

Comment Letter F001 (Zoe Lofgren, et al., Congress of the United States, August 20, 2007)

Congress of the United States
Washington, DC 20515

F001

August 20, 2007

Mehdi Morshed
Executive Director
California High Speed Rail Authority
925 L St., Ste. 1425
Sacramento, CA 95814

Dear Mr. Morshed,

We are writing to express our strong support of California's High Speed Rail Project. We believe that the project will transform the state's transportation network into a much safer system that will serve our growing population for this century and the next in a way that can boost our economy while protecting our environment.

F001-1

We recently reviewed the Northern Mountain Crossing Corridor Study you released concerning different possible routes from the Bay Area to the Central Valley. We all agree that the High Speed Train network should serve all three major cities: San Francisco, Oakland, and San Jose. However, upon reviewing the document it is clear that the Pacheco Pass alternative provides a better level of service with a greater number of trains stopping in San Francisco, Oakland and San Jose on a daily basis. The Pacheco Pass route is also the least damaging to our region's natural resources.

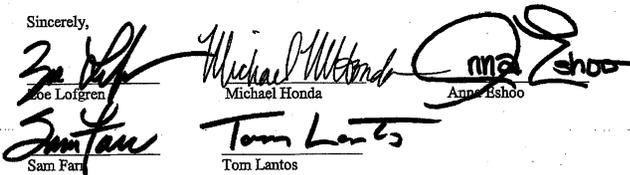
F001-2

In order to connect the Bay Area to the Central Valley using an alternative option, the Altamont Pass, would require building a new high level bridge over the San Francisco Bay. The Altamont Pass option would also require construction through the Don Edwards Wildlife Refuge with additional impacts on the San Francisco Bay and Palo Alto shore of the Bay. This alone is a good enough reason in our opinion to reject the Altamont Pass outright. The impact the Altamont Pass would have on the environment could well make us rethink our support of any federal funding for the project.

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We believe there is sufficient and compelling data to determine that the Pacheco Pass is the best option for the High Speed Train to serve the Bay Area. We thank you for your consideration and will continue to follow the issue closely.

Sincerely,


Zoe Lofgren Michael Honda Anna Eschó
Sam Farr Tom Lantos

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U.S. Department
of Transportation
Federal Railroad
Administration

Response to Letter F001 (Zoe Lofgren, et al., Congress of the United States, August 20, 2007)

F001-1

The California High-Speed Rail Authority (Authority) and the Federal Railroad Administration (FRA) appreciate the support for the high-speed train (HST) system from U.S. Congress members Lofgren, Honda, Fan, Lantos, and Eshoo.

F001-2

Please see Standard Response 3 and Chapter 8 regarding identification of Pacheco Pass as the Preferred Alternative.

The support of the Pacheco Pass Alternative is consistent with the Preferred Alternative identified in this Final Program Environmental Impact Report/Environmental Impact Statement (Final Program EIR/EIS) (Chapter 8).

F001-3

The level of HST service to the major urban areas played an important part in the identification of the Preferred Alternative. Impacts on natural resources, including the crossing of San Francisco Bay and the Don Edwards San Francisco Bay National Wildlife Refuge, also played an important part in the identification of the Preferred Alternative.



Comment Letter F002 (Peter A. Cross, U.S. Department of the Interior, Fish and Wildlife Service, July 23, 2007)

F002



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Sacramento Fish and Wildlife Office
2800 Cottage Way, Room W-2605
Sacramento, California 95825-1846



In reply refer to:
1-1-07-I-1521

David Valenstein
Environmental Program Manager
Federal Railroad Administration
1120 Vermont Avenue, MS-20
Washington, D.C. 20590

JUL 23 2007

Subject: Draft Bay Area to Central Valley High-Speed Train Program
Environmental Impact Report/Environmental Impact Statement

Dear Mr. Valenstein:

This letter responds to your July 10, 2007 disclosure of the Draft Bay Area to Central Valley High-Speed Train Program Environmental Impact Report/Environmental Impact (EIR/EIS) and comment period. We, the U.S Fish and Wildlife Service (Service) are providing the following comments regarding the effects to federally listed species resulting from the proposed Bay Area to Central Valley High-Speed Train Program, specifically as it affects the San Joaquin Valley and adjacent habitats of the coast range mountains. A copy of the draft EIR/EIS was received in our office July 10, 2007. The proposed project is located in part, in the following San Joaquin Valley and foothill counties: San Joaquin, Stanislaus, Merced, Contra Costa, and Alameda. At full build out, the proposed electric high speed train and station system would traverse several additional counties; however, the focus of the comments herein pertain to the northern San Joaquin Valley and foothill portions only. Because the draft EIR/EIS presents a programmatic level of analysis, it is not possible to know precisely the location, extent, and particular characteristics of listed species and their habitats that would be affected or the precise impacts therein. However, according to Service files and other information in our office, we believe it is likely that several species may be adversely affected and/or several acres of critical habitat may be degraded by the proposed project. The Service is providing the following comments pursuant to the Endangered Species Act of 1973, as amended (Act).

According to the draft EIR/EIS, the proposed High-Speed Train (HST) system, is electrified steel-wheel-on-steel-rail dedicated service, with a maximum speed of 220 mph (350 kph). A fully grade-separated, access-controlled right-of-way would be constructed, except where the system would be able to share tracks at lower speeds with other compatible passenger rail services. Shared track operations would use existing rail infrastructure in areas where construction of new separate HST facilities would not be feasible. The power supply for the HST would consist of a 2-by-25-kilovolt (kV) overhead catenary system for all electrified portions of the statewide system. Supply stations would be required at approximately 30-mile intervals. Based on the



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estimated power needs of this system, these stations would need to be approximately 20,000 square ft (200 ft by 100 ft). Switching stations would be required at approximately 15-mile intervals. These stations would need to be approximately 7,500 square ft (150 ft by 50 ft). Paralleling (booster) stations would be required at approximately 7.5-mile intervals. These stations would need to be approximately 5,000 square ft (100 ft by 50 ft). Each station would include a control house that would need to be approximately 800 square ft (40 ft by 20 ft).

Use of existing highways and rails systems would be maximized. Nearly 70% of the adopted preferred HST alignments are either within or adjacent to a major existing railroad or highway right-of-way. Underpasses or overpasses or other appropriate passageways would be designed to avoid, minimize, and/or mitigate any potential impacts to wildlife movement. In the city of Los Banos, Merced County, one site for a fleet storage/service and inspection/light maintenance facility to support the Pacheco Pass alignments could be located immediately west of where SR-165 intersects Henry Miller Avenue, also parallel with Henry Miller Avenue. In the city of Merced, in Merced County, one site for a fleet storage/service and inspection/light maintenance facility to support the Diablo Range direct alignments could be located near Castle Air Force Base.

According to the draft EIR/EIS, the proposed HST alignment alternatives would require relatively straight, flat, long linear features; moving or curving the alignment to avoid resources "might not always be feasible". The document states that only general statements of potential impacts can be made at this program level of review because detailed field studies were not conducted and the study areas used for some of the analysis was many times larger than the actual right-of-way (direct impact areas) for the network alternatives under consideration in most instances. There are 256 federally listed plant and animal species in California. The proposed HST system with its regional impacts is likely to adversely affect many of them, at least approximately 35% of them in the Bay Area to Central Valley sections alone. The proposed HST occurs at a time when listed species populations are in decline and habitat continues to be degraded.

In 1966, our nation saw passage of the Endangered Species Preservation Act, but this law and the subsequent Endangered Species Conservation Act (1969) proved insufficient to protect endangered wildlife. Then, in the early 1970's Congress acted decisively finding that "species of fish, wildlife, and plants are of aesthetic, ecological, educational, historical, recreational, and scientific value to the nation and its people." Congress further declared: "The purposes of [the ESA] are to provide a means whereby the ecosystems upon which endangered and threatened species depend may be conserved, [and] to provide a program for the conservation of such endangered and threatened species" [16 U.S.C. §1531(a)(3) and (b)]. The Act expresses a serious, and legally enforceable, determination on the part of the citizens of this nation to protect, conserve, and recover these species (Sullins 2001). Furthermore Section 7(a)(1) instructs us that all Federal agencies "shall use their authorities in furtherance of the purposes of [the] Act by carrying out programs for the conservation of endangered species and threatened species".

Many of the nation's species have been extirpated from California, especially from the San Joaquin Valley. The valley's once rich diverse flora has been almost completely lost and the fauna has not fared much better. The valley was once home to large ungulates: elk, deer,

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Comment Letter F002 – Continued

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pronghorn; and to large carnivores: grizzly and black bears, cougars, and bobcats. Currently, a native mammal endemic to the valley floor, the federally endangered San Joaquin kit fox (kit fox) (*Vulpes macrotis mutica*), is suffering the same fate as its predecessors and is nearly completely extirpated from its historic valley floor habitat. California’s rich heritage of biodiversity has been reduced from creatures larger than human beings to that of a little fox the size of a domestic cat. It survives now in the margins of its former range. It survives in the sub-optimal habitat of the coastal range foothills. The intent of the Act is to respond to future conditions by taking appropriate actions in the here and now. The proposed HST as described in the draft EIR/EIS makes no provisions for the future of federally listed species, even and including no assurances of total avoidance of conservation program areas (i.e. lands protected by conservation easements) and areas critical to recovery strategies. The proposed project does little to “provide a program for the conservation of such endangered and threatened species” [16 U.S.C. §1531(a)(3) and (b)]. To assert, as the document does, that the project as proposed “would have short-term effects on the . . . physical environment” and “would result in short-term . . . potential relocation of wildlife from habitat disturbance during construction and operation” expresses a misunderstanding of the health of California’s remnant ecosystems and habitat. To where is wildlife expected to relocate?

F002-5
cont.

F002-6

The proposed HST Program is a project with regional effects and consequences. The proposed project, in its northern San Joaquin Valley and foothill portion alone, would affect an area of approximately 1.3 million acres. Though the direct effects due to a proposed alignment, where possible, with existing transportation infrastructure would involve fewer acres, the indirect and cumulative effects to federally listed species would extend far beyond that alignment. The proposed project is inter-dependent upon other planning efforts to address the State’s congested highways (Metropolitan Transportation Commission 2007). For example, the Bay Area planners are working to integrate the proposed project with their efforts. U.S. Transportation Secretary Mary Peters has recently announced a grant to the Bay Area’s San Francisco Metropolitan Transportation Commission as part of the Urban Partnerships program. The Secretary has awarded grants to five of the nations most congested cities seeking solutions to underperforming existing infrastructure. Cities, such as San Francisco will implement “pricing techniques to pursue [traffic] congestion relief” (M. Peters Secretary of Transportation, interview, 2007). The Service urges that effects to endangered species from the proposed HST project be considered on par with on-going congestion relief efforts. The proposed HST, as a project of the Federal Railroad Administration, should complement and advance on-going efforts to assure the nation’s listed species are recovered. The Service believes a project which implements techniques for congestion relief and habitat degradation relief is in the best interest of the nation. Consolidation of transportation infrastructure and associated planning that contains sprawl rather than inducing it into habitat has the potential to substantially benefit listed species. Since the draft EIR/EIS asserts the proposed project will reduce road use and consolidate travel by rail, the Service requests analysis of the retirement and removal of those lesser used roads in order to determine restoration potential for listed species’ habitat.

F002-7

F002-8

The likely threats, harms, and harassments federally listed species would experience as a result of the proposed project include the following: habitat loss and degradation, habitat fragmentation, barriers to dispersal; exposure to noise, artificial lighting, electromagnetism, hazardous waste, pesticides, and ground vibrations; mortality due to train strikes; degraded hydrological

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functioning; degraded and impaired soil nutrient cycling; and an increased likelihood of the residential and commercial growth the proposed project would induce thereby further reducing and degrading habitat.

