removed in distance, but are still reasonably foreseeable" (40 C.F.R. § 1508.8(b)).

Further, mitigation measures discussed in an EIS must cover the range of impacts of the proposal. Mitigation measures must be considered even for impacts that by themselves would not be considered "significant." (40 C.F.R. § 1502.16(h); CEQ, "Forty Most Asked Questions Concerning CEQ's National Environmental Policy Act Regulations," Answer to Question 19a.) Once the proposal itself is considered as a whole to have significant effects, all of its specific effects on the environment, whether or not "significant," must be considered, and mitigation measures must be developed where it is feasible to do so. (*Id.*) If an agency does not adopt feasible mitigation measures in an EIS, it must justify its decision. (CEQ and State of California Governor's Office of Planning and Research, "NEPA and CEQA: Integrating Federal and State Environmental Reviews," Section 7.)

Here, the EIS fails to satisfy NEPA requirements by failing to evaluate the effects and related mitigation measures with respect to quality, noise and vibration, transportation, and future bonding capacity impacts that would affect the District if the Project or any of the SR-152 alternatives are approved.

298-619

a. Air Quality Impacts

The Authority acknowledges that students attending Fairmead Elementary and Fairmead Head Start are considered sensitive receptors. The EIS addresses impacts to students' air quality as a result of emissions from construction activities and ultimately concludes that such emissions and pollutants will not exceed applicable U.S. National Ambient Air Quality Standards ("NAAQS") and California Ambient Air Quality Standards ("CAAQS"). (See Appendix 3.12F). The EIS also concludes that with mitigation measures, the impacts would be less than significant based on the reduction of pollutant emissions. (page 3.3-49).

The EIS fails to meaningfully consider and address the impacts on air quality from the operation of a high-speed rail in such close proximity to Fairmead Elementary and Fairmead Head Start. Despite acknowledging that these sites, containing children, are

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298-619 only 300-400 feet away from the project footprint, there is no analysis of the actual effects of the Project *on these particular sites*.

The data reviewed is from 2013 to 2015, which is too old to account for current environmental conditions. Moreover, the air quality monitoring stations that form the basis for the EIS' analysis are too far away from these sensitive receptors to provide meaningful data about the impact of the Project on these sensitive receptors.

The reality is that the farming operations near these sites create pre-existing dust and fumes that are not accounted for in the analysis. This dust and fumes will undoubtedly be recirculated and pushed toward the schools by the train, which will be traveling at high speeds, sometimes more than ten times per day, within a few hundred feet.

298-620 The District serves students with special needs and respiratory health conditions, yet no analysis is offered regarding the effect of air quality on these sites specifically. The use of broad regional data masks the reality that the students on these sites will suffer from decreased air quality during construction and operation of the Project.

298-621 The District believes that the high speed rail operating so close to the campus would result in decreased air quality due to increased particulates of dust, pollen, etc. being stirred up as the train passes by at a high speed. The District believes that to maintain acceptable indoor air quality at the campus for young children and those with respiratory conditions it would need to replace upgrade and replace HVAC filters more frequently, and replace all of its HVAC units with units that have larger fan sizes to accommodate the higher static pressures needed to force air through these high density filters. The District obtained a quote to perform this work which totaled \$540,000. The District does not currently have a funding source for these improvements, which means the learning environment in this community would be negatively impacted.

298-622 b. Noise Impacts

The EIS also addresses noise impacts on the school site from construction and operation activities of the Central Valley Wye Alternatives. (See Appendix 3.12-F.) The EIS acknowledges that Fairmead Elementary is considered a noise-sensitive receptor, however, the EIS concludes that, by complying with certain Federal Transit Administration ("FTA") and Federal Railroad Administration ("FRA") guidelines, noise impacts would be minimized for noise-sensitive receptors at the Fairmead Elementary during construction, and that construction and operational noise would not exceed FTA/FRA thresholds at Fairmead Elementary.

However, the EIS uses baseline noise data from measurements taken *almost ten years ago*. (p. 3.4-12). Despite acknowledging an increase in traffic volume, inherently acknowledging that some property uses are no longer agricultural, the EIS concludes,

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298-622 *without any further or current testing*, that measurements taken between 2010 and 2012 are sufficient to analyze background noise.

298-623 Additionally, despite the Wye spanning many *miles* of area and traversing many different land uses and traffic patterns, the EIS appears to base its conclusions on a handful of measurements. Each area will of course have its own factors that affect noise measurement, and by using such a small number of measurements, the EIS cannot possibly account for the true baseline of noise for any particular area. Essentially, the EIS takes a small "sample" of the impacts (which may or may not be representative) and applies those conclusions as though they apply to all areas within the Resource Study Area. In light of the sensitive nature of the school sites, and the children that attend, a specific study should be applied to the school sites, rather extrapolating assumptions from old and nonspecific data.¹

298-624 The EIS admits that noise impacts during construction will be significant, but also asserts that the impacts will be reduced to less than significant levels for all Wye alternatives. The EIS further finds that operations noise will not be significant. Without any evidence specifically studying these sites, it is impossible to reasonably conclude that the construction of various roadway improvements and a high speed rail will have no effect on a school site within 400 feet of the construction. Similarly, without any specific evidence analyzing these sites, it is not possible to reasonably conclude that a train traveling at speeds 100-200 mph will have no sound effect on schools within 300-400 feet. These EIS' noise analysis conclusions are based on assumptions extrapolated from outdated data that does not accurately represent baseline conditions at these school sites.

298-625 Contrary to the conclusions in the EIS, the District believes that operation of any of the Central Valley Wye Alternatives are likely to have an impact on the learning environment of Fairmead Elementary and Fairmead Head Start. In order to reduce operational impacts to Fairmead Elementary, including abatement of noise and vibrations that would result from the Project, the District anticipates needing to replace all of the windows at the school site with durable, double-paned glass. The District has determined that such replacement would cost the District at least \$213,000 which is a significant cost to the District.

298-626 Additionally, the District believes a sound barrier should be constructed to shield the students in these classrooms from the sound that will be generated by the construction and operation of the Project. The EIS does not analyze the potential benefits or costs of a sound barrier in this location, instead, without any analysis it improperly concludes sound barriers are not proposed because they are not required under the Authority's

¹ Also, it is unclear whether the noise baseline analyzed is that discussed on p. 3.4-21, or the more general measure discussed at p. 3.4-3.

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298-626 | guidelines. This blanket deferral to self-created "guidelines" avoids meaningful analysis and deprives the Authority and the District of meaningful data about the potential benefits of sound barriers in specific locations where they might be warranted.

298-627 | c. Transportation Impacts

The Authority acknowledges that construction of road overcrossings associated with the Central Valley Wye Alternatives could affect school bus transportation routes for Fairmead Elementary. (See Appendix 3.12-F.) It also acknowledges that, "... operating school buses to take children to and from school every day is a key expense for school districts. Fuel costs are directly related to the distance traveled by the buses on their routes." (Id.)

The EIS provides that any permanent route changes required by road closures that would be associated with the SR-152 alternatives would be identified as the Authority completes the final design of the preferred alternative. (Id.) The District believes that a thorough analysis of these impacts should be performed now.

