

APPENDIX A: 2014 AGENCY CONCURRENCE LETTERS

DRAFT



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

David Valenstein
Federal Railroad Administration
1200 New Jersey Avenue, SE
Mail Stop 20, W38-219
Washington, D.C. 20590

AUG 29 2014

Mark McLoughlin
California High-Speed Rail Authority
770 L Street, Suite 800
Sacramento, CA 95814

Subject: Response to Request for Agreement on Range of Alternatives for California High-Speed Rail Project San Jose to Merced Section and Wye Portion of Merced to Fresno Section

Dear Mr. Valenstein and Mr. McLoughlin:

Thank you for the opportunity to provide recommendations prior to publication of the Draft Environmental Impact Statement for the San Jose to Merced Section and Supplemental Draft EIS for the wye portion of the Merced to Fresno Section of the California High-Speed Rail System. This letter provides EPA's agreement with Federal Railroad Administration and California High-Speed Rail Authority's proposed Range of Alternatives.

EPA, U.S. Army Corps of Engineers, Federal Railroad Administration, and California High-Speed Rail Authority are participating in the early coordination process outlined in the *National Environmental Policy Act / Clean Water Act Section 404 / Rivers and Harbors Act Section 14 (33 U.S.C. 408) Integration Process for the California High-Speed Train Program Memorandum of Understanding*, dated December 2010. This MOU defines Checkpoint B as a decision point where participating agencies agree or disagree with the proposed Range of Alternatives for the EIS. Early coordination promotes efficiency within the environmental review process because it facilitates upfront identification and resolution of potential issues and integration of NEPA and CWA Section 404 processes.

FRA and CHSRA first proposed a Range of Alternatives for these sections in a September 2014 Checkpoint B Report. EPA raised concerns about impacts to environmental justice communities and recommended a careful analysis of community impacts. Thank you for addressing our concerns and refining alternatives to significantly reduce impacts to communities within the May 2014 *Report Addendum for the September 10, 2013 Check Point B Summary Reports*. Based on additional input, FRA and CHSRA further refined their proposed Range of Alternatives in an August 2014 *Second Report Addendum to the September 10, 2013 Checkpoint B Summary Reports*.

San Jose to Merced Section

EPA agrees with FRA and CHSRA's decision to carry forward the following stations, alignments, and maintenance of equipment / maintenance of infrastructure facilities for analysis in the San Jose to Merced Draft EIS:

Downtown San Jose Subsection

- San Jose Diridon Station

- SR 87 / I-280

Monterey Highway Subsection

- U.S. 101 to East Gilroy / Refined Program Alignment

Morgan Hill to Gilroy Subsection

- East of UPRR to Downtown Gilroy – Program Alignment
- U.S. 101 to Downtown Gilroy
- West Coyote Creek Parkway to Downtown Gilroy
- U.S. 101 to East Gilroy
- West of Coyote Creek Parkway to East Gilroy
- East of UPRR to East Gilroy
- Downtown Gilroy Station (Four Track)
- East Gilroy Station (Four Track)

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Maintenance of Equipment / Maintenance of Infrastructure Facilities

- Coyote Valley: A
- Coyote Valley: B
- Coyote Valley: C
- Coyote Valley: D

Pacheco Pass Subsection

- Refined Program Alignment
- Close Proximity to SR 152

Wyes

EPA agrees with CHSRA and FRA’s decision to carry forward the following alignments in the wye portion of the San Jose to Merced Draft EIS and the Merced to Fresno Supplemental Draft EIS:

- SR 152 North to Road 13 wye
- SR 152 North to Road 19 Wye
- Avenue 21 to Road 13 Wye

FRA and CHSRA committed to refine all 152 North alternatives to further avoid impacts to Fairmead by making changes to the alignments that are described in Section 2.0 of the May 2014 *Report Addendum for the September 10, 2013 Checkpoint B Summary Reports*. We are agreeing the 152 North alignments that contain these refinements.

