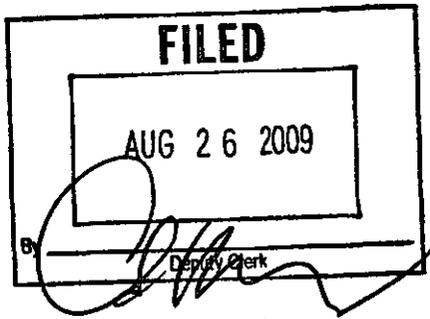


APPENDIX A

AUGUST 26, 2009 COURT RULING

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SUPERIOR COURT OF CALIFORNIA
COUNTY OF SACRAMENTO

TOWN OF ATHERTON, a Municipal Corporation,
PLANNING AND CONSERVATION LEAGUE, a California nonprofit corporation,
CITY OF MENLO PARK, a Municipal Corporation,
TRANSPORTATION SOLUTIONS DEFENSE AND EDUCATION FUND, a California nonprofit corporation,
CALIFORNIA RAIL FOUNDATION, a California nonprofit corporation,
and BAYRAIL ALLIANCE, a California nonprofit corporation, and other similarly situated entities,

Case No.
34-2008- 80000022

RULING ON SUBMITTED MATTER

Petitioners and Plaintiffs,
v.

CALIFORNIA HIGH SPEED RAIL AUTHORITY, a public entity, and DOES 1-20, inclusive,

Respondents and Defendants.

_____ /

This matter came on for hearing on May 29, 2009. The matter was argued and submitted. The Court took the matter under submission. The Court, having considered the papers, the administrative record which was admitted into evidence

1 at the hearing, and the arguments of the parties, makes its
2 ruling as follows.

3 Petitioners challenge the decision of respondent and
4 defendant California High Speed Rail Authority ("CHSRA" or
5 "the Authority") to approve the Bay Area to Central Valley
6 High Speed Train Project ("the Project"), including
7 specifically choosing an alignment for the Project.
8 Respondent chose an alignment running through Pacheco Pass
9 rather than the other major alternative alignment which ran
10 through Altamont Pass.

11 Petitioners contend that respondent has not provided
12 legally adequate review under the California Environmental
13 Quality Act, Public Resources Code section 21000 et seq.
14 ("CEQA"). Petitioners contend that respondent's actions are
15 illegal as they violate CEQA and the California Code of
16 Regulations, Title 14, section 15000 et seq. ("CEQA
17 Guidelines").

18 Petitioners contend that the Final Program
19 Environmental Impact Report ("FPEIR") for the Project was
20 inadequate in several respects. They contend that it failed
21 to include an adequate description of the project and
22 feasible alternatives. They contend it failed to adequately
23 identify and mitigate the Project's significant impacts, and
24 that its alternatives analysis was inadequate and improperly
25 predisposed towards the Pacheco alignment. Petitioners also
26 contend that respondent Authority improperly refused to
27 recirculate the Draft Program Environmental Impact Report
28 ("DPEIR") after Union Pacific Railroad announced it was
unwilling to allow use of its right-of-way, and that

1 respondent Authority failed to consider or respond to Menlo
2 Park's comment letter on the DPEIR.

3
4 I. STANDARD OF REVIEW

5 Petitioners contend that this challenge is governed by
6 Public Resources Code section 21168. Petitioners contend
7 that under that standard of review, "the courts' inquiry
8 shall extend only to whether there was a prejudicial abuse
9 of discretion. Such an abuse is established if the agency
10 has not proceeded in a manner required by law or if the
11 determination or decision is not supported by substantial
12 evidence." (Petitioners' opening brief, 8:24-9:2, citing
13 *Ebbets Pass Forest Watch v. California Dept. of Forestry &*
14 *Fire Protection* (2008) 43 Cal.4th 936, 944.)

15 Respondent contends that its action was quasi-
16 legislative and that review is governed by Public Resources
17 Code section 21168.5, which limits the Court's inquiry to
18 whether there was a prejudicial abuse of discretion.
19 Respondent states that under this standard, a prejudicial
20 abuse of discretion is established if the agency has not
21 proceeded in a manner required by law or if the decision is
22 not supported by substantial evidence. Respondent further
23 states that a prejudicial abuse of discretion is established
24 if the agency has not proceeded in a manner required by law
25 or if the decision is not supported by substantial
26 evidence. (Respondent's brief in Opposition to Petition,
27 6:25-7:3, citing *Citizens of Goleta Valley v. Board of*
28 *Supervisors* (1990) 52 Cal.3d 553, 564 [Goleta II].)

The Court concludes that respondent's action was quasi-
legislative and that review is governed by Public Resources

1 Code section 21168.5. However, the two code sections embody
2 essentially the same standard of review, i.e., whether
3 substantial evidence supports the agency's determination.
4 (*Laurel Heights Improvement Assn. v. Regents of the*
5 *University of California ("Laurel Heights II")* (1993) 6
6 Cal.4th 112, 1133, fn. 17; *Laurel Heights Improvement Assn.*
7 *v. Regents of the University of California ("Laurel Heights*
8 *I")* (1988) 47 Cal.3d 376, 392, fn. 5.) Thus petitioner's
9 reliance on section 21168 in its brief does not affect the
10 outcome of this case.

11 An EIR is presumed adequate, and the plaintiff in a
12 CEQA case has the burden of proving otherwise. (*Al Larson*
13 *Boat Shop v. Board of Harbor Commissioners* (1993) 18
14 Cal.App.4th 729, 749.)

15 II. ADEQUACY OF THE FINAL PROGRAM ENVIRONMENTAL IMPACT
16 REPORT FOR THE PROJECT

17 A. WHETHER THE FPEIR FAILED TO INCLUDE AN ADEQUATE
18 DESCRIPTION OF THE PROJECT AND FEASIBLE ALTERNATIVES

19 1. One of petitioners' principal contentions is
20 that the project description in the FPEIR failed to provide
21 sufficient detail on the Pacheco alignment to determine the
22 project's impacts in displacing residents and businesses.
23 The FPEIR and the Authority's findings assume that most, if
24 not all, of the proposed high-speed rail line in the area
25 between San Jose and Gilroy would be built within existing
26 right-of-way, "the existing Caltrain corridor." (AR
27 A000031; see also B004187.) However, Union Pacific Railroad
28 had informed the Authority just prior to the publication of
the FPEIR that it would not allow the Authority to use any
of its right-of-way for the Project. (AR E000027.) And

1 after the FPEIR was released, but before the Authority
2 certified the FPEIR and made the related findings and
3 decisions, Union Pacific submitted a longer letter
4 reiterating its unwillingness to share its tracks with High-
5 Speed Rail vehicles. (AR E000003-E000004.)

6 However, the FPEIR appears to show that the portion of
7 the chosen Pacheco alignment between San Jose and Gilroy
8 follows the Union Pacific right-of-way (AR B003944, B003955,
9 B003961, B005105-5109, B006293.) In many places it shares
10 the right-of-way with the Union Pacific line (e.g., AR
11 B005292, B005298, B005300) and is sandwiched between the
12 Union Pacific right-of-way and Monterey Road/Highway (AR
13 B005300, G001425-G001437). If Union Pacific will not allow
14 the Authority to use its right-of-way, it appears it will be
15 necessary for the Authority to obtain additional right-of-
16 way outside of this area, requiring the taking of property
17 and displacement of residents and businesses. However, none
18 of this was addressed in the FPEIR.

19 Respondent argues that a programmatic EIR does not need
20 to contain a high degree of detail, and that detailed
21 information can be deferred to a later site-specific project
22 EIR. (CEQA Guidelines, sections 15146, 15152; *In re Bay*
23 *Delta Programmatic Environmental Impact Report Cases* (2008)
24 43 Cal.4th 1143, 1169-1172.) Respondent contends that the
25 Project description in the FPEIR contains an adequate level
26 of detail for a programmatic EIR. It argues that this EIR
27 was intended to support the Authority in making the
28 fundamental choice of a preferred alignment and station
locations, but not select a precise footprint for high speed
train facilities. More importantly, respondent argues, the

1 FPEIR does not assume use of the Union Pacific right-of-way
2 between San Jose and Gilroy, but rather that it depicts the
3 HST tracks adjacent to Union Pacific's right-of-way; see,
4 e.g., Figure PP-6 at B005292. Respondent contends that this
5 figure also shows there is room for the HST tracks between
6 the Union Pacific right-of-way and Monterey Highway
7 (B005292).

8 Petitioners contend that Figure PP-6 (AR B005292)
9 identifies "Existing ROW" for "Monterey Road" but does not
10 explicitly identify the existing right-of-way for the UP
11 tracks. Petitioners contend that Figures PP-12 (AR B005296)
12 and PP-14 (AR B005298), by contrast, clearly show the HST
13 right-of-way as lying within that existing right-of-way.
14 Several maps show little room between the existing UP tracks
15 and the Monterey Highway (e.g. AR G001432-G001435.)
16 Respondent, in oral arguments, argued a different
17 interpretation of Figure PP-14.

18 The Court concludes that the description of the
19 alignment of the HSR tracks between San Jose and Gilroy was
20 inadequate even for a programmatic EIR. The lack of
21 specificity in turn results in an inadequate discussion of
22 the impacts of the Pacheco alignment alternative on
23 surrounding businesses and residences which may be
24 displaced, construction impacts on the Monterey Highway, and
25 impacts on Union Pacific's use of its right-of-way and spurs
26 and consequently its freight operations.

26 2. Petitioners contend that the project description
27 failed to provide an adequate explanation or delineation of
28 the project's costs. They contend that the cost estimates
in the FPEIR were inaccurate and skewed to favor the Pacheco

1 Pass alignment alternative by significantly understating the
2 acquisition costs for permanent right-of-way and temporary
3 construction-period right-of-way. They also contend that
4 the cost analyses for Altamont Pass alignment alternatives
5 considered only the cost of a new high or low bridge but not
6 the option of "piggybacking" on the existing Dumbarton rail
7 bridge.

8 The authorities cited by petitioners do not require
9 project cost information to be in an EIR; case authority
10 does, however, hold that cost information is required to
11 support a lead agency's CEQA findings when it rejects
12 alternatives as economically infeasible. (*Uphold Our*
13 *Heritage v. Town of Woodside* (2007) 147 Cal.App.4th 587;
14 *Citizens of Goleta Valley v. Board of Supervisors* ("Goleta
15 *I*") (1988) 197 Cal.App.3d 1167.) The Authority did not
16 reject all of the Altamont alternatives as economically
17 infeasible. Furthermore, the Court finds that the FPEIR's
18 cost information is supported by substantial evidence. The
19 evidence includes Chapter 4 (B004624-647) which in turn
20 refers to Appendices 4A and B (B005971-6086, B006087-6180);
and Appendix D (B004637; B004646; B006243).

21 3. Petitioners contend that the FPEIR failed to
22 accurately and impartially describe the operating
23 characteristics of the project alternatives. They contend
24 that the FPEIR failed to accurately describe the frequency
25 of service for the Altamont and Pacheco alternatives in that
26 it did not consider "train-splitting."

27 The Court finds that the EIR provides an adequate
28 description of HSR operations, supported by substantial
evidence. The ridership forecasts were developed by experts

1 in the field of transportation modeling and were subject to
2 three independent peer review panels. (See C001886-88,
3 C001879-964, C001954-60, E004118-148; E004149-187; E004188-
4 97.) Substantial evidence supports respondent's approach of
5 not using train-splitting on main trunk service. Evidence
6 in the record, including evidence submitted by petitioners,
7 shows that train-splitting and coupling is operationally
8 disruptive, and that while some HST systems worldwide use
9 train-splitting and coupling, the use is very limited. (See
10 B004716, B006694, B008032, B008035-36, B008037.)

11 Petitioners also contend that the FPEIR failed to
12 adequately and fairly describe the ridership of the Altamont
13 and Pacheco alternatives. They contend the Pacheco
14 alignment would not draw significant additional recreational
15 ridership because the limited number of stops on the HSR
16 would make it less attractive than the already-existing
17 Caltrain "baby bullet" route, and any additional ridership
18 would be at the expense of Caltrain ridership rather than
19 taking cars off the road.

20 The Court finds that the ridership modeling and
21 forecasts performed by the Authority and the MTC are
22 substantial evidence to support the FPEIR's description of
23 the Pacheco alternative as having higher "recreational and
24 other" ridership than Altamont pass. The ridership analysis
25 concluded that it taps into a very wide market in Santa
26 Clara County (B006696) and also creates a sizeable HST
27 market to and from the Monterey Bay area, a market virtually
28 non-existent for the Altamont Pass alternative (B006695).
The ridership analysis also suggests that some individuals
will pay a premium to ride the HST rather than Caltrain in

1 this corridor based on the service being faster and more
2 reliable. (B006696.)

3 B. WHETHER THE FPEIR AND THE AUTHORITY'S FINDINGS
4 FAILED TO ADEQUATELY IDENTIFY AND MITIGATE THE PROJECT'S
5 SIGNIFICANT IMPACTS

6 Petitioners contend the Authority understated the
7 project's potentially significant impacts and overstated the
8 degree to which those impacts would be adequately
9 mitigated. Petitioners' primary contentions regarding
10 impacts concern biological impacts, growth-inducing impacts,
11 and local impacts along the San Francisco Peninsula (noise,
12 vibration, visual, taking of property and severance impacts,
13 and impacts on mature and heritage trees).

14 1. Exhaustion of administrative remedies:

15 Respondent contends that petitioners failed to exhaust
16 administrative remedies as to any defect in the respondent's
17 CEQA findings on impacts and mitigation, and that therefore
18 the exhaustion of administrative remedies doctrine codified
19 in Public Resources Code section 21177 bars petitioners'
20 claim that respondent's CEQA findings on impacts and
21 mitigation are not supported by substantial evidence. The
22 authorities cited by respondent, including *Mira Mar Mobile*
23 *Community v. City of Oceanside* (2004) 119 Cal.App.4th 447,
24 do not support respondent's contention that it was necessary
25 to specifically object to proposed findings. The Court
26 concludes that the criticisms, comments and objections made
27 to the EIR were sufficient to exhaust administrative
28 remedies as to the issues raised in this case.

2. Biological impacts: Petitioners contend that
the analysis and mitigation of the impacts to the Grasslands

1 Ecological Area ("GEA") along the Pacheco alignment and to
2 the Don Edwards National Wildlife Refuge ("Refuge") along
3 the Altamont alignment were not adequate, were neither equal
4 nor impartial, and were lacking in detail. Petitioners also
5 contend that certain factors are considered for the GEA but
6 not for the Refuge, and that respondent did not adequately
7 consider comments that replacing an existing bridge
8 embankment with an elevated structure on piles would
9 actually enhance conditions in the Refuge.

10 The Court finds that substantial evidence supports
11 respondent's treatment of biological impacts to the GEA and
12 the Refuge. The impacts analysis and mitigation section of
13 the EIR (see generally AR B004462-4538), read together with
14 the responses to comments (see B006584 et seq.; G000807-
15 00814 [Summary of Key Issues on the DPEIR]) constitutes an
16 adequate and impartial analysis of the biological impacts on
17 the two areas. The same methodology was used throughout the
18 area. The level of detail was adequate for a programmatic
19 EIR. The FPEIR's identification of a more detailed
20 mitigation strategy for the GEA (AR B004537) but not for the
21 Refuge is not unreasonable because the lands within the
22 Refuge boundary are already protected. The record does not
23 support petitioners' contention that the inclusion of a more
24 detailed mitigation strategy for the GEA and not the Refuge
25 was the cause of concerns expressed by the U.S. Fish and
26 Wildlife Service (B006366) and the U.S Environmental
27 Protection Agency (B006358) about use of areas within the
28 refuge.

3. Growth-inducing impacts: Petitioners contend
that the analysis of growth-inducing impacts was not

1 adequate. They contend that there was not a sufficient
2 analysis of the impacts in three rural counties—San Benito,
3 Santa Cruz, and Monterey Counties. Petitioners contend that
4 the HSR will extend the area in which existing employees can
5 live and commute to a job in a distant urban center, and
6 that such growth is not analyzed in the FPEIR. Instead,
7 there was analysis as to eleven other counties and San
8 Benito, Santa Cruz, and Monterey Counties were merely
9 included in "the rest of California."

