Comment Letter O033

08/27/2004 FRI 17:09 FAX 12134858908 Council Dist-1 Field Ofc 001/003

Yahoo! Mail - patientuniverse@yahoo.com Page 1 of 3

O033

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Date: Thu, 26 Aug 2004 15:07:18 -0700 (PDT)
From: "patientuniverse" <patientuniverse@yahoo.com>
Subject: Letter
To: patientuniverse@yahoo.com

> 6 August 2004
>
> Mahdi Morshed, Executive Director
> California High Speed Rail Authority
> c/o 925 L Street, Ste. 1425
> Sacramento, CA 95814
> (fx: 916 322-0827)
>
> Betty Monro, Acting Administrator
> Federal Railroad Administration
> US Department of Transportation
> 1120 Vermont Avenue, NW M/S 20
> Washington, DC 20590
> (fx: 202-493-6009)

RECEIVED AUG 30 2004

> RE: Draft Carlifornia High-Speed Train (HST) Draft Program Environmental
> Impact Report/Environmental Impact Statement (EIR/EIS) SCH 2001042045
>
> Dear Mr. Morshed & Ms. Monro:
>
> It has come to my attention that the above-referenced has among its
> proposed alignments, the possibility of the HST going through the parks in
> 'The Cornfield' located in Los Angeles' Chinatown and Taylor Yard located in
> Northeast Los Angeles. One of the affected communities is the Los Angeles
> neighborhood of ~~Glassell~~ Cypress Park, which is where I reside.
>
> I would like to register the following very strong objections on this
> issue:
>
> 1) There has been no effort to inform the affected communities about
> this proposal. As member of the Friends of Cypress Park Community
> Improvement Association and someone who is actively involved with the Cypress
> Park Neighborhood, there has been absolutely no outreach to our community on
> this matter. In fact, I just found out about this proposal late yesterday -
> and
> public comment must be made by 31 August. And, having a close working
> relationship with activists in our neighboring communities, I can tell you
> that they, too, have not been informed about this proposal.
>
> 2) The Notice of Availability of the Draft Program EIR/EIS is
> insufficient. Two of the communities that will be directly affected
> regarding the proposed alignment(s) through Taylor Yard are Cypress Park and
> Glassell Park. These communities have a predominantly minority population
> and a large percentage of low-income residents. These residents are not
> being notified during this environmental process and are being slighted.
>
> 3) Because of this late notification, there is a glaringly apparent
> inability of the affected communities to review the Environmental Documents
> and Technical Appendices as well as the Administrative Record, which I am
> sure are extensive. Our communities have not had the opportunity to review
> these crucial items nor have the communities had a chance to provide input
> of any kind.
>
> 4) The Cornfield and Taylor Yard need significant analysis per Section

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Yahoo! Mail - patientuniverse@yahoo.com Page 2 of 3