The project’s proposed connecting rail systems between the Bay Area and Central Valley are likely to have the greatest proportion of adverse effects to listed species in the area considered herein whether they be direct, indirect, cumulative, or inter-related and inter-dependent as is the case with the proposed train stations and train maintenance yards. **Table 7.3-5 Pacheco Pass Alternatives: San Jose Diridon Station to San Luis Reservoir** states that 23 special-status plant species and 27 special-status wildlife species may be impacted. Wildlife species likely to be adversely affected for this alignment and for that which crosses the San Joaquin Valley floor are likely to include the kit fox, the California tiger salamander (*Ambystoma californiense*), the California red-legged frog (*Rana aurora draytonii*), the vernal pool fairy shrimp (*Branchinecta lynchi*), the tadpole shrimp (*Lepidurus packardii*), and the giant garter snake (*Thamnophis gigas*). The critical habitat of the California red-legged frog is likely to be degraded as a result of the proposed southern or Pacheco Pass connector route. The two connector routes within the “proposed alignment area” (Figure 1.1-1), specifically the “GEA North” and “Henry Miller” (untitled pdf image) segments, could impact the several current or planned conservation easement areas, recovery strategy areas, or conservation banks that benefit the kit fox and other listed species.

F002-9
cont.

One conservation area, the San Luis National Wildlife Refuge Complex (Refuge) is between these two routes. The Refuge is of national significance and importance in terms of its wetlands, waterfowl, and wildlife. Should the connector route pass through the Pacheco Pass area and descend onto the valley floor in a placement that threatens the Refuge’s wildlife, research that documents population sources becoming population sinks when replaced with created or degraded habitat (Keagy *et al.* 2005), may become manifest. This would result in severe consequences for the Refuge and the nation’s wildlife. The proposed HST would also have serious adverse effects to the kit fox in this area as it would act as an impediment in the Santa Nella area, Merced County, an important kit fox dispersal route.

F002-10

The ability to disperse is critical to kit fox survival and recovery. Dispersal among sub-populations can rescue declining populations, enhance reproduction, maintain genetic diversity, and reduce risk of extinction. Koopman *et al.* (2000) suggested that efforts to conserve rare species of mammals may be dependent upon achieving habitat conditions which result in successful dispersal. It is unlikely that effects from the proposed project at Pacheco Pass entry onto the valley floor could be off-set significantly without extensive land bridges, i.e. built wildlife corridors, with habitat patches protected in perpetuity for the kit fox on each side of the bridges. Each patch would need to be, at minimum, 1,200 to 2,570 acres of best quality habitat in order for one kit fox pair to persist in the area (Gerrard *et al.* 2001, Cypher 2000).

In order to off-set adverse effects to listed species caused by the proposed project and the likely reduction in population baseline, the Service requests the subsequent analyses include provisions for conserving habitat by acquisition of fee title or conservation easement as has been standard practice, for example for the recent 21 Federal Highways Administration projects through the California Department of Transportation in the Bay Area and San Joaquin Valley. Subsequent

F002-11



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analyses should also analyze whether effects can in fact be off-set as this standard practice assumes availability of adequate and suitable habitat which may not be the case in some circumstances. Costs to the overall Bay Area to Central Valley portion of the proposed project should be adjusted accordingly to include listed species' compensation costs.

F002-11
cont.

The proposed HST Program presents an opportunity to provide California commuters and commerce the desired traffic congestion relief Californians seek. But it also presents an opportunity to provide habitat degradation relief to the nation's species. The proposed HST Program presents an opportunity to repair, restore, and enhance the environment for listed species due to a consequential reduced need for current and future roads and road networks which have had a devastating and fragmenting effect on habitat. Consequently, we would hope that subsequent plans and EIR/EIS documents categorize types of land "use" more accurately and inclusively beyond that of human use. The land is not a blank slate upon which projects are merely erected as indicated in the document; it is an ecosystem largely in need of repair and restoration in order to meet species' requirements as per the Act. When an ecosystem is healthy, it benefits all.

F002-12
cont.

We look forward to working with your agency and the California High-Speed Rail Authority to provide habitat degradation relief for our nation's wildlife and help plan your contributions toward "carrying out programs for the conservation of endangered species" [Section (7)(a)(1)]. Please contact Maryann Owens or Susan Jones of my staff at (916) 414-6600 if you have questions regarding this letter.

Sincerely,


for Peter A. Cross
Deputy Assistant Field Supervisor

cc:
California Department of Fish and Game, Fresno, California (Attn: Julie Vance)
San Luis National Wildlife Refuge, Los Banos, California (Attn: Kim Forrest)

Mr. David Valenstein

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Literature Cited

Cypher, B. L., G. D. Warrick, M. R. M. Otten, T. P. O'Farrell, W. H. Berry, E. C. Harris, T. T. Kato, P. M. McCue, J. H. Scrivner, and B. W. Zoellick. 2000. Population dynamics of San Joaquin kit foxes at the Naval Petroleum Reserve in California. *Journal of Wildlife Management* 64(4), Wildlife Monographs No. 145.

Gerrard, R., P. Stine, R. Church, and M. Gilpin. 2001. Habitat evaluation using GIS - A case study applied to the San Joaquin kit fox. *Landscape and Urban Planning* 52(2001):239-255.

Keagy, J.C., S. J. Schreiber, and D. A. Cristoi. 2005. Replacing sources with sinks: when do populations go down the drain? *Restoration Ecology* 13(3):529-535.

Koopman, M. E., B. L. Cypher, and J. H. Schrivner. 2000. Dispersal patterns of San Joaquin kit foxes (*Vulpes macrotis mutica*). *Journal of Mammalogy* 81(1):213-222.

Metropolitan Transportation Commission of San Francisco. <http://www.mtc.ca.gov/>. Site visited August 20, 2007.

Sullins, T. A.. 2001. ESA: Endangered Species Act: Basic Practice Series. American Bar Association, Chicago, Illinois.

The News Hour with Jim Lehrer. August 15, 2007 interview between Gwen Ifill and Secretary of Transportation Mary Peters. Public Broadcasting Service.



Response to Letter F002 (Peter A. Cross, U.S. Department of the Interior, Fish and Wildlife Service, July 23, 2007)

F002-1

The Preferred Alternative identified in this Final Program EIR/EIS is the Pacheco Pass Network Alternative, San Francisco and San Jose Termini. Please see Standard Response 3 and Chapter 8 regarding the identification of Pacheco Pass as the Preferred Alternative. As noted in the Summary, Section 3.15, and Chapters 7 and 8, the Preferred Alternative and the other alternatives reviewed may result in adverse impacts on sensitive species and habitat. Future project-level analyses would include focused surveys for state and federal threatened and endangered species and detailed identification of habitat, wildlife movement/migration corridors, and wetlands and water resources to further identify impacts and develop site-specific mitigation measures. In addition, engineering design refinements would be undertaken to avoid and/or minimize environmental impacts.

F002-2

The Final Program EIR/EIS does not identify, and the Preferred Alternative does not include, a site for a fleet storage/service and inspection/light maintenance facility along the Henry Miller alignment alternative in the vicinity of Los Banos.

Comment acknowledged. Castle Air Force Base (AFB) is the preferred site for a fleet storage/service and inspection/light maintenance facility. Agencies and the public have raised considerable concerns regarding potential environmental impacts related to the suggested maintenance facilities site near Los Banos, whereas there is strong agency and public support in the Merced region for a maintenance facility at Castle AFB. The maintenance facility site near Los Banos should be eliminated from further investigation.

F002-3

Responses to comments on species and habitat are below.

F002-4

The FRA would initiate Section 7 consultation to satisfy the requirements of the Endangered Species Act when individual sections of the proposed HST system are advanced to project-level environmental review. Upon project-level initiation of Section 7 consultation, for project study areas, the Authority and FRA would accomplish the steps identified by the U.S. Department of the Interior (DOI) by (1) identifying the conservation needs of each listed species with the potential to be affected by the project, (2) identifying the threats to each listed species' conservation related to the project, (3) identifying species conservation or management units and the threats affecting those units, (4) identifying conservation goals for species framed within the context of the HST program, and (5) developing conservation/management unit strategies. The Authority and FRA would prepare a biological assessment to address the affected conservation/management units identified during the Tier 2 project-level environmental reviews, when more specific data will be available for HST design parameters and HST alignment alignments.

F002-5

Refer to Response to Comment F002-10 regarding the kit fox.

F002-6

The Authority and FRA are committed to working with resource agencies to develop site-specific mitigation and impact avoidance strategies during project-level review, taking into consideration local and regional plans and policies. This will include, where feasible, measures to avoid or minimize impacts on lands protected by conservation easements.

Mitigation strategies in the Final Program EIR/EIS include participation in or contribution to existing or proposed conservation banks or natural management areas, including possible acquisition,



preservation, or restoration of habitats; purchase of credits from an existing mitigation bank; and participation in an existing habitat conservation plan (HCP). Future project-level analysis will identify the potential for habitat conservation through acquisition of fee title or easements. In the Pacheco Pass area, there are opportunities to help preserve habitat for kit fox, tiger salamander, and red-legged frog for mitigation, as demonstrated by the conservation strategy of the Santa Clara Valley HCP/Natural Community Conservation Plan (NCCP) (in Santa Clara County). There are also such opportunities in western Merced County. See also Section 3.15.5 regarding the Authority's commitment to acquire agricultural, conservation, and/or open space easements for potential impacts in and around the GEA.

F002-7

The HST has been designed to be primarily co-located with other transportation infrastructure and to be integrated with transit services. Because the HST serves large metropolitan areas with few stations, it would tend to encourage growth in existing urban areas and help to combat sprawl. Through interagency coordination, the Authority and FRA will continue to work with resource agencies, including the U. S. Fish and Wildlife Service (USFWS), to avoid or minimize impacts on endangered species and, where appropriate, mitigate significant impacts. In addition, at the project level the Authority and FRA will be complying with requirements to mitigate impacts on endangered species and participating in ongoing habitat conservation efforts. The cumulative impact analysis in Section 3.17 took into consideration other regionally significant transportation and development projects, including the Metropolitan Transportation Commission (MTC) Regional Rail Plan for the San Francisco Bay Area (September 2007).

F002-8

Although the reduction in vehicle miles traveled (VMT) on the roadways is a benefit of the HST, removal of roads from the street and highway system is not part of the Authority mandate or program and the effect of the HST program on VMT is not expected to make any roads redundant or unnecessary. As the HST design progresses,

the Authority will be cognizant of the effects that the linear HST system will have on access to all property, regardless of the use (farmland, residential, open space, etc.). At the project level, the environmental analysis would address any little-used roads that may be closed at the HST right-of-way line, and alternative routes over or under the line.

F002-9

The Preferred Alternative identified in this Final Program EIR/EIS is the Pacheco Pass Network Alternative, San Francisco and San Jose Termini, along Henry Miller Road. Please see Standard Response 3 and Chapter 8 regarding the identification of Pacheco Pass as the Preferred Alternative. The Grassland Ecological Area (GEA) North alignment alternative was analyzed in the document, but it will not receive further consideration, if the Preferred Alternative is selected to move forward. The Preferred Alternative, to a large extent, uses existing transportation corridors and rail lines to minimize potential impacts.

The analysis of potential biological impacts considered direct, indirect, and cumulative impacts. Potential impacts on amphibians and shrimp likely would be from indirect effects on the hydrology of ponds and vernal pools near HST alignments. Impacts on giant garter snakes would be limited to upland impacts immediately adjacent to known breeding sites (agricultural ditches and canals and wetlands). Focused surveys and impact analyses will be conducted as part of a subsequent project-level environmental document. These surveys, and the coordination required as part of the state and federal Endangered Species Acts, will help determine specific mitigation measures. The Authority and FRA will consider mitigation measures at the project level, including HST alignments that span wetlands, canals, or ditches; therefore, direct impacts on breeding habitat would be limited. The Authority also has identified as a mitigation strategy participating in or contributing to existing or proposed conservation banks or natural management areas, including possible acquisition, preservation, or restoration of habitats. See also Section 3.15.5 regarding the Authority's



commitment to acquire agricultural, conservation, and/or open space easements for potential impacts in and around the GEA.