10 The Court finds that the FPEIR contains an analysis of
11 growth-inducing impacts which is sufficient to satisfy
12 CEQA. (Pub. Resources Code, sec. 21100, subd. (b)(5); CEQA
13 Guidelines, sec. 15126(d), 15126.2(d).) Nothing in the
14 Guidelines or in the cases requires more than a general
15 analysis of projected growth. (*Napa Citizens for Honest*
16 *Government v. Napa County Bd. of Supervisors* (2001) 91
17 Cal.App.4th 342, 369.) Respondent relied on established
18 modeling programs, the Transportation and Economic
19 Development Impact System (TREDIS) and the California
20 Urbanization and Biodiversity Analysis (CURBA). Stations
21 will be located in already-urbanized areas and thus the bulk
22 of the growth increase will occur in already urbanized
23 areas. Petitioners' claim that the HSR will result in
24 greater development in the three more distant rural counties
25 is based on speculation, not matters as to which they have
26 technical expertise or which are based on relevant personal
27 observations. (See *Bowman v. City of Berkeley* (2004) 122
28 Cal.App.4th 572, 583.) Respondent's responses to comments
explained that the system would not result in a significant
increase in commute accessibility to the Bay Area for a

1 number of reasons, including the limited number of stations,
2 the localized accessibility benefits provided by these
3 limited stations, the lack, of local transit options in
4 outlying areas, the higher cost of HST use for shorter trips
5 compared to auto use, and time considerations. (B006647-48;
6 B006712-13.) The Court finds the analysis to be
7 sufficient.

8 4. Local impacts along the San Francisco Peninsula

9 -
10 Petitioners contend that the Project will result in
11 significant noise, vibration, and visual impacts; that it
12 will result in significant land use impacts, including
13 specifically taking of property and severance impacts; and
14 that it will impact mature and heritage trees along the
15 right-of-way:

16
17 a. Noise, Vibration, and Visual Impacts

18 Petitioners contend that section 3.4 of the FPEIR,
19 addressing the project's noise and vibrational impacts,
20 failed to identify specific quantifiable standards or
21 criteria used to determine whether the impacts would be
22 significant, and that it identified qualitative criteria but
23 failed to provide evidence by which the public could
24 determine whether these criteria had been met. Further,
25 respondent found that vibrational impacts would be reduced
26 to a level of insignificance (AR000024), but petitioners
27 contend there is no evidence in the record to support this
28 finding.

1 As for noise and vibration impacts, petitioners contend
2 that the FPEIR does not provide appropriately detailed
3 information to show that noise impacts will be reduced below
4 a level of significance. The FPEIR also identifies the need
5 for extensive soundwalls of up to 16 feet in height, but
6 petitioner contends respondent does not address the
7 potential visual impact of these barriers and improperly
8 puts off consideration of such impacts to the project level
9 environmental review.

10 The Court finds that the FPEIR contains an adequate
11 level of detail regarding noise for a program EIR. The
12 analysis used Federal Railroad Administration and Federal
13 Transit Administration criteria and tools to assess noise.
14 (B004100-4105.) The FRA manual contemplates that the
15 evaluation will first look at general questions.
16 (C008070.) It concluded that grade separations at existing
17 crossings would result in noise benefits, and listed
18 mitigation strategies, including design practices, to reduce
19 impacts. (B004120-4137.)

20 The FPEIR also considered all HST alternatives to
21 result in significant noise and vibration impacts for
22 purposes of the programmatic analysis. (B004129.) It noted
23 that more detailed mitigation strategies for noise and
24 vibration impacts would be developed in the next stage of
25 environmental analysis. (B004129-30.) Response to comments
26 noted that project-level environmental review will consider
27 design and profile variations to reduce impacts, as well as
28 design options for noise barriers. (B006480, B006538-40.)
The FRA manual identifies means of mitigating vibrational

1 impacts (C008147; C008176-8180) and noise impacts (C008085,
2 C008117-8122).

3 However, with regard to vibration impacts, the FPEIR
4 states:

5 "Although mitigation measures will
6 reduce vibration impact levels, at the
7 programmatic level *it is uncertain*
8 *whether the reduced vibration levels*
9 *will be below a significant impact.* The
10 type of vibration mitigation and
11 expected effectiveness to reduce the
12 vibration impacts of the HST Alignment
13 Alternatives to a less-than-significant
14 level will be determined as part of the
15 second-tier project-level environmental
16 analyses." (B004131 [emphasis added].)

17 Nevertheless, the Authority, in its CEQA Findings of
18 Fact, found that, as to the impact of vibrations, specified
19 mitigation strategies "will reduce this impact to a less-
20 than significant level." (A000025 [emphasis added].)

21 The Court finds that in light of this contradiction
22 between the FPEIR and the CEQA Findings, the Authority's
23 finding that the mitigation strategies will reduce the
24 vibration impact to a less-than-significant level is not
25 supported by substantial evidence.

26 Visual impacts: The FPEIR recognizes that sound
27 barriers may be necessary mitigation measures along some
28 portions of the HST route through the Peninsula.
29 Petitioners contend that the visual impacts of these
30 barriers should have been analyzed in more detail. However,
31 the extent to which noise barriers would be used could not
32 be known until the next stage of environmental analysis,
33 when engineering and design considerations will be applied
34 on a site-specific basis. (B004129-30.) Sound barriers are

1 discussed in FPEIR section 3.9, Esthetics and Visual
2 Resources, along with mitigation strategies. (B004305-
3 4307.) Visual and esthetic impacts were considered
4 significant and unavoidable. (B004307.) The FPEIR
5 identified subsequent analysis which should be performed.
6 (Id.) Respondent found that as part of the site-specific
7 design, many of the impacts on aesthetics and visual
8 resources can be avoided or substantially mitigated, but
9 that it did not have sufficient evidence to make that
10 determination on a program-wide basis. Therefore, for
11 purposes of this programmatic EIR, esthetic and visual
12 impact was considered significant and unavoidable.
13 (A000041.) Respondent adopted a Statement of Overriding
14 Considerations. (A000104-109.)

15 The Court finds that petitioners have failed to
16 establish that respondent failed to adequately analyze the
17 visual impacts of the Project or that it otherwise abused
18 its discretion.

19 b. Land Use Impacts

20 Petitioners contend that the Project will result in
21 significant land use impacts, including taking of property
22 and severance impacts. Atherton contended in its comment
23 letter that the proposed four-track alignment would result
24 in the need to take additional property beyond the existing
25 right-of-way. (B006530.) However, the response to this
26 comment (B006537-40) and the CEQA findings (A000029-33)
27 indicated that the HST tracks were expected to fit within
28 the Caltrain right-of-way.

As discussed elsewhere in this Court's ruling, Union
Pacific has stated it is unwilling to allow its right-of-way

1 to be used for the project. The need for the taking of
2 additional property is a related issue that will be required
3 to be analyzed in connection with further analysis of the
4 impact of Union Pacific's denial of use of its right-of-
5 way.

6 c. Mature and Heritage Trees

7 Petitioners contend that the Project will impact mature
8 and heritage trees along the right-of-way. But the FPEIR's
9 response to Atherton's comments indicates, in part, that a
10 more detailed review of the impacts on mature and heritage
11 trees would be performed at a project level environmental
12 review (B06538) and that the HST is not expected to require
13 the removal of trees along the right-of-way in Atherton
14 (B006538).

15 The Court finds that respondent did not need to conduct
16 a more detailed review of the impacts on trees at this level
17 and properly deferred such analysis to project-level
18 environmental review.

19 C. WHETHER THE FPEIR'S ALTERNATIVES ANALYSIS WAS
20 INADEQUATE AND IMPROPERLY PREDISPOSED TOWARDS THE PACHECO
21 ALIGNMENT

22 Petitioners contend that the Authority's findings
23 improperly determined that all Altamont alternatives were
24 infeasible. Petitioners contend that it improperly
25 determined that there were cost and regulatory obstacles to
26 a Dumbarton Bay crossing; that the decision to eliminate
27 several Altamont choices because of lower ridership and
28 frequency of service was not supported by substantial
evidence; and that construction difficulties for the
Altamont alternatives should not have been the basis for

1 eliminating those alternatives. Petitioners contend
2 solutions and answers existed to meet each of the issues.
3 Petitioners further contend that the Authority's decision to
4 dismiss an alternative using the median of U.S. Highway 101
5 or 1-280 through the Peninsula without analysis violated
6 CEQA.

7 The Court finds that the FPEIR studied a reasonable
8 range of alternatives and presented a fair and unbiased
9 analysis. There were dozens of different ways to build the
10 HST to connect the Bay Area and the Central Valley. The EIR
11 divided the study area into six study corridors, examined
12 different alignment alternatives and station locations
13 options within each corridor, and further broke down the
14 alignment alternatives into segments.

15 Substantial evidence supports the FPEIR's discussion of
16 operational and environmental issues related to the Altamont
17 Pass alternatives. The potential environmental impacts of
18 the alternatives were discussed in Chapter 3 of the FPEIR.
19 Chapter 7 of the EIR summarizes and compares the
20 environmental consequences of 21 representative network
21 alternatives, defining the major tradeoffs among the
22 possible network alternatives. This fostered informed
23 public participation and decision-making. (*Laurel Heights*
24 *Improvement Assn. v. Regents of the University of California*
25 (*"Laurel Heights I"*) (1988) 47 Cal.3d 37, 404.)

26 The Court finds that substantial evidence in the record
27 supports the FPEIR's explanation that putting the HST system
28 over the existing, out-of-service Dumbarton Rail Bridge is
not reasonable. (See, e.g., GB003926-27 [existing retrofit
plans involve only a single track], B006687 [HST requires

1 two separated and dedicated tracks], B006368, B006687,
2 B006742.) The EIR reasonably concludes that a shared
3 Caltrain/HST Dumbarton crossing would require at least a new
4 double track bridge. (B003926-927, B006687; G000809.) The
5 Bay Area regional Rail Plan reached the same conclusion.
6 (D001484.) Furthermore, the existing Dumbarton Rail Bridge
7 has two swing bridges that pivot to allow ship traffic, a
8 systemic vulnerability which is inconsistent with the speed,
9 reliability and safety requirements of the HST system.
10 (B006687, B004044.)

11 The Court also finds that the FPEIR reasonably
12 concluded that train-splitting was not a reasonable
13 alternative, and that avoiding additional branch splits
14 would benefit train operations and service. The FPEIR and
15 the CEQA Findings treat the branch issue equally for both
16 Altamont Pass and Pacheco Pass.

17 The Court also finds that the FPEIR accurately
18 describes construction challenges for the Altamont Pass with
19 a Bay crossing or using the I-880 median. The challenges
20 for a Bay crossing include loss of wetland habitats in the
21 Bay associated with a new Bay crossing, the potential
22 difficulty of obtaining the types of permits and
23 environmental clearances needed to build a new Bay crossing
24 because of the limits which federal law imposes on
25 activities within the Don Edwards National Wildlife Refuge,
26 and the permitting jurisdiction of the Bay Conservation and
27 Development Commission. The record shows that the
28 construction challenges for use of the I-880 median are
complex - a complexity also recognized by the Metropolitan
Transportation Commission.

1 The Court further concludes that the record supports
2 the Authority's decision to exclude from further detailed
3 study an alternative using the median of U.S. Highway 101 or
4 1-280 through the Peninsula. The primary reason for
5 eliminating these alignment alternatives was the need to
6 construct an aerial guideway for the train adjacent to and
7 above the existing freeway, while maintaining freeway access
8 and capacity during construction. Such need would result in
9 substantially increased construction costs and
10 constructability issues. These alignments would also have
11 significant or potentially significant environmental
12 impacts, due to height and proximity to wildlife preserves.
13 The evidence supports the elimination of the 101 and 280
14 alignment alternatives from detailed study.

15 III. WHETHER THE AUTHORITY IMPROPERLY REFUSED TO RECIRCULATE
16 THE DRAFT PROGRAM EIR AFTER UNION PACIFIC'S ANNOUNCEMENT OF
17 ITS
18 UNWILLINGNESS TO ALLOW USE OF ITS RIGHT-OF-WAY

19 Petitioners contend that portions of the Pacheco
20 alignment as analyzed by respondent are dependent upon the
21 use of Union Pacific Railroad's right-of-way, and that
22 respondent improperly refused to recirculate the DPEIR after
23 Union Pacific Railroad announced its unwillingness to allow
24 use of its right-of-way shortly before respondent's approval
25 of the Pacheco alignment.

26 Respondent contends that the alignment is not dependent
27 upon the use of Union Pacific's right-of-way.

28 However, this Court concludes that various drawings,
maps and photographs within the administrative record
strongly indicate that it is. The record further indicates

1 that if the Union Pacific right-of-way is not available,
2 there may not be sufficient space for the right-of-way
3 needed for the HST without either impacting the Monterey
4 Highway or without the takings of additional amounts of
5 residential and commercial property.

6 These are significant impacts which were sufficient to
7 trigger the recirculation of the FPEIR. However, respondent
8 failed to take such further action after it received Union
9 Pacific's statement of its position.

10 IV. WHETHER THE AUTHORITY FAILED TO CONSIDER OR RESPOND TO
11 MENLO PARK'S COMMENT LETTER ON THE DPEIR

12 This issue is moot in light of the Court's ruling
13 denying the motion to augment the administrative record. In
14 that ruling, the Court determined that the evidence was
15 insufficient to establish that Menlo Park's comment letter
16 was received by the Authority. The Authority was not
17 required to consider or respond to a comment letter it did
18 not receive.

19 V. RESPONDENT'S CONTENTION THAT PETITIONERS FAILED TO
20 EXHAUST ADMINISTRATIVE REMEDIES

21 Respondent contends that petitioners failed to exhaust
22 administrative remedies as to any defect in the respondent's
23 CEQA findings on impacts and mitigation, and that therefore
24 the exhaustion of administrative remedies doctrine codified
25 in Public Resources Code section 21177 bars petitioners'
26 claim that respondent's CEQA findings on impacts and
27 mitigation are not supported by substantial evidence. As
28 stated in the Court's discussion of arguments concerning
impacts, *supra*, the Court concludes that petitioners

1 exhausted their administrative remedies as to the issues
2 raised in this case.

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5 VI. PALO ALTO'S AMICUS CURIAE BRIEF

6 Palo Alto was granted leave to file an amicus brief.
7 However, its brief has raised legal issues not raised and
8 briefed by the parties, including challenges to the use of a
9 second program EIR, the Authority's treatment of land use
10 compatibility, and an alleged failure to consult Palo Alto.
11 For this reason its arguments have been disregarded by the
12 Court.

13 VII. CONCLUSION

14 The Court finds petitioners have met their burden of
15 showing that the EIR contains an inadequate description of
16 the project, that respondent's finding that mitigation
17 strategies will reduce the vibration impact to a less-than-
18 significant level is not supported by substantial evidence,
19 that as a result of the FEIR's inadequate description of the
20 project its land use analysis was inadequate, and that
21 respondent improperly failed to recirculate the FPEIR upon
22 receipt of Union Pacific's statement of its position
23 regarding its right-of-way. The petition for writ of
24 mandate is granted on these grounds.

25 Petitioners' other contentions are without merit.

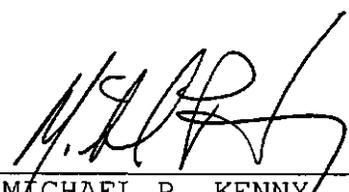
26 VIII. DISPOSITION

27 Petitioners shall prepare a judgment consistent with
28 this ruling and in accordance with California Rules of
Court, rule 3.1320 and Local Rule 9.16. Petitioners shall
also prepare a writ for issuance by the clerk of the court.

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Petitioners shall recover their costs pursuant to a memorandum of costs.

DATED: August 26, 2009



MICHAEL P. KENNY
JUDGE OF THE SUPERIOR COURT

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CERTIFICATE OF SERVICE BY MAILING

(C.C.P. Sec. 1013a(3))

I, the Clerk of the Superior Court of California, County of Sacramento, certify that I am not a party to this cause, and on the date shown below I served the foregoing **RULING** by depositing true copies thereof, enclosed in separate, sealed envelopes with the postage fully prepaid, in the United States Mail at Sacramento, California, each of which envelopes was addressed respectively to the persons and addresses shown below.

- Stuart Flashman
Attorney at Law
5626 Ocean View Drive
Oakland, CA 94618

- Jeff Hoffman
Attorney at Law
132 Coleridge Street #B
San Francisco, CA 94110

- Danae Aitchison
Attorney at Law
1300 I Street #Suite 125
Sacramento, CA 94244

- Kristina Lawson, Arthur Coon
Attorney at Law
1331 N California Blvd., Fifth Floor
Walut Creek, Ca 94596

I, the undersigned deputy clerk, declare under penalty of perjury that the foregoing is true and correct.

Superior Court of California,
County of Sacramento

Deputy Clerk

Dated: **AUG 26 2009**

APPENDIX B

**CITY OF SAN JOSE LETTER
SUPPORTING RECONSTRUCTION OF MONTEREY HIGHWAY**

October 20, 2009

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

Subject: Merced-San José Section High-Speed Train Project - Monterey Highway Corridor

Dear Mr. Leavitt,

The purpose of this letter is to confirm that the City of San José is aware of the possible reduction in the width of Monterey Highway in South San José in order to accommodate the proposed California High Speed Train (HST) project. Attached are several documents that detail the steps the City has taken to date to assist the California High Speed Rail Authority in evaluating the possible reduction of lanes of Monterey Highway to accommodate the project.