298-628 | The EIS further notes that this "should allow Fairmead Elementary School sufficient time to evaluate their existing routes and make any necessary adjustments. Because the Fairmead Elementary School would not be physically affected by the [SR-152 alternatives], buses can be rerouted to continue to provide service and no permanent impacts on the ability of route buses to pick up children would be expected." (Id.) As to mitigation measures, the EIS concludes that, "[a]ll construction and operations impacts would be minimized or avoided. No mitigation measures are required." (Id.)

The EIS arrives at the cursory conclusion that because Fairmead Elementary will be able to change transportation routes, Fairmead Elementary transportation routes would not be permanently impacted because alternative bus routes could be utilized to continue providing transportation services to children. This is not true.

In addition to being based on outdated baseline data from 2012 and 2013, the foregoing generalized statements are made without any input from the District. These statements are not based on evidentiary support or analysis of any particular bus route, and do not account for a comprehensive picture of the transportation impacts on the District.

298-629 | As detailed on Exhibit A, the District performed a meaningful and specific analysis of the transportation impacts of the Project on the District and its school bus operations. As a starting point, it should be noted that unlike some schools, the District's school sites are based on grade level (and not neighborhood). As a result, the omission of all of the District's other schools from the analysis in the EIS (including table 3.2-9) renders the EIS' analysis incomplete. All of the District's bus routes will be affected and should be included in this analysis.

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298-630 | Moreover, because some students need transportation at the mid-day point, the District's bus routes are run a minimum of three times per day. As noted on Exhibit A, there are at least 13 road closures and similar traffic changes created by the Project that will cause school bus "turnarounds" and "backtracks." The Project will also create the need for two new bus routes. Further, the Project will add a net 400 miles per day, and 72,400 miles per year in total school bus travel.

The foregoing evidence contradicts the EIS conclusion that "operations of the Central Valley Wye alternatives are not anticipated to generate any additional traffic..." (p. 3.2-12). The changes in bus routes described above, will have reverberating traffic effects throughout the community, and should be carefully analyzed. The wear on local roads will be increased, and the emissions from the busses will be multiplied. There is no meaningful evidentiary analysis of these factors in the EIS.

The Project will cause students on these routes to undertake longer ride times, at increased risks to their health and safety, none of which is studied in the EIS.

298-631 | Finally, in order to accommodate the impacts from the Project, the District estimates it will incur the following costs:

Transportation Mileage Cost (Equipment)
\$72,400 miles @ \$9.83 per mile
Cost includes – Labor (mechanic), Fuel, Parts, Repairs, Equipment, Etc.
Total Cost: **\$711,692**

Added Hours Per Route Changes
Per Year on Existing Routes: 724 hrs. at Step 6 (\$25.42 hrly)
Total Cost Impact: \$18,404 Salary
\$5,253 Statutory
23,657

Addition of 3 Busses to Address Routing Impacts / One Time Expenditure
3 Busses @ 170,000 approx. = **\$510,000**

Addition of 3 Bus Drivers @ 5 hrs. Daily
One Driver: \$22,051 Salary
\$6,383 Statutory Cost
\$7,042 Health and Welfare
\$35,476
3 Drivers: **\$106,428**

TOTAL IMPACT COST: \$1,351,777

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d. Bonding Capacity

The ability of the District to provide adequate school facilities to children is directly driven by its ability to use general obligation bond financing.

The California Education Code limits the amount of general obligation bonds that elementary school districts may sell during any fiscal year to 1.25% of the total taxable property within the school district. (Educ. Code § 15102 and 15268.) Therefore, a school district's bonding capacity (and ability to provide facilities) is directly tied to the total assessed value of property within its property.

Here, the Authority recognizes that the Project would result in the acquisition and displacement of residents, which would remove some private property from the local property tax rolls and reduce the local property tax revenues available to school districts. (See Impact SO #11.) However, the EIS fails to address how the net reduction in the number of taxable properties within the Elementary District will adversely impact the Elementary District's future bonding capacity, and thus the Elementary District's ability to maintain and construct school facilities for children in the community.

The EIS states, in pertinent part, that "[b]ecause school districts are funded, in part, from property taxes, it is likely that the removal of some private properties would result in a net reduction in the local property tax revenues available to school districts. The potential reductions in property tax revenues designated for school districts as a result of the Central Valley Wye Alternatives are estimated to be a \$930,000 reduction in revenues in Madera County. . . This impact is considered to be minor as a small portion of property tax revenue that is devoted to the school district would be affected." (See Appendix 3.12-F.)

In contrast, the Elementary District requested and was provided a list of the properties within the District that will be "taken" by the Project. After providing this data to the District's financial consultant, it was determined that, contrary to the conclusions reached in the EIS, the Project would result in a loss to the Elementary District of approximately 40 million dollars of assessed valuation (or approximately 3% of the District's overall tax base). This means a direct reduction in the quality of school facilities that can be provided to this community. The EIS improperly fails to analyze the effects of this loss on the quality of the schools, which will have a related effect on the surrounding community.

Moreover, the District's tax base is already encumbered by bonds, and the loss of 3% of the base may cause an inability to fund the debt service on these bonds. These

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impacts should be carefully analyzed and a mitigation plan should be analyzed and implemented.

The District appreciates the Authority's attention to this important matter. If you have any questions, please do not hesitate to contact us.

Very truly yours,

FAGEN FRIEDMAN & FULFROST, LLP



James Traber

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Exhibit A
Summary of Transportation Impacts of High Speed Rail

1. Problem road closures
 - a. Rd 12
 - b. Rd 11
 - c. Ave 23 ½
 - d. Ave 24 (both sides of the Wye)
 - e. Ave 24 ½
 - f. Ave 25 1/2
 - g. No freeway access to Rd 9
 - h. Rd 19 ½
 - i. Rd 20 ½
 - j. No freeway access to Rd 17 ½
 - k. Rd 15
 - l. No Freeway access to Rd 15 ¾
 - m. Rd 14 ½
2. Resources we must add to maintain our transportation schedule
 - a. Additional 4 bus routes
 - i. 2 routes at approximately 100 miles per day
 - ii. 2 routes at approximately 55 miles per day
 - b. Fuel Cost for additional routes
 - i. ?
 - c. Additional Drivers wages
 - i. 2 at 4.25 hours per day X \$23.09 an hour
 - ii. 2 at 5.00 hours per day X \$23.09 per hour
3. Resources we will add to our existing routes
 - a. Additional 400 miles per day of rerouting, back tracking and additional routes
 - i. Approximately 72,400 additional miles per year
 - b. Fuel cost for additional miles added
 - c. Approximately 4 hours of additional time added per day for rerouting and back tracking
 - i. Approximately 724 additional hours added per year
 - d. Wages for additional times added for rerouting and back tracking
4. Possible additional trouble issues
 - a. Construction of the Wye
 - b. Construction of over passes and underpasses
 - i. additional rerouting to get through construction areas

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- ii. additional time if rerouting is required

Fact Sheet for Each Route

Route# 1 Current Time 5.00 hours per day Current Miles 104 per day

- WYE splits this route in two
- Rd 12 Closure
- Rd 11 Closure
- Ave 23 ½ Closure
- Ave 24 Closure
- Ave 24 ½ Closure
- Ave 25 ½
- No freeway access to Rd 9
- Need 2 buses, one on each side of the WYE
- Add approximately 100 miles daily by adding another bus
- Additional 5.00 hours per day