Subsequent surveys and delineations conducted at the project level will be used to identify the potential for specific biological resource impacts related to potential habitat loss and degradation, habitat fragmentation, barriers to dispersal, exposure to noise, artificial lighting, electromagnetism, hazardous waste, pesticides, and ground vibrations, mortality from train strikes, potential for degraded hydrological functioning, potential for degraded or impaired soil nutrient cycling, and secondary impacts of growth. The proposed mitigation strategies in this Final Program EIR/EIS will be developed into specific mitigation measures to address specific impacts when more impact detail is known at the project level.

Refer to Response to Comment F002-10 regarding the kit fox.

F002-10

The Preferred Alternative identified in this Final Program EIR/EIS is the Pacheco Pass Network Alternative, San Francisco and San Jose Termini, which includes the Henry Miller alignment alternative and would not affect the San Luis National Wildlife Refuge Complex because it is more than 2 miles away.

The Santa Nella area (surrounding the O'Neill Forebay) is thought to be an important connection point for San Joaquin kit fox moving between their core range along the western edge of the San Joaquin Valley and points to the north in western Merced, western Stanislaus, eastern Alameda, and eastern Contra Costa Counties. A recent analysis by HT Harvey & Associates suggested that the many human-made structures in the vicinity likely have constrained movement of San Joaquin kit fox to just two narrow primary corridors. One human-made structure funnels movement north and south to a corridor as narrow as 400 ft along the base of the San Luis Dam. Secondary movement may occur during low-traffic periods on the four-lane State Route 152 overpass over the O'Neill Forebay. Secondary movement also may occur on one of the two-lane bridges over the State Water Project aqueduct, particularly the one at the base of the O'Neill Forebay near the pump station.

Continuing development in Santa Nella likely will further constrain movement of kit fox through this area. Because the core populations of kit fox are located to the south, most movement in this area likely occurs from south to north. Recent intensive surveys for kit fox in eastern Contra Costa and eastern Alameda Counties have failed to find any sign of kit fox breeding or movement, suggesting population density north of Santa Nella is very low and unlikely to be much of a source of individuals moving north to south.

The proposed Henry Miller alignment alternative occurs north of the O'Neill Forebay and the San Luis Reservoir, approximately 3.5 miles north of the primary pinch-point of kit fox movement at the base of the San Luis Dam. Because of this distance, the HST would not further narrow or limit the movement options available for kit fox traversing around the San Luis Reservoir or O'Neill Forebay. Figure 3.15-3 has been revised to include the movement route through Santa Nella along the west side of Interstate 5 (I-5) (this route is implied from the kit fox habitat shown in Figure 3.15-1 but is more explicit in Figure 3.15-3).

The specifics of the quality, quantity, and location of the biological and habitat resources and potential impacts will be established at the Tier 2 project level based on detailed surveys and habitat assessment. At that time, mitigation strategies will be refined and coordinated with the resource agencies and mitigation measures identified. Mitigation strategies to minimize impacts on sensitive species and habitat and wildlife movement corridors are included in this Final Program EIR/EIS. These include:

- Construct wildlife underpasses, bridges, and/or large culverts to facilitate known wildlife movement corridors.
- Ensure that wildlife crossings are of a design, shape, and size to be sufficiently attractive to encourage wildlife use.
- Provide appropriate vegetation around wildlife overcrossings and undercrossings to afford cover and other species requirements.
- Establish functional corridors to provide connectivity to protected land zoned for uses that provide wildlife permeability.



- Design protective measures for wildlife movement corridors in consultation with resource agencies.
- Use aerial structures or tunnels to allow unhindered crossing by wildlife.

F002-11

Refer to Response to Comment F002-6 regarding conservation measures. Future project-level HST costs will include the costs of mitigation measures for biological and aquatic resource impacts.

F002-12

The Authority and FRA have determined that the HST system would reduce traffic congestion. The Authority and FRA agree that the HST Program presents an opportunity to improve environmental and habitat conditions for the nation's species in the form of repair, restoration, and enhancement of the environment for listed species. The Authority and FRA agree that a healthy ecosystem benefits all.

Comment Letter F003 (Billie Blue Elliston, Ione Band of Miwok Indians, August 7, 2007)

Ione Band of Miwok Indians 

F003

Tribal Council

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August 7, 2007

Jones & Stokes
17310 Red Hill Avenue, Suite 320
Irvine, Ca 92614-5600

Re: Draft Bay area to Central Valley High- Speed Train Program
Environmental Impact Report/ Environmental Impact Statement

Mehdo Morshed
Executive director

Our Heritage Cultural Committee has reviewed your letter, and our research has determined that the proposed project site mentioned may possibly be within our Tribes Ancestral Territory.

The proposed project could be subject to Section 106 of the National Preservation Act (NHPA), and/or Native American Graves Protection and Repatriation Act (NAGPRA). Please keep the Tribe informed on this current project listed above.

F003-1

Thank you for notifying the tribe and if you should have further questions, please do not hesitate to contact me at billie@ionemiwok.org.

Sincerely,



Billie Blue Elliston
Heritage Cultural Committee Chair

CC:
Matthew Franklin
Chairperson

S:\ADMIN\COMMITTEES\Heritage Cultural Committee\HC YES Response Letter.doc

**14 West Main Street • PO Box 1190 •
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Response to Letter F003 (Billie Blue Elliston, Lone Band of Miwok Indians, August 7, 2007)

F003-1

Comment acknowledged. The proposed HST system would be subject to Section 106 (also see response to F004). This commenter requests to be kept informed of new developments in the project. As for all commenters, this name and address have been added to the Authority mailing list for periodic updates.



Comment Letter F004 (Blythe Semmer, ACHP, August 10, 2007)



F004



August 10, 2007

Mr. Mehdi Morshed
 Executive Director
 California High Speed Rail Authority
 925 L Street, Suite 1425
 Sacramento, CA 95814

RE: *DEIS for Bay Area to Central Valley High-Speed Train Program
 Multiple Counties, California*

Dear Mr. Morshed

On July 16, 2007, the Advisory Council on Historic Preservation (ACHP) received a copy of the Draft Environmental Impact Statement for the referenced undertaking. Our comments pursuant to the National Environmental Policy Act of 1969 (NEPA) were requested. We have no comments regarding the NEPA review at this time.

F004-1

While the documentation provided indicates that the proposed undertaking may adversely affect historic properties, we have no record of receiving notification of adverse effects from the Federal Railroad Administration (FRA) regarding this undertaking as is required under our regulations, "Protection of Historic Properties" (36 CFR Part 800). Please continue to consult with the California State Historic Preservation Officer (SHPO) and other consulting parties to complete the requirements of the Section 106 process. Should FRA make an adverse effect finding regarding this undertaking, the agency should provide the required notification and documentation to ACHP in accordance with 36 CFR § 800.6 and § 800.11(e).

If you have any questions or would like to discuss this matter, please contact me by telephone at (202) 606-8552 or by e-mail at bsemmer@achp.gov.

Sincerely,

Blythe Semmer
 Historic Preservation Specialist
 Office of Federal Agency Programs

ADVISORY COUNCIL ON HISTORIC PRESERVATION
 1100 Pennsylvania Avenue NW, Suite 803 • Washington, DC 20004
 Phone: 202-606-8503 • Fax: 202-606-8647 • achp@achp.gov • www.achp.gov



U.S. Department
 of Transportation
**Federal Railroad
 Administration**

Response to Letter F004 (Blythe Semmer, ACHP, August 10, 2007)

F004-1

As allowed under 36 Code of Federal Regulations (CFR) §800.4(b)(2), a phased approach to identification of historic properties can be used when the proposed undertaking involves corridors. The Authority and FRA determined through background research, consultation, and abbreviated field reconnaissance that historic properties likely exist along various corridor alignment alternatives.

As part of the statewide program EIR/EIS (California High-Speed Rail Authority and Federal Railroad Administration 2005), FRA initiated consultation with the State Historic Preservation Office (SHPO) under Section 106 of the National Historic Preservation Act (NHPA) in November 2002. The State Historic Preservation Officer (SHPO) concurred with a phased identification effort for historic properties, as provided for in 36 CFR §800.4 (b)(2). The phased identification effort continued for this Program EIR/EIS and is discussed in Section 3.12, Cultural Resources and Paleontological Resources.

At a subsequent project stage and under Section 106 and implementing regulations (36 CFR § 800), full identification efforts will proceed, and resources will be evaluated using National Register of Historic Places (NRHP) and California Register of Historical Resources eligibility criteria. The Authority and FRA will consult with the SHPO on determinations of eligibility and adverse effects. Mitigation measures needed to address impacts on specific resources will be incorporated in a Memorandum of Agreement (MOA) among the SHPO, FRA, and the Authority during the preparation of site-specific environmental documentation. FRA will notify the Advisory Council on Historic Preservation of any adverse effect determinations, in accordance with the Section 106 implementing regulations. Further consultation also will occur at the project level with the Native American Heritage Commission and with Native American groups.



Comment Letter F005 (Kim Forrest, U.S. Department of the Interior, Fish and Wildlife Service, September 27, 2007)



United States Department of the Interior

FISH AND WILDLIFE SERVICE
 San Luis National Wildlife Refuge Complex
 Post Office Box 2176
 Los Banos, California 93635



F005

RECEIVED
 SEP 27 2007
 BY: 25 September 2007

VIA FACSIMILE AND U.S. MAIL
 Mr. Mehdi Morshed, Executive Director
 California High-Speed Rail Authority
 925 L Street, Suite 1425
 Sacramento, CA 95814

Re: HSR A Should Study Only Alignments that Avoid the Grasslands Ecological Area

Dear Mr. Morshed:

I am writing on behalf of the San Luis National Wildlife Refuge Complex, in order to reiterate our natural resource concerns regarding the high-speed rail alignments through or adjacent to the Grasslands Ecological Area (GEA).

The importance of the ecosystem that the GEA protects is increasingly recognized both nationally and internationally. Encompassing approximately 180,000 acres, the GEA is the largest fresh water wetland complex in California and contains the largest block of contiguous wetlands remaining in California. Less than five percent of the original four million acres of Central Valley wetlands remain.

The GEA provides critical wintering habitat for the migratory waterfowl and shorebirds of the Pacific Flyway, including 20% of the Pacific Flyway waterfowl population. Waterfowl populations average a half-million, with peak numbers up to one million. Hundreds of thousands of shorebirds migrate through the area. The GEA provides habitat for more than 550 species of plants and animals, including 47 species that are endangered, threatened, or candidate species under state or federal law. As one of the largest remaining vernal pool complexes, the GEA is home to many rare species associated with this disappearing habitat. San Joaquin kit fox, Aleutian Canada [cackling] geese, sandhill cranes, Swainson's hawks, and tri-colored blackbirds are also very dependent upon the area.

The GEA consists of diverse habitats, including seasonally flooded wetlands, semi-permanent marsh, woody riparian habitat, wet meadows, vernal pools, native uplands, grasslands, and native brush land. The GEA was recognized in 1991 by the Western Hemisphere Shorebird Reserve Network as one of only 15 internationally significant shorebird habitats. In addition, it was recognized in 1999 by the American Bird Conservancy as a *Globally Important Bird Area*. Most recently, it was designated a *Wetland of International Importance* under the Ramsar Convention due to its importance to a variety of wildlife, including several rare and endangered species, its critical role as wintering habitat for Pacific Flyway waterfowl, and its status as the largest remaining block of wetlands in what was once a vast Central Valley ecosystem. The Ramsar Convention is an international agreement dedicated to the worldwide protection of ecosystems that span member nation's borders. The GEA is one of only 22 sites in the United States and four in California that have received this status.