- San José to Merced HST Project EIR/EIS Scoping Letter - In the April 7, 2007 letter (copy attached) to the High Speed Rail Authority, the City of San José acknowledged the proposal for “four lanes on Monterey Highway (reduced from six lanes)” in an effort to achieve the “benefits of avoiding property acquisition along the corridor.”
- San José General Plan Update Actions - The City of San José is currently developing a comprehensive update to the City’s General Plan referred to as Envision San Jose 2040. The effort is being managed by a 36 member task force of elected officials and community leaders. On June 22, 2009, the Task Force approved a list of proposed changes to San Jose’s roadway network to be considered and approved by the City Council at a later date. Among the proposed changes unanimously endorsed by the Task Force was a reduction of Monterey Highway from 6 to 4 lanes (from Umbarger to Metcalf) for the expressed purpose of accommodating the High Speed Train project. See Agenda item #6, Action #14 from the June 22, 2009 Task Force meeting (copy attached).
- State Route Relinquishment - Portions of Monterey Highway in San José are part of State Highway 82 under the jurisdiction of Caltrans. However, the City of San José operates and maintains the facility as part of a maintenance agreement with Caltrans. As noted in the letter from June 17, 2009 (copy attached), the City and Caltrans are pursuing relinquishment of Monterey Highway from Caltrans to San José in an effort to further facilitate any possible corridor modifications necessitated by the ongoing development of the HST project.

Mr. Dan Leavitt
Subject: Monterey Highway Corridor
October 20, 2009
Page 2 of 2

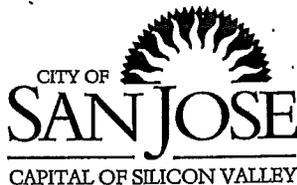
The City of San José is a strong supporter of the HST project and we look forward to continuing to work with your staff and consultant team to develop and deliver this important project. Please contact Ben Tripousis of my staff at 408-975-3717 if we can be of further assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Hans F. Larsen", with a long horizontal flourish extending to the right.

Hans F. Larsen, Acting Director
Department of Transportation

Attachments



Department of Transportation

JAMES R. HELMER - DIRECTOR

April 7, 2009

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

SUBJECT: San José to Merced HST Project EIR/EIS Scoping

Dear Mr. Leavitt:

The City of San José is pleased to provide input into the scoping of the Environmental Impact Report (EIR) and Environmental Impact Statement (EIS) for the San Francisco to San José segment of the California High-Speed Train (HST) project. The City is a strong supporter of the project and its goals to improve mobility, protect the environment, enhance the economy, and responsibly plan for the future. We commend the California High Speed Rail Authority Board and staff for their leadership in developing this important project, and we commend the voters of California for approving Proposition 1A (in November 2008) to help finance the project.

As you are aware, San José is actively engaged in helping to develop the project in a manner that supports the timely delivery of HST service for San José and the Bay Area, and also in a manner that effectively manages and minimizes the environmental impacts of the project for the communities adjacent to the nearly 20-mile HST route through San José.

We appreciate the strong collaboration that the HST team has had with San José staff and the community thus far. On December 18, 2008, HST staff and consultants participated in an all-day workshop at San José City Hall to discuss issues and interests with over thirty City staff members representing the City Manager's Office, Transportation, Public Works, Planning, Parks, Cultural Affairs, Redevelopment, and the Strong Neighborhood Initiative program. In addition, HST staff has held or participated in six community meetings in the San José area over the past three months. Based on these recent communications, we believe the HST team has a good understanding of project issues within San José. We look forward to continuing an ongoing collaboration in the development of the project.

With regards to the scoping of the Project EIR/EIS, we understand the HST project will conduct the environmental analysis required by the California Environmental Quality Act (CEQA) and the National Environmental Protection Act (NEPA). This includes addressing project issues and impacts related to transportation; safety and security; land use and zoning; land acquisition, displacement and relocations; historic and archaeological resources; park and recreation areas; neighborhood compatibility and environmental justice; visual quality and aesthetics; noise and

Mr. Dan Leavitt
Subject: San José to Merced HST Project EIR/EIS Scoping
April 7, 2009
Page 2 of 3

vibration; wildlife and ecosystems; air and water quality; public and private utilities; flooding; hazardous materials; energy; and construction operations.

We advise that the HST team to continue to consult with City staff during the initial development of the environmental studies to obtain information on existing conditions and current planning, with a particular focus on the topics of historic resources, land use, parks, trails, utilities, floodplains, transportation, and energy. Note that we have a particular interest in developing opportunities for renewable energy generation along the HST corridor. We also encourage an ongoing public participation process with communities affected by the project to assure issues are addressed and reasonable mitigation measures are identified.

In addition, the following comments are provided on special topics of interest to San José related to the scope of the EIS/EIR.

▪ *Study Profile and Alignment Options in the Greater Downtown San José Area*

For the greater Downtown San José area (including the Delmas Park, Gardner, and North Willow Glen neighborhoods), the preliminary design concept is for the HST to follow the Caltrain right-of-way and be elevated or at-grade. At the Diridon Station the HST train is proposed to be elevated as high as 70 feet. The visual and noise impacts of the HST for Downtown and adjacent neighborhoods is of significant concern to San José. Therefore, we request that the project prepare and analyze the following profile and alignment options.

1. Current Project Plan with Elevated Profile Having an Attractive Visual Design and Noise Mitigation Appropriate for the Community Context
2. Below Grade Profile between Julian Street and Tamien Station Area to Avoid Noise and Visual Impacts in the Greater Downtown San José Area
3. Align HST along Route 280 and Route 87 to Reduce Impacts to Gardner and North Willow Glen Neighborhoods
4. Provide 3-Tracks (Instead of 4-Tracks for HST, Caltrain, and UPRR) to Lessen or Avoid Physical Impacts in the Gardner and North Willow Glen Neighborhoods

The analysis should provide for a full comparison of the options based on visual impacts, aesthetics, noise, property impacts, constructability, cost, and community acceptance. It is noted that the HST profile and alignment issue for the Downtown San José area will need to be addressed and coordinated between the environmental documents for both the "San Francisco to San José" and the "San José to Merced" segments of the HST project, since the issue overlaps both segments.

Mr. Dan Leavitt
Subject: San José to Merced HST Project EIR/EIS Scoping
April 7, 2009
Page 3 of 3

▪ Confirm and Refine HST Design Concept in Monterey Highway Corridor from Capitol Expressway to Morgan Hill

The preliminary design concept for the HST project through the southern part of San José (from Capitol Expressway to Morgan Hill) is based on the assumption of having the HST tracks located on right-of-way currently used by the Union Pacific Railroad and Monterey Highway. A compact design allowing four tracks (for HST, Caltrain, and UPRR) and four-lanes on Monterey Highway (reduced from six-lanes) has the benefits of avoiding private property acquisition along the corridor.

Also, along this corridor are many existing grade crossings, some existing grade separations, and plans for new grade separations. Some of the crossings may warrant closure and some of the existing grade separations may need to be replaced. The design assumptions and concepts for this corridor need to be confirmed in order to appropriately assess the environmental impacts of the project in the corridor. We request the HST team work closely with San Jose and Morgan Hill and their affected communities along the corridor to refine the project scope and/or identify design alternatives for further study.

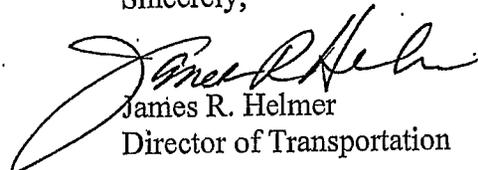
▪ Consider "Starter Segment" HST Service Between San Francisco, San José and Gilroy

The City of San José supports early implementation of "usable segments" of the HST system as funding is obtained to complete the planned initial service between San Francisco, San José, Fresno, Los Angeles and Anaheim. San José requests that the San Francisco/San José/Gilroy segment be evaluated as a "starter segment" for HST service. We prefer this to having a shorter "starter segment" between San Francisco and San José.

The advantages of the San Francisco/ San José/ Gilroy segment are: 1) it avoids temporary "end of the line" traffic and construction impacts in Downtown San José; 2) it fully integrates the HST with existing Caltrain service (currently between San Francisco and Gilroy) with respect to service, electrification, grade separations and agency coordination; and, 3) it provides service proximity to the Salinas, Monterey and Santa Cruz areas that demonstrated strong support for the HST project.

Again, we appreciate the opportunity to participate in the development of the High Speed Train project. We look forward to continued progress towards project implementation.

Sincerely,


James R. Helmer
Director of Transportation

c: Michael Burns, VTA
Michael Scanlon, Caltrain/JPB
Joe Horwedel, CSJ/PBCE



Task Force Meeting No. 23

San José City Hall, Council Wing W118, W119 and W120
200 East Santa Clara Street
Monday, June 22, 2009
6:30 p.m. to 9:00 p.m.

Note: All personal electronic devices must be turned off to avoid electronic interference with the sound system.

Agenda

Meeting Outcomes: Review of transportation network changes for the four Land Use Study Scenarios, initiate Phase 2 of the General Plan Update process, and identify arts and cultural issues to be integrated into Envision San José 2040.

- | | |
|---|---------|
| 1. Welcome | 5 min. |
| 2. Review and approval of May 26, 2009 Task Force Synopsis | 5 min. |
| 3. Updates: | 10 min. |
| a) Recent stakeholder outreach | |
| b) June 16 City Council Action | |
| c) Other on-going City Planning efforts | |
| 4. Recommended Roadway Network Changes for the Four Land Use Study Scenarios | 30 min. |
| 5. Public Comment on Recommended Roadway Changes | 10 min. |
| 6. Task Force Vote on Staff's Recommended Changes to the Roadway Network | 10 min. |
| 7. Initiation of Envision Phase 2 – Discussion on Where We are Going | 15 min. |
| 8. Economic Development Strategy Update | 10 min. |
| 9. Defining the Vision for Vibrant Arts and Culture in Envision San José 2040 | |
| a) Presentation | 10 min. |
| b) Discussion | 30 min. |
| 10. Public Comment | 10 min. |
| 11. Announcements | 5 min. |
| 12. Adjourn | |

Next Meeting:

Task Force Meeting No. 24 – Monday July 27, 2009, 6:30 to 9:00 p.m. Topics tentatively include development of policies for parks, recreation and open space.

NOTE

To request an accommodation or alternative format for City-sponsored meetings, events or printed materials, please call Lee Butler at 408-535-7851 or 408-294-9337 (TTY) as soon as possible, but at least three business days before the meeting/event.

All public records relating to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act, that are distributed to a majority of the legislative body will be available for public inspection at Planning, Building and Code Enforcement, 200 E. Santa Clara Street, 3rd Floor Tower, San José, CA 95113 at the same time that the public records are distributed or made available to the legislative body.



**Task Force Meeting No. 23 Synopsis
June 22, 2009**

Task Force Members Present*:

Co-Chair Sam Liccardo, Co-Chair Shirley Lewis, Vice-Chair David Pandori, Shiloh Ballard, Michele Beasley, Frank Chavez, Gary Chronert, Pastor Oscar Dace, Pat Dando, Harvey Darnell, Dave Fadness, Enrique Fernandez, Sam Ho, Nancy Ianni, Lisa Jensen, Frank Jesse, Matt Kamkar, Charles Lauer, Karl Lee, Linda LeZotte, Pierluigi Oliverio, Dick Santos, Patricia Sausedo, Erik Schoennauer, Judy Stabile, Alofa Talivaa, Michael Van Every, Jim Zito.

Task Force Members Absent:

Jackie Adams, Teresa Alvarado, Judy Chirco, Mary Creasman, Yolanda Cruz, Leslee Hamilton, Jennifer Rodriguez, Neil Struthers.

City Staff and Other Public Agency Staff Present*

Anastasia Aziz (City Manager Office), Roma Dawson (Council Office, D3), Matt Krupp (ESD), Jared Hart (ESD), Peter Hamilton (Council Office, D9), Hans Larsen (DOT), Manuel Pineda (DOT), Kim Welsh (OED), Kerry Adams-Hapner (CAE), Barbara Goldstein (CAE), Joseph Horwedel (PBCE), Laurel Prevetti (PBCE), Andrew Crabtree (PBCE), Lee Butler (PBCE), John Baty (PBCE)

Public Present*:

Trixie Johnson (LWV), Brian Abbott, Bill Sowa (HMH), Larry Ames, Tom Rossi (WGHA), Erin Goodwin-Guerrero (Artshift San Jose), Jessica Zeak, Jean Dresden, Mike Conner (WGNA), Patricia Walsh, Terri Balandra (F.L.A.G.), Virginia Holtz, Leah Toeniskoetter, Harold Clay, Pat Readon (LWV), Anjee Helstrip-Alvarez (MACLA), Cathleen King (Stan Jose Stage Co.), Mary Smith (San Jose Stage Co.), Chris Hugheseralia

*As verified by registering attendance on Sign-In Sheets.

1. Welcome

The meeting convened at 6:35 p.m.

2. Review and approval of May 26, 2009 synopsis

May 26, 2009 synopsis approved

3. Updates: (a) Recent Stakeholder Outreach, (b) June 16th City Council Action, (c) Other on-going City Planning Efforts

Andrew Crabtree (PBCE) summarized the discussion at and outcome of the June 16th City Council hearing. He provided an update on the June 11, 2009 meeting between City staff and the property owners from Coyote Valley and South Almaden Valley Urban Reserves, and provided an update on the Wikipanning effort. Andrew then briefed the Task Force on other on-going City Planning efforts such as the Diridon Station Area Plan, North San Jose Vision, Alum Rock Form Based Zoning, and proposed A's Baseball Stadium.

4. Recommended Roadway Network Changes for the Four Land Use Study Scenarios

Hans Larsen (DOT) presented the proposed preliminary transportation network (*Envision 2040 – Preliminary Street Network*) to be used as a starting point for the transportation analysis in each land use growth scenario. The proposed network includes changes to the current General Plan street network to bring it into greater alignment with the Task Force's *Draft Land Use & Transportation Design Guidelines* and to address other recently adopted City policies. The Task Force discussed and made recommendations for the proposed designations for several specific streets. See agenda item #6 below for the specific list of network streets reconsidered at the request of the Task Force.

5. Public Comment on Recommended Roadway Changes

Four members of the public spoke on the issue of DOT's preliminary street network. Streets for which public comments were received are noted with an asterisk ("*") in agenda item #6 below.

6. Task Force Vote on Staff's Recommended Changes to the Roadway Network

The Task Force unanimously voted to approve staff's recommended changes to the roadway network, with the exception of several specific streets on which the Task Force disagreed with the initial staff proposal. DOT staff indicated that they would re-evaluate those streets which received comments from the Task Force or members of the public at the Task Force meeting. A list of the streets identified follows (with numbers referencing DOT's *Envision 2040 – Preliminary Street Network* handout and asterisks ["*"] indicating that at least one member of the public commented on the street):

Winchester Blvd. (115)
King Rd. (Alum Rock to Capitol Ex.)
San Pedro (58)
Spring (between Taylor & Hedding)
Auzerais
St. John St. (under 87)
River St.
Fruitdale (108)
Santa Teresa (131/132)
Curtner (123)
Charcot (120)
Unnamed street in Alviso (141)
Zanker (144)*
Tully Rd.
White Rd.
Snell (138)
San Carlos (130)*
Senter Rd. (135)*
Alma Ave.*
Lincoln Ave.*
10th & 11th (94 & 95) Typographical error needs to be corrected.

7. Initiation of Envision Phase 2 – Discussion on Where We are Going

This agenda item was postponed until the July Task Force meeting due to the lack of time remaining.

8. Economic Development Strategy Update

Kim Walesh (OED) updated the Task Force on the preparation of the City's 5-year economic development strategy and as an introduction to the next Task Force agenda item, noted that arts and culture is an important part of the City's strategy. A Task Force member asked if the City's 5-year strategy could be presented to the Task Force prior to its presentation to City Council. The economic development strategy will be placed on a later Task Force meeting agenda.

9. Defining the Vision for Vibrant Arts & Culture in Envision San Jose 2040

Kerry Adams-Hapner and Barbara Goldstein (CAE) presented information on San Jose's Cultural Vision for 2040, with the four focus areas being Arts & Economic Prosperity, Cultural Participation, Cultural Pluralism, and Innovation.

The Task Force then discussed the meaning of vibrant arts and culture relevant to San Jose and how we can create a better San Jose through arts and culture. As part of the discussion Task Force members suggested that staff research cultural plans from other cities, and that the City's policies address multi-use or adaptable arts spaces, low-cost arts spaces, utilization of historic buildings/resources to promote the development of arts and culture, and further exploration of how arts and culture serve as an attractive resource to various ethnic communities.