Route #2 Current Time 5.50 hours per day Current Miles 101 per day

- Rd 15 closure
- Rd 14 ½ Closure
- Rd 15 ¾ no freeway access
- 2 mile of back track 3 times a day
- 4 miles of reroute 3 times a day
- Additional 12 minutes added 3 times a day because of back track and reroute

Route #3 Current Time 5.25 hours per day Current Miles 100 per day

- Rd 17 ½ closure no access to the freeway
- Reroute whole route
- Additional 20 miles back tracking and rerouting 3 times a day
- Additional 40 minutes added 3 times per day because of backtrack and reroute

Route #4 Current Time 5.25 hours per day Current Miles 82 per day

- Rail splits this route in two
- Rd 19 ½
- Rd 20 ½ Closure
- Need 2 Busses, one on each side of the rail
- Add approximately 100 miles per day by adding another bus
- Additional 5.00 hours per day

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Route #5 Current Time 5.75 hours per day Current Miles 120 per day

- Rd 19 ½ closure
- Reroute to get to Fairmead School
- 8 miles reroute per day
- Additional 16 minutes per day

Route #6 Current Time 5.75 hours per day Current Miles 118 per day

- Rd 19 ½ closure
- Reroute to get to Fairmead school
- 6 miles reroute 3 times a day
- Additional 12 minutes 3 times a day

Route #7 currently not a route

- Added route for town stops (country routes will no longer have time to have town stops because of all the rerouting and time required to get around rail)
- 4.25 hours per day
- 55 miles per day

Route #8 currently not a route

- Added route for town stops (country routes will no longer have time to have town stops because of all the rerouting and time required to get around rail)
- 4.25 hours per day
- 50 miles per day

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Response to Submission 298 (James Traber, Fagen, Friedman, Fulfroost,LLP on behalf of Chowchilla School District, October 28, 2019)

298-616

The Authority acknowledges that construction of any of the three SR 152 (North) wye alternatives would result in significant impacts on community cohesion, even with implementation of SO-MM#1 and SO-MM#2. No other feasible mitigation is available under CEQA to mitigate the impacts.

The comment states that the assumption that the need to mitigate impacts on community cohesion will be satisfied if the Chowchilla Elementary School District chooses to keep the Fairmead Elementary School open is incorrect. The Authority has proposed mitigation, which would apply regardless of the potential closure of the Fairmead Elementary School, to address community cohesion impacts on the community of Fairmead as described in Impact SO#2: Permanent Impacts on Communities—Community Cohesion in Section 3.12, Socioeconomics and Communities.

In the Draft Supplemental EIR/EIS, EJ-MM#1 had outlined a process by which the Authority would purchase Fairmead Elementary School (assuming the property became available for sale) and convert the school into a community center for Fairmead. In this Final Supplemental EIR/EIS, EJ-MM#1 has been revised to reflect that the Authority will instead provide funding to Madera County toward the purchase of a site and construction of a community center to serve Fairmead. EJ-MM#1 includes a number of performance standards to avoid or minimize any potential for secondary environmental effects. This mitigation measure is proposed as part of the environmental justice analysis under NEPA and intended to reduce the potential for impacts on community cohesion.

The comment further states that there is a need to secure the Fairmead Elementary School site for interim community use; however, as stated on page 5-16 of the Draft Supplemental EIR/EIS, the school is currently an important meeting place for community members after school hours and hosts meetings of community organizations including Fairmead Community and Friends. Therefore, it is reasonable to assume that the school will continue to remain available during non-school hours for community functions as it currently is until such time that the Chowchilla Elementary School District may decide to close the facility as described in its long-range master plan.

298-616

The commenter also suggests alternative measures, including construction of a stand-alone community center; establishment of a joint-use agreement with the school district for lease of a portion of the site or improvements to make the space specific to community use; a sale-leaseback agreement to purchase Fairmead Elementary; and allowing community use of the site during the leaseback period. The Authority has exhaustively considered all available options for mitigating community cohesion impacts on the community of Fairmead.

With respect to the first suggestion, this is accounted for in the revised EJ-MM#1. Regarding the second and third suggestions, the Fairmead Elementary School continues to function as an important meeting place, as described earlier in this response, and it is reasonable to assume that it will continue to function in this capacity until such time that the school site goes up for sale if in fact the school district moves forward with closure of the school. In either case, the revised EJ-MM#1 would provide funding to the County of Madera for construction of a community center in the community of Fairmead, thereby rendering unnecessary these two mitigation options.

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298-617

Please refer to the response to submission MF2-242, comment 74 and submission MF2-273, comment 393. Pursuant to revised EJ-MM-#1, the Authority's funding for purposes of development of a community center is accompanied by a set of performance standards that will guide the siting, design, and development of the community center, so as to avoid any new or different secondary environmental effects caused by the mitigation itself. For example, the site of the community center must not contain Important farmland, any protected biological or wetland resources, any eligible cultural resources (and no such resources on adjacent or nearby sites), any existing residence or business that would be displaced, or any incompatible land use on or associated with the site. Madera County would be responsible for conducting and completing any additional site-specific environmental review that may be required.

With respect to the impacts of the Preferred Alternative on Fairmead Elementary, the Draft Supplemental EIR/EIS evaluates any applicable transportation, noise, and dust impacts of the Preferred Alternative on Fairmead Elementary. The Supplemental EIR/EIS did not limit its analysis of those impacts based on an assumption that Fairmead Elementary would close; rather, the applicable analysis in the Supplemental EIR/EIS considered Fairmead Elementary on a permanent basis.

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Regarding air quality, noise, and transportation, please refer to the responses to submission MF2-298, comments 619 through 631.

Regarding bonding capacity, please refer to the response to submission MF2-247, comment 236.

298-619

HSR trains would be 100 percent electric-powered and, as such, would have no exhaust emissions. With regard to re-entrained dust emissions, a detailed discussion of wind-induced dust related to HSR travel was provided in the Draft Supplemental EIR/EIS on page 3.14-27, under the subheading Impact AG#7: Wind-Induced Effects. As discussed therein, "...an HSR train traveling at 220 mph would generate a wind gust up to 22 mph lasting less than 1 second at a distance of approximately 10 feet from the train tracks. Wind speed is estimated at approximately 3 mph at the edge of the HSR right-of-way." As stated on page 3.3-35 under the subheading Meteorological Conditions, mean wind speeds in the project vicinity typically range from 5 to 8 miles per hour. Given that train-induced wind speeds would be less than the mean ambient wind speed at the edge of the HSR right-of-way, impacts related to train-induced fugitive dust generation would be less than significant.

Environmental setting data, such as ambient air monitoring data, were current at time of Draft EIR/EIS preparation and are appropriate to provide baseline environmental setting information. With respect to ambient air monitoring stations, the closest and most appropriate stations were chosen.

298-620

Sensitive receptors were identified in Table 3.3-5 on page 3.3-35 of the Draft Supplemental EIR/EIS. Localized construction impacts on these sensitive receptors were evaluated under subsection Impact AQ#6: Temporary Direct Impacts on Air Quality - Localized Health Impacts, starting on page 3.3-64. As disclosed therein, localized construction emissions impacts on sensitive receptor locations would be less than significant. With respect to operational air quality impacts, these would be less than significant.