> 4(f) of the DOT Act of 1966 and it is essential that alternative suggestions
> and alignments are proposed to the alignment(s) that include the Cornfield
> and/or Taylor Yard. Unfortunately, because we have not seen the
> Environmental Document, the Technical Appendices nor the Administrative
> Record, we have no idea if this has been addressed.
>
> 5) The Cornfield has significant cultural resources that require both a
> 4(f) analysis and is also subject to California Environmental Quality Act
> (CEQA), Section 15064.5. For example, located within the Cornfield is the
> 'Mother Ditch' from which El Pueblo De Los Angeles - the birthplace of Los
> Angeles - used as its water supply. This has great significance to the
> history of the whole City of Los Angeles. Because we have not seen the
> Environmental Document, the Technical Appendices nor the Administrative
> Record, we have no idea if this has been addressed sufficiently.
>
> 7) Again, because we have not seen the Environmental Document, the
> Technical Appendices nor the Administrative Record, we have no idea if the
> issues of aesthetics, air quality, biological resources, geology and soils,
> hazards and hazardous matrials, hyrdology and water quality, land use &
> planning, noise, public services, recreation, transportation/traffic,
> utilities and service systems or any other mandatory findings of
> significance as outlined in CEQA have been adequately addressed.
>
> 8) Fundamentally, the proposed alignment(s) that potentially would go
> through the Cornfield and Taylor Yard is/are just plain wrong. Community
> members, activists and many elected officials worked very hard over the
> course of many years to bring these open spaces to the Chinatown and
> Northeast Los Angeles communities. This is a slap in the face to those who
> have worked so hard to gain open space for these densely populated, urban,
> highly underserved communities that are predominantly minority and lower
> income.
>
> I would like to recommend that the following steps be taken on the above
> issues before anything pertaining to the HST proceed:
>
> A.) There needs to be at least a sixty (60) day period for our
> communities and any others that will be affected by the HST to have the
> opportunity to properly review the Environmental Document and Technical
> Appendices along with the Administrative Record.
>
> B.) The communities affected by the proposed alignments must have a
> direct line of communication with those plannig this HST because of the
> impact this proposed program will have on our communities.
>
> C.) Because this project is of statewide importance, at a minimum,
> there should be extensive public outreach on this issue. This should
> include well publicized public hearings throughout the Los Angeles area in
> the communities along each of the proposed alignments. and other organizations
>
> D.) This issue must be brought before the Neighborhood Councils in the
> City of Los Angeles, especially those that are affected by the HST so that
> significant stakeholder input can be heard on this crucial matter.
>
> I ask that the above recommendations be taken into consideration and be
> implemented before the California High-Speed Train proposal proceeds any
> further.
>
> I thank you in advance for your time and consideration. I look forward
> to hearing from you.
>
> Sincerely,
> Alexia Teran
> Alexia Teran
> Cypress Park Community Improvement Association
> 3319 Alice St, L.A. Ca. 90065-1728
> via mail and fax

Comment Letter O033 Continued

08/27/2004 FRI 17:09 FAX 12134858908 Council Dist-1 Field Ofc 003/003

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> cc:     Norman Y, Mineta, US Dept of Transportation (fx: 202 366-7202)
>         FRA Region 7 Office (fx: 916 498-6546)
>         Governor Arnold Schwarzenneger (fx: 916 445-4633 /213 897-0319)
>         Senator Dianne Feinstein (fx: 202 228-3954/415 393-0710
>         Senator Barbara Boxer (fx: 202 224-3553/213 894-5042
>         Congressman Xavier Becerra (fx: 202 225-2202/213 483-1429)
>         State Senator Gil Cedillo (fx: 916 327-8817/213 612-9591)
>         State Senator Jack Scott (fx: 916 324-7543 / 626 793-5803)
>         State Senator Kevin Murray (fx: 916 445-8899 / 310 641-4395
>         Speaker Fabian Nuñez (fx: 916 319-2146/213 620-6319)
>         Assemblymember Jackie Goldberg (fx: 916 319-2145 / 323 258-3807)
>         Assemblymember Carol Liu (fx: 916 319-2144/626 577-2868
>         Assemblymember Jenny Oropeza (fx: 916 319-2155
>         Mayor James K. Hahn (fx: 213 978-0656)
>         County Supervisor Gloria Molina (fx: 213 613-1739)
>         Councilmember Eric Garcetti (fx: 213 613 0819/323 913-4474)
>         Councilmember Ed P. Reyes (fx: 213 485-8907/213 485-8908)
>         Councilmember Antonio Villaraigosa (fx: 213 847-0680/213 485-8788)
>         Ruth Coleman, Director of Parks And Recreation (fx: 916 654-6374)
>         Joseph Petrillo, CA High Speed Rail Authority (fx: 916 322-0827)
>         CA State Clearinghouse (fx: 916 323-3018)
>         CA Dep't of Water Resources, DPLA Unit So. Dist. (fx: 818 543-4604)
>         Mike Chrisman, Ca Resources Agency (fx: 916 653-8102)
>         The Los Angeles Times (fx: 213 237-7679)
>         Center For Law In The Public Interest (fx: 310 314-1957)
>         Natural Resources Defense Council (fx: 310 434-2399)
>
>
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dba Lizarde Auto Service
(dba. MGM)
RAUL MACIAS (FOUNDER ANAHUAK)
La Morenita – 323-225-1003
Yvette Z Robles
Guillermo Reyes Jr
Celia Ramirez
Edwardo Robles
DAVID BRUNK
Joe Riser

http://us.f110.mail.yahoo.com/ym/ShowLetter?box=Inbox&MsgId=1861_604874_11C... 8/26/04