10. Public Comment

Three members of the public spoke. Speakers praised the City for waiving Business Permit fees for artists, promoted use of the village centers for festivals and events, and recommended that the City pursue public-private ventures/partnerships to promote arts and culture.

11. Announcements

Lee Butler reminded the Task Force of the Wikiplanning launch and the need for their assistance in promoting it to their contacts.

12. Adjourn

The meeting adjourned shortly after 9:00 p.m.

Envision 2040 – Preliminary Street Network
Proposed Changes to Current General Plan Street Network
June 2009

The City of San Jose has approximately 2400 miles of streets within its jurisdiction, of which approximately 500 miles are designated as General Plan streets serving as the City's primary circulation network for community mobility. These General Plan streets are also referred to as arterials and collectors. The General Plan specifies the intended width and traffic capacity of the streets as 2-lanes, 4-lanes, or 6-lanes.

One goal of the Envision 2040 planning process is to update the City's transportation plan, and in particular to align with the Guiding Principles related to multimodal transportation, economic development, community livability, and environmental sustainability. The General Plan street network was last comprehensively reviewed more than a decade ago.

A preliminary street network plan has been developed as a "starting point" for transportation analysis of proposed land use scenarios identified for Envision 2040. Refining the street network will be subject to further review by the Envision 2040 Task Force. The attached tables and exhibit document proposed changes to the General Plan street network in terms of number of lanes for motor vehicles. The proposed changes are organized into the following four groupings:

- **Group 1 Actions** – Change Current General Plan Street Network to **Reconcile with Existing "Built-Out" Street Operations**
- **Group 2 Actions** – **Reconfirm Recent Policy Actions to Support Multimodal and Livable Streets or Consistency with Regional Plans**
- **Group 3 Actions** – Change Current General Plan to **Accommodate Multimodal Streets**
- **Group 4 Actions** – Confirm Existing General Plan to **Expand Street Capacity**

Envision 2040 - Preliminary Street Network

Proposed Changes to Current General Plan Street Network

June 2009

Group 1 Actions - Reconcile with Existing

#	Street	From	To	Lanes		
				GP2020	Existing	GP2040
1	2nd	San Carlos	Jackson	3	2	2
2	7th	Keyes	Curtner	4	2	2
3	Almaden	Canoas Garden	Curtner	4	2	2
4	Bailey	IBM	McKean	4	2	2
5	Bernal	Heaton Moor	Santa Teresa	4	2	2
6	Berryessa	1680	Piedmont	6	4	4
7	Beswick	Blossom Hill	Cottle	4	2	2
8	Bird	Coe	Virginia	6	4	4
9	Blossom	Blossom Hill	Santa Teresa	4	2	2
10	Blossom Hill	w/o Union		4	2	2
11	Cahalan	Blossom Hill	Santa Teresa	4	2	2
12	Camden	Almaden	Blossom Hill	6	4	4
13	Camden	Del Paso (SR85)	Hillsdale	6	4	4
14	Camden	Almaden	Harry	4	2	2
15	Cherry	Almaden	Branham	4	2	2
16	Coleman	Camden	Meridian	4	2	2
17	Commercial	Oakland	Berryessa	4	2	2
18	Commercial	W. of Oakland	--	4	2	2
19	Delta	Ruby	San Felipe	4	2	2
20	Doyle	Lawrence	Saratoga	4	2	2
21	E. Reed	2nd	4th	4	2	2
22	Fortini	n/o McKean	--	4	2	--
23	Fruitdale	Meridian	Southwest Expwy	4	4	4
24	Hamilton	Leigh	Meridian	6	4	4
25	Hamilton	Campbell	City boundary	6	4	4
26	Hamilton/Pine	Meridian	Cherry	4	2	2
27	Hanchet	Park	The Alameda	2	2	--
28	Harry	Camden	McKean	4	2	2
29	Hostteter	Morrill	Piedmont	4	2	2
30	Julian	The Alameda	Montgomery	4	2	2
31	Keyes	10th	11th	6	4	4
32	King	Alum Rock	McKee	4	2	2
33	Lean	Blossom Hill	Chynoweth	4	2	2
34	Leigh	Parkmoor	San Carlos	4	2	2
35	Little Orchard	Curtner	San Jose	4	2	2
36	Los Gatos Almaden	Harwood	City boundary	4	2	2
37	Mabury	Capitol	White	4	2	2
38	Marten	Mt Pleasant	White	4	2	2
39	McKean	Bailey	Harry	4	2	2
40	Meridian	Park	San Carlos	4	2	2
41	Meridian	Coleman	Camden	4	2	2
42	Miller	Bollinger	Prospect	4	2	2
43	Minnesota	Hicks	Meridian	4	2	2
44	Monroe/Tisch	Stevens Creek	Winchester	--	2	2
45	Mt. Pleasant/Ruby	Delta	Fowler	4	2	2
46	Murillo	Quimby	Tully	4	2	2
47	Nieman	Capitol	Yerba Buena	4	2	2
48	Payne	Saratoga	Winchester	4	2	2
49	Phelan	Monterey	Tenth	4	2	2
50	Piedmont/White	Landess	McKee	4	2	2

Envision 2040 - Preliminary Street Network

Proposed Changes to Current General Plan Street Network

June 2009

Group 1 Actions - Reconcile with Existing

#	Street	From	To	Lanes		
				GP2020	Existing	GP2040
51	Quito	SR85	Saratoga	4	2	2
52	Race	1280	Fruitdate	4	2	2
53	Redmond	Camden	Coleman	4	2	2
54	River Oaks	1st	Zanker	4	2	2
55	Samaritan	Union	Samaritan Place	4	2	2
56	San Antonio	King	Jackson	4	2	2
57	San Felipe	Aborn	Delta	6	4	4
58	San Pedro	Hedding	Mission	4	2	2
59	San Tomas Aquino	Payne	Saratoga	4	2	2
60	San Tomas Aquino (Fenian/Harriet)	Bucknall	Westmont	4	2	2
61	Sanchez	[dead end]	Blossom Hill	4	2	2
62	Senter	Capitol	Singleton	6	4	4
63	Senter	Monterey	Hellyer	4	2	2
64	Senter	Hellyer	Slyvandale	4	3	2
65	Sierra	Morrill	Piedmont	4	2	2
66	Silicon Valley	US101	Basking Ridge	6	4	4
67	Snell	SR85	Blossom Hill	6	4	4
68	Southwest	Meridian	Stokes	6	4	4
69	Southwest	Bascom	Stokes	6	2	2
70	Trinidad	Almaden	Camden	4	2	2
71	Tully	Ruby	White	6	4	4
72	Union	Blossom Hill	LGAlmaden	4	2	2
73	Via Valiente	Almaden	Camden	4	2	2
74	W. Reed	1st	2nd	4	2	2
75	Williams	Moorpark	Winchester	4	2	2
76	Willow	Almaden	Lelong	4	2	2
77	Yerba Buena/Slyvandale	McLaughlin	Senter	4	2	2

Envision 2040 - Preliminary Street Network

Proposed Changes to Current General Plan Street Network

June 2009

Group 2 Actions - Reconfirm Recent Policy

#	Street	From	To	Lanes		Comments
				GP2020	Existing GP2040	
78	101/Branham Interchange	--	--	--	--	Edenvale Area Plan
79	101/Metcalf Interchange	--	--	IC	--	Coyote Valley Area
80	Airport Blvd	Airport/Brokaw	Coleman	6	2	Airport Master Plan
81	Airport Pkwy	US101	Airport Blvd	6	4	Airport Master Plan
82	Chynoweth	Colony Field	Snell	4	2	General Plan Amendment (Lester Park, 2000)
83	Chynoweth	Barron Park	Pearl	4	2/4	General Plan Amendment (Lester Park, 2000)
84	Chynoweth	Barron Park	Colony Field	--	0	General Plan Amendment (Lester Park, 2000)
85	Julian	SR87	Market	4	2	Downtown Strategy Plan
86	Montgomery	Park	W. Santa Clara	4	2	Downtown Strategy Plan
87	Montgomery	Julian	St. John	4	2	Downtown Strategy Plan
88	Park	Delmas	Montgomery	4	2	Downtown Strategy Plan
89	St. John	Autumn	Montgomery	4	2	Downtown Strategy Plan
90	Taylor	1st	4th	4	2	Council Action
91	Vista Park	Hyde Park	Capitol	4	2	General Plan Amendment (Lester Park, 2000)
92	Vista Park	Hyde Park	Blossom Hill	--	0	General Plan Amendment (Lester Park, 2000)
93	Winfield	Almaden	Coleman	--	0/2/4	General Plan Amendment (Lake Almaden Park, 2004)
94	10th	Keyes	Santa Clara	--	2/3	Downtown Couplet Conversion Program
95	11th	Keyes	Santa Clara	--	3	Downtown Couplet Conversion Program
96	10th	Santa Clara	Hedding	--	3	Downtown Couplet Conversion Program
97	11th	Santa Clara	Hedding	--	3	Downtown Couplet Conversion Program
98	2nd	E. Reed	Humboldt	4	3	Downtown Couplet Conversion Program
99	3rd	E. Reed	Humboldt	4	3	Downtown Couplet Conversion Program
100	3rd	Jackson	Julian	4	2	Downtown Couplet Conversion Program
101	4th	Taylor	Julian	4	2	Downtown Couplet Conversion Program
102	Julian	Market	24th	4	2	Downtown Couplet Conversion Program
103	St. James	Market	19th	4	2	Downtown Couplet Conversion Program
104	S. Almaden	Grant	Alma	4	2	Downtown Couplet Conversion Program
105	Vine	Grant	Alma	4	2/3	Downtown Couplet Conversion Program

Envision 2040 - Preliminary Street Network

Proposed Changes to Current General Plan Street Network

June 2009

Group 3 Actions - Accommodate Multimodal Streets

#	Street	From	To	Lanes			Comments
				GP2020	Existing	GP2040	
106	Alma	Lelong	Senter	4	4	2	Primary Bikeway Corridor
107	Branham	Almaden	Monterey	6	2/4/6	4	Primary Bikeway Corridor
108	Fruitdale	Bascom	Southwest Expwy	4	4	2	SNI Project
109	Hedding	Coleman	Winchester	4	4	2	Primary Bikeway Corridor
110	Hedding	4th	17th	4	4	2	Primary Bikeway Corridor
111	Hillsdale	Almaden	Camden	6	6	4	Staff Proposal
112	Leigh	Blossom Hill	Stokes	4	2/4	2	Primary Bikeway Corridor
113	Monroe	city boundary	Stevens Creek	4	2	2	Primary Bikeway Corridor
114	Monterey	Umbarger	Metcalf	6	4/5/6	4	High Speed Rail Corridor
115	Winchester	Magliocco	Hamilton	6	5/6	4	Draft Business District Strategy

Envision 2040 - Preliminary Street Network

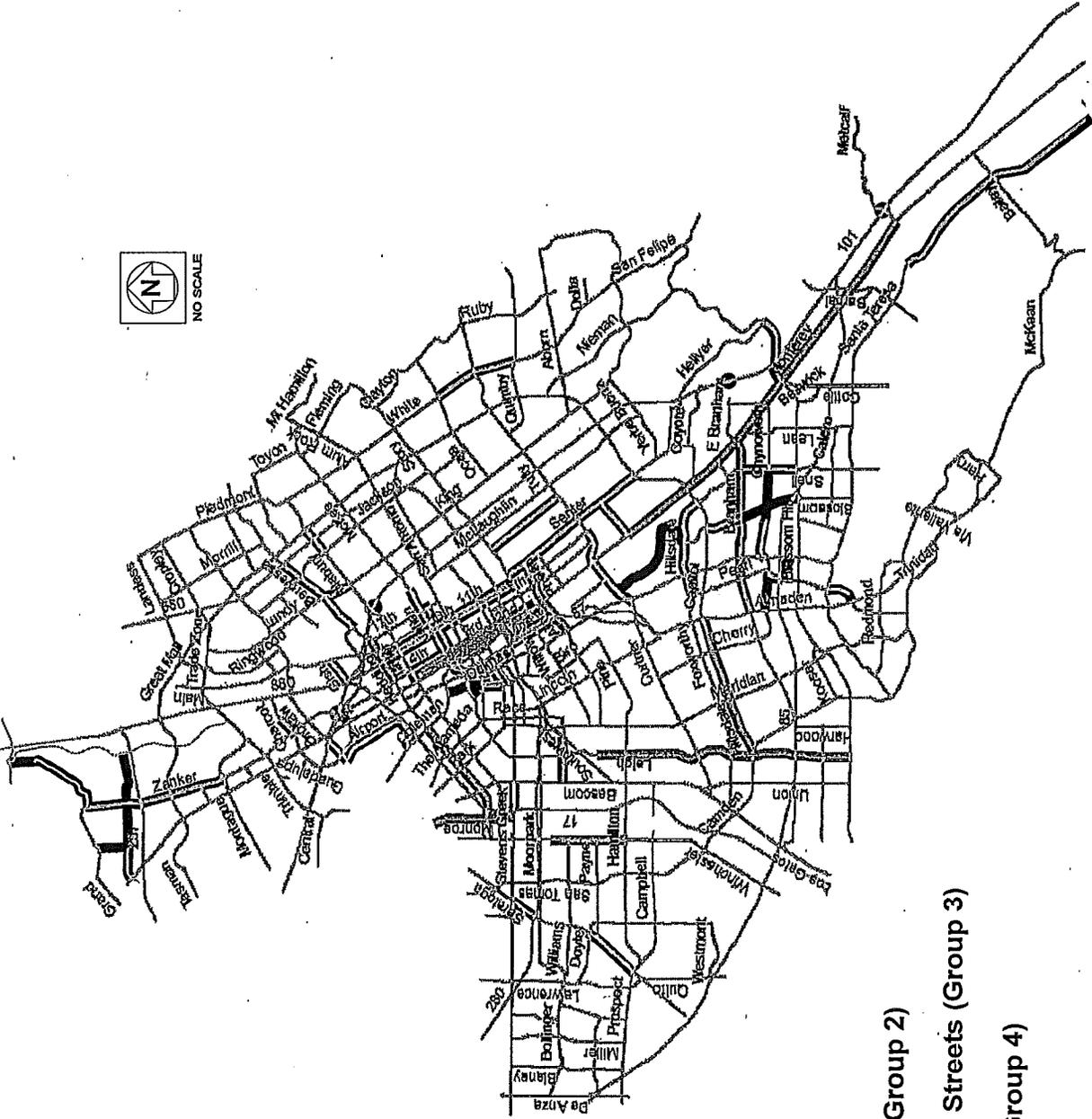
Proposed Changes to Current General Plan Street Network

June 2009

Group 4 Actions - Expand Street Capacity

#	Street	From	To	Lanes		Comments
				GP2020	Existing	
116	101/Mabury Interchange	--	--	IC	IC	North San Jose Plan
117	101/Zanker Interchange	--	--	IC	IC	North San Jose Plan
118	Autumn	Coleman	Park	4	0/2	Downtown Strategy Plan
119	Berryessa	Commercial	1680	6	4/6	Berryessa BART Station Area
120	Charcot	Junction	Zanker	4	2	North San Jose Plan
121	Chynoweth/Thornwood	Almaden	Winfield	4	0	Almaden/Blossom Hill Area
122	Communications Hill	Curtner	Hillsdale	4	0	Communications Hill Plan
123	Curtner	SR87	Monterey	6	4	Communications Hill Plan
124	Gish	1880	Oakland	4	2	North San Jose Area
125	Hillsdale	Capitol	Pearl	4	2/4	Communications Hill Area
126	King	Mabury	Berryessa	4	2/4	
127	Lucretia	Story	Tully	4	2/4	
128	Mabury	Jackson	Capitol	4	2/4	
129	Nortech Pkwy	1st	McCarthy Blvd	--	0/2/4	Alviso Area
130	San Carlos	1880	Bascom	6	4	880/Stevens Creek Area
131	Santa Teresa	Bayliss	Laguna	6	2/4	Coyote Valley Area
132	Santa Teresa	Laguna	City boundary	4	2	Coyote Valley Area
133	Saratoga	Doyle	Campbell	6	4/6	
134	Saratoga	1280	Stevens Creek	6	5/6	
135	Senter	Capitol	Story	6	4/6	
136	Silver Creek Valley/Blossom Hill	Hellyer	Monterey	6	4/6	Edenvale Area
137	Skyport	1st	4th	--	0	North San Jose Plan
138	Snell	Blossom Hill	Branham	6	4	
139	Tully	Monterey	Tenth	6	4/5	
140	Umbarger	Monterey	Senter	4	2	County Fairground Area
141	unnamed street in Alviso	Nortech Pkwy	Los Esteros Rd	--	0	Alviso Area
142	White	Marten	Quimby	6	5/6	Evergreen Area
143	Zanker	SR237	Montague	6	4/6	North San Jose Plan
144	Zanker	SR237	Dixon Landing	2	0/2	Alviso Area

Envision 2040 – Preliminary Street Network



Legend

- Reconfirm Recent Policy (Group 2)
- Accommodate Multimodal Streets (Group 3)
- Expand Street Capacity (Group 4)

June 17, 2009

Mr. Bijan Sartipi, District 4 Director
California Department Transportation
111 Grand Avenue
Oakland, CA 94612

Dear Mr. Sartipi:

SUBJECT: STATE ROUTE RELINQUISHMENTS IN SAN JOSE

The purpose of this letter is to reinitiate and engage Caltrans in the relinquishment of the following three segments of local State Routes from Caltrans to the City of San Jose:

- Route 82 from I-880 to I-280 (The Alameda Corridor/Downtown San Jose Area) – 3 Miles
- Route 82 from I-280 to US 101/Blossom Hill (Monterey Highway Corridor) – 7 Miles
- Route 130 from US 101 to I-680 or City Limit (Alum Rock Corridor) – 1.5 Miles

In 2007, the City and Caltrans exchanged letters discussing the relinquishment of State Routes (SR) 82 and 130. Summarizing this correspondence, on June 11, 2007, the City provided you with a letter expressing an interest in the relinquishment of these routes. Subsequently, in your letter of August 30, 2007, Caltrans had provided a response indicating that these routes had been evaluated and determined to have potential to be relinquished.