Response to Submission 298 (James Traber, Fagen, Friedman, Fulfroost,LLP on behalf of Chowchilla School District, October 28, 2019) - Continued

298-621

A detailed discussion of wind-induced dust related to HSR travel was provided in the Draft Supplemental EIR/EIS on page 3.14-27, under the subheading Impact AG#7: Wind-Induced Effects. As discussed therein, "...an HSR train traveling at 220 mph would generate a wind gust up to 22 mph lasting less than 1 second at a distance of approximately 10 feet from the train tracks. Wind speed is estimated at approximately 3 mph at the edge of the HSR right-of-way." As stated on page 3.3-35 under the subheading Meteorological Conditions, mean wind speeds in the project vicinity typically range from 5 to 8 miles per hour. Given that train-induced wind speeds would be less than the mean ambient wind speed at the edge of the HSR right-of-way, impacts related to train-induced fugitive dust generation would be less than significant.

298-622

As noted on page 3.4-26, mitigation measure NV-MM#1 requires construction contractors to conduct real-time construction noise monitoring to ensure that construction noise levels (both daytime and nighttime) are within FRA standards. Because this measure would ensure conformance with FRA noise standards, the conclusion that the effect would be reduced to less-than-significant levels is appropriate.

No major transportation projects have been completed near this area that would substantially change the noise conditions or noise patterns from the levels observed when the measurements were conducted. The previous noise measurements therefore are appropriately representative of more current typical weekday noise conditions and remain a valid reflection of baseline noise conditions along the routes for all HSR alternatives. In the event that noise levels in the community of Fairmead are somewhat elevated above study conditions, this would make the incremental contribution of HSR less apparent.

298-623

The ambient noise sources along all alternatives for the Central Valley Wye are primarily traffic from vehicles on SR 99 and SR 152, trains on the BNSF and Union Pacific Railroad corridors, and vehicles (including light aircraft) or other machinery in agricultural areas. The existing Ldn in the noise resource study area ranges between 48 and 73 A-weighted decibels. Specific noise sources and sensitive receptors for each Central Valley Wye alternative are presented in Section 3.4.5.2, Existing Noise Levels by Alternative.

As set forth in Section 3.4.2, the methodology for the noise analysis followed all pertinent federal, state, and local guidance. Under the methodology employed here, schools are considered sensitive receptors and impact analysis was conducted accordingly.

298-624

No major transportation projects have been completed near this area that would substantially change the noise conditions from when the measurements were conducted. The previous noise measurements therefore are appropriately representative of more current typical weekday noise conditions. Please also refer to Section 3.4, Noise and Vibration, specifically Impacts NV#5 through NV#8. Under CEQA, Impact NV#5 related to operational noise is considered a significant and unavoidable impact, notwithstanding the commenter's synopsis of the environmental document asserting that operations noise was not found to be significant.

Response to Submission 298 (James Traber, Fagen, Friedman, Fulfroost,LLP on behalf of Chowchilla School District, October 28, 2019) - Continued

298-625

As noted on page 3.4-26, NV-MM#1 would reduce construction-related noise impacts to a less-than-significant level. This measure requires temporary construction site sound barriers near a noise source as potential noise mitigation. Concerning operational noise, as noted on page 3.4-32:

Sound barriers are not proposed for any of the Central Valley Wye alternatives because they are not required under the Authority's Noise and Vibration Mitigation Guidelines as shown in Appendix 3.4-A. The Authority's criteria are not met because of the low density of receptors in the noise resource study area. Although sound barriers are not presently proposed, NV-MM#3 provides other measures to reduce sound levels where the Authority's Noise and Vibration Mitigation Guidelines dictate, including the Authority-funded installation of sound insulation (including adding an extra layer of glazing to windows) to provide outdoor-to-indoor noise reduction. This measure may provide some level of noise attenuation. Even with implementation of this measure, operational noise impacts would remain significant on some sensitive receptors; however, operational noise impacts would not be significant at any school facilities, including Fairmead Elementary School and Fairmead Head Start. For this reason, window replacement would not be necessary at these facilities.

298-626

As noted in Draft Supplemental EIR/EIS Section 3.4.1, Noise and Vibration, for noise analysis, sensitive receptors include any noise-sensitive land use, such as residences, hospitals, or schools.

Sound barriers are not proposed for any of the Central Valley Wye alternatives because they are not required under the Authority's Noise and Vibration Mitigation Guidelines as shown in Appendix 3.4-A.

The Authority's criteria are not met because of the low density of sensitive receptors in the noise resource study area. The Authority's Mitigation Guidelines lines were approved for the Merced to Fresno Project Section Project EIR/EIS in 2012.

298-627

Any permanent impacts on school bus routes resulting from road closures would be identified in the final design, allowing schools enough time to evaluate existing routes and make any necessary adjustments. The Authority has been in regular communication, and will continue to coordinate with, Chowchilla Elementary School District (CESD) on road closures identified in Appendix 3.2-A and final design to ensure both temporary and permanent routes are available for school bus access.

In general, out-of-direction travel required for school buses would not have a large-scale effect on existing school transportation routes. Information submitted by CESD, which is uniquely positioned because it utilizes grade-level (not neighborhood) schools, suggests that on average, the approximate out-of-direction travel distance for school buses would be 3 miles for the Central Valley Wye Preferred Alternative. From coordination with CESD, the Authority has recognized that some school bus routes may encounter multiple road closures from the Central Valley Wye. The Central Valley Wye Preferred Alternative bisects the CESD both north-south along SR 152, and east-west along Road 11, leading to more limited movement compared to other school districts. Specifically, according to information provided by CESD, CESD Bus Route 1 will add five more miles per route that would lead to 15 additional miles per day based on completing three bus routes per day.

Appendix 3.12-D, Table 3, lists permanent road closures by school district.

Response to Submission 298 (James Traber, Fagen, Friedman, Fulfroost,LLP on behalf of Chowchilla School District, October 28, 2019) - Continued

298-628

As reflected in Table 9-1 of Chapter 9, the Authority conducted focused outreach meetings with Chowchilla school districts to seek input on the development of alternatives and the environmental analysis phase in April 2013, the summer of 2016, and May 2017. Moreover, the Authority held special meetings with the school districts in the summer of 2019 specifically to go over comments from the districts on the Draft Supplemental EIR/EIS.

The Central Valley Wye Community Impact Assessment (2016) evaluated permanent road closures by school district, including the Chowchilla School District, and indicated the out-of-direction travel that would be required as a result of the road closures. For the Preferred Alternative (SR 152 North to Road 11 Wye Alternative), there would be 8 road closures that would cause 1 to 2 miles out-of-direction travel distance. Per Exhibit A that was provided, each of the 6 existing bus routes travels 82 to 120 miles a day. As discussed in Impact TR#13, any permanent impacts on school bus routes resulting from road closures would be identified in the final design, allowing schools enough time to evaluate existing routes and make any necessary adjustments. The Authority will coordinate with local school districts, including the Chowchilla Elementary School District during final design because temporary and permanent road closures may change and additional access for school buses may be needed.

298-629

Review of Exhibit A that was provided with the comment letter indicates that the problem road closures list that is referenced would be reduced for the Preferred Alternative (SR 152 North to Road 11 Wye Alternative).

For example, Road 12, Avenue 23½, and Road 20½ would continue across HSR tracks with grade-separated structures and Road 9 will have an interchange to SR 152.