In recognition of the rich and critically important natural resources of the Grasslands, conservation agencies and groups have focused more attention and funding on this area than most areas of the State. There are two U. S. Fish and Wildlife Service national wildlife areas encompassing approximately 36,500 acres, a U. S. Fish and Wildlife Service conservation easement program that encompasses 75,000 acres on 180 separate private properties, six units of the California Department of Fish and Game wildlife areas encompassing approximately 25,000 acres, a California Department of Parks and

Recreation state park, and an extremely active Natural Resources Conservation Service program. This area has garnered numerous habitat restoration and enhancement grants totaling millions of dollars, and is one of the most active areas for conservation group involvement.

F005-1
 cont.

The Bay Area to Central Valley Environmental Impact Report/Environmental Impact Statement (EIR/S) for the California High Speed Train System, completed by the High Speed Rail Authority (HSRA), continues to propose a Pacheco Pass alignment that bisects the GEA along Henry Miller Avenue or else runs immediately adjacent to it along its northern boundary along Highway 140 and fragments a portion of the GEA. Our prior comments have provided extensive documentation of the fragility and importance of this area and the likely harm that would result from even an elevated rail alignment through this area. Both of these Pacheco Pass alignments would cause unrecognized damage to the GEA.

The GEA is a small remnant of the once vast historic Central Valley wetlands. Yet, the HSRA proposes to further degrade this priceless area of the California landscape. The Henry Miller Avenue alignment bisects the GEA through its most vulnerable middle. A Highway 140 alignment would isolate the California Department of Fish and Game's China Island Unit of the North Grasslands Wildlife Area from the rest of the GEA. Both alignments may cross both California Department of Fish and Game wildlife areas and U. S. Fish and Wildlife Service refuges, in addition to lands protected by federal and state conservation easements; regardless, simply aligning immediately adjacent to these protected lands in this locale would be equally harmful. Bisection of -- or routes immediately adjacent to -- the GEA will interfere with critical wildlife corridors, further aggravate the isolation of wildlife populations, interfere with waterfowl/waterbird nesting and breeding, and increase wildlife mortality. The physical description of a typical track layout -- with a 50- to 100-foot right-of-way ("comparable to a six-lane highway"), 8-foot chain-link fencing on both sides of the tracks, 26-foot tall catenary supports every 30 feet, and 12-foot to 16-foot soundwalls where proposed -- would create a profound barrier.

F005-2

In addition, any alignment through or adjacent to the GEA leaves open the possibility that a Los Banos/Gustine/Santa Nella area station may be added in the future. Continued population growth may create a situation where a station becomes economically viable -- particularly with added political pressure. Much land in the Santa Nella, Los Banos, and the Highway 140 area is already being purchased and/or planned for development by developers.

The EIS/R identifies a proposed site for a fleet storage/service and inspection/light maintenance facility to support the Pacheco Pass alignments immediately west of the SR-165 and Henry Miller Avenue intersection. This is *immediately* adjacent to the GEA. Development of this facility -- not to mention additional development pressures that would surely follow -- would have a profound impact on the GEA. This would increase the attractiveness of the area for sprawl and population increases adjacent to the GEA. The EIR/S recognizes the potential threats of urban sprawl; yet, I do not believe that the discrepancy in housing costs between the Central Valley and the San Francisco Bay Area is fully recognized. It has already caused massive urban growth in the Central Valley; and the potential for an extremely convenient commute would increase that growth by an order of magnitude.

F005-3

Clearly, a high-speed train is growth-inducing. The impact of growth relative to the existing population, open space, lifestyles, and community type needs to be considered. For example, an increase of 50,000 people may be negligible to a community of nearly a million (San Jose), but it would be devastating to the way of life and habitat linkages of a town the size of Los Banos (less than 40,000). Social impacts and growth-inducing impacts to small towns and urban sprawl could very well be the most damaging negative impact of this high-speed train.

F005-4

Bisection of the GEA conflicts with the private-public partnership that has long protected this unique resource. There is very little recognition of these conservation protections in the EIR/S, and no mention whatsoever of the largest category of conservation protection -- USFWS conservation easements on private property. Clearly, the environmental review is still inadequate, considering that there is very

F005-5

F005-1



U.S. Department of Transportation
Federal Railroad Administration

Comment Letter F005 - Continued

little mention of either the privately-owned wildlife habitat or the lands management by the State of California (both the California Department of Fish and Game and the California Department of Parks and Recreation), and the EIS/R contains such unsupported conclusions as: "The Henry Miller alignment alternatives would not impact the GEA."

F005-5
cont.

The Pacheco Pass alignment would result in an estimated 10 minute reduction in travel time between Los Angeles and San Jose or San Francisco over the Altamont Pass alignment. This surely cannot be valid justification for the great environmental damage done to this area of the Diablo Range and the GEA and its environs. And, the Altamont Pass alignment may very well better serve and provide more options for *intra*-Bay Area transportation needs (an area well-known for its traffic jams), not to mention the obvious benefits to the Sacramento/Stockton/Tracey communities.

F005-6

When one looks at the travel needs and deficits of the State in a logical and economical manner, it appears that a blend of options would work best. According to the latest data, San Francisco Bay Area commuters are second only to Los Angeles commuters in time spent stuck in traffic. The HSRA needs to consider such options as improved air travel for the long distances between major metropolitan areas and high-speed rail within the metropolitan areas (San Francisco/San Jose/East Bay, Los Angeles/San Diego, and Sacramento/East Bay). Consolidation of transportation infrastructure that contains sprawl rather than inducing it has the potential to substantially benefit wildlife. Not only would this better focus transportation efforts where they are clearly needed the most, in addition it would eliminate costly and unnecessary expenses, move people off of the highway system, decrease wear and tear on the highway -- and thus operations and maintenance expenses, improve safety, and vastly reduce negative environmental and social impacts across the entire landscape of California.

F005-7

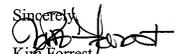
There is wide agreement among agencies, environmental groups, and train-rider associations that an Altamont Pass alignment would best minimize environmental impacts and maximize ridership potential. The Altamont Pass alignment would add additional transportation options along an existing disrupted and congested corridor and encourage population growth in already established areas. This is an area of rapid growth; the HSRA should focus their efforts after the European model, which looks to "densification" of existing cities, rather than encouraging urban sprawl and damaging the character of small rural communities. We support the selection of this route as the environmentally preferable alternative over any Pacheco Pass route.

F005-8

Due to the importance of the resources of the GEA -- and the amount of public and private focus, energy, and funds that have been invested in its protection -- we strongly urge the HSRA to eliminate any high-speed train alignments that cross through or adjacent to the GEA.

F005-9

Thank you for considering these comments.

Sincerely,

Kim Forrest
Wildlife Refuge Manager

- Cc: Dan Walsworth, Refuge Supervisor; FWS/CNO
 Susan Jones, Branch Chief, FWS/Endangered Species Program
 Maryann Owens, Biologist; U. S. Fish and Wildlife Service
 Dave Widell, General Manager; Grassland Water District
 Julie Vance, Senior Environmental Scientist; California Department of Fish and Game
 Bill Cook, Wildlife Habitat Supervisor II; California Department of Fish and Game
 Malia Ortiz, District Conservationist; USDA/NRCS
 Dr. Frederic Reid, Director of Conservation Planning; Ducks Unlimited, Inc.
 Chris Hildebrandt, Regional Biologist; Ducks Unlimited, Inc.
 Diana Westmorland Pedrozo, Executive Director; Merced County Farm Bureau
 Rod Webster; Merced Sierra Club
 Marsh Pitman/Ken Gosting; Transportation Involves Everyone



United States Department of the Interior



FISH AND WILDLIFE SERVICE
 San Luis National Wildlife Refuge Complex
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FAX TRANSMITTAL

Date 15 Sept 07

No. of pages 4
 (Including cover sheet)



To: Mr. Mehdi Marshad

916/322-0827

From:



U.S. Fish and Wildlife Service
 San Luis National Wildlife Refuge Complex

KIM FORREST
 Refuge Manager



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 947-C West Pacheco Blvd.
 Los Banos, CA 93635

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Comments:



U.S. Department
of Transportation
**Federal Railroad
Administration**

Response to Letter F005 (Kim Forrest, U.S. Department of the Interior, Fish and Wildlife Service, September 27, 2007)

F005-1

Comment acknowledged.

F005-2

The Preferred Alternative identified in this Final Program EIR/EIS is the Pacheco Pass Network Alternative, San Francisco and San Jose Termini, which includes the Henry Miller alignment alternative and therefore would not affect the San Luis National Wildlife Refuge Complex. The Preferred Alternative (Chapter 8) does not include a station in the Los Banos/Gustine/Santa Nella area.

The discussions of biological and wetlands impacts and mitigation strategies are found in Section 3.15, as are design practices that have been incorporated into the project to avoid, minimize, and/or mitigate any potential impacts. As noted in Section 2.3.2, design practices include co-locating the HST with other transportation corridors, culverts, and passageway constructed at appropriate intervals to allow the movement of wildlife species, and placement of the trackway on bridges or elevated structures across wetlands, water bodies, or sensitive natural communities. Additionally, the HST right-of-way width could be reduced in constrained areas to minimize impacts on biological resources.

The program EIR/EIS analyzed two Pacheco Pass alignment alternatives that would cross the area designated as the GEA. These included the GEA North alignment alternative and the Henry Miller alignment alternative.

The GEA North alignment would extend through the northwest portion of the GEA, including the California Department of Fish and Game– (CDFG-) managed North Grasslands Wildlife Management Area (WMA), San Luis National Wildlife Refuge, and the Great Valley Grasslands State Park. State Route 140 also extends through the GEA just south of the GEA North alignment alternative. Other development in this area of the GEA includes roads (Santa Fe Grade,

Preston Road), canals, farm operations, and agriculture. This alignment alternative would result in a potentially significant impact because it would not be co-located with an existing transportation or utility corridor, it would bisect and fragment the North Grasslands WMA, and it would result in impacts on the refuge and the state park in addition to biological resources and wetlands as identified in Section 3.15. These impacts played an important part in the identification of the Preferred Alternative, which does not include the GEA North alignment.

The Henry Miller alignment alternative would extend through two southern portions of the generally designated GEA area and would be immediately adjacent to the roadway where it crosses areas now managed by public agencies. This alignment alternative would be adjacent to the existing Henry Miller Road and would avoid or minimize potential impacts on biological resources. The western portion crossed by the alignment alternative closest to Los Banos would extend adjacent to Henry Miller Road and the San Luis Wasteway and cross Ingomar Road ½ mile south of the Volta Wildlife Area. This area of the GEA currently is bisected by transportation and infrastructure facilities, including rail and roadways, and also includes housing development, farm operations, and land under active agricultural production. The other area of the GEA crossed by the alignment along Henry Miller Road is south of the CDFG Los Banos Wildlife Area parking lot and 2 miles south of the San Luis National Wildlife Refuge. This segment would be immediately adjacent to the roadway by the wildlife area and would not extend into the Refuge. As shown on the current conceptual plans, the alignment would extend approximately 3.3 miles on elevated structure, through the GEA area along Henry Miller Road. This area of the GEA is bisected by Henry Miller Road, State Route 165, Baker Road, Delta Road, Santa Fe Grade, Criswell Avenue, and a number of human-made canals and includes housing development, farm operations, and land under active agricultural production.



Use of the Henry Miller alignment alternative would not be expected to result in further fragmentation of habitat in the GEA because the alignment is adjacent to Henry Miller Road, an existing entity, and would be elevated for almost half the distance through the GEA. Both the general area designation of the GEA and the establishment of the USFWS Grasslands WMA occurred well after roads, utilities, farms, and residences were well established, and the Henry Miller alignment alternative would not result in additional fragmentation. The boundaries for the GEA and the WMA may change. Expanding the WMA does not mean that all properties within it are, or would be, under conservation easements. An Environmental Assessment prepared in 2005 by the USFWS supported its decision to expand the general area by an additional 46,400 acres. The USFWS and other agencies may seek to acquire easements, lands, or interests in lands from willing sellers, as funds allow, but landowners are not required to participate and their lands have no regulatory restrictions placed on them as a result of the 2005 review by the USFWS.