Aug-31-04 02:41pm From-CLIPI 310-314-1957 T-371 P.01/07 F-098

CENTER FOR LAW IN THE PUBLIC INTEREST
3250 Ocean Park Boulevard, Suite 300
Santa Monica, California 90405-3219
Telephone (310) 314-1947
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FACSIMILE COVER PAGE

Case #: 3704
Of Pages: 7
(Including cover page)
Date: 8/31/04

RECIPIENT:

Name: Attn: California High Speed Train

Fax No.: (916) 322-0827

RE: Draft Program EIR/EIS Comments

SENDER:

Name: Erica S. Flores

If you have problems with this transmittal, please call Veronica at (310) 314-1947.

MESSAGE OR COMMENT:

Comment Letter O033 Continued

Aug-31-04 02:41pm From-CLIPI 310-314-1957 T-371 P.02/07 F-096

CENTER FOR LAW IN THE PUBLIC INTEREST
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VIA FAX AND US MAIL

August 31, 2004

Chairman Joseph E. Petrillo and
Members of the High Speed Rail Authority
Mehdi Morshed, Executive Director
925 L Street, Suite 1425
Sacramento, CA 95814

Allan Rutter, Administrator
Federal Railroad Administration
U.S. Department of Transportation
1120 Vermont Avenue, N.W. M/S 20
Washington, D.C. 20590

Re: *Comments on the Draft Program EIR/EIS for the California High Speed Train*

Dear Chairman Petrillo, Mr. Mehdi, Mr. Rutter, and Members of the High Speed Rail Authority:

The Center for Law in the Public Interest received the enclosed comments regarding the California High Speed Train Draft Program Environmental Impact Report and Environmental Impact Statement from the Cypress Park Community Improvement Association, and community members Lisa Waldner and Nina Hachigian. We are submitting their comment to you on their behalf.

Very truly yours,

Robert García
Executive Director

Enclosure

Aug-31-04 02:41pm From-CLIPI 310-314-1957 T-371 P.06/07 F-096

Erica Flores

From: Lisa Waldner [elkaytee900@hotmail.com]
Sent: Monday, August 30, 2004 12:57 AM
To: eflores@clipi.org
Subject: High-Speed Train thru Cornfield, Taylor Yard

Dear Ms. Flores,

It has just been brought to my attention that the Cornfield in Los Angeles' Chinatown and Taylor Yard in Northeast Los Angeles is being proposed as a site for a High-Speed Train corridor.

I live in Atwater Village, which shares the northern tip of Taylor Yard with Glassell Park. I am on the Board for the Atwater Village Residents Association and was a Formation Committee member and the co-Chair of the first Neighborhood Council Election Committee of the Atwater Village Neighborhood Council, certified in February of 2003.

This proposal has never been brought to the attention of our community leaders. Tonight was the first time I was made aware of it by an e-mail passed on from Tony Scudellari, President of the Glassell Park Improvement Association. And I understand the time limit for public comment will end on August 31, 2004 (in two days).

I would highly urge that an extension of an appropriate length be grated before this time limit expires. Time and effort must be given to the affected communities to analyze the facts and to obtain stakeholder input.
Our City Councilmembers in the 1st and 13th Districts failed to inform their communities of the public hearings, disallowing proper analysis and discussion.

We fought long and hard in the Northeast of Los Angeles for greatly needed open space, which now could so easily be taken away without our ever knowing what happened.

Thank you very much for your time.

Lisa Waldner
Atwater Village

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Comment Letter O033 Continued

Aug-31-04 02:42pm From-CLIPI 310-314-1957 T-371 P.07/07 F-098

Erica Flores

From: nina@votenina.org
Sent: Sunday, August 29, 2004 7:19 PM
To: eflores@clipi.org
Subject: High Speed Train

Hi. I oppose the high speed train going through Taylor Yard and the Cornfield. Thanks.
Nina Hachigian, LA 90039

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Response to Comments of Robert Garcia and Alexia Teran, Cypress Park Community Improvement Association, August 30, 2004 (Letter O033)

O033-1

Please see responses to Comment Letter O030 (the text of this comment letter is a duplicate of Comment Letter O030).