The Preferred Alternative would incorporate 3 interchanges at SR 59, Road 9 (Hamlock Road), and SR 233 (Robertson Blvd) connecting to SR 152 with distances between interchanges ranging from 2 to 6 miles apart.

There would be temporary closures to roads in the project area as track and grade separation structures are constructed.

The commenter's Exhibit A also identified 6 existing bus routes that could potentially be impacted by the project with each route ranging from 82 to 120 miles per day. However, the proposed road closures would cause 1 to 2 miles out-of-direction travel distance per trip in the Chowchilla School District (Central Valley Wye Community Impact Assessment, 2016). The Authority will coordinate with the Chowchilla Elementary School District Board during final design to ensure that both temporary and permanent alternate routes are available for all their school bus routes.

Response to Submission 298 (James Traber, Fagen, Friedman, Fulfroost,LLP on behalf of Chowchilla School District, October 28, 2019) - Continued

298-630

Please refer to the response to submission MF2-298, comment 629.

In addition, please note that the Authority would incorporate protection of public roadways during construction (TR-IAMF#1), which would include providing a photographic survey documenting the condition of the public roadways along truck routes prior to the start of construction. The Authority and its contractors would be responsible for the repair of any structural damage to public roadways caused by HSR construction or construction access and returning any damaged sections to their original pre-HSR construction structural condition.

Per TR-IAMF#2, the Authority must review and approve the Construction Transportation Plan (CTP) before the Contractor commences any construction activities. This plan would address, in detail, the activities to be carried out in each construction phase, with the requirement of maintaining traffic flow during peak travel periods. Such activities include, but are not limited to, the routing and scheduling of materials deliveries, materials staging and storage areas, construction employee arrival and departure schedules, employee parking locations, and temporary road closures, if any.

The Authority will coordinate with Chowchilla School District to determine the schedule of buses during the day to minimize traffic delays caused by construction activities.

298-631

The Authority will coordinate with the local school districts during final design to ensure that both temporary and permanent alternate routes are available for school bus access. As discussed in Impact TR#13, any permanent impacts on school bus routes resulting from road closures would be identified in the final design, allowing schools enough time to evaluate existing routes and make any necessary adjustments.

In general, out-of-direction travel required for school buses would not have a large-scale effect on existing school transportation routes. Information submitted by CESD, which is uniquely positioned because it utilizes grade-level (not neighborhood) schools, suggests that on average, the approximate out-of-direction travel distance for school buses would be 3 miles for the Central Valley Wye Preferred Alternative.

Your calculations for additional buses and bus drivers are noted.

298-632

Please refer to the responses to submission MF2-247, comment 236 and submission MF2-245, comment 125.

298-633

The attachments to the comment letter are noted. Also, please refer to the responses to submission MF2-298, comments 628 through 630.

Submission 299 (Christina Monfette, County of Fresno, October 28, 2019)

Merced - Fresno 2014+; Central Valley Wye - RECORD #299 DETAIL

Status : Action Pending
 Record Date : 10/29/2019
 Submission Date : 10/28/2019
 Interest As : Local Agency
 First Name : Christina
 Last Name : Monfette
 Submission Content :

Good morning,

Attached to this email is a copy of the Comment Letter prepared by the County of Fresno. A hard copy is being sent with today's mail.

Please let me know if you have any questions,

[cid:image003.png@01D58D7B.CCC62850]<http://www.co.fresno.ca.us/departments/public-works-planning>
 Chrissy Monfette| Planner
 Department of Public Works and Planning | Development Services and Capital Projects Division
 2220 Tulare St. Suite A, Fresno, CA 93721
 Main Office: (559) 600-4230 Direct: (559) 600-4245
 Your input matters! Customer Service Survey<https://www.surveymonkey.com/r/customersurveywpw>
 Attachments : County of Fresno Comment Ltr.pdf (224 kb)



County of Fresno

DEPARTMENT OF PUBLIC WORKS AND PLANNING
 STEVEN E. WHITE, DIRECTOR

October 28, 2019

Merced to Fresno Section: Central Valley Wye Draft Supplemental EIR/EIS
 770 L Street, Suite 620 MS-1
 Sacramento, CA 95814

SUBJECT: Merced to Fresno Section: Central Valley Wye Draft Supplemental Environmental Impact Report/Environmental Impact Statement

Dear Ms. Gomez and Mr. McLoughlin:

The County of Fresno appreciates the opportunity to review and comment on the subject Draft Supplemental Environmental Impact Statement (EIS). In addition to the environmental impacts identified in the EIS, Fresno County requests that the following items be addressed:

Agriculture and Forestry Resources:

According to the Draft Supplemental EIR/EIS, the proposed wye connection is anticipated to have a significant impact on agricultural resources due to acquiring the right-of-way and construction activities. Additionally, some parcels that are in the path of the portion of the High Speed Rail which traverses Fresno County may be under Williamson Act Contract. Therefore, the County recommends that the supplemental EIR/EIS address impacts on agricultural land, including mitigating potential impacts on parcels that are enrolled in the Williamson Act Program. Questions regarding Williamson Act Contracts and other policy concerns may be directed to Derek Chambers at dchambers@fresnocountyca.gov.

In addition to the notes above, the County has also identified the following regulatory information for your consideration:

299-634

- Should any underground storage tanks be encountered during the project, the project manager or other responsible individual shall apply for and secure an Underground Storage Tank Removal Permit from the Fresno County Department of Public Health, Environmental Health Division. You may contact the Hazmat Compliance program at (559) 445-3271 for more information.

299-636

- Any septic systems encountered during the project shall be properly destroyed by an appropriately-licensed contractor, under permit and inspection from the Department of Public Works, Development Services and Capital Projects Division (or appropriate local jurisdiction).

DEVELOPMENT SERVICES AND CAPITAL PROJECTS DIVISION
 2220 Tulare Street, Sixth Floor / Fresno, California 93721 / Phone (559) 600-4497 / 600-4022 / 600-4540 / FAX 600-4200
 The County of Fresno is an Equal Employment Opportunity Employer

Submission 299 (Christina Monfette, County of Fresno, October 28, 2019) - Continued

CAHSR Central Valley Wye Draft Supplemental EIR/EIS
 October 28, 2019
 Page 2 of 3

- 299-637
- Any existing water wells that are compromised by the project shall be properly destroyed by an appropriately-licensed contractor, under permit and inspection from the Department of Public Health, Environmental Health Division (or appropriate local jurisdiction). You may contact the Water Surveillance Program at (559) 445-3350 for more information.
- 299-638
- Prior to destruction of agricultural wells, the uppermost fluid in the well column should be sampled for lubricating oil. The presence of oil staining around the well may indicate the use of lubricating oil to maintain the well pump. Should lubricating oil be found in the well, the oil should be removed from the well prior to placement of fill material for destruction. The "oily water" removed from the well shall be handled in accordance with federal, state, and local government requirements. Transportation of these materials on public roadways may require special permits and licensure.