As also discussed in your letter, it was proposed that Caltrans would initiate the negotiation with the City, to include the development of a mutually agreed upon cost to relinquish the discussed segments in a "state of good repair". However, in discussions with your staff we understand that Caltrans is not considering any financial contribution toward the relinquishment of these segments of the State Route system. From the City's perspective, Caltrans stands to gain significant short- and long-term benefits from the relinquishment of approximately 11.5 miles of local State Routes. Given that these benefits can largely be quantified through reduced obligations related to operations, maintenance, liability and local permit coordination, it is requested that Caltrans' staff position be reconsidered through your office.

To further your understanding, the City's interest in the relinquishment considers the consolidation of jurisdiction to a single agency along these segments of the State Route system. The intent is to better manage, integrate and streamline the land use and right of way decision-making process associated with a number of local and regionally significant developments along these segments. While the benefits of relinquishment to the City will be recognized more in the long-term, the current condition of the infrastructure in many areas along these segments are in poor or sub-standard condition and will warrant rehabilitation in the near-term. As such, in consideration of what appears to be a mutually beneficial

Mr. Bijan Sartipi
SUBJECT: State Route Relinquishments in San Jose
June 17, 2009
Page 2

arrangement, we request Caltrans remain open to financially participating through the relinquishment process.

For your further information, the relinquishment of the three State Route segments in San Jose has generated interest from a variety of stakeholders seeking to redesign portions of the streets. Specific examples are listed below:

- As part of the Grand Boulevard Initiative, The Alameda Business District area of SR 82 is being planned for an enhanced streetscape to create a more attractive and pedestrian-friendly environment.
- In the Diridon Transit Station area, SR 82 is planned to be reconfigured to support development of a proposed baseball stadium and other transit and pedestrian oriented development.
- For the California High Speed Rail project, segments of Monterey Highway (SR 82) are planned to be narrowed from 6-lanes to 4-lanes to provide a cost effective right-of-way corridor for high-speed trains.
- Along Alum Rock Avenue (SR 130), the Santa Clara Valley Transportation Authority (VTA) is planning a bus rapid transit project with an exclusive busway in the median and a pedestrian oriented streetscape.

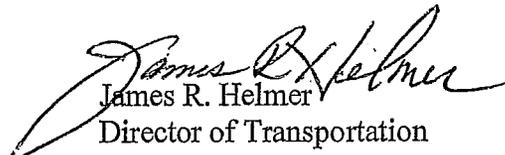
As a first step toward facilitating each of the above projects, we would like to formally establish that the City of San Jose has "design authority" for improvements along the State Route segments proposed for relinquishment.

In summary, San Jose would like to resolve with Caltrans the key business terms for a relinquishment agreement that addresses: 1) the limits of street segments to be relinquished, 2) design authority for planned improvements, 3) and a "fair share" financial contribution to upgrade streets to a "state of good repair". We recognize that current economic conditions make it challenging to allocate funds; therefore we are amenable to an agreement that commits to relinquishment in the near-term, but provides for State funding for improvements in the future.

For each of the proposed relinquishment segments, efforts are underway or will be starting soon to quantify the scope and cost of improvement needed along the local State Routes to bring the facilities to a "state of good repair".

We appreciate your attention to this matter and look forward to our continued collaboration.

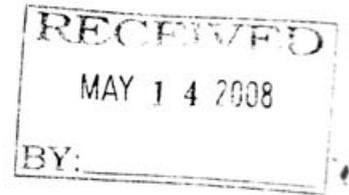
Sincerely,


James R. Helmer
Director of Transportation

c: Gene Gonzalo, Caltrans
John Ristow, VTA
Dan Leavitt, CHSRA

APPENDIX C

UNION PACIFIC RAILROAD LETTERS



May 13, 2008

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

Re: California High Speed Rail Route

Dear Mr. Morshed:

Reference is made to our meeting of May 9, 2008, to discuss the current status of the California high-speed rail initiative and its possible impacts on Union Pacific Railroad.

It was a very informative meeting to hear the efforts you are undertaking as the high-speed train bond measure is being prepared for the November, 2008 ballot.

After hearing your plans regarding the proposed routing for this service, Union Pacific feels it is important for the California High Speed Rail Authority (CHSA) to once again understand Union Pacific's position as related to potential alignments along Union Pacific corridors. Union Pacific has carefully evaluated CHSA's project and for the variety of reasons we discussed during our meeting, does not feel it is Union Pacific's best interest to have any proposed alignment located on Union Pacific rights-of way. Therefore, as your project moves forward with its final design, it is our request you do so in such a way as to not require the use of Union Pacific operating rights-of-way or interfere with Union Pacific operations. The State of California and the nation need railroads to retain their future ability to meet growing demand for rail cargo transportation, or that cargo will be in trucks on the highways.

Should you have any questions or comments, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Jerry Wilmoth".

Cc: Scott Moore - UP
Wesley Lujan - UP

Jerry Wilmoth
General Manager Network Infrastructure

UNION PACIFIC RAILROAD
10031 Foothills Blvd., Roseville, CA 95747
ph. (916) 789-6360 fx. (916) 789-6171

E000027



Scott D. Moore
Vice President Public Affairs

July 7, 2008

Mr. Quentin L. Kopp
Chairperson
California High-Speed Rail Authority Board
925 L Street, Suite 1425
Sacramento, CA 95814

Re: Final Bay Area to Central Valley HST Program EIR/EIS

Dear Chairperson Kopp:

Union Pacific Railroad Company (UPRR) appreciates the opportunity to provide the following comments to the High-Speed Rail Board with respect to the above-referenced EIR/EIS.

UPRR wishes to emphasize that we are not opposed to the concept of high-speed rail nor would we oppose implementation of the project should the voters approve the bond issue in November. Our concern is that the project should not be designed to utilize or occupy any of our rights of way. Our rights of way are limited in width and are fully dedicated to freight service, and, in some instances, to commuter passenger trains. UPRR simply cannot meet the future freight transportation needs of California if our right of way is taken away for high-speed rail.

To respond to the specific corridors proposals for high-speed rail, UPRR points out that our San Jose to Gilroy right of way is very narrow by railroad standards – primarily 60-feet or less – and is bounded on one side by a major arterial highway. We could not give up a 50-foot exclusive width right of way to high-speed rail and remain in business.

Even though our right of way is wider (primarily 100-feet) along most of the Central Valley line, a loss of 50 feet would render future freight rail expansion impossible. As fuel prices rise and the nation becomes more concerned with the environmental effects of transportation, we need the ability to expand our infrastructure, perhaps substantially. In addition, we serve numerous industries on both sides of our track. High-speed rail would cut off, forever, our ability to expand capacity in the Central Valley, leaving California with only highway alternatives. It also would disrupt existing rail-served businesses and prevent new rail-served industries from locating on one or both sides of our rail line. This is not a wise transportation decision for the State.

Regarding Caltrain's San Francisco – San Jose corridor, UPRR does not own the right of way but has a freight easement over Caltrain's tracks. Our freight operations already are restricted to avoid delaying Caltrain's commuter trains. Imposing two exclusive high-speed rail tracks on a 50-foot right of way effectively will end our ability to provide freight service to customers on this corridor, including the Port of San Francisco. We will have the same concerns between Sylmar and Los Angeles, where Metrolink's commuter line right of way is designated for high-speed rail service.

An effective and efficient freight rail network is vital to California's economic future. Policy makers such as the high-speed rail board should not jeopardize UPRR's ability to provide such freight service by assuming that high-speed rail will have no impact. UPRR urges the board to carefully consider corridor routes that do not utilize our rights of way.

Sincerely,

A handwritten signature in black ink, appearing to read "Scott D. Moore", written over a horizontal line.

Scott D. Moore

cc: Mehdi Morshed, California High-Speed Rail Authority
Jerry Wilmoth, Union Pacific Railroad
Wesley Lujan, Union Pacific Railroad



Jerry Wilmoth
General Manager Network Infrastructure

February 23, 2009



California High-Speed Rail Authority
Attn: San Francisco to San Jose HST Project EIR/EIS
925 L Street, Suite 1425
Sacramento, CA 95814

Re: Union Pacific Railroad Scoping Comments For Joint EIR/EIS

Dear High-Speed Rail Authority:

Union Pacific Railroad Company submits the following comments in response to the High-Speed Rail Authority's (Authority) Notice of Preparation pursuant to CEQA dated January 8, 2009, concerning the Project Environmental Impact Report/Environmental Impact Statement for the San Francisco to San Jose segment of the high-speed train system (HSR). These comments also respond to the Notice of Intent pursuant to NEPA published by the Federal Railroad Administration in the Federal Register on December 29, 2008. Union Pacific understands that the Authority and the FRA will jointly prepare the EIR/EIS for this project.

Union Pacific Railroad Company (Union Pacific) is a Delaware corporation that owns and operates a common carrier railroad network in the western half of the United States, including the State of California. Specifically, Union Pacific owns and operates rail main lines connecting the San Francisco Bay Area to Sacramento and points east and north, and to Los Angeles and points east and southeast. Union Pacific is the largest rail carrier in California in terms of both mileage and train operations. Union Pacific's rail network in the Bay Area is vital to the economic health of California and the nation as a whole. Union Pacific's rail service to customers in the Bay Area is crucial to the future success and growth of those customers.

Union Pacific previously submitted comments on the Bay Area to Central Valley HST Program EIR/EIS by letter dated July 7, 2008, from Mr. Scott Moore to Mr. Quentin L. Kopp of the Authority's Board (copy attached). Union Pacific reaffirms these comments and hereby incorporates them within this letter. By letter dated May 13, 2008, to Mr. Mehdi Morshed, the Authority's Executive Director (copy attached), the undersigned stated that it was not in Union Pacific's best interests to permit any proposed high-speed rail alignment on our rights of way. This remains Union Pacific's position on this matter.

Union Pacific submits the following comments with reference to the scoping of the joint EIR/EIS for the San Francisco to San Jose segment of the light rail system.

- 1) Union Pacific formerly owned and operated the Caltrain (PCJPB) right of way between San Francisco and San Jose that is proposed for the HSR system. Union Pacific sold the right of way to PCJPB in 1991 and retained a permanent and exclusive easement for the operation of freight trains and for the delivery of common carrier rail service over the entire line. Union Pacific also retained all rights and obligations relating to intercity passenger service provided by Amtrak or any other operator, at Union Pacific's sole election, operating over this line (currently no Amtrak or intercity passenger service trains operate over this right of way except between San Jose and Santa Clara). Union Pacific's permanent easement for freight and Amtrak service over this line is a valuable property and operational right that must not be impaired by construction and operation of the HSR. The Authority must protect such rights and mitigate all adverse impacts to Union Pacific's satisfaction.

- 2) In addition to retention of the easement rights outlined above, Union Pacific entered into an operating contract with the PCJPB at the time of sale setting forth Union Pacific's rights with respect to freight services on the line. Union Pacific has notified the PCJPB that it expects the PCJPB to protect Union Pacific's rights under this contract in any arrangement that might be made with HSR. The Authority must be aware of and protect Union Pacific's rights under this contract as well. All adverse impacts must be mitigated to Union Pacific's satisfaction.
- 3) As a common carrier railroad, Union Pacific is subject to the requirements of federal law governing abandonment or discontinuance of freight operations. Specifically, the Interstate Commerce Commission Termination Act (49 USC §10501 et seq.) prohibits a railroad from abandoning or discontinuing freight services over main or branch lines of railroad without authority from the federal Surface Transportation Board (STB). In the sale of the PCJPB right of way, Union Pacific retained all common carrier freight service rights and obligations. Therefore, Union Pacific's operations over the San Francisco – San Jose line are subject to STB jurisdiction. Neither the PCJPB nor the Authority may take any action that effectively requires or causes Union Pacific to abandon or discontinue freight service unless prior authority from the STB has been obtained. Union Pacific will deem any attempt by HSR to interfere with Union Pacific's property and contract rights on the San Francisco to San Jose line as an attempt to force a de facto abandonment of freight service in violation of federal law.
- 4) Union Pacific currently operates freight trains over the PCJPB right of way from San Jose to the Quint St. lead in San Francisco. The Quint St. lead diverges from the main line immediately north of Tunnel 3, near Jerrold St. Union Pacific's right to operate freight trains over the PCJPB extends to the entire width of the right of way over all available trackage. Union Pacific freight operations must not be adversely impacted by construction or operation of the HSR. All significant impacts must be mitigated to Union Pacific's satisfaction.
- 5) Union Pacific currently serves the Port of San Francisco via the Quint St. lead track. The port has advised Union Pacific that it intends to continue existing rail freight services and to encourage future growth in rail freight to and from Piers 80-96. Union Pacific is informed and believes that the port intends to enter into arrangements with tenants and pier operators that will cause future growth in rail operations. Union Pacific has means of serving the port other than via the Quint St. lead. The Authority must not undertake any action that interferes with freight operations via the tunnels and the Quint St. lead without mitigation of all significant impacts and prior approval from Union Pacific and the port.
- 6) Union Pacific currently serves a number of customers at or near the Port of Redwood City via the Redwood Jct. lead track. These customers, including Granite Rock and the port, have advised Union Pacific that they intend to continue all existing rail freight services and likely will demand additional freight services in the future. Union Pacific has no means of serving the port and the adjacent customers except via the PCJPB main line and the Redwood Jct. lead track. The Authority must not undertake any action that interferes with operations via this lead track without prior approval from Union Pacific, the port and the customers at this location.
- 7) Union Pacific currently serves a number of customers at other locations on the PCJPB San Francisco to San Jose line, including Granite Rock at South San Francisco. The existing yard at South San Francisco is crucial to Union Pacific's ability to provide

- freight service to the Port of San Francisco and to Granite Rock and other customers adjacent to the yard. The Authority must not undertake any action that interferes with
- 8) operations at the yard and adjoining trackage without prior approval from Union Pacific, the port and the customers at this location.
 - 9) Union Pacific owns and has primary operating rights on Main Track No. 1 between Santa Clara (CP Coast) and Diridon Station (San Jose). This track currently is shared with Amtrak's Capitol Corridor and Coast Starlight services and with Altamont Commuter Express's Stockton – San Jose commuter service. Union Pacific's rights to this track are crucial to continued operation of these passenger services. Use of this track also is crucial to freight service on the line to San Francisco. Further, these rights support continued operation of freight service on the main line south of San Jose to Los Angeles. The Authority must not undertake any action that interferes with Union Pacific's ownership and operation of Main Track No. 1 without prior approval from Union Pacific and the commuter agencies identified above. All adverse impacts must be mitigated to Union Pacific's satisfaction.
 - 10) PCJPB owns the right of way south of Diridon Station to a point called Lick (approximately three miles south of the station). Union Pacific's rights with regard to Main Track No. 1 extend southward to Lick. All comments in (8) above are applicable to the Diridon – Lick portion.
 - 11) Union Pacific has complete ownership of and control over the railroad right of way from Lick to Gilroy (and southward to San Luis Obispo and Los Angeles (Moorpark)). The PCJPB and the Santa Clara Valley Transportation Authority have a contract right to operate up to ten commuter trains to and from Gilroy over Union Pacific's right of way. Neither agency has any ownership rights in this line and no contractual rights to allow third parties to use this line. Union Pacific has no intention of allowing or permitting the Authority to build or operate the HSR within Union Pacific's right of way southward of Lick. The Authority should take this into account as part of the EIR/EIS for the San Francisco – San Jose segment.
 - 12) The Authority must study the following matters as part of the EIR/EIS and all necessary mitigation measures must be implemented:
 - (i) Slow speed freight trains and high-speed trains are incompatible on the same tracks at any time, including cross-overs. Union Pacific requires overhead clearance of 23 feet 6 inches, which is higher than the Authority contemplates for its electrical system. The Authority must provide grade-separated cross-overs for freight trains at necessary locations. The Authority must not contemplate operation of freight trains on any HSR trackage at any time (and vice-versa). If necessary, completely separate freight trackage must be provided. HSR must comply with all applicable FRA regulations.
 - (ii) Mitigation measures for the HSR may include construction of new freight trackage for Union Pacific. Such trackage must meet Union Pacific's construction and operation standards, and must be compliant with FRA and California Public Utilities Commission applicable standards.
 - 13) The construction and operation of HSR in the San Francisco to San Jose right of way must not cause increased operating costs or operating inefficiencies for Union Pacific. The Authority must assume Union Pacific's liability exposure and risk arising from current and future freight operations in the same corridor as the HSR. The Authority should fully study means to indemnify and insure Union Pacific against all such liability or risk, including liability to HSR patrons.