Comment Letter O034

O034

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August 30, 2004

AUG 30 2004

Chairman Joseph E. Petrillo and
Members of the High Speed Rail Authority
Attn: California High-Speed Train
Draft Program EIR/EIS Comments
925 L Street, Suite 1425
Sacramento, CA 95814

Re: Comments on Draft Environmental Impact Report/Draft Environmental Impact Statement (DEIR/S) for the Proposed California High Speed Rail Project

Dear Chairman Petrillo and Members of the Authority:

On behalf of Defenders of Wildlife and our more than 90,000 members and supporters in California, I am writing to provide comments on the Draft Environmental Impact Report/Draft Environmental Impact Statement (DEIR/EIS) for the Proposed California High Speed Rail Project ("Project"). While we support the concept of providing high speed rail transportation to California's growing population, we are concerned that this project's environmental documents have failed to comply with the California Environmental Quality Act ("CEQA") and National Environmental Policy Act ("NEPA").

We join in the issues raised in separate written comments by the Planning and Conservation League, Natural Resources Defense Council, and Sierra Club. In addition, we raise additional issues below regarding the inadequacies of the analysis of impacts to biological resources from the project.

I. Flaws in the DEIR/EIS's Analysis of Biological Impacts

Overall, the Draft EIS/EIR lists the biological resources that could be affected, their general location, and general descriptions of their habitat associations. The technical documents give an overall tally of how much habitat for each species would be directly impacted within a narrow impact zone (between 1000ft and 0.5 mile depending on amount of current development) and report whether there is a low, medium, or high level of impact. However, the documents do not discuss the relative quality and importance of the habitat to be destroyed to the species overall survival. This failing and others render the DEIR/S inadequate for informing alignment decisions because alignment choices will sharply affect most, if not all, of the biological impacts listed below. Further analysis, as suggested below, is necessary prior to any alignment decision.

O034-1

A. Inadequate Data/Information:

A major flaw in this already inadequate analysis is that the habitat and occurrence data used to develop the estimate of the impact are based on occurrences in the California Natural Diversity Database. These occurrences are not comprehensive and only cover areas that have been surveyed. Large amounts of unsurveyed land (often private lands) may have higher densities of species, but since no surveys have been conducted, the quality of this habitat is unknown. However, the DEIS/EIR would score this as low to zero habitat value. It is unacceptable to make decisions regarding the relative impact of the various route alternatives (and indeed impossible to identify the least environmentally damaging alternative) without on-the-ground data that reflect the real biological condition. Indeed, the draft document acknowledges that "the lack of identification of an impact does not necessarily mean that this portion of the proposed alternative would not result in potential impacts on biological resources, only that location-specific data would be required to make a more precise determination." (DEIR/EIS).

O034-2

In addition, the DEIR/EIS relies on the National Wetlands Inventory to analyze impacts to wetlands. This database provides only a very coarse and incomplete analysis of wetlands in California. The database is compiled by aerial photographs of landscapes in which many smaller wetlands are not readily distinguishable. In addition, many areas in California have not been photographed. In order to ascertain a more complete picture of wetlands impacts, the environmental documents need to conduct a more thorough review of potential wetlands impacts, including on-the-ground surveying efforts.

B. Inadequate Analysis of General Impacts to Biological Resources:

Roads are one of the top causes of species imperilment in California (National Wildlife Federation 2001) and the impacts of railroads as linear transportation features are assumed to be similar. Specific ecological effects of roads have been thoroughly documented (Forman and Alexander 1998, Trombulak and Frissell 2000, Natural Resource Defense Council 1999). The key impacts are mortality from project construction, road kill, habitat fragmentation, alteration of movement and behavior, spread of exotic species, spread of human activity, reduction of environmental quality, and facilitation of urban sprawl. All of these are major impacts to wildlife that must be discussed in an improved DEIS/EIR.