The following comments apply to the demolition or removal of structures necessary as part of the project:

- 299-639
- Should the structures have an active rodent or insect infestation, the infestation should be abated prior to demolition/removal of the structures to prevent the spread of vectors to adjacent properties.
- 299-640
- In the process of demolishing/removing existing structures, the contractor may encounter asbestos-containing construction materials and materials coated with lead-based paints. If asbestos-containing materials are encountered, contact the San Joaquin Valley Unified Air Pollution Control District at (559) 230-6000 for more information.
- 299-641
- If any structure was constructed prior to 1979 or if lead-based paint is suspected to have been used in the structures, then, prior to demolition and/or removal work, the contractor should contact the following agencies for current regulations and requirements:
 - California Department of Public Health, Childhood Lead Poisoning Prevention Branch, at (510) 620-5600.
 - United States Environmental Protection Agency, Region 9, at (415) 947-8000.
 - State of California, Industrial Relations Department, Division of Occupational Safety and Health, Consultation Service (CAL-OSHA), at (559) 454-5302.

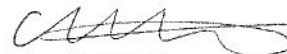
CAHSR Central Valley Wye Draft Supplemental EIR/EIS
 October 28, 2019
 Page 3 of 3

- 299-642
- All materials deemed hazardous as identified in the demolition/removal process must be characterized and disposed of in accordance with current federal, state, and local requirements.

For questions relating to the existing requirements noted above, you may contact Deep Sidhu at ssidhu@fresnocountyca.gov.

If you have any other questions, you may e-mail me at cmonfette@fresnocountyca.gov or contact me by phone at (559) 600-4245.

Sincerely,



Chrissy Monfette, Planner
 Development Services and Capital Projects Division

CMM:ksn
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- cc. Steven E. White, Director
 John Thompson, Assistant Director
 Bernard Jimenez, Assistant Director
 William M. Kettler, Development Services and Capital Projects Division
 Chris Motta, Development Services and Capital Projects Division

Response to Submission 299 (Christina Monfette, County of Fresno, October 28, 2019)

299-634

The commenter is correct that the proposed Central Valley Wye would have a significant impact on Important Farmland. These impacts are discussed quantitatively in Impact AG#1, Temporary Use of Important Farmland; Impact AG#2, Permanent Conversion of Important Farmland to Nonagricultural Use; Impact AG#3, Creation of Remnant Parcels of Important Farmland; and Impact AG#6, Impacts on Land under Williamson Act or FSZ Contracts; and qualitatively under Impact AG#4, Disruption of Agricultural Infrastructure; Impact AG#5, Interference with Aerial Spraying Activities; and Impact AG#7, Wind-Induced Effects.

The commenter suggests that impacts on land under Williamson Act contract should be mitigated. As discussed in Impact AG#6 in the Draft Supplemental EIR/EIS, any impacts on Important Farmland under Williamson Act contract are separately accounted for under Impact AG#2, Permanent Conversion of Important Farmland to Nonagricultural Use, and Impact AG#3, Creation of Remnant Parcels of Important Farmland. Impact AG#6 acknowledges the potential for remnant parcels of Important Farmland to be smaller than county thresholds for Williamson Act contracts. Important Farmland can continue in agricultural use regardless of whether it is under Williamson Act contract; however, the Draft Supplemental EIR/EIS concluded that loss of Williamson Act contract status would not result in additional conversion of Important Farmland beyond that described in Impacts AG #2 and AG#3.

The Central Valley Wye study area does not include Fresno County. As shown on Figure 1-1 of this document, HSR impacts on Important Farmland in Fresno County were considered as part of the 2012 Merced to Fresno Project Section Final EIR/EIS. The Authority and FRA decisions in 2012 selected the north/south hybrid alternative studied in that Final EIR/EIS, shown with a blue line on Figure 1-1. Impacts on Important Farmland in Fresno County, including on parcels under Williamson Act contract, are addressed through the analysis and mitigation measures in the Final EIR/EIS, Section 3.14. The discussion and approach to mitigation for Important Farmland impacts in the Draft Supplemental EIR/EIS are consistent with that in the Merced to Fresno Final EIR/EIS, Section 3.14.

299-635

The comment is noted if any such facilities are identified in Fresno County. Refer to the discussion of Impact HMW#2 in Section 3.10, Hazards and Hazardous Materials. The discussion and approach to hazardous materials and wastes in the Draft Supplemental EIR/EIS is consistent with that in the Merced to Fresno Final EIR/EIS, Section 3.10.

299-636

Comment noted. For Merced to Fresno Section construction work in the Central Valley, HSR and its contractors are required to obtain necessary permits and have licensed personnel perform the work. Replacement septic systems may be provided in kind, however, this would be determined during the right-of-way acquisition process. Chapter 3.6 has been revised to clarify the requirement to comply with all applicable laws related to septic systems.

299-637

Comment noted. HSR and its contractors will comply with all state and federal requirements relating to the abandonment of water wells, if necessary. Text has been added to Chapter 3.6 to clarify procedures for closure of groundwater wells and compliance with all applicable laws. For Merced to Fresno HSR construction, HSR contractors are required to obtain necessary permits and have certified personnel perform the work. Only active Water Well Contractors License holders (California License C-57) would perform water well destruction work.

In addition, at a program-wide level, the Authority has developed standard management procedures for the properties it owns (currently and prospectively). These management procedures address concerns like those raised by the commenter, to ensure that the Authority is a "good neighbor" in the communities all along the proposed rail corridor. Chapter 2, Section 2.4.2, has been revised to clarify these standard procedures. Removal of utilities such as water wells, will be performed in accordance with local and State regulations with permits for demolition and removal secured from the local agency with jurisdiction. Chapter 3.6 has been revised to clarify the requirement to comply with all applicable laws related to groundwater well decommissioning and relocations.

Response to Submission 299 (Christina Monfette, County of Fresno, October 28, 2019) - Continued

299-638

HSR construction practices follow county and state protocols for well closures for water well decommissioning. During right of way acquisition, Phase I Environmental Site Assessments would be conducted to help identify potential hazardous materials in accordance with standard ASTM methods for each construction site. Further testing (Phase II Environmental Site Assessment) and remediation (Phase III Environmental Site Assessment) would be conducted for parcels that have been found to require it prior to property acquisition and, therefore, prior to well destruction (HMW-IAMF#7). In addition, the contractor would prepare a Construction Management Plan (CMP) addressing provisions for disturbance of undocumented contamination (HMW-IAMF#5). Any permits needed to decommission the well would be obtained by the Contractor. Chapter 3.14 has been revised to describe the potential for agricultural well closure and replacement (Impact AG#4).

299-639

The comment recommending specific timing of addressing rodent/insect infestations in structures to be demolished is noted.

In addition, at a program-wide level, the Authority has developed standard management procedures for the properties it owns (currently and prospectively). These management procedures address concerns like those raised by the commenter, to ensure that the Authority is a "good neighbor" in the communities all along the proposed rail corridor. Chapter 2, Section 2.4.2, has been revised to clarify these standard procedures. The homes and structures are inspected for all wildlife that may be present in the structure. Any required pest control will be applied by a licensed Pest Control Advisor and after obtaining any appropriate local approvals. Current construction procedures do not allow the use of rodenticide for pest removal (CDFW Incidental Take Permit).

299-640

The comment is noted. Coordination with the San Joaquin Valley Unified Air Pollution Control District is explicitly noted in the discussion of Impact HMW#3 in Section 3.10, Hazards and Hazardous Materials. Lead and asbestos abatement are included in demolition plans for building components and debris. Demolition plans are reviewed to verify that described practices are consistent with federal and state regulations regarding asbestos and lead paint abatement (HMW-IAMF#6).