February 23, 2009

Union Pacific is confident that its concerns listed herein will be fully addressed and mitigated by the Authority and FRA during the EIR/EIS process. Union Pacific is willing to meet with the Authority and FRA to discuss its concerns about high-speed rail operation and to better understand the Authority's intentions regarding use of Union Pacific rights of way. Following such meeting, Union Pacific will be glad to consider all future requests by the Authority for information, construction standards and mapping data.

Please direct all requests and correspondence to the undersigned.

Sincerely,

A handwritten signature in black ink, appearing to read "Jerry Wilmoth". The signature is written in a cursive style with a large, looping initial "J".

Enclosures (2)



Scott D. Moore
Vice President Public Affairs

July 7, 2008

Mr. Quentin L. Kopp
Chairperson
California High-Speed Rail Authority Board
925 L Street, Suite 1425
Sacramento, CA 95814

Re: Final Bay Area to Central Valley HST Program EIR/EIS

Dear Chairperson Kopp:

Union Pacific Railroad Company (UPRR) appreciates the opportunity to provide the following comments to the High-Speed Rail Board with respect to the above-referenced EIR/EIS.

UPRR wishes to emphasize that we are not opposed to the concept of high-speed rail nor would we oppose implementation of the project should the voters approve the bond issue in November. Our concern is that the project should not be designed to utilize or occupy any of our rights of way. Our rights of way are limited in width and are fully dedicated to freight service, and, in some instances, to commuter passenger trains. UPRR simply cannot meet the future freight transportation needs of California if our right of way is taken away for high-speed rail.

To respond to the specific corridors proposals for high-speed rail, UPRR points out that our San Jose to Gilroy right of way is very narrow by railroad standards – primarily 60-feet or less – and is bounded on one side by a major arterial highway. We could not give up a 50-foot exclusive width right of way to high-speed rail and remain in business.

Even though our right of way is wider (primarily 100-feet) along most of the Central Valley line, a loss of 50 feet would render future freight rail expansion impossible. As fuel prices rise and the nation becomes more concerned with the environmental effects of transportation, we need the ability to expand our infrastructure, perhaps substantially. In addition, we serve numerous industries on both sides of our track. High-speed rail would cut off, forever, our ability to expand capacity in the Central Valley, leaving California with only highway alternatives. It also would disrupt existing rail-served businesses and prevent new rail-served industries from locating on one or both sides of our rail line. This is not a wise transportation decision for the State.

Regarding Caltrain's San Francisco – San Jose corridor, UPRR does not own the right of way but has a freight easement over Caltrain's tracks. Our freight operations already are restricted to avoid delaying Caltrain's commuter trains. Imposing two exclusive high-speed rail tracks on a 50-foot right of way effectively will end our ability to provide freight service to customers on this corridor, including the Port of San Francisco. We will have the same concerns between Sylmar and Los Angeles, where Metrolink's commuter line right of way is designated for high-speed rail service.

An effective and efficient freight rail network is vital to California's economic future. Policy makers such as the high-speed rail board should not jeopardize UPRR's ability to provide such freight service by assuming that high-speed rail will have no impact. UPRR urges the board to carefully consider corridor routes that do not utilize our rights of way.

Sincerely,

A handwritten signature in black ink, appearing to read "Scott D. Moore", written over a horizontal line.

Scott D. Moore

cc: Mehdi Morshed, California High-Speed Rail Authority
Jerry Wilmoth, Union Pacific Railroad
Wesley Lujan, Union Pacific Railroad



May 13, 2008

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

Re: California High Speed Rail Route

Dear Mr. Morshed:

Reference is made to our meeting of May 9, 2008, to discuss the current status of the California high-speed rail initiative and its possible impacts on Union Pacific Railroad.

It was a very informative meeting to hear the efforts you are undertaking as the high-speed train bond measure is being prepared for the November, 2008 ballot.

After hearing your plans regarding the proposed routing for this service, Union Pacific feels it is important for the California High Speed Rail Authority (CHSA) to once again understand Union Pacific's position as related to potential alignments along Union Pacific corridors. Union Pacific has carefully evaluated CHSA's project and for the variety of reasons we discussed during our meeting, does not feel it is Union Pacific's best interest to have any proposed alignment located on Union Pacific rights-of way. Therefore, as your project moves forward with its final design, it is our request you do so in such a way as to not require the use of Union Pacific operating rights-of-way or interfere with Union Pacific operations. The State of California and the nation need railroads to retain their future ability to meet growing demand for rail cargo transportation, or that cargo will be in trucks on the highways.

Should you have any questions or comments, please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jerry Wilmoth".

Cc: Scott Moore – UP
Wesley Lujan - UP

Jerry Wilmoth
General Manager Network Infrastructure

UNION PACIFIC RAILROAD
10031 Foothills Blvd., Roseville, CA 95747
ph. (916) 789-6360 fx. (916) 789-6171



April 8, 2009

California High-Speed Rail Authority
Dan Leavitt, Deputy Director
Attn: San Jose to Merced HST Project EIR/EIS
925 L Street, Suite 1425
Sacramento, CA 95814



Re: Union Pacific Railroad Scoping Comments
For San Jose to Merced Joint EIR/EIS

Dear High-Speed Rail Authority:

Union Pacific Railroad Company submits the following comments in response to the High-Speed Rail Authority's (Authority) Notice of Preparation pursuant to CEQA dated February 23, 2009, concerning the Project Environmental Impact Report/Environmental Impact Statement for the San Jose to Merced segment of the high-speed train system (HSR). These comments also should be considered as responding to the Notice of Intent pursuant to NEPA as published by the Federal Railroad Administration in the Federal Register. Union Pacific understands that the Authority and the FRA will jointly prepare the EIR/EIS for this project.

Union Pacific Railroad Company (Union Pacific) is a Delaware corporation that owns and operates a common carrier railroad network in the western half of the United States, including the State of California. Specifically, Union Pacific owns and operates rail main lines connecting the San Francisco Bay Area to Sacramento and points east and north, and to Los Angeles and points east and southeast. Union Pacific is the largest rail carrier in California in terms of both mileage and train operations. Union Pacific's rail network in the Bay Area and the Central Valley is vital to the economic health of California and the nation as a whole. Union Pacific's rail service to customers in the Bay Area and Central Valley is crucial to the future success and growth of those customers.

Union Pacific previously submitted comments on the Bay Area to Central Valley HST Program EIR/EIS by letter dated July 7, 2008, from Mr. Scott Moore to Mr. Quentin L. Kopp of the Authority's Board (copy attached). Union Pacific reaffirms these comments and hereby incorporates them within this letter. By letter dated May 13, 2008, to Mr. Mehdi Morshed, the Authority's Executive Director (copy attached), the undersigned stated that it was not in Union Pacific's best interests to permit any proposed high-speed rail alignment on our rights of way. Union Pacific's position on this matter remains the same.

Union Pacific submits the following comments with reference to the scoping of the joint EIR/EIS for the San Jose to Merced segment of the high-speed rail system.

Comments Applicable to San Jose to Gilroy Segment

- 1) Union Pacific formerly owned and controlled operations on the Caltrain (PCJPB) right of way between San Jose and a station named Lick (approximately 4.5 miles south of San Jose Diridon Station), which right of way is proposed for use by the HSR system. Union Pacific sold this right of way (and the right of way north of San Jose to San Francisco) to PCJPB in 1991 and retained a permanent and exclusive easement for the operation of freight trains and intercity passenger trains over the entire line. Union Pacific owns and has primary operating rights on Main Track No. 1 between Santa Clara (CP Coast) and Lick station. Between San Jose and Santa Clara, this track currently is shared with Amtrak's Capitol Corridor service and with Altamont Commuter Express's Stockton – San Jose commuter service. Between Lick and Santa Clara, this track also is shared with Amtrak's Coast Starlight, a long distance passenger train running between Los Angeles and Seattle, and with the PCJPB-VTA commuter trains to and from Gilroy (see section (3) below). Union Pacific's rights to Main Track No. 1 are crucial to effective operation of these passenger services. Such rights also are crucial to freight service on the line between Los Angeles and Oakland and to San Francisco. The Authority must not undertake any action that interferes with Union Pacific's ownership and operation of Main Track No. 1 without prior approval from Union Pacific, Amtrak and the commuter agencies identified above. All adverse impacts must be mitigated to Union Pacific's satisfaction.
- 2) The comments submitted by Union Pacific in its San Francisco to San Jose scoping letter dated February 20, 2009, and in the amendment letter dated March 13, 2009, copies attached hereto, are relevant with respect to the San Jose to Lick segment of the HSR project, and are incorporated herein.
- 3) Union Pacific owns outright in fee simple the entire width of the railroad right of way from Lick to Gilroy (and southward to San Luis Obispo and Los Angeles (Moorpark)). Amtrak's Coast Starlight operates over this line, and the PCJPB and the Santa Clara Valley Transportation Authority (VTA) have certain limited contract rights to operate up to ten round-trip commuter trains to and from Gilroy over Union Pacific's right of way. Neither agency has any ownership rights in this line and neither has any right or authority to allow third parties such as HSR to use or occupy this line. Union Pacific alone has such right. As previously advised, Union Pacific has no intention of allowing or permitting the Authority to build or operate the HSR within Union Pacific's right of way between Lick and Gilroy.
- 4) The Lick – Gilroy right of way (31 miles) owned by Union Pacific is, with few exceptions, only 60-foot wide. For much of this distance, the right of way is directly bordered by Monterey Road or other public highways. There are two main tracks from Lick to Coyote (12 miles), and the Santa Clara Valley

Transportation Authority (VTA) currently is adding 8.4 miles of second main track south of Coyote. With over twenty miles of the right of way occupied by two main tracks, there is no space available for any additional rail operations, including HSR. Union Pacific intends to preserve the remaining non-double track portions for future freight service expansion. Union Pacific will take all legal action required to protect its property and operations against threats to such future capacity, including attempts to take the property by eminent domain.

- 5) The Authority must be aware of the following matters as it prepares the EIR/EIS:
- a. Slow speed freight trains and high-speed trains are incompatible on the same tracks at any time and at any location, including at-grade cross-overs. Union Pacific requires overhead clearance of 23 feet 6 inches, which is higher than the Authority contemplates for its electrical system. The Authority must provide grade-separated cross-overs for freight trains at necessary locations. The Authority must not contemplate operation of freight trains on any HSR trackage at any time (and vice-versa). If necessary, completely separate freight trackage must be provided. HSR must comply with all applicable FRA regulations with regard to freight trackage.
 - b. Given the constraints of the right of way between Lick and Gilroy, it is not possible or practical to share that right of way with HSR. There are no mitigation measures which will make this possible. Union Pacific will not voluntarily make this right of way available to HSR under any circumstances.
- 6) As a common carrier railroad, Union Pacific is subject to the requirements of federal law governing abandonment or discontinuance of freight operations. Specifically, the Interstate Commerce Commission Termination Act (49 USC §10501 et seq.) prohibits a railroad from abandoning or discontinuing freight services over main or branch lines of railroad without authority from the federal Surface Transportation Board (STB). In the sale of the PCJPB right of way, Union Pacific retained all common carrier freight service rights and obligations. Therefore, Union Pacific's operations over the San Jose – Lick – Gilroy line are subject to STB jurisdiction. Neither the PCJPB nor the Authority may take any action that effectively requires or causes Union Pacific to abandon or discontinue freight service on or over such line without prior authority from the STB. Union Pacific will deem any attempt by HSR to interfere with Union Pacific's property and contract rights on the San Jose to Gilroy line, including attempts to seize the line by the exercise of eminent domain, as an attempt to force a de facto abandonment of freight service in violation of federal law.

Comments Applicable to Gilroy – Chowchilla Segment

Union Pacific has no scoping comments with reference to this segment as no Union Pacific right of way or operations are involved.

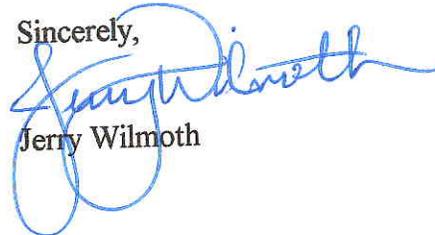
Comments Applicable to Chowchilla – Merced Segment

The map attached to the Notice of Preparation (Figure 1) indicates that Union Pacific's main line right of way would be utilized by HSR northward from Chowchilla (Henry Miller Road) to Merced, and possibly southward to Fresno. Union Pacific's scoping comments with reference to the Notice of Preparation for the Bakersfield – Merced segment, filed simultaneously with the Authority, are applicable to the Chowchilla – Merced – Fresno segment here. Both segments may occupy portions of Union Pacific's Fresno Subdivision main line. Therefore, Union Pacific's scoping comments for the Bakersfield – Merced segment are applicable hereto and are incorporated herein by reference.

Union Pacific is confident that its concerns listed herein will be fully addressed by the Authority and FRA during the EIR/EIS process. Union Pacific is willing to meet with the Authority and FRA to discuss its concerns about high-speed rail operation and to better understand the Authority's intentions regarding use of Union Pacific rights of way. Following such meeting, Union Pacific will be glad to consider all future requests by the Authority for information concerning operations, construction standards and mapping data.

Please direct all requests and correspondence to the undersigned.

Sincerely,



Jerry Wilmoth

Kris Livingston

From: JWILMOTH@up.com
Sent: Monday, November 23, 2009 3:10 PM
To: HSR Comments
Subject: Altamont Corridor Rail Project EIR/EIS
Attachments: pic17807.gif; 20091123145847228.pdf

Union Pacific comments attached. Hard copy being mailed today.

----- Forwarded by Jerry Wilmoth/UPC on 11/23/2009 03:08 PM -----

IW21049@up.com

To "Wilmoth, Jerry" <jwilmoth@up.com>

11/23/2009 02:58
PM

cc

Subject

This E-mail was sent from "PR083F0D" (Aficio MP C2800).

Scan Date: 11.23.2009 14:58:47 (-0500)

Queries to: IW21049@up.com (*See attached file: 20091123145847228.pdf*)

**

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**



Jerry Wilmoth
General Manager Network Infrastructure

November 23, 2009

Mr. Dan Leavitt - Deputy Director
California High-Speed Rail Authority
Attn: Altamont Pass Rail Project EIR/EIS
925 L Street, Suite 1425
Sacramento, CA 95814

Re: Union Pacific Railroad Scoping Comments
For the Altamont Pass Rail Project EIR/EIS – Due December 4, 2009

Dear High-Speed Rail Authority:

Union Pacific Railroad Company submits the following comments in response to the High-Speed Rail Authority's (Authority) Notice of Preparation pursuant to CEQA dated October 22, 2009, concerning the Altamont Pass Rail Project proposed by the Authority jointly with the San Joaquin Regional Rail Commission (SJRRC) from Stockton to San Jose via the Altamont Pass. These comments also should be considered as responding to the Notice of Intent pursuant to NEPA as published by the Federal Railroad Administration (FRA) in the Federal Register. Union Pacific understands that the Authority and the FRA will jointly prepare the EIR/EIS for this project.

Union Pacific Railroad Company (Union Pacific) is a Delaware corporation that owns and operates a common carrier railroad network in the western half of the United States, including the State of California. Specifically, Union Pacific owns and operates rail main lines connecting the Stockton – Tracy area with San Jose and other Bay Area points. These rail lines connect with other Union Pacific lines running east and north and with lines to Los Angeles and points east and southeast. Union Pacific is the largest rail carrier in California in terms of both mileage and train operations. Union Pacific's rail network in the Stockton – San Jose – Oakland area and in the Central Valley is vital to the economic health of California and the nation as a whole. Union Pacific rail service to customers in the Bay Area, Central Valley, Stockton, Tracy, Sacramento, Modesto and other major cities is crucial to the future success and growth of those areas and customers.