The program-level environmental analysis provided in Section 3.15 identifies potential impacts that the alignment alternatives and station location options may have on wildlife corridors, special-status wildlife and plant species, wetlands, conservation plans, special management areas and vegetation communities. Broad program mitigation strategies also are identified in Section 3.15.5. The HST system would include fencing, catenary supports, and soundwalls (where needed to mitigate noise impacts). Impacts of these elements on biological resources will be fully evaluated at the project level when more details of these elements have been identified. It should be noted there are a number of existing canals, electrical lines and power poles, substantial berms, and fences along Henry Miller Road.

The analysis in Section 3.15 also identifies the need for field reconnaissance-level surveys to be conducted as part of the future Tier 2 project-level environmental analysis. These future surveys will determine specific habitat conditions and impacts along the entire preferred HST network alternative, including Henry Miller Road, and surrounding areas. This detailed analysis will identify specifically where there are construction and operation impacts, including noise

and vibration, on critical wildlife corridors, wetlands, sensitive habitat, and special-status species, and the project's potential to affect waterfowl/waterbird nesting and breeding and mortality. The Henry Miller alignment and other alignments using Pacheco Pass will be further designed at the project level to avoid or minimize potential impacts. Mitigation strategies identified at the program level will be refined and applied at the project level to mitigate significant impacts. The Authority and FRA will continue coordination with all agencies and organizations involved to identify specific issues and develop solutions that avoid, minimize, and mitigate potential biological impacts. The Authority and FRA also have committed to investigating site-specific location and design alternatives for the preferred alignment alternative and station location options, including avoidance and minimization alternatives, during the Tier 2, project-level environmental review. This includes evaluating design alternatives to the north and south of the current proposed Henry Miller alignment alternative. See also Section 3.15.5 regarding the Authority's commitment to acquire agricultural, conservation, and/or open space easements for potential impacts in and around the GEA.

There is no site for a station in the vicinity of the Los Banos, Gustine, or Santa Nella area in the Final Program EIR/EIS. The Authority has determined that a station in any of these areas should not be pursued in any subsequent environmental analysis.

F005-3

The Final Program EIR/EIS does not identify, and the Preferred Alternative does not include, any site for a fleet storage/service and inspection/light maintenance facility along the Henry Miller Road section of the proposed alignment in the vicinity of Los Banos.

F005-4

Please see Standard Response 4 regarding growth inducement.

F005-5

The GEA is discussed and described in Section 3.15. Additional discussion of the USFWS conservation easements has been included



in this Final Program EIR/EIS. The text has been revised to clarify that the Henry Miller alignment alternative would not affect the San Luis National Wildlife Refuge Complex within the area identified as the GEA.

F005-6

Please see Standard Response 3 and Chapter 8 regarding identification of Pacheco Pass as the Preferred Alternative.

F005-7

The Preferred Alternative presented in this Final Program EIR/EIS is the Pacheco Pass Network Alternative, San Francisco and San Jose Termini. To improve connectivity and passenger rail service in the region, the Authority is working with the region's transit providers and planning agencies to assist in identifying regional rail improvements in the Altamont Corridor. These improvements would not meet the purpose of and need for the HST system but rather are an opportunity for the region to improve mobility and access in this corridor and provide connectivity to the HST system. These improvements would need to undergo their own environmental review and would be subject to California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA) requirements and regulations to the extent federal agency actions are involved. Please see Standard Response 3 and Chapter 8 regarding identification of Pacheco Pass as the Preferred Alternative.

F005-8

Please see Standard Response 3 and Chapter 8 regarding identification of Pacheco Pass as the Preferred Alternative.

F005-9

The Preferred Alternative presented in this Final Program EIR/EIS is most likely to yield the Least Environmentally Damaging Practicable Alternative (LEDPA). Additionally, the Authority and FRA have identified design modifications and mitigation measures to reduce impacts on waters of the United States, wildlife corridors, and species habitat. The Preferred Alternative identified in this Final

Program EIR/EIS is the Pacheco Pass Network Alternative, with San Francisco and San Jose Termini, which includes the Henry Miller alignment alternative. Please see Standard Response 3 and Chapter 8 regarding the identification of Pacheco Pass as the Preferred Alternative. This alternative would not directly affect the San Luis National Wildlife Refuge Complex, existing wildlife management areas, state parks, or established wildlife protection areas in the area generally identified as the GEA. Future project-level analyses would include focused surveys for species state- or federally listed as threatened and endangered and detailed identification of habitat, wildlife movement/migration corridors, and wetlands and water resources to further identify impacts and develop site-specific mitigation measures. In addition, engineering design refinements would be undertaken to avoid and/or minimize environmental impacts. The Authority and FRA will continue to work with the USFWS and the CDFG to identify conservation measures to further enhance resource protections within the GEA. See also Section 3.15.5 regarding the Authority's commitment to acquire agricultural, conservation, and/or open space easements for potential impacts in and around the GEA.

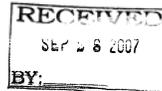


Comment Letter F006 (Gene K. Fong, U.S. Department of Transportation, September 28, 2007)

F006



U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION
CALIFORNIA DIVISION
650 Capitol Mall, Suite 4-100
Sacramento, CA, 95814
September 27, 2007



IN REPLY REFER TO
HDA-CA
File # High-Speed Train
Document # P57708

Mr. Dan Leavitt
California High-Speed Rail Authority
925 L Street, Suite 1425
Sacramento, CA 95814

Dear Mr. Leavitt:

The Federal Highway Administration has reviewed the Draft Bay Area to Central Valley High-Speed Train Program Environmental Impact Report/Environmental Impact Statement (EIR/EIS), dated July 2007. Giving the preliminary stage of this environmental analysis, we have no comments on this Draft Program EIR/EIS.

F006-1

We very much appreciate the opportunity to review the document. We look forward to working with you on the project-level design and environmental evaluation of the high-speed train. If you have any questions, please call Dominic Hoang at (916) 498-5002.

Sincerely,

For
Gene K. Fong
Division Administrator

**MOVING THE
AMERICAN
ECONOMY** 



U.S. Department
of Transportation
**Federal Railroad
Administration**

Response to Letter F006 (Gene K. Fong, U.S. Department of Transportation, September 28, 2007)

F006-1

Comment acknowledged.



U.S. Department
of Transportation
**Federal Railroad
Administration**

Comment Letter F007 (Nova Blazej, U.S. Environmental Protection Agency, October 26, 2007)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

F 007

October 26, 2007

Mark Yachmetz
Associate Administrator of Railroad Development
Federal Railroad Administration
1120 Vermont Avenue, NW, MS 20
Washington, D.C. 20590

Subject: Bay Area to Central Valley California High Speed Train System Draft
Programmatic Environmental Impact Report/Environmental Impact Statement
(CEQ# 20070303)

Dear Mr. Yachmetz:

The Environmental Protection Agency (EPA) has reviewed the Draft Programmatic
Environmental Impact Report/Environmental Impact Statement (Draft PEIS) for the Bay Area to
Central Valley California High Speed Train System. Our review is pursuant to the National
Environmental Policy Act (NEPA), Council on Environmental Quality (CEQ) regulations (40
CFR Parts 1500-1508), and Section 309 of the Clean Air Act. Our detailed comments on the
entire Draft PEIS are enclosed.

EPA requested to be a cooperating agency in this "Tier 1", or programmatic
environmental review NEPA process and has been working with Federal Railroad
Administration (FRA) and California High Speed Rail Authority (CHSRA) to address the
potential environmental impacts of the project as outlined in a June 12, 2006 Interagency
Memorandum of Understanding (MOU). The Tier 1 process is expected to eliminate broad
corridor alternatives from further consideration. Future "Tier 2", or project-level analyses, will
address site-specific environmental impacts of the high speed train system. The MOU outlines a
process for integrating the requirements of NEPA and Clean Water Act (CWA) Section 404 in
Tier 1 to streamline the environmental review and permitting process in Tier 2. A federal permit
from the Army Corps of Engineers under CWA Section 404 will be required for this project at
Tier 2 due to anticipated fill of waters of the United States. The MOU seeks to ensure that the
alignments advanced to Tier 2 are most likely to contain the "least environmentally damaging
practicable alternative," a determination that is required for a CWA Section 404 permit.

EPA commends FRA and CHSRA's commitment to analyze a full range of alternatives
connecting the Bay Area to the Central Valley in this separate PEIS, which includes Altamont
Pass alternatives, and excludes alternatives that bysect Henry Coe State Park, as recommended
by our agency and multiple additional stakeholders. While we are supportive of a high speed
train system for California, and connecting Bay Area to the Central Valley, we have rated this
project as Environmental Concerns - Insufficient Information (EC-2) based on impacts to

aquatic resources and the indirect and cumulative impacts analyses. A "Summary of Rating
Definitions" for further details on EPA's rating system is enclosed.

EPA's comments focus on issues we would like addressed before a Tier 1 Record of
Decision is signed. We seek to alert FRA to the potential consequences of these decisions on
future Tier 2 analyses. We have three major areas of concern for this Tier 1 project: 1) selection
of the alternative corridors most likely to contain the LEDPA, 2) growth-related impacts, and 3)
cumulative impacts to resources of concern.

As a cooperating agency, we look forward to meeting with you to discuss how this
information can be addressed in the Final Tier 1 PEIS. This will help to ensure that the
alignment moved forward for future Tier 2 project-level study is most likely to contain the least
environmentally damaging practicable alternative, the only alternative that can be permitted
under CWA Section 404, connecting the Bay Area to the Central Valley. We look forward to
working with FRA and CHSRA to identify ways to address these issues and the other concerns
identified in the enclosed detailed comments.

The enclosure further describes the above-listed comments and the additional
environmental concerns that EPA identified following our review of the Draft PEIS. We
appreciate the opportunity to review the Draft PEIS and believe that a well-planned high speed
train system can offer great economic and environmental benefits for California's future. We
look forward to continuing our coordination with FRA and CHSRA and are available to discuss
the issues addressed in this letter during upcoming interagency meetings. If you have any
questions, please feel free to contact Connell Dunning (415-947-4161) or Erin Foresman (916-
557-5253), the lead reviewers for this project.

Sincerely,

Handwritten signature of Nova Blazej, Manager, Environmental Review Office

Enclosures: EPA's Detailed Comments
Summary of Rating Definitions

cc: Mehdi Morshed, California High Speed Rail Authority
Jane Hicks, Army Corps of Engineers
Mark Littlefield, U.S. Fish and Wildlife Service

F007-1

F007-2

F007-2
Cont.

F007-3

F007-4

F007-5



Comment Letter F007 - Continued

EPA DETAILED COMMENTS ON THE BAY AREA TO CENTRAL VALLEY CALIFORNIA HIGH SPEED TRAIN SYSTEM DRAFT PROGRAMMATIC ENVIRONMENTAL IMPACT STATEMENT, OCTOBER 26, 2007

Integration of Clean Water Act and National Environmental Policy Act Requirements

The Federal Railroad Administration (FRA) and California High Speed Rail Authority (CHSRA) are using a tiered process for the National Environmental Policy Act (NEPA) analysis of the proposed project. The goal for this Tier 1 (programmatic) Environmental Impact Statement (EIS) is to identify a corridor for future Bay Area to Central Valley rail. The Tier 2 (project-level) EIS will analyze specific alignment options for the rail within the corridor(s) identified in Tier 1. After Tier 2 project approval, but before project construction, the project proponent will need to obtain a Clean Water Act (CWA) Section 404 individual permit from the U.S. Army Corps of Engineers (Corps).