O034-3

1. The DEIR/EIS fails to analyze the environmental advantages of Rail Corridors over Highways

The DEIS/R must explicitly list and discuss the following advantages of railway corridors over highways (from DeSanto and Smith 1993):

1. Water drains away from the railbed, maintaining a dry environment that prevents unwanted vegetation from establishing.
2. The bed and banks have a porous, stable ballast that prevents runoff from concentrating, keeps slope erosion to a minimum, and filters out particulates and chemical pollutants.
3. A service road or other narrow strip running alongside the rail prevents ballast spoils from shifting beyond the toe of the roadway slope.

Comment Letter O034 Continued

4. Drainage ditches parallel to the rail prevent uncontrolled erosion, act as sediment traps, filter railway runoff, and insulate adjoining land from uncontrolled channel flow.
5. High Speed Rail (HSR) construction usually leaves a significantly smaller footprint than road construction, so it has smaller short-term impacts.
6. HSR corridors are narrower than roads, so animals are more willing to cross under them. This is a significant advantage.
7. It is more feasible to elevate an HSR system on pile-supported structures than to elevate a road. "Elevated corridors on bridges or viaducts undoubtedly have the least disruptive impact on wildlife movement and migration passageways."

O034-3 cont.

The DEIR/EIS fails to include any discussion of these issues.

2. The DEIR/EIS fails to adequate analyze the impacts of habitat fragmentation

Expanding networks of roads force wildlife to live on ever-shrinking islands of habitat, where it is more difficult for them to find food, water, shelter, mates, and protection from predators. Genetic problems such as inbreeding appear, and populations become more susceptible to catastrophic events such as wildfire. The resulting fragmented habitat inevitably leads to smaller populations of wildlife, and extinction of populations or species becomes more likely.

Fragmentation also increases the ratio of edge habitat to interior habitat, which is harmful to those species that need interior habitat. The concept has been best documented in forest-dwelling birds. The inside of a habitat has a different climate and supports different and usually more sensitive species than do the edges. In forested areas, edges associated with roads are a source of nest predators and brood parasites. Aggressive species such as brown-headed cowbirds and blue jays thrive in edge habitats (e.g. Baker and Lacki 1997). Snakes, raccoons, and other predators hunt along the edge. Species that occur only within the interior of forests, such as the ovenbird, scarlet tanager, hooded warbler and a number of other migratory songbirds, can't withstand the predation or can't compete against the more aggressive edge species, and they die out, reducing the biodiversity of an area (Porneluzi and Faaborg 1999, Rosenberg et al. 1999, Robinson et al. 1995). DeSanto and Smith (1993) discuss the habitat fragmentation consequences specific to HSR systems. They conclude that the long-term impacts of habitat fragmentation are directly related to the area and type of habitats replaced and discuss. A European Commission Report (COST 2000) discusses the habitat fragmentation effect of railways.

O034-4

The HSR DEIS/EIR does mention that the rail will fragment habitat, but the extent to which this will harm specific species is not detailed. In fact, the details of the fragmentation impact are embedded in the technical reports. Again, the environmental document itself is lacking specification, only revealing that "Segments that would be placed at grade (cut and fill) would require fencing the HST alignment for the safety of humans, as well as protection from train-wildlife collisions, and would have the potential to interfere with wildlife movement." (p. 3-15-22). Depending on the design of the fencing, this impact would be significant. In fact, in the technical documents under "Alignment Design Parameters: Grade Separation" we find that exclusion of wildlife is a goal of the fencing: "…the right of way would be fully access controlled (fenced) in areas of high-speed operation to avoid intrusion by pedestrians, *wildlife*

and livestock (Engineering Criteria, Task 1.11, p. 11, emphasis added)." The impacts of this fencing is never analyzed in the DEIS/R. In order to even identify the dimensions of the planned fencing, one must know to look in Appendix 4 C (page 4C-10). This is a major example of the failure of the DEIS/R to effectively present and analyze the impact of the proposed project on biological resources.