Union Pacific previously submitted comments on the Bay Area to Central Valley HST Program EIR/EIS by letter dated July 7, 2008, from Mr. Scott Moore to Mr. Quentin L. Kopp of the Authority's Board (copy attached). Union Pacific reaffirms these comments and hereby incorporates them within this letter. By letter dated May 13, 2008, to Mr. Mehdi Morshed, the Authority's Executive Director (copy attached), the undersigned stated that it was not in Union Pacific's best interests to permit any proposed high-speed rail alignment on our rights of way. Union Pacific's position on this matter remains the same.

Union Pacific submits the following comments with reference to the scoping of the joint Altamont Pass Rail Project EIR/EIS for the Stockton to San Jose corridor. These comments are submitted on the assumption that the project corridor via Altamont Pass to San Jose may encroach on or otherwise impact Union Pacific's rights of way which are used as freight and passenger routes . Union Pacific has not seen detailed right of way maps for this corridor project nor has Union Pacific been advised by the Authority as to the definitive route selected for the corridor between Stockton, Tracy and San Jose. Union Pacific must therefore assume, for purposes of these scoping comments, that some or all of its right of way is proposed for use by regional rail commuter trains and ultimately by high-speed rail trains.

With respect to such use, the Authority is advised as follows:

1. Union Pacific owns the following rights of way which may be impacted by the proposed rail corridor development:
 - a) the Oakland Subdivision main line from Fremont (Niles Jct.) to Stockton, comprising the former Western Pacific main line over Altamont Pass.
 - b) the Fresno Subdivision main line from Stockton to Lathrop, comprising the former Southern Pacific main line between these locations.
 - c) the Tracy Subdivision main line from Lathrop to Tracy, comprising a portion of the former Southern Pacific main line across Altamont Pass. The SP main line from Tracy to Fremont (Niles Jct.) over Altamont Pass has been abandoned and conveyed to third parties. The balance of the Tracy Subdivision now extends to Martinez via the line known as the Mococo Line.
 - d) the Niles Subdivision main line from Fremont (Niles Jct.) to Newark.
 - e) the Coast Subdivision main line from Newark to San Jose.
 - f) the Warm Springs Subdivision from Fremont (Niles Jct.) to San Jose.

All of these subdivisions are critically important to Union Pacific for the operation of freight service to and from the Bay Area. BNSF also has certain trackage rights on some of these subdivisions for its own freight operations.

2. SJRRC operates commuter passenger trains under agreement with Union Pacific from Stockton to San Jose over the Fresno, Oakland, Niles and Coast subdivisions. Amtrak and Capitol Corridor operate regional passenger trains over the Niles and Coast Subdivisions, and Amtrak operates the long distance Coast Starlight over the Coast Subdivision.
3. Union Pacific controls the operation and maintenance of these subdivisions. No other carrier or government agency has the right to permit other railroads or rail operators to use any part of these rights of way. These main lines are all CTC-dispatched and consist mainly of single track with small sections of double track. The majority of these rights of way are 100-feet in width, with limited wider zones in towns and cities for station grounds.

4. Major rail shippers are located along these subdivisions. In many instances, these shippers have constructed large unloading and storage facilities. These facilities are immediately adjacent to the right of way, generally on the side away from paralleling highways. Corridor alignment on or adjacent to these subdivisions potentially would terminate Union Pacific's ability to serve some or all of these shippers, or future shippers needing rail service, leading to serious economic loss to shippers, consumers, the state and the railroad

Confirming Union Pacific's prior statements, both written and oral, we will not make any segments or any parts of these subdivisions available for the proposed regional commuter rail corridor or the potential future high-speed rail alignment under any circumstances. Preparation of the Project EIR/EIS should recognize this limitation on available right of way.

As a common carrier railroad, Union Pacific is subject to federal law governing abandonment or discontinuance of freight operations. Specifically, the Interstate Commerce Commission Termination Act (49 USC §10501 et seq.) prohibits a railroad from abandoning or discontinuing freight services over main or branch lines of railroad without authority from the federal Surface Transportation Board (STB). Union Pacific's operation over these subdivisions is subject to STB jurisdiction. The Authority may not undertake any action that effectively requires or causes Union Pacific to abandon or discontinue freight service on or over any portion of these subdivisions unless prior authority from the STB has been obtained. Union Pacific will deem any attempt by HSR to interfere with Union Pacific's operation over these subdivisions, including service to shippers, or to appropriate any part of its right of way by eminent domain, as an attempt to force a de facto abandonment of freight service in violation of federal law.

5. The Authority must be aware of the following matters as it prepares the EIR/EIS:

- a) Slow speed freight trains and high-speed trains are incompatible on the same tracks at any time and at any location, including at-grade cross-overs. Union Pacific requires overhead clearance of 23 feet 6 inches. The Authority must provide grade-separated cross-overs for freight trains at necessary locations. The Authority must not contemplate operation of freight trains on any HSR trackage at any time (and vice-versa). HSR must comply with all applicable FRA regulations with regard to freight trackage.
- b) Union Pacific does not believe it is possible or practical to devise any mitigation measures which will permit shared use of any part of these subdivisions for the types of passenger service contemplated by the EIR/EIS. As previously stated, Union Pacific will not voluntarily make these rights of way available to the corridor project under any circumstances. The Authority must not assume that even a small part of Union Pacific's rights of way will be available for the Altamont Rail Project.
- c) Union Pacific is of the legal opinion that all of its operating right of way, including these subdivisions, is exempt from the state's eminent domain powers.

Union Pacific has read carefully the entire Notice of Preparation for the Altamont Rail Project and has noted many statements to the effect that freight operations and the type of passenger service envisioned by the EIR/EIS are entirely incompatible. Union Pacific concurs in the Authority's assessment in this regard and believes that the Authority actually has no current intention of attempting to take or use any part of our rights of way for passenger train service as contemplated by the EIR/EIS. Nonetheless, Union Pacific deems it prudent to reaffirm its position on joint operations as stated in this scoping letter.

As the Authority is fully aware, SJRRC operates a limited number of commuter passenger trains via the Fresno, Oakland, Niles and Coast subdivisions between Stockton and San Jose. At current freight and passenger train volumes, SJRRC's operations can be accommodated on these lines. However, Union Pacific cannot permit greater passenger train volumes over these subdivisions without extensive capacity improvements.

The Authority is also aware that Amtrak and the Capitol Corridor operate a large number of regional passenger trains between Oakland and San Jose via the Niles and Coast subdivisions. Union Pacific cannot accommodate any further passenger train operation over these subdivisions without extensive capacity improvements.

Accordingly, Union Pacific supports the Authority's intention to provide a new and completely separate rail passenger train corridor for future standard and high-speed rail passenger operation. This corridor must be reserved for rail passenger service without interference with, or use of, Union Pacific's freight main lines as identified herein.

Union Pacific applauds the Authority's recognition that freight main lines are inappropriate for both regional rail commuter service and high-speed trains.

Union Pacific is confident that its concerns listed herein will be fully addressed by the Authority and FRA during the EIR/EIS process. Union Pacific is willing to meet with the Authority and FRA to discuss its concerns about rail corridor operation and to better understand the Authority's intentions regarding potential impacts on Union Pacific rights of way. Following such meeting, Union Pacific will be glad to consider all future requests by the Authority for information concerning operations, construction standards and mapping data.

Please direct all requests and correspondence to the undersigned.

Sincerely,



Jerry S. Wilmoth
General Manager - Network Infrastructure

Attachments (2)



Scott D. Moore
Vice President Public Affairs

July 7, 2008

Mr. Quentin L. Kopp
Chairperson
California High-Speed Rail Authority Board
925 L Street, Suite 1425
Sacramento, CA 95814

Re: Final Bay Area to Central Valley HST Program EIR/EIS

Dear Chairperson Kopp:

Union Pacific Railroad Company (UPRR) appreciates the opportunity to provide the following comments to the High-Speed Rail Board with respect to the above-referenced EIR/EIS.

UPRR wishes to emphasize that we are not opposed to the concept of high-speed rail nor would we oppose implementation of the project should the voters approve the bond issue in November. Our concern is that the project should not be designed to utilize or occupy any of our rights of way. Our rights of way are limited in width and are fully dedicated to freight service, and, in some instances, to commuter passenger trains. UPRR simply cannot meet the future freight transportation needs of California if our right of way is taken away for high-speed rail.

To respond to the specific corridors proposals for high-speed rail, UPRR points out that our San Jose to Gilroy right of way is very narrow by railroad standards – primarily 60-feet or less – and is bounded on one side by a major arterial highway. We could not give up a 50-foot exclusive width right of way to high-speed rail and remain in business.

Even though our right of way is wider (primarily 100-feet) along most of the Central Valley line, a loss of 50 feet would render future freight rail expansion impossible. As fuel prices rise and the nation becomes more concerned with the environmental effects of transportation, we need the ability to expand our infrastructure, perhaps substantially. In addition, we serve numerous industries on both sides of our track. High-speed rail would cut off, forever, our ability to expand capacity in the Central Valley, leaving California with only highway alternatives. It also would disrupt existing rail-served businesses and prevent new rail-served industries from locating on one or both sides of our rail line. This is not a wise transportation decision for the State.

Regarding Caltrain's San Francisco – San Jose corridor, UPRR does not own the right of way but has a freight easement over Caltrain's tracks. Our freight operations already are restricted to avoid delaying Caltrain's commuter trains. Imposing two exclusive high-speed rail tracks on a 50-foot right of way effectively will end our ability to provide freight service to customers on this corridor, including the Port of San Francisco. We will have the same concerns between Sylmar and Los Angeles, where Metrolink's commuter line right of way is designated for high-speed rail service.

An effective and efficient freight rail network is vital to California's economic future. Policy makers such as the high-speed rail board should not jeopardize UPRR's ability to provide such freight service by assuming that high-speed rail will have no impact. UPRR urges the board to carefully consider corridor routes that do not utilize our rights of way.

Sincerely,

A handwritten signature in black ink, appearing to read "Scott D. Moore", written over a circular stamp or seal.

Scott D. Moore

cc: Mehdi Morshed, California High-Speed Rail Authority
Jerry Wilmoth, Union Pacific Railroad
Wesley Lujan, Union Pacific Railroad



May 13, 2008

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

Re: California High Speed Rail Route

Dear Mr. Morshed:

Reference is made to our meeting of May 9, 2008, to discuss the current status of the California high-speed rail initiative and its possible impacts on Union Pacific Railroad.

It was a very informative meeting to hear the efforts you are undertaking as the high-speed train bond measure is being prepared for the November, 2008 ballot.

After hearing your plans regarding the proposed routing for this service, Union Pacific feels it is important for the California High Speed Rail Authority (CHSA) to once again understand Union Pacific's position as related to potential alignments along Union Pacific corridors. Union Pacific has carefully evaluated CHSA's project and for the variety of reasons we discussed during our meeting, does not feel it is Union Pacific's best interest to have any proposed alignment located on Union Pacific rights-of way. Therefore, as your project moves forward with its final design, it is our request you do so in such a way as to not require the use of Union Pacific operating rights-of-way or interfere with Union Pacific operations. The State of California and the nation need railroads to retain their future ability to meet growing demand for rail cargo transportation, or that cargo will be in trucks on the highways.

Should you have any questions or comments, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Jerry Wilmoth".

Cc: Scott Moore - UP
Wesley Lujan - UP

Jerry Wilmoth
General Manager Network Infrastructure

UNION PACIFIC RAILROAD
10031 Foothills Blvd., Roseville, CA 95747
ph. (916) 789-6360 fx. (916) 789-6171



April 8, 2009

California High-Speed Rail Authority
Dan Leavitt, Deputy Director
Attn: Merced to Bakersfield HST Project EIR/EIS
925 L Street, Suite 1425
Sacramento, CA 95814

**Re: Union Pacific Railroad Scoping Comments
For Merced to Bakersfield Joint EIR/EIS**

Dear High-Speed Rail Authority:

Union Pacific Railroad Company submits the following comments in response to the High-Speed Rail Authority's (Authority) Notice of Preparation pursuant to CEQA dated February 23, 2009, concerning the Project Environmental Impact Report/Environmental Impact Statement for the Merced to Bakersfield segment of the high-speed train system (HSR). These comments also should be considered as responding to the Notice of Intent pursuant to NEPA as published by the Federal Railroad Administration in the Federal Register. Union Pacific understands that the Authority and the FRA will jointly prepare the EIR/EIS for this project.

Union Pacific Railroad Company (Union Pacific) is a Delaware corporation that owns and operates a common carrier railroad network in the western half of the United States, including the State of California. Specifically, Union Pacific owns and operates rail main lines connecting the San Francisco Bay Area to Sacramento and points east and north, and to Los Angeles and points east and southeast. Union Pacific is the largest rail carrier in California in terms of both mileage and train operations. Union Pacific's rail network in the Bay Area and the Central Valley is vital to the economic health of California and the nation as a whole. Union Pacific's rail service to customers in the Bay Area and Central Valley is crucial to the future success and growth of those customers.

Union Pacific previously submitted comments on the Bay Area to Central Valley HST Program EIR/EIS by letter dated July 7, 2008, from Mr. Scott Moore to Mr. Quentin L. Kopp of the Authority's Board (copy attached). Union Pacific reaffirms these comments and hereby incorporates them within this letter. By letter dated May 13, 2008, to Mr. Mehdi Morshed, the Authority's Executive Director (copy attached), the undersigned stated that it was not in Union Pacific's best interests to permit any proposed high-speed rail alignment on our rights of way. Union Pacific's position on this matter remains the same.

Union Pacific submits the following comments with reference to the scoping of the joint EIR/EIS for the Merced to Bakersfield segment of the high-speed rail system. These comments are submitted on the assumption that Union Pacific's Fresno Subdivision main line is under study for the HSR alignment. To the extent that the preferred HSR alignment is within or adjacent to the

Burlington Northern Santa Fe Railway Company right of way along this segment, Union Pacific expresses no opinion and these comments would be inapplicable.

- 1) Union Pacific owns the Fresno Subdivision right of way in fee simple between Sacramento and Bakersfield. Union Pacific controls the operation and maintenance of this subdivision. No other carrier or government agency has the right to permit other railroads or rail operators to use any part of this right of way. This single track, CTC-dispatched main line serves the major cities of Stockton, Modesto, Turlock, Merced, Chowchilla, Madera, Fresno, Tulare and Bakersfield. Union Pacific understands, based on the Notices of Preparation for this segment and for the San Jose – Merced segment, that the Authority is considering Union Pacific's Fresno Subdivision for the HSR alignment between Merced, Madera and Fresno, in the central Fresno area, and potentially from Fresno to Bakersfield. Confirming Union Pacific's prior statements, both written and oral, we will not voluntarily make these or any part of the Fresno Subdivision available for the high-speed rail alignment.
- 2) For the majority of its length between Merced and Bakersfield, the Fresno Subdivision right of way is 100 feet in width, with limited wider zones in towns and cities for station grounds. At locations between cities where the right of way is wider, the outer portions generally have been given over to public highways or other utility uses. State Highway 99 closely parallels the Fresno Subdivision between Merced and Fresno, and between Kingsburg and Bakersfield.
- 3) Major rail shippers are located along the Fresno Subdivision. In many instances, these shippers have constructed large unloading and storage facilities, including facilities for feed, grain, and ethanol. These facilities are immediately adjacent to the right of way, generally on the side away from Highway 99. The HSR alignment on or adjacent to the Fresno Subdivision potentially would terminate Union Pacific's ability to serve these shippers, and future shippers needing rail service, leading to serious economic loss to shippers, consumers, the state and the railroad.
- 4) In the Fresno metropolitan area, Union Pacific owns and operates a major freight yard which is crucial to its ability to serve customers on the Fresno Subdivision. This yard, located in the northern part of the city, also serves as a consolidation point for freight shipments to and from regional and short line railroads such as the San Joaquin Valley Railroad. Loss of this consolidation point would be a serious obstacle to these smaller rail carriers. As a result, this yard is not available in whole or in part for the HSR alignment; it is reserved for present and future railroad operation. The right of way north and south of the Fresno Yard, traversing numerous city streets, is reserved for Union Pacific and regional carrier freight operations as well. Union Pacific does not intend voluntarily to make any part of its Fresno area right of way or yard available for the HSR alignment.

Union Pacific likewise is not interested in a consolidated rail corridor in Fresno with any other rail user.