The CWA Section 404(b)(1) Guidelines (Guidelines) are binding, substantive regulations that restrict CWA Section 404 permits to the “least environmentally damaging practicable alternative (LEDPA).” The Corps cannot grant a CWA Section 404 permit to a preferred project-level alternative that is not the LEDPA; therefore, it is critical that the LEDPA is not prematurely eliminated during the Tier 1 NEPA review.

FRA, CHSRA, Corps, and U.S. EPA Region IX agreed to follow a NEPA/CWA Section 404 Integration Process Memorandum of Understanding (NEPA/404 MOU) for Tier 1 decision making as the framework to guide the environmental review of the programmatic, Tier 1 project. The goal of the modified NEPA/404 MOU process is to ensure that Tier 1 decisions reflect careful consideration of the Guidelines. The Guidelines should be addressed as early as possible in the Tier 1 NEPA evaluation to eliminate the need to revisit decisions at the Tier 2 project-level that might otherwise conflict with CWA 404 permit requirements.

EPA has agreed with the first three checkpoints in the NEPA/404 MOU process – the purpose and need, criteria for selecting the range of alternatives, and the range of alternatives. The next steps in the process are: 1) to select the corridor(s) most likely to contain the LEDPA and 2) to determine the mitigation framework for the project.

Corridor(s) most likely to contain the LEDPA

Multiple Mountain Crossings

On January 22, 2007, EPA concurred with the range of alternatives to be analyzed in the Programmatic Draft EIS. EPA concurred on multiple alternatives to be analyzed, including Altamont Pass options and Pacheco Pass options, with potential bridge crossings. EPA did not, however, concur with the potential scenario of a high speed train system with *both* an Altamont Pass and a Pacheco Pass alignment. In follow up discussion with CHSRA and FRA, we have voiced a concern regarding potential doubling of impacts that would result from crossing at both the Altamont Pass and Pacheco Pass.

Recommendations:

In order to be consistent with the Guidelines, EPA recommends eliminating from further consideration a high speed rail alternative connecting Bay Area to Central Valley that includes both an Altamont Pass alignment and a Pacheco Pass alignment, termed

F007-6

“Pacheco Pass with Local Service” in the Draft PEIS. This scenario would effectively result in twice the habitat fragmentation, noise, and indirect impacts to aquatic resources. This alternative would likely result in CWA Section 404 permitting challenges because it is difficult to demonstrate that mountain crossings at both Pacheco and Altamont Passes represent the LEDPA given the increased indirect and direct impacts to aquatic resources and habitat fragmentation associated with this alternative.

F007-7
Cont.

Indirect Impacts

The Guidelines call for an analysis that compares the total impact – direct and secondary (indirect) – for each alternative. However, the Draft PEIS only includes direct impacts in the comparison of alternatives in some comparison matrices (e.g., Table S.5-1). It is important to include indirect, including growth-inducing impacts, in the alternatives analysis comparison, because an alternative with greater direct impacts, but fewer indirect impacts (including growth-related impacts) may be identified as the LEDPA if another alternative with greater indirect impacts is also being analyzed.¹

F007-8

Recommendation:

In order to be consistent with the Guidelines and determine which corridor is most likely to contain the LEDPA, the alternatives analysis should compare and present the alternatives using both direct and indirect impacts to environmental resources of concern.

Pacheco Pass and Altamont Alignments

As disclosed in the Draft PEIS, and as identified in the previously completed statewide High Speed Rail Programmatic DEIS, the Pacheco Pass alignments may result in substantial impacts to wetlands and other waters and may result in substantial impacts to jurisdictional waters. The Altamont Pass alignments also result in a large number of impacts to aquatic resources. The significant loss of aquatic resources associated with Pacheco Pass and Altamont alignments, as well as the impacts to wildlife corridors and habitat fragmentation, are not consistent with the substantive binding requirements of CWA Section 404(b)(1) Guidelines to avoid and minimize impacts to the maximum extent practicable (40 CFR 230.10 (a) and (d)). Specifically, the magnitude of impacts to bay waters and special aquatic sites may cause or contribute to significant degradation of waters of the United States (40 CFR 230.10(c)) and design modifications and commitments are needed to reduce impacts to resources.

F007-9

Recommendations:

If the FRA and CHSRA choose to advance the Pacheco Pass alignments or Altamont Pass alignments for high speed rail to Tier 2 (or request the agencies concur that either alignment is the alternative most likely to contain the LEDPA), substantial alignment and design modifications would be important to reduce impacts consistent with the Guidelines.

Bay Crossings

The loss of waters associated with all Bay Crossings analyzed are not consistent with the substantive binding requirements of CWA Section 404(b)(1) Guidelines (40 CFR 230.10 (a) and

F007-10

¹ Chapter 2.3, Guidance for Preparers of Growth-related, Indirect Impact Analyses. http://www.dot.ca.gov/ser/Growth-related_IndirectImpactAnalysis/gri_guidance.htm#cwadef



Comment Letter F007 - Continued

(c). Specifically, the magnitude of impacts to bay waters and special aquatic sites may cause or contribute to significant degradation of waters of the United States (40 CFR 230.10(c)). All opportunities for reducing impacts should be clearly identified in order to determine if a route that includes a Bay Crossing is most likely to contain the least environmentally damaging practicable alternative.

Recommendations:

In order for an alternative to be considered as the LEDPA, all feasible (in terms of logistics, cost, technology, availability, etc.) design modifications to reduce impacts to waters should be incorporated. If FRA chooses to advance alignment options with Bay Crossing options, all design modifications, and more accurate estimates of potential impacts should be presented in the Final PEIS. This would inform decision-makers about the potential opportunities for reducing impacts to waters from the project.

Growth-related Impacts Analysis

Chapter 5, Economic Growth, provides an estimate of urbanization associated with the high speed train system and notes that specific station sites may lead to greater induced growth /urbanization than other station sites. For example, page 5-30 states the following:

In Stanislaus County, the Amtrak Briggsmore station could lead to the urbanization of 1,000 more acres in the county than the SP Downtown site, leading to additional indirect impacts; this difference between station sites accounts for about 35% of the difference in urbanized area size between the Altamont and Pacheco Network alternatives noted in Table 5.3-6 for Stanislaus County.

The information regarding potential induced growth impacts due to specific station sites is informative for decision-makers and should be highlighted to better inform ultimate choice of station locations. In addition, because urbanization estimates attributed to some station sites has such a large impact on the projected urbanization values (35% of all impacts in the above scenario), the Final PEIS should present a range of potential impacts, by resource, to each county, identifying low- and high-end estimates of potential urbanization.

Recommendations:

- Include a table of all proposed station sites with estimates of acres of induced growth/urbanization impacts associated with each location.
- Include a map of all proposed station sites showing the estimated area of induced growth/urbanization impacts associated with each location.
- Clearly delineate on the table what station sites would have the least projected acreage of induced urbanization and which station sites would have the greatest projected urbanization.
- Revise all values of impacts in tables in Chapter 5 to provide range of potential acreage/mileage impacts, including an "upper" and "lower" value. For example, for urbanization impacts to Stanislaus County, the acreage of urbanization should clearly reflect that, depending upon the choice of station, the impacts vary by 1,000 acres.

F007-10
Cont.

F007-11

Chapter 5 concludes that Merced and Madera counties are likely to experience the greatest magnitude of secondary impacts.

Recommendation:

- In Chapter 5, include specific mitigation measures to address and offset high growth-inducing impacts to Merced and Madera counties, and other counties that will be most affected by potential growth-inducement from high speed train.
- Specifically, the Final PEIS should include a Growth Mitigation Plan to create a strategy for addressing, planning for, and mitigating growth-related impacts in counties that will be most affected. The Plan should include:
 - an outlined process for coordination with agencies that have land-use planning authority in the affected counties and location near the high speed train
 - a list of growth limiting and management measures, including changes in the General Plan designations, zoning, conservation easements, purchase of land
 - a suggested timeframe for coordinating with land-use planners, including who will initiate discussions, how the public will be involved, etc.
 - references to the transit-oriented principles that FRA and CHSRA have developed for the high speed train system.

Cumulative Impacts Analysis

While NEPA provides for the option of cumulative impacts analyses to be limited through the use of tiering, as stated on page 3.17-2, it is important to note that the scope of this PEIS is not the same as the scope of the analysis for the Bay Area to Central Valley portion of the previously completed statewide high speed rail document. Therefore, tiering from the previously completed document would not have included information related to cumulative impacts resulting from the Altamont Pass project. In addition, EPA provided multiple recommendations to FRA and CHSRA for improving upon the Cumulative Impacts Analysis protocol that was used for the previously completed statewide PEIS, so EPA does not support any tiering from the conclusions provided in that document for this project.

EPA completed a preliminary review of the draft Cumulative Impacts Analysis in March 2007 and provided feedback through a memo from our agency to FRA and CHSRA. While some of our feedback was considered (as indicated below), several points were not incorporated. We provide the following recommendations for updating the cumulative impacts analysis and including it in the Final EIS as a follow up to recommendations already provided:

- As proposed by EPA through previous interagency correspondence, the following is a suggestion for steps in a cumulative impact assessment with recommendations accompanying specific steps. See the Caltrans Cumulative Impact assessment Guidance, which is applicable to non-highway projects: (http://www.dot.ca.gov/ser/cumulative_guidance/purpose.htm)

Steps for Cumulative Impacts Analysis

1) *Identify resources to consider in the impact analysis.*

This is included in Section 3.17.4. EPA has no further recommendations regarding this step.

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F007-15



Comment Letter F007 - Continued

2) Define the study area for each resource.

This is not defined in the Draft PEIS Cumulative Impacts Section.

Recommendation: The Draft PEIS should include a description of the study area examined for each resource.

3) Describe the current health and historical context for each resource.

This is generally described in Section 3.17.4 for each resource area. EPA has no further recommendations regarding this step.

4) Identify direct and indirect impacts of the proposed project that might contribute to a cumulative impact.

Recommendation: Clarify in Section 3.17.4 what potential indirect and direct effects are substantial enough, when considering impacts from other projects, to contribute to significant cumulative impacts.

5) Identify other reasonably foreseeable actions that affect each resource.

Appendix 3.17.A includes a list of foreseeable projects, however the impacts from those projects to specific resource areas are not included.

Recommendation: Clarify in Section 3.17.4 what potential indirect and direct effects are substantial enough, when considering impacts from other projects, to contribute to significant cumulative impacts.

6) Assess potential cumulative impacts.

Cumulative impacts are assessed in Section 3.17.4. EPA has no further recommendations regarding this step.

7) Report the results.

Results are reported in Section 3.17.4. EPA has no further recommendations regarding this step.

8) Assess the need for mitigation.

While multiple mitigation measures are described for the project level, it is unclear what process will be used to ensure that the future project-level environmental documents will incorporate the mitigation measures identified.

Recommendation:

- Include in Section 3.17.4 of the Final PEIS and the ROD a listing of all proposed mitigation proposed for project-level, so that all deferred mitigation is identified in one place and is easy to transfer to consultants, project managers, others, etc. who will be contributing to future project-level analyses.
- Figure 3.17-1 depicting locations and titles for projects considered in the cumulative impact analysis is unreadable. Expand the size of the map or provide the same information in several larger formats.

F007-16

F007-17

F007-18

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F007-21

F007-22

Design, Mitigation, and Coordination Measures Deferred to Future Project-Level Analyses

F007-23

As noted above in our comments on the Cumulative Impacts Section, there are multiple measures that are deferred until future project-level analyses. Each resource-specific section states multiple measures that are deferred until project-level analyses. For example, the Biological Resources Section (page 3.15-65-68) states:

"The following mitigation strategies would be applied at the project level for potential impacts on biological resources, when such strategies are appropriate and feasible, as determined by project-level analysis.

*....Biological resource management plans will contain the following information:
....d) sources of plant materials and methods of propagation.*

....During project-level review, where the agencies determine that mitigation is required to address site-specific impacts from the HST system, one strategy may be to purchase easements to preserve habitat for sensitive biological species."