The San Joaquin Valley Unified Air Pollution Control District is contacted when structures are demolished that contain asbestos containing materials and lead-based paint for the portions of the Merced to Fresno section currently under construction.

299-641

The comment is noted. Please see the discussion of Impact HMW#3 in Section 3.10, Hazards and Hazardous Materials.

Lead and asbestos abatement are included in demolition plans for building components and debris. Demolition plans are reviewed to verify that described practices are consistent with federal and state regulations regarding asbestos and lead paint abatement (HMW-IAMF#6).

For the Merced to Fresno Section under construction, the Contractor would make a determination if asbestos-containing materials and/or lead based paints are an issue for a structure before demolition. Personnel that specialize in remediation and disposal of the hazardous materials are utilized. The Contractor obtains any necessary permits and notifies the San Joaquin Valley Unified Air Pollution Control District.

Response to Submission 299 (Christina Monfette, County of Fresno, October 28, 2019) - Continued

299-642

The comment is noted. Please see the discussions of Impacts HMW#1 through HMW#8 in Section 3.10, Hazards and Hazardous Materials.

During right of way acquisition, Phase I Environmental Site Assessments would be conducted to help identify potential hazardous materials in accordance with standard ASTM methods for each construction site. Further testing (Phase II Environmental Site Assessment) and remediation (Phase III Environmental Site Assessment) would be conducted for parcels that have been found to require it prior to acquisition of the property and, therefore, prior to well destruction (HMW-IAMF#7). In addition, the contractor would comply with applicable state and federal regulations and would provide a hazardous materials and waste plan describing responsible parties and procedures and hazardous materials transport (HMW-IAMF#1).

For construction in the Merced to Fresno Section, hazardous materials are handled and removed according to applicable laws and procedures.

Submission 300 (Russell Landon, Central California Irrigation District, October 28, 2019)

Merced - Fresno 2014+; Central Valley Wye - RECORD #300 DETAIL

Status : Action Pending
 Record Date : 10/29/2019
 Submission Date : 10/28/2019
 Interest As : Local Agency
 First Name : Russell
 Last Name : Landon
 Submission Content :

Dear Authority- Attached is CCID's letter with our comments on the Draft Supplemental Merced to Fresno Section- Central Valley Wye EIR/EIS Report. We would like to thank you for providing us another opportunity to express our concerns and the importance of protecting the interests of the District and its customers.

Russell Landon
 Projects Manager
 Central California Irrigation District
 Off 209-826-1421
 Cell 209-777-8004
 Attachments :

Comment Letter HSR EIR-EIS 10-25-2019.pdf (78 kb)

1315 West "F" Street
 PO Box 1231
 Los Banos, CA 95635

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JARRETT MARTIN
 General Manager

MARLENE MARTIN
 Secretary-Counselor

MINASIAN, MITTII, SOARES,
 SEFTON & COOPER, LLP
 Legal Counsel

October 25, 2019

Attn: Draft Supplement EIR/EIS for Merced to Fresno Project Section
 California High-Speed Rail Authority
 770 L Street, Suite 620 MS-1
 Sacramento, CA 95814

Re: Comments on EIR/EIS Report

Dear HSR Authority:

This letter contains the Central California Irrigation District's comments on the "Draft Supplemental Merced to Fresno Central Valley Wye EIR & EIS Report". We would like to inform the HSR Authority of the matters that may impact the District's facilities, the facilities of its customers, and the agricultural community within its boundaries.

ENVIRONMENTAL CONCERNS:

- 300-643 | Any application of pesticides or herbicides for weed control within the HSR right-of-way must be performed using best practices and coordinated with the adjacent landowner and/or the District. Measures shall be taken to ensure that drift or over-spray onto nearby crops is avoided, particularly for organically grown crops.
- 300-644 | Implementation of dust control measures should be in strict compliance with the minimizing practices outlined in Appendix "A" to mitigate potential crop damage.
- 300-645 | Compliance with the Clean Water Act, TMDLs, Ground Water Sustainability, and SWPPP, along with other codes and regulations for water management should be applied. Further details are required on how drainage, water flow, and construction water and waste water will be addressed without impacting CCID facilities.
- 300-646 | Historic capacities must be maintained to move irrigation and flood waters through existing drainage and irrigation facilities to prevent the impounding of water over crop lands.
- 300-647 | Runoff from the rail levee will need to be continually managed for prevention of pollution to area lands and facilities. Any plans to discharge drainage water into CCID facilities will need to be coordinated in advance, with CCID.

Submission 300 (Russell Landon, Central California Irrigation District, October 28, 2019) - Continued

- 300-648 Protection and cleanup of hazardous materials from spills into water channels or surface irrigation ditches is not defined specifically for these types of water facilities. This needs to be addressed in the report or in supplemental reports and/or contracts prior to construction. Appendix "A" requires that a SPCC program be implemented. However, the contractor is instructed to work with local agencies to resolve such encounters and address cleanup. CCID recognizes that any mitigation is the sole responsibility of the HSR Authority.
- 300-649 The report mentions that installing wells will not be used as a water supply. Any water needed for construction or long-term Operation & Maintenance shall be coordinated in advance. CCID cannot guarantee availability of water.
- DESIGN:**
- 300-650 The engineering firm who will be designing the structures and providing for the civil plans must work closely with CCID on details of the improvements needed for its waterways at various locations.
- 300-651 The District delivers water year-round requiring that all pipes, canals, ditches, and drains remain in service. Construction at these locations will need to be coordinated with the District in advance to maintain water deliveries and provide the most conducive conditions for construction.
- 300-652 Shallow ground water exists below District lands at depths less than ten feet below ground surface, from Carlucci Road to the San Joaquin River. This area will need to be dewatered to allow for construction to occur. Dewatering activities may be continuous during construction and coordination of discharging this water into any District facilities shall be coordinated with CCID in advance.
- 300-653 All CCID facilities shall maintain delivery capacity consistent with District operations. Design details for a structure of any kind at water channels, ditches, and culverts shall be coordinated with the District.

Very truly yours,



Jarrett Martin
General Manager

Response to Submission 300 (Russell Landon, Central California Irrigation District, October 28, 2019)

300-643

Impact HYD#10 addresses the potential for weed control along the HSR right-of-way to require the use of herbicides. The Authority would use contracted applicators appropriately licensed by the state, and where necessary HSR staff would coordinate with County Agricultural Commissioners.

The Contractor will prepare and implement an Annual Vegetation Control Plan that identifies vegetation control methods (BIO-IAMF#7). The Vegetation Control Plan follows the Caltrans Maintenance Manual, Chapter C2 to manage vegetation on Authority property. Pesticide application would be conducted in accordance with the California Department of Pesticide Regulation and County Agricultural Commissioners by certified pesticide applicators. Current Authority Contractors are in regular contact with adjacent landowners, Irrigation Districts, and County Agricultural Commissioners.

In addition, at a program-wide level, the Authority has developed standard management procedures for the properties it owns (currently and prospectively). These management procedures address concerns like those raised by the commenter, to ensure that the Authority is a "good neighbor" in the communities all along the proposed rail corridor. Chapter 2, section 2.4.2, has been revised to clarify these standard procedures.