The May 2014 *Report Addendum for the September 10, 2013 Check Point B Summary Reports* also stated that all proposed Heavy Maintenance Facility locations remain viable options with the proposed Range of Alternatives. FRA and CHSRA will make a decision on the Heavy Maintenance Facility at a later date and in a separate NEPA document.

Aquatic Resource Comments for Future Consideration - Draft EIS and Mitigation Planning

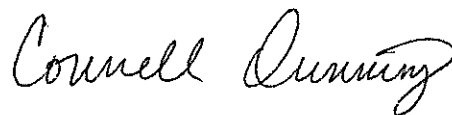
At this stage of project design, the goal of the Checkpoint B milestone is to establish agreement with the Range of Alternatives to be considered through the Draft EIS process. While EPA provides agreement with the identified range of alternatives listed above, we anticipate further refinements and reductions to estimates of acreages of aquatic resource impacts reported within Checkpoint B materials. We are concerned that estimates of direct impacts based on remote sensing and existing information at a broad landscape level indicate that alternatives within the Wyes subsection alone are estimated to directly impact approximately 120 acres of aquatic resources, including about 41 acres of vernal pools. Further, since the Checkpoint B submittal did not include indirect impacts, we are also concerned that overall

impacts could be even greater after indirect impacts are included in the analysis. EPA provides the following recommendations for your consideration for the development of the Draft EIS and mitigation planning:

- Further refine the alignments to avoid and minimize impact to aquatic resources.
- Coordinate closely with the Corps and EPA to identify the assessment framework for avoidance of direct and indirect impacts.
- In the Draft EIS:
 - Provide estimates of direct and indirect impacts to aquatic resources.
 - Describe the type, location, and ecological condition of aquatic resources that may be directly or indirectly impacted.
 - Fully describe ecologically sensitive regions that the proposed alignments are located within as well as specific high-value resources that would be impacted.
 - Describe how impacts from HSR alternatives may affect other future foreseeable actions within the region (levees, restoration, flood control, etc.). It is critical that CHSRA actions do not unintentionally adversely impact ongoing restoration and flood control projects. FRA and CHSRA should coordinate with local stakeholders and agencies to gain knowledge of projects and avoid impacts.
- Begin advanced planning for compensatory mitigation for the San Jose to Merced section, and ensure mitigation opportunities are available to fully offset impacts where relatively connected patches and networks of aquatic systems may be fragmented by a proposed HSR alignment (e.g., Mud Slough east of Los Banos). In those situations, there is a greater likelihood that indirect impacts, along with direct impacts, will need to be fully compensated to avoid significant degradation of waters. In addition, early planning for compensatory mitigation may reveal that there is limited opportunity for compensatory mitigation in the project watershed area(s), which would further the need to identify refinements and management practices to avoid and minimize impacts.

Thank you for requesting EPA's agreement on the Range of Alternatives. We look forward to further collaboration to reduce impacts and maximize benefits from this project. EPA will ultimately review EISs for each section of the California HSR System pursuant to NEPA, Council on Environmental Quality regulations (40 CFR Parts 1500-1508), and Section 309 of the Clean Air Act. EPA will also review CWA Section 404 permit applications for each HSR section for compliance with EPA's 404(b)(1) Guidelines (40 CFR 230.10). If you have any questions or comments please contact the NEPA lead for this project, Jen Blonn, at (415) 972-3855 or blonn.jennifer@epa.gov, or the aquatic resources lead for this project, Sarvy Mahdavi, at (213) 244-1830 or mahdavi.sarvy@epa.gov.