EPA is highly supportive of the multiple measures that CHSRA and FRA have identified as important for future project-level analyses. However, as currently written, mitigation measures are interspersed throughout the document, making it difficult to track commitments, considerations, and guidance for future project level analysis. Because the future success of the high speed train system is based on the ability of the project to be planned, constructed, operated, and maintained in a manner that avoids impacts to environmental resources to highest extent, EPA recommends that this information be compiled into a stand alone separately identified into a document.

Recommendations:

Include in the Final PEIS and the ROD a listing of all identified potential mitigation measures and design guidance, by resource area, for future project-level analyses. Provide this information in a stand-alone format so that it can easily be shared with future consulting teams and staff responsible for site-specific analyses. This will insure that all deferred possible mitigation and design measures are identified in one place and will be easy to transfer to consultants, project managers, others, etc. who will be contributing to future project-level analyses.



Comment Letter F007 - Continued**SUMMARY OF EPA RATING DEFINITIONS**

This rating system was developed as a means to summarize EPA's level of concern with a proposed action. The ratings are a combination of alphabetical categories for evaluation of the environmental impacts of the proposal and numerical categories for evaluation of the adequacy of the EIS.

ENVIRONMENTAL IMPACT OF THE ACTION***"LO" (Lack of Objections)***

The EPA review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

"EC" (Environmental Concerns)

The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce the environmental impact. EPA would like to work with the lead agency to reduce these impacts.

"EO" (Environmental Objections)

The EPA review has identified significant environmental impacts that must be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

"EU" (Environmentally Unsatisfactory)

The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potentially unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommended for referral to the CEQ.

ADEQUACY OF THE IMPACT STATEMENT***Category 1" (Adequate)***

EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis or data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

Category 2" (Insufficient Information)

The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analysed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses, or discussion should be included in the final EIS.

Category 3" (Inadequate)

EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analysed in the draft EIS, which should be analysed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the NEPA and/or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

*From EPA Manual 1640, "Policy and Procedures for the Review of Federal Actions Impacting the Environment."



Response to Letter F007 (Nova Blazej, U.S. Environmental Protection Agency, October 26, 2007)**F007-1**

The process outlined in the June 12, 2006, MOU for integrating the requirements of NEPA and Section 404 of the Clean Water Act is being implemented in this Program EIR/EIS and will be further implemented in the Tier 2 project-level document. The alignments and stations included in the Preferred Alternative are most likely to yield the LEDPA.

F007-2

The Authority and FRA acknowledge the Environmental Protection Agency's (EPA's) rating of the project as Environmental Concerns—Insufficient Information (EC-2). See the Final Program EIR/EIS and these responses to comments for additional information on how EPA's issues have been addressed.

F007-3

Comment acknowledged. This Final Program EIR/EIS has taken into consideration the concerns of EPA, including identification of the alternative corridor(s) most likely to yield the LEDPA, growth-related impacts, and cumulative impacts on resources of concern. The EPA and the U.S. Army Corps of Engineers concurred that the Pacheco Pass Network Alternative, San Francisco and San Jose Termini, would be most likely to yield the LEDPA.

F007-4

Comment acknowledged. The Authority and FRA met with EPA on January 30, 2008, to discuss Section 404(b)(1) issues and comments on the 2007 Draft Program EIR/EIS.

F007-5

Comment acknowledged.

F007-6

The Authority and FRA consulted with EPA to assist in identifying the corridor(s) most likely to yield the LEDPA. The EPA concurred that the Pacheco Pass Network Alternative, San Francisco and San Jose Termini, would be most likely to yield the LEDPA. The Tier 2 EIS will analyze specific alignment and station location options in the corridor of the Pacheco Pass Network Alternative, San Francisco and San Jose Termini. The Authority and FRA will continue to work with the EPA, U.S. Army Corps of Engineers, and other agencies to determine specific mitigation measures to further minimize impacts on aquatic and biological resources.

F007-7

The network alternatives that include both Pacheco and Altamont Passes were not identified as preferred. See Chapter 8 of the Final Program EIR/EIS for a discussion of the Preferred Alternative, the Pacheco Pass Network Alternative, San Francisco and San Jose Termini. The EPA concurred that the preferred Pacheco Pass Network Alternative, San Francisco and San Jose Termini, would be most likely to yield the LEDPA.

Please see Standard Response 3 and Chapter 8 regarding identification of Pacheco Pass as the Preferred Alternative.

F007-8

The analysis described in the Program EIR/EIS took into consideration the direct and indirect impacts on aquatic and biological resources as well as other environmental concerns. The alternatives analysis discussed in the Summary has been updated to include both the direct and indirect impacts on resources of concern.

F007-9

The Authority and FRA disagree that the Pacheco Pass alignments need substantial design modifications. Several design elements have been employed at the program level to minimize or avoid direct and



indirect impacts on resources of concern, including tunneling, elevated alignments, and alignments adjacent to existing transportation rights-of-way. Direct and indirect impacts of the Preferred Alternative identified in this Final Program EIR/EIS will be further minimized through project design features. The Pacheco Pass Network Alternative, San Francisco and San Jose Termini, would include tunnels and elevated structures to minimize impacts on streams, water bodies, wetlands, wildlife movement corridors, and sensitive species and habitat. As shown on the current conceptual plans, the alignment along Henry Miller Road, for example, would extend approximately 3.3 miles on elevated structure, which could potentially reduce total direct impacts on wetlands by approximately 3.25 acres and indirect impacts by 421 acres. More detail both in project refinement and specific on-the-ground information would be developed in the Tier 2 process that would allow for greater avoidance.

F007-10

The Authority and FRA considered purpose and need, logistics, cost, technology, and availability, as well as impacts on aquatic resources and environmental impacts, in identifying the alternative most likely to yield the LEDPA. Because of substantial impacts on San Francisco Bay and the Don Edwards San Francisco Bay National Wildlife Refuge, those network alternatives that included a Dumbarton Crossing were not identified as preferred. In addition, those network alternatives that included a new transbay tube were not identified as preferred; they were identified to be impracticable because of the logistics of constructing the tube in San Francisco Bay and the high cost.

F007-11

See Standard Response 4 regarding growth inducement.

It is not possible to associate specific levels of population/employment growth, urbanization, and indirect impacts with individual stations. The reason for this lack of association is that counties served as the primary geographic boundary for the growth inducement and secondary impact analysis, and it is not

possible to associate individual stations with a county, even if there is only one station in a county. Individual stations draw ridership from, and hence influence growth patterns within, catchment areas around each station. The shape and size of these catchment areas do not necessarily follow political boundaries, and catchment areas for a given station vary based on the network, alignment, station, and operational features of a given alternative. Because of the complex interaction among travel modes, HST station options, and the millions of origin-destination pairs in the study area, it is not possible to state that any given station leads to a specific amount of growth.

While it may be possible to create an iterative analysis process that successively adds and subtracts stations to each network and alignment alternative, such a process would be time consuming and costly. Further results from such an effort would be unlikely to show reliable and meaningful differences given that (a) changes in station location are relatively small in the context of the entire Bay Area to Central Valley study area, and (b) a county-level study frame was used for forecasting population, employment, and urbanization impacts.

The basic relationships that drive differences in growth-related impacts between stations sites are described in Section 5.5 of the Draft Program EIR/EIS. The underlying analysis was performed in a multi-tiered fashion by looking at macroscale economic effects, associating these effects with county-level population and employment changes, and then allocating these changes to development changes within individual hectare grids in each county. Indirect impacts for many resource categories were assessed within the hectare grids, and remaining resource categories were assessed around individual stations or within each county as appropriate.

The commenter also requested that urbanization and indirect impacts be presented as a range (not a single value) for each county. Point estimates of these estimates were prepared for a single representative network alternative for both Altamont and Pacheco. The point estimates of growth inducement for population, employment, and urbanization rely heavily on forecasts of future base conditions prepared by third parties (e.g. California Department

of Finance, metropolitan planning organizations, etc.), and statistical models that produce deterministic rather than stochastic results. Therefore, it is not possible to independently produce high and low estimates of growth inducement without making speculative and unsubstantiated assumptions regarding changes to input variables or statistical models.

Given the above, the information that would be needed to populate the tables and maps requested by the commenter is not currently available and cannot be reliably produced through reasonable efforts.

F007-12

See Standard Response 4 regarding growth inducement.

F007-13

As noted on page 3.17-2, the cumulative impacts analysis conducted for this project analyzed cumulative impacts for the Bay Area to Central Valley HST project, including Pacheco Pass and Altamont Pass network alternatives and station location options. Text has been added in this Final Program EIR/EIS specifically stating that this cumulative analysis is not tiered off the previous statewide document as it relates to the Bay Area to Central Valley study area.

F007-14

The Caltrans Cumulative Impact Assessment Guidance has been reviewed and was considered in the development of the cumulative impacts analysis. The cumulative impacts of the HST system and other identifiable projects were addressed following the stated guidance. The cumulative impacts analysis was prepared at a level commensurate with the analysis of other environmental impacts in the document. Because the timing and order of implementation of individual segments of the HST system have not been determined, the ability to conduct further analysis is limited at the program level, as is the ability to identify projects whose impacts would accumulate with the HST impacts in the future. Also the level of detail for the segments and many other projects has not been developed to the point where further analysis can occur at the program level.

F007-15

Comment acknowledged. No further changes required.

F007-16

The study area used for each resource has been identified and is described in this Final Program EIR/EIS.

F007-17

Comment acknowledged. No further changes required.

F007-18

The direct and indirect impacts of the proposed project were evaluated as part of the cumulative impact analysis. Text has been added to Section 3.17 that describes the direct and indirect impacts that might contribute to a significant cumulative impact.

F007-19

See Response to Comment F007-14. Additional detail has been added to Appendix 3.17.A regarding the types of potential impacts that may result from the list of projects. Text has been added to Section 3.17 that describes the direct and indirect impacts of other projects that might contribute to a significant cumulative impact. Additional analysis of cumulative impacts will be presented in project-level environmental documents.

F007-20

Comment acknowledged. No further changes required.

F007-21

Comment acknowledged. No further changes required.

F007-22

Proposed program mitigation strategies have been added to Section 3.17 so that all mitigation for cumulative impacts is listed in one location. The figure has been revised to better depict locations and titles for cumulative projects. A Mitigation Monitoring and Reporting

Plan will be prepared to ensure implementation of adopted mitigation strategies in project-level reviews.

F007-23

Proposed program mitigation strategies have been added to Section 3.17 so that all mitigation is listed in one location. In addition, the program mitigation strategies and design guidance that are adopted by the Authority and FRA as part of the approved project will be included in the Mitigation Monitoring and Reporting Plan prepared for CEQA compliance, as well as in the FRA Record of Decision.

Comment Letter F008 (G. Mendel Stewart, U.S. Department of the Interior, Fish and Wildlife Service, October 22, 2007)

F008

USFWS, Page 2



United States Department of the Interior

FISH AND WILDLIFE SERVICE
San Francisco Bay National Wildlife Refuge Complex
9500 Thornton Avenue
Newark, California 94560



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OCT 24 2007
BY: OCT 22 2007

Mr. Mehdi Morshed
Executive Director
California High-Speed Rail Authority
925 L Street, Suite 1425
Sacramento, CA 95814

SUBJECT: Comments regarding the Draft Bay Area to Central Valley High-Speed Train (HST) Program EIR/EIS

Dear Ms. Morshed:

The Don Edwards San Francisco Bay National Wildlife Refuge (Refuge) appreciates the opportunity to comment on the High Speed Rail Project. As a property owner adjacent to the proposed rail corridor, we are extremely concerned about the wildlife and habitat impacts associated with this project. We are also concerned with effects to listed species from the proposed project. Based on a review of the draft environmental document, we would like to relay the initial comments below concerning the proposed transbay crossing in South San Francisco Bay and the Oakland to San Jose corridor that passes through the Refuge.