300-644

The Authority would comply with all applicable SJVAPCD fugitive dust control measures. Please refer to AQ-IAMF#1: Fugitive Dust Emissions, in Appendix 2-B, and the discussion in Impact AQ#1.

300-645

Please refer to Section 3.8, Hydrology and Water Resources, which provides comprehensive analysis of each alternative's potential to affect water bodies. Refer to Table 3.8-3 for a list of all water body crossings of each alternative. Also refer to impacts HYD#1, HYD#2, HYD#9 and HYD#10 for analysis of construction period and operational period impacts to surface waters.

Section 3.8 of the Draft Supplemental EIR/EIS describes that the Authority will comply with all applicable federal and state laws related to water quality and hydrology. HYD-IAMF#3 requires preparation and implementation of a construction stormwater pollution prevention plan (SWPPP).

Table 10-1 in the Merced to Fresno Project Section: Central Valley Wye Hydrology and Hydraulics Engineering Report (2016) identifies all irrigation district-owned facilities that are crossed by each of the four Central Valley Wye alternatives, including Central California Irrigation District (CCID) facilities. This information supported the analysis of hydrological changes caused by the Central Valley Wye Alternatives in chapter 3.8. Based on the analysis, it is not anticipated that any HSR runoff would discharge into CCID facilities. If, during future design, the need for any discharging into CCID facilities is identified, it would be fully coordinated with and approved by CCID.

Response to Submission 300 (Russell Landon, Central California Irrigation District, October 28, 2019) - Continued

300-646

As noted in Section 3.8, Hydrology and Water Resources, stormwater would be collected at the toe of embankments and directed to detention basins.

The design of the Central Valley Wye alternatives would also include drainage systems to collect and treat stormwater in accordance with the requirements of the Clean Water Act Section 401 permit. Road underpasses would require pump stations that would pump runoff from the low point of the road to either a municipal drainage system or a treatment system that would treat runoff. This approach would meet or exceed the treatment and postconstruction stormwater requirements of Section XIII of the Construction General Permit (Authority and FRA 2016a).

Furthermore, as discussed in detail in Section 3.8, Hydrology and Water Resources, Impact HYD#8: Permanent Changes to Floodplain Flows, the Authority would adhere to the design features outlined in HYD-IAMF#2. These design features would require adequately sized culverts and waterbody crossings be provided to avoid the possibility of diverting or redirecting flood flows or increasing the water surface elevation in the 100-year floodplain by more than 1 foot, or as required by state or local agencies. These design standards would be implemented across the entire HSR project, are consistent with other state design standards (e.g., Caltrans), and would meet or exceed local requirements. Additionally, river and creek crossing designs would include measures to minimize the impacts of placing piers in the floodplains and floodways. The design of the Central Valley Wye alternatives would maintain the existing hydraulic capacity, avoiding a rise in existing flood or high-water elevations, and therefore would not increase existing 100-year floodwater surface elevation in Federal Emergency Management Agency-designated floodways, or as otherwise agreed upon with the county floodplains manager.

Additionally, while relocation of irrigation facilities may occur, these relocations are not anticipated to interfere with irrigation facility capacity because adherence to PUE-IAMF#2 requires that contractors verify that new irrigation facilities are operational prior to disconnecting the original facility, where feasible. Irrigation facility relocation preferences are included in the design-build contract and reduce unnecessary impacts on continued operation of irrigation facilities.

300-647

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The design of the Central Valley Wye alternatives would also include drainage systems to collect and treat stormwater in accordance with the requirements of the Clean Water Act Section 401 permit. Road underpasses would require pump stations that would pump runoff from the low point of the road to either a municipal drainage system or a treatment system that would treat runoff. This approach would meet or exceed the treatment and postconstruction stormwater requirements of Section XIII of the Construction General Permit. It would also meet or exceed the treatment and postconstruction and hydromodification control requirements for compliance with any active Phase I or Phase II permit applicable in those areas of the Central Valley Wye alternatives with active municipal separate storm sewer system permits (Authority and FRA 2016a).

As required by HYD-IAMF#1, road crossings would be designed so runoff is conveyed to a stormwater collection system to avoid direct discharge to surface waterbodies, including discharge into CCID-regulated surface waterbodies. As described in Impact HYD#4: Permanent Surface Water Quality Impacts, any discharges to stormwater drainage systems would be pursuant to requirements of the local irrigation or flood control entity responsible for the stormwater drainage system. Currently it is not anticipated that any HSR runoff would discharge into CCID facilities. If, during future design, the need for any discharging into CCID facilities is identified, it would be fully coordinated with and approved by CCID.

300-648

Please refer to HYD-IAMF#1, Storm Water Management. The terms of this IAMF will be incorporated into the project. HYD-IAMF#1 requires that on-site stormwater management facilities are designed and constructed to capture runoff and provide treatment prior to discharge of pollutant-generating surfaces, including station parking areas, access roads, new road over- and underpasses, reconstructed interchanges, and new or relocated roads and highways. These measures would substantially reduce the potential for any contaminated runoff to enter CCID facilities.

Response to Submission 300 (Russell Landon, Central California Irrigation District, October 28, 2019) - Continued

300-649

The comment is noted. Please refer to the discussion in Section 3.6 regarding construction period water use, specifically Impact PUE#3, as well as Appendix 3.6-B, which indicates the multiple providers the Authority has identified as potential providers of construction-period water.

300-650

The comment is noted. The Authority will continue to engage with all area stakeholders, including the CCID, as further design and construction work advances. Please also note HYD-IAMF#2, Flood Protection, which the Authority and its contractors will adhere to in the design of structure to minimize any elevation increases in 100 and 200 year floodplains.

300-651

The comment is noted. The potential for construction of the project to result in disruption to all utility services is disclosed in Section 3.6, Impacts PUE#1 and PUE#2. These impact discussions reference PUE-IAMF#2, which state that where relocating an irrigation facility is necessary, the contractor would verify that the new facility is operational prior to disconnecting the original facility, where feasible, thereby avoiding or minimizing any interim disruption in service.

300-652

Please refer to the discussion of Impact HYD#3, in Section 3.8, Hydrology and Water Quality, which indicates that the Central Valley Wye alternatives incorporate a requirement to conduct construction in compliance with the State Water Resources Control Board Construction General Permit (HYD-IAMF#3) to minimize the potential of contaminants to be discharged into groundwater and minimize short-term increases in sediment transport caused by construction, including erosion control requirements, stormwater management, and channel dewatering for affected stream crossings. Dewatering activities would also comply with the Central Valley Regional Water Quality Control Board's General Dewatering Permit, Order No. 5-00-175 [NPDES No. CAG995001], Waste Discharge Requirements General Order for Dewatering and Other Low-Threat Discharges to Surface Waters.

Various controls, design features, and waste, dewatering, and Construction General Permit requirements detailed in the SWPPP (HYD-IAMF#3 and HYD-IAMF#4) would minimize the risk of polluted runoff and the potential for sedimentation impacts on water quality, in addition to the stormwater management requirements to treat and discharge runoff (HYD-IAMF#1). Currently, it is not anticipated that any HSR runoff would discharge into CCID facilities. If a need for discharge/dewatering into CCID facilities is identified during future engineering design investigations, it would be fully coordinated with and approved by CCID.

300-653

Please refer to the response to submission MF2-300, comment 651.