Sincerely,



Connell Dunning, Transportation Team Supervisor
Environmental Review Section
Enforcement Division

CC Via Email: Stephanie Perez, Federal Railroad Administration
Bryan Porter, Parsons Brinckerhoff, HSR Project Management Team
Zach Simmons, U.S. Army Corps of Engineers



DEPARTMENT OF THE ARMY
U.S. ARMY ENGINEER DISTRICT, SACRAMENTO
CORPS OF ENGINEERS
1325 J STREET
SACRAMENTO CA 95814-2922

REPLY TO
ATTENTION OF

September 23, 2014

Regulatory Division (SPK-2009-01484)

Mark McLoughlin
California High Speed Rail Authority
770 L Street, Suite 800
Sacramento, California 95814

Dear Mr. McLoughlin:

I am writing in response to your September 2013, Supplemental Checkpoint B Summary Report and the May 2014, addendum report for the proposed San Jose to Merced segment of the California High-Speed Train ("CHST") Project. In accordance with our *National Environmental Policy Act/Clean Water Act Section 404/Rivers and Harbors Act Section 14 Integration Process for the California High-Speed Train Program Memorandum of Understanding* dated November 2010 (NEPA/404/408 MOU), this letter is our formal response.

As a cooperating agency for preparation of the San Jose to Merced Environmental Impact Report/Environmental Impact Statement (EIR/EIS) and in fulfillment of our responsibilities under the NEPA/404/408 MOU, we offered feedback to the Federal Railroad Administration as well as the California High-Speed Rail Authority ("Authority") on the range of alternatives in a letter dated October 21, 2013 and in a meeting on May 29, 2014, as well as direct communication with your staff and consultants. The Authority has provided additional information and clarification per our requests. The alternatives were evaluated based on their ability to meet the project purpose and need while avoiding and minimizing impacts to waters of the United States.

After reviewing the data provided, including supporting information, we agree that the following alternatives should be carried forward as part of the reasonable range of alternatives to be studied in the EIR/EIS:

1. San Jose Station Approach Subsection
 - a) State Route (SR) 87/I-280
 - b) San Jose Diridon Station
2. Monterey Highway Subsection
 - a) Refined Program Alignment
3. Morgan Hill Gilroy Subsection
 - a) East of UPRR to Downtown Gilroy (Program Alignment)
 - b) US 101 to East Gilroy

- c) US 101 to Downtown Gilroy
- d) West of Coyote Creek Parkway to Downtown Gilroy
- e) West of Coyote Creek Parkway to East Gilroy
- f) East of UPRR to East Gilroy
- g) Downtown Gilroy (Four Track) Station
- h) East Gilroy (Four Track) Station

4. Maintenance-of-Equipment/Maintenance-of-Infrastructure (MOE/MOI) Facility Alternatives

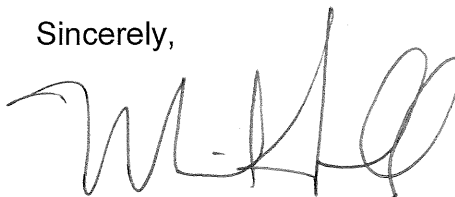
- a) Coyote Valley: A
- b) Coyote Valley: B
- c) South of Gilroy: C
- d) South of Gilroy: D

5. Pacheco Pass Subsection

- a) Close Proximity to SR 152
- b) Refined Program Alignment

We appreciate the opportunity to provide input on the range of alternatives. If you have any questions, please contact Zachary Simmons at our California South Branch, 1325 J Street, Room 1480, Sacramento, California 95814-2922, by email at Zachary.M.Simmons@usace.army.mil, or by at telephone 916-557-6746. For more information regarding our program, please visit our website at www.spk.usace.army.mil/regulatory.html.

Sincerely,



Michael S. Jewell
Chief, Regulatory Division

Cc:

Mr. David Valenstein, Federal Railroad Administration, David.Valenstein@dot.gov
Ms. Connell Dunning, U.S. Environmental Protection Agency, Region IX,
Dunning.Connell@epa.gov
Mr. Jason Brush, U.S. Environmental Protection Agency, Region IX,
Brush.Jason@epamail.epa.gov
Mr. Jesse Halstead, Cordoba Corporation, jhalsted@cordobacorp.com