- Noise, vibration and human disturbance to wildlife during construction and operation. The proposed rail lines mentioned above are located in wetland habitat that supports the endangered California clapper rail, salt marsh harvest mouse, California tiger salamander, vernal pool tadpole shrimp, as well as numerous migratory birds. These species rely on this environment for breeding, nesting, foraging and roosting. We are concerned that construction and operation activities may displace these species temporarily and/or permanently from this area. In addition, construction activities should not occur during sensitive breeding and nesting periods for these species.
Habitat disturbance. We are concerned about the project's anticipated siting of new track and access needs to existing rail line during the construction and operation phase. It is unclear in the EIR/EIS how wetlands and other habitats on the Refuge will be adversely impacted. Any activities, including construction access, must be assessed for its compatibility with the overall purposes of the Refuge. In order to meet its congressionally mandated requirements, it is unlikely that the Refuge would allow work to be conducted on its property adjacent to the rail line. We are also concerned with the potential for impact to species listed as threatened or endangered since the rail line is surrounded on both sides by habitat containing protected species. Both train service and maintenance activities have the potential of violating the protection of these species.

F008-1

F008-2

F008-3

- Facilitating a predator corridor. The current rail infrastructure facilitates the movement of predators including foxes and feral cats that prey upon the California clapper rail and the salt marsh harvest mouse. We are concerned that adding to the existing infrastructure will continue to exacerbate predator access to sensitive wildlife habitats on the Refuge. We recommend the proposed HST Program include a measure in their alternatives that would reduce predator movement along the rail line.
Coordination with the Dumbarton Rail Corridor Project and freight service. We are aware that the Dumbarton Rail Project is looking into alternatives for siting a San Francisco Bay rail line crossing at or near the same location. We recommend that you coordinate the project's plan with the Dumbarton Rail Authority to assess the cumulative effect of both rail service activities across the South Bay. In addition, it is unclear if the corridor will be used for freight service and if so, what will be the added impact of that rail service?
Derailment potential on the Refuge. We are concerned about the possibility of derailment on the Refuge and what measures will be taken to reduce this risk. In addition, the operation plan should also include a response plan specific to the Refuge habitat in the event of a derailment.

F008-4

F008-5

F008-6

Based on the requirement for any proposed use on a National Wildlife Refuge to be appropriate and compatible with the Refuge's purposes and the purposes of the National Wildlife Refuge System (National Wildlife Refuge System Improvement Act of 1997), along with the requirements in the Endangered Species Act (Endangered Species Act of 1973 as amended) it is doubtful that rail service through the Refuge would be feasible. It is recommended that, like the proposed new crossing on the Bay by the Hetch Hetchy pipeline in the same location, the HST Program be placed underground below the Bay and the Refuge. If the crossing would have to be above the ground, it should be placed on a high causeway, remove the existing dirt berm of the historic Dumbarton Rail line and improve the hydrologic connection in the Dumbarton Marsh to enhance endangered species habitat.

F008-7

Thank you for including our comments during your comment period. We would like to request a meeting with HST Project representatives to find out more about the project and process. Because of the potential impact to endangered species and Refuge lands coordination with the Endangered Species Division of the Sacramento Fish and Wildlife Office and the Don Edwards San Francisco Bay NWR should be facilitated. If you have questions, please contact Clyde Morris, Manager Don Edwards San Francisco Bay NWR, at 510-792-0222, x 25 or Cay C. Goude, Assistant Field Supervisor (for endangered species), at 916-414-6600.

F008-8

Sincerely,

G. Mendel Stewart
Manager, San Francisco Bay
National Wildlife Refuge Complex

Cc: Cay Goude USFWS, Sacramento, CA



U.S. Department of Transportation
Federal Railroad Administration

Response to Letter F008 (G. Mendel Stewart, U.S. Department of the Interior, Fish and Wildlife Service, October 22, 2007)

F008-1

See Standard Response 3 and Chapter 8 regarding identification of the Pacheco Pass as the Preferred Alternative.

Impacts on the Don Edwards San Francisco Bay National Wildlife Refuge are discussed in the Program EIR/EIS. Section 3.15 acknowledges the refuge and the potential impacts of the alignment alternatives on biological resources and wetlands. Chapter 7 also acknowledges the refuge and the potential impacts resulting from operation and construction of the network alternatives. The Preferred Alternative identified in this Final Program EIR/EIS is the Pacheco Pass Network Alternative, San Francisco and San Jose Termini, which includes the Henry Miller Road alignment alternative and would not require a bay crossing or impact the refuge.

F008-2

Refer to Response to Comment F008-1 regarding potential impacts on the Don Edwards San Francisco Bay National Wildlife Refuge. Detailed noise and vibration analyses and focused surveys would be conducted and specific temporary and permanent impacts and mitigation would be identified as part of the Tier 2 project-level environmental analysis. Mitigation strategies are identified in Section 3.15 and include habitat replacement and revegetation, protection during construction, performance (growth) standards, maintenance criteria, and monitoring requirements. In addition, construction could be phased around the breeding season for sensitive wildlife species. For sensitive areas crossed by the proposed project alternatives, specific mitigation measures, including timing of construction, would be identified as part of the Tier 2 project-level environmental analysis.

F008-3

Refer to Response to Comment F008-1 regarding potential impacts on the Don Edwards San Francisco Bay National Wildlife Refuge. As

noted in Section 3.15, the Dumbarton crossing was estimated to result in potential direct impacts on 34 acres of wetlands through the refuge. To mitigate impacts on sensitive areas and habitat (as defined at the project level), in-line construction (i.e., use new rail infrastructure as it is built) will be used to transport equipment to/from the construction site and to transport excavated material away from the construction site to appropriate reuse or disposal sites. Threatened and endangered species that may be affected are noted in Section 3.15 and listed in Appendix 3.15-A. At the program level it was concluded that impacts on biological resources from construction, operation, and maintenance would remain significant, even with the application of mitigation strategies.

F008-4

Refer to Response to Comment F008-1 regarding potential impacts on the Don Edwards San Francisco Bay National Wildlife Refuge. Predator access issue mitigation measures would be identified as part of the Tier 2 project-level environmental analysis when more detailed design is available and field surveys have been conducted.

F008-5

Refer to Response to Comment F008-1 regarding potential impacts on the Don Edwards San Francisco Bay National Wildlife Refuge. The cumulative impact analysis discussed in Section 3.17 includes the Dumbarton Rail Crossing project. The potential for freight service is discussed in Chapter 2. If the Authority decides to move forward with this service, additional analysis would be required as part of the Tier 2 project-level environmental analyses to assess specific impacts.

F008-6

Refer to Response to Comment F008-1 regarding potential impacts on the Don Edwards San Francisco Bay National Wildlife Refuge. The HST would be designed to have fully grade-separated tracks



with state-of-the-art safety, signaling, and automated train control systems to minimize the potential for derailment. The Authority would build upon the extensive experience of HST operations in other countries. Future HST Operations Plans will include emergency response measures. FRA regulations also address safety concerns, and this system would comply with those regulations.

F008-7

Refer to Response to Comment F008-1 regarding potential impacts on the Don Edwards San Francisco Bay National Wildlife Refuge. The construction cost associated with this crossing is estimated at from \$1.5 billion (low bridge) to more than \$3 billion (tube). Constructing a new bridge or tube crossing along the Dumbarton corridor would involve major construction activities in sensitive wetlands, saltwater marshes, and aquatic habitat, requiring special construction methods and mitigation.

If a new crossing were constructed for the HST, it would not remove the need for the Dumbarton Rail Crossing project. As noted in Chapter 2, the approval of Regional Measure 2 (RM2) in March 2004 included funding to reconstruct the out-of-service Dumbarton Rail line between southern Alameda County and the San Francisco Peninsula. The reconstructed rail bridge across the bay includes embankment, trestle structure, and two swing bridges; most of the segment is single track with limited passing sidings. The Dumbarton Rail project would conflict with the proposed HST system. The HST system planned for 2030 includes at least two tracks for all of the system and does not include a single track as planned for the Dumbarton Bridge, which would not accommodate HST service. The HST system also would conflict with the Caltrain Joint Powers Board (JPB) electric multiple unit (EMU) option, which would not be compatible with HSTs currently in service around the world, nor with the similar EMUs proposed for use by the JPB. If high-density regional rail service is developed in the future along this route, a

double-track bridge across the bay would be necessary and likely would result in significant impacts on San Francisco Bay, Don Edwards San Francisco Bay National Wildlife Refuge, aquatic resources, and sensitive plant and wildlife species.

F008-8

Comment acknowledged.

Comment Letter F009 (Joseph C. Pennino, U.S. Department of the Interior, Bureau of Reclamation, October 24, 2007)



IN REPLY
REFER TO:

SCC-424
ENV-6.00

VIA FACSIMILE

Attention: Mr. Dan Leavitt, Deputy Director
California High-Speed Rail Authority, EIR/EIS Comments
925 L Street, Suite 1425
Sacramento, California 95814

Subject: Comments on the Draft Bay Area to Central Valley High-Speed
Train (HST) Program Environmental Impact Report/Environmental
Impact Statement (EIR/EIS)

Dear Mr. Leavitt:

The Bureau of Reclamation has reviewed the above-referenced document (Draft HST EIR/EIS) and we are providing the following comments.

The High-Speed Train Alternatives may involve the need to cross over Reclamation-owned land. These lands may include the Delta-Mendota Canal, Santa Clara and Pacheco Conduits and lands surrounding the San Luis Reservoir. For instance, Figure 7.3-5 (Pacheco Pass Alternatives—San Jose to San Luis Reservoir) indicates that the Santa Clara and Pacheco Conduits and lands north of the San Luis Reservoir could be in path of the HST. Please note that many lands surrounding the San Luis Reservoir are in fact owned by Reclamation, although they may be managed by the California Department of Parks and Recreation or even the California Department of Fish and Game.

Reclamation recognizes that this document is at a program level and further project-level environmental review would be necessary. Reclamation therefore advises the California High-Speed Rail Authority and Federal Railroad Administration to place Reclamation on the distribution list for future related environmental documents that may be available for public review, as well as to seek necessary approval from Reclamation for permission to cross Reclamation-owned lands at such time as project-level actions are proposed. Reclamation's engineers, realty specialists and environmental compliance specialists would need to review such proposed approvals to allow the crossing of our lands.

Reclamation appreciates the opportunity to comment on the Draft HST EIR/EIS.

United States Department of the Interior

BUREAU OF RECLAMATION
South-Central California Area Office
Tracy Office
16650 Kelso Road
Byron CA 94514-9614

OCT 24 2007

RECEIVED

OCT 26 2007

BY:

F009

Please contact Shauna McDonald, Wildlife Biologist, at 559-487-5202, or at 559-487-5933 for the hearing impaired, if you have any questions.

2

F009-3

Sincerely,

Joseph C. Pennino
Chief, Facilities Engineering Branch

cc: Ms. Joanne Karlton, Resource Ecologist
California Department of Parks and Recreation
Four Rivers District
31426 Gonzaga Road
Gustine, California 95322

Mr. Robert Martin, Manager, Civil Engineering & Maintenance
San Luis & Delta-Mendota Water Authority
15990 Kelso Road
Byron, California 94514

F009-1

F009-2



U.S. Department
of Transportation
**Federal Railroad
Administration**

Response to Letter F009 (Joseph C. Pennino, U.S. Department of the Interior, Bureau of Reclamation, October 24, 2007)

F009-1

The Authority and FRA acknowledge that its proposed rail alignments may pass adjacent to or over properties owned by the Bureau of Reclamation and that such properties may be operated by the California Department of Parks and Recreation or CDFG.

F009-2

The Bureau of Reclamation will be on the mailing list for future project-level environmental reviews. The Authority and FRA understand that approval would be required from the Reclamation Board prior to crossing its lands.

F009-3

The Authority and FRA appreciate the contact information from the Bureau of Reclamation.