- 5) As a common carrier railroad, Union Pacific is subject to federal law governing abandonment or discontinuance of freight operations. Specifically, the Interstate Commerce Commission Termination Act (49 USC §10501 et seq.) prohibits a railroad from abandoning or discontinuing freight services over main or branch lines of railroad without authority from the federal Surface Transportation Board (STB). Union Pacific's operations over the Fresno Subdivision main line are subject to STB jurisdiction. The Authority may not undertake any action that effectively requires or causes Union Pacific to abandon or discontinue freight service on or over any portion of the Fresno Subdivision unless prior authority from the STB has been obtained. Union Pacific will deem any attempt by HSR to interfere with Union Pacific's operation over the Fresno Subdivision, including service to shippers, or to appropriate any part of its right of way by eminent domain, as an attempt to force a de facto abandonment of freight service in violation of federal law.
- 6) The Authority must be aware of the following matters as it prepares the EIR/EIS:
 - a. Slow speed freight trains and high-speed trains are incompatible on the same tracks at any time and at any location, including at-grade cross-overs. Union Pacific requires overhead clearance of 23 feet 6 inches, which is higher than the Authority contemplates for its electrical system. The Authority must provide grade-separated cross-overs for freight trains at necessary locations. The Authority must not contemplate operation of freight trains on any HSR trackage at any time (and vice-versa). If necessary, completely separate freight trackage must be provided. HSR must comply with all applicable FRA regulations with regard to freight trackage.
 - b. Union Pacific does not believe it is possible or practical to devise any mitigation measures which will permit shared use of any part of the Fresno Subdivision right of way. Union Pacific will not voluntarily make this right of way available to HSR under any circumstances.

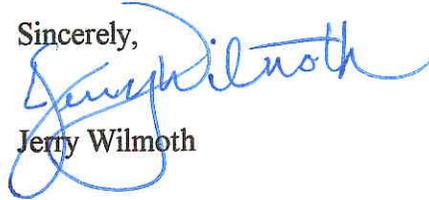
The map attached to the Notice of Preparation (Figure 1) for the San Jose – Merced segment of the HSR indicated that Union Pacific's main line right of way would be utilized by HSR northward from Chowchilla (Henry Miller Road) to Merced. Union Pacific's scoping comments herein are fully applicable to the Chowchilla – Merced segment.

Jerry Wilmoth
General Manager Network Infrastructure

Union Pacific is confident that its concerns listed herein will be fully addressed by the Authority and FRA during the EIR/EIS process. Union Pacific is willing to meet with the Authority and FRA to discuss its concerns about high-speed rail operation and to better understand the Authority's intentions regarding use of Union Pacific rights of way. Following such meeting, Union Pacific will be glad to consider all future requests by the Authority for information concerning operations, construction standards and mapping data.

Please direct all requests and correspondence to the undersigned.

Sincerely,



Jerry Wilmoth



Jerry Wilmoth
General Manager Network Infrastructure

February 25, 2010

California High-Speed Rail Authority
Dan Leavitt, Deputy Director
Attn: Merced to Sacramento HST Project EIR/EIS
925 L Street, Suite 1425
Sacramento, CA 95814

Re: Union Pacific Railroad Scoping Comments for Merced to Sacramento Joint EIR/EIS

Dear High-Speed Rail Authority:

Union Pacific Railroad Company appreciates the opportunity to provide the following comments in response to the High-Speed Rail Authority's (Authority) Notice of Preparation pursuant to CEQA dated December 23, 2009, concerning the Project Environmental Impact Report/Environmental Impact Statement for the Merced-to-Sacramento segment of the high-speed train system (HSR). These comments also respond to the Notice of Intent issued on the same date pursuant to NEPA, as published by the Federal Railroad Administration in the Federal Register. Union Pacific understands that the Authority and the FRA will prepare the joint EIR/EIS for this project.

Union Pacific previously submitted comments on the Bay Area-to-Central Valley HST Program EIR/EIS by letter dated July 7, 2008, from Mr. Scott Moore to Mr. Quentin L. Kopp of the Authority's Board (copy attached). Union Pacific reaffirms these comments and hereby incorporates them in this letter. By letter dated May 13, 2008, to Mr. Mehdi Morshed, the Authority's Executive Director (copy attached), I stated that it was not in Union Pacific's interests to permit any proposed high-speed rail alignment on our rights of way. Union Pacific's position has not changed.

Union Pacific Railroad Company (Union Pacific) is a Delaware corporation that owns and operates a common carrier rail network in the western half of the United States, including the State of California. Specifically, Union Pacific owns and operates main lines connecting the San Francisco Bay Area to Sacramento and points east and north, and to Los Angeles and points east and southeast. Union Pacific is the largest rail carrier in California in terms of both mileage and train operations. Union Pacific's rail network in the Bay Area and the Central Valley is vital to the economic health of California and the nation as a whole. Union Pacific's rail service to freight customers in the Bay Area and Central Valley is crucial to the future success and growth of freight customers, as well as regional and local economies.

Union Pacific understands, based on the Notices of Preparation, that the Authority is considering Union Pacific's Fresno Subdivision for the HSR alignment between Sacramento (Elvas) and Merced. Confirming Union Pacific's prior statements, both written and oral, we cannot make this or any part of the Fresno Subdivision right of way available for the high-speed rail alignment.

Union Pacific owns the Fresno Subdivision right of way in fee simple between Sacramento (at a point northeast of downtown Sacramento called Elvas) and Merced. The Fresno Subdivision in this area is a single-track, CTC-dispatched main line serving the major cities of Lodi, Stockton, Manteca, Modesto, Turlock, and Merced. Union Pacific controls operations and maintenance on this subdivision. BNSF also operates freight trains under a trackage rights agreement on this subdivision. Amtrak operates passenger trains on this subdivision between Sacramento and Stockton. The Altamont Commuter Express (ACE) operates commuter trains on this subdivision between Stockton and Lathrop. Only Union Pacific has the right to permit other railroads or rail operators such as these to use any part of this right of way.

For the majority of its length between Merced and Sacramento (Elvas), the Fresno Subdivision right of way is 100 feet in width, with limited wider zones in towns and cities for station grounds. Although the right of way has sometimes been wider between cities, the outer portions have been taken for public highways or utility uses in many locations. All remaining right of way is dedicated to current and future freight rail service and cannot be released for HSR construction.

Union Pacific submits the following specific comments for the scoping of HSR near our Merced-to-Sacramento tracks:

- 1) Many rail shippers are located along the Fresno Subdivision between Sacramento and Merced. Union Pacific has a federal obligation to serve existing shippers and new shippers who request service in the future. HSR cannot cut off these services. Grade separations will be required for rail tracks serving these shippers if the HSR alignment intersects them. As the Authority presumably agrees, at-grade rail-to-rail crossings between freight tracks and HSR would not be safe or acceptable.
- 2) Placing the HSR alignment at ground level adjacent to or near Union Pacific's right of way in areas where no shippers now operate would, in effect, create a rail "desert" that could never in the future be used to site a new, rail-served facility for any shipper. This is especially critical between Manteca and Merced, where U.S. Highway 99 has already cut off one side of Union Pacific's access to potential industrial shippers on one side. An HSR alignment closely paralleling Union Pacific's right of way on the side opposite U.S. 99 would forever prevent future rail-served industrial, agricultural, and logistics development between Merced and Manteca. Future industries in this corridor would have to be served by trucks using local roads, rather than rail.

Even where U.S. 99 is not adjacent to our tracks, the Authority must consider that an HSR alignment immediately next to or near the right of way will forever curtail economic development along that side of the corridor and deprive Union Pacific, its potential shippers, landowners, and cities and counties of valuable commercial opportunities. Such alignment will cause adjacent property owners to lose rail-related development opportunities and potentially to lose present or future market value.

The Authority must evaluate the economic losses and environmental impacts, including the losses to Union Pacific that result from limiting future rail-served development. The Authority should develop mitigation alternatives to limit such impacts by retaining the possibility for future rail-related development along the Fresno Subdivision. Union Pacific strongly urges the Authority to site the HSR alignment far enough from the railroad to permit future industrial development between the railroad and HSR without the need for grade-separated roadway and rail access. Alternatively, HSR could be placed on the opposite side of U.S. 99 from our railroad between Manteca and Merced.

- 3) In the Stockton metropolitan area, Union Pacific owns and operates a major railcar freight yard, which is crucial to our ability to serve customers on the Fresno Subdivision and on the main line over Altamont Pass. This yard, located in the southern part of the city, also serves as a consolidation point for freight shipments to and from branch lines, regional carriers and short line railroads. Further south, at Lathrop, Union Pacific owns and operates a major, rapidly growing intermodal terminal on the parallel Sacramento Subdivision serving the Central Valley and portions of the Bay Area. These facilities are crucial to the future economic development of the entire area and cannot be constrained by the HSR alignment. These facilities and all adjacent expansion property must be reserved for present and future railroad service.
- 4) In the Sacramento metropolitan area, Union Pacific's Martinez Subdivision right of way connects Elvas and the Sacramento Valley Station about 3 miles to the west. The Martinez Subdivision also connects to the Sacramento Subdivision at Haggin, at the middle of this segment. Union Pacific, BNSF, and Caltrans use the Martinez Subdivision as the principle freight and passenger route through the Central Corridor between the Midwest and the Bay Area.

Currently, there is a major project at the Sacramento Valley Station to realign Union Pacific's tracks and relocate the current passenger platforms and related facilities. Any HSR use of Union Pacific's Martinez Subdivision right of way at grade or aerially would unduly constrain Union Pacific's service, as well as the limited expansion opportunities in this highly constrained area. Confirming Union Pacific's prior statements, both written and oral, we cannot

make any part of the Martinez Subdivision available for the high-speed rail alignment, including the aerial portion over the Sacramento Valley Station.

- 5) Certain safety risks are inherent in locating HSR adjacent to a 100-foot-wide, freight rail right of way carrying mainline freight trains at speed. Although Union Pacific and other railroads have made astonishing progress over the years in reducing freight train derailments, major derailments still occur. In most instances, derailments will remain within the confines of the rail right of way, but some derailments may propel rail cars onto the tracks of an adjacent passenger operation. Some derailments also cause fires or explosions. A freight train derailment that coincides with passage of a 200-plus m.p.h. HSR train—which will not have the safety and structural protections of current passenger rail equipment—could result in a catastrophic incident. Although exceedingly rare, a derailment of a high-speed train adjacent to a freight line could also compound the extent of the accident if a freight train were in the area. The Authority must consider and develop mitigation options for these risks that do not require use of Union Pacific’s right of way.
- 6) Freight trains and HSR trains cannot be operated on the same tracks at any time or at any location, including at-grade crossings. Similarly, freight trains should never operate on any HSR trackage. Completely separate trackage and grade separations must be provided.

The Notice of Preparation and accompanying map do not identify Union Pacific’s Sacramento Subdivision (former Western Pacific line) between Stockton and Sacramento as a potential alternative route for the HSR. Union Pacific owns the Sacramento Subdivision right of way in fee simple between Stockton (El Pinal) and Sacramento (Haggin). My May 13, 2008, letter to Mehdi Morshed would be equally applicable to the Sacramento Subdivision.

Union Pacific, however, may be able to accommodate “higher speed” rail operations (up to 110 mph) on a portion of this subdivision. As an alternative to HSR’s other alignment proposals, Union Pacific is willing to enter into discussions with HSR for the joint use of a portion of Union Pacific’s Sacramento Subdivision extending between Stockton (El Pinal) and the vicinity of the former WP Curtis Park Railyard for higher speed operations not exceeding 110 mph. Sacramento RT has a passenger station at the terminus of its Blue Line at Meadowview Station. HSR passengers could perform a cross-platform transfer between HST and Sacramento RT at the Meadowview Station to access the extensive Sacramento RT light rail network in the greater Sacramento region.

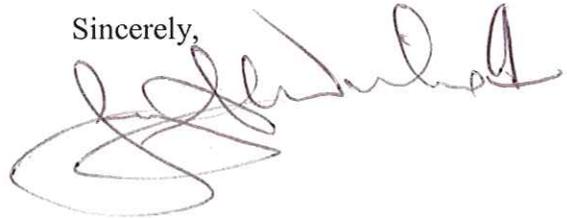
These comments do not address a potential alternative route via the Central California Traction Company (CCT) right of way shown in the Notice of Preparation. The CCT may submit its own scoping comments. Further, to the extent that the preferred HSR alignment is within or adjacent to the BNSF Railway Company (BNSF) right of way on any part of the Merced to Sacramento segment, Union Pacific offers no comments.

Union Pacific is confident that its concerns listed herein will be fully addressed by the Authority during the EIR/EIS process.

Union Pacific is willing to meet with the Authority to discuss its concerns about high-speed rail operation and to better understand the Authority's intentions regarding Union Pacific rights of way. Following such meeting, Union Pacific will be glad to consider all future requests by the Authority for information concerning operations, construction standards and mapping data.

Please direct all requests and correspondence to the undersigned.

Sincerely,

A handwritten signature in dark ink, appearing to be "J. J. ...", written in a cursive style.

Attachment



Scott D. Moore
Vice President Public Affairs

July 7, 2008

Mr. Quentin L. Kopp
Chairperson
California High-Speed Rail Authority Board
925 L Street, Suite 1425
Sacramento, CA 95814

Re: Final Bay Area to Central Valley HST Program EIR/EIS

Dear Chairperson Kopp:

Union Pacific Railroad Company (UPRR) appreciates the opportunity to provide the following comments to the High-Speed Rail Board with respect to the above-referenced EIR/EIS.

UPRR wishes to emphasize that we are not opposed to the concept of high-speed rail nor would we oppose implementation of the project should the voters approve the bond issue in November. Our concern is that the project should not be designed to utilize or occupy any of our rights of way. Our rights of way are limited in width and are fully dedicated to freight service, and, in some instances, to commuter passenger trains. UPRR simply cannot meet the future freight transportation needs of California if our right of way is taken away for high-speed rail.

To respond to the specific corridors proposals for high-speed rail, UPRR points out that our San Jose to Gilroy right of way is very narrow by railroad standards -- primarily 60-feet or less -- and is bounded on one side by a major arterial highway. We could not give up a 50-foot exclusive width right of way to high-speed rail and remain in business.

Even though our right of way is wider (primarily 100-feet) along most of the Central Valley line, a loss of 50 feet would render future freight rail expansion impossible. As fuel prices rise and the nation becomes more concerned with the environmental effects of transportation, we need the ability to expand our infrastructure, perhaps substantially. In addition, we serve numerous industries on both sides of our track. High-speed rail would cut off, forever, our ability to expand capacity in the Central Valley, leaving California with only highway alternatives. It also would disrupt existing rail-served businesses and prevent new rail-served industries from locating on one or both sides of our rail line. This is not a wise transportation decision for the State.

Regarding Caltrain's San Francisco – San Jose corridor, UPRR does not own the right of way but has a freight easement over Caltrain's tracks. Our freight operations already are restricted to avoid delaying Caltrain's commuter trains. Imposing two exclusive high-speed rail tracks on a 50-foot right of way effectively will end our ability to provide freight service to customers on this corridor, including the Port of San Francisco. We will have the same concerns between Sylmar and Los Angeles, where Metrolink's commuter line right of way is designated for high-speed rail service.

An effective and efficient freight rail network is vital to California's economic future. Policy makers such as the high-speed rail board should not jeopardize UPRR's ability to provide such freight service by assuming that high-speed rail will have no impact. UPRR urges the board to carefully consider corridor routes that do not utilize our rights of way.

Sincerely,

A handwritten signature in black ink, appearing to read "Scott D. Moore", written over a horizontal line.

Scott D. Moore

cc: Mehdi Morshed, California High-Speed Rail Authority
Jerry Wilmoth, Union Pacific Railroad
Wesley Lujan, Union Pacific Railroad



May 13, 2008

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

Re: California High Speed Rail Route

Dear Mr. Morshed:

Reference is made to our meeting of May 9, 2008, to discuss the current status of the California high-speed rail initiative and its possible impacts on Union Pacific Railroad.

It was a very informative meeting to hear the efforts you are undertaking as the high-speed train bond measure is being prepared for the November, 2008 ballot.

After hearing your plans regarding the proposed routing for this service, Union Pacific feels it is important for the California High Speed Rail Authority (CHSA) to once again understand Union Pacific's position as related to potential alignments along Union Pacific corridors. Union Pacific has carefully evaluated CHSA's project and for the variety of reasons we discussed during our meeting, does not feel it is Union Pacific's best interest to have any proposed alignment located on Union Pacific rights-of way. Therefore, as your project moves forward with its final design, it is our request you do so in such a way as to not require the use of Union Pacific operating rights-of-way or interfere with Union Pacific operations. The State of California and the nation need railroads to retain their future ability to meet growing demand for rail cargo transportation, or that cargo will be in trucks on the highways.

Should you have any questions or comments, please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jerry Wilmoth".

Cc: Scott Moore - UP
Wesley Lujan - UP

Jerry Wilmoth
General Manager Network Infrastructure

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