The Missing Linkages report and associated GIS overlays identify major areas of movement throughout the state. However, identifying areas where these linkages will be cut off by the HSR route does not adequately address the significant habitat fragmentation impacts that the alignment will have. Every one of the 700 proposed miles will fragment habitat of species and have impacts on ecological functioning. A revised DEIS/EIR must be present the significant fragmentation impacts of the various alignments to wildlife species of concern, not only species that are currently threatened and endangered.

Particularly lacking in the DEIR/EIS is an analysis of impacts to wide-ranging species such as mountain lions, coyotes, bobcats, and bears. By virtue of their need to access large areas of habitat, these species would be significantly impacted even if they are not currently identified as "sensitive." Much work has been done looking at the movement needs and impacts of roads on these species (e.g. black bears – Brody and Pelton, 1989, mule deer and elk – Rost and Bailey 1979) and even their needs in terms of wildlife crossing to avoid and mitigate impacts from transportation infrastructure (e.g. Evink 1990, Leeson 1996). Specifically for mountain lions, a 9 to 12 foot fence, with a 12-48 inch foot overhang with barbed/predator or electric wire at the top to stymie a cat from climbing over are recommended. Florida uses a 10 foot fence with 3 barbed wires for an overhang to keep lions off highways and channel them into culvert underpasses. A noted above the HSR proposes to use security fencing that is only 8.2 ft high. The insufficient height and design could potentially lead to mountain lions on the track, obviously a threat to wildlife survival and human safety.

O034-4 cont.

Habitat fragmentation can present significant problems for the normal functioning of ecological processes. For example, pollination is a major ecological process that will be impacted by the proposed HSR project. Bhattacharya et. Al (2003) found that while bumblebees have the ability to cross a road and a railroad, these structures may restrict bumblebee movement and act to fragment plant populations because of their site fidelity when foraging. The bumblebees they studies rarely crossed railroads even when suitable habitat was only 30-40 m away on the other side. This signifies that High Speed Rail may have significant and unquantifiable impacts on plant species which depend on these pollinators for their reproduction, genetic flow and ultimate survival. Additionally, the rail will fragment bumblebee (and presumably that of other insect) habitat, with the associated lower survival and reproduction. The ability of an ecosystem to survive a natural disaster (such as fire, earthquake, windstorm, disease outbreak) is decreased as habitat is fragmented. Fragmentation also limits the ability of species and ecological communities to respond and adapt to global climate change. The DEIS/R completely fails to address the impacts on all such ecological processes.

Comment Letter O034 Continued

3. The DEIR/EIS fails to analyze impacts from the invasion of non-native species alongside rail alignments.

Roads spread exotic species of plants and animals, which then compete with native species. Exotic plants tend to favor disturbed habitats, so they thrive along the side of new roads. They also tend to grow and use resources very fast, depriving native vegetation of important resources. In the past, exotic species sometimes have been introduced to roadsides to control erosion, with severe ecological consequences. Along a California pipeline, exotic species invaded adjacent grassland, coastal sage, and oak woodland habitats (Zink et al. 1995). In the Mojave desert, the plant *Brassica tournefortii* has spread along roads and since 1995 has been encroaching beyond roadsides into pristine habitat. Similarly, *Hirschfeldia incana* [*Brassica geniculata*], *Descurania sophia*, *Sisymbrium irio*, *Sisymbrium altissimum*, and *Salsola* spp. are also found locally along roadsides in the Mojave (Brooks and DeFalco 1999). The ecological changes associated with these exotic plants directly degrade habitat for the threatened desert tortoise. Gelbard and Harrision (2003) found significantly more invasive species at distances closer to roads in Central Valley grassland communities. A review of literature regarding the impacts of railroads on wildlife (van der Grift 2001) indicates that trains introduce exotic plant species through the spread of seeds. The DEIS/R must discuss the potential impacts to native species posed by the resultant spread of invasive species and present appropriate mitigation.

O034-5

4. The DEIR/EIS fails to adequately analyze impacts to wildlife from noise, vibration, lighting, and electromagnetic fields (EMF) and electromagnetic interference (EMI)

The construction and operation impacts of the proposed HSR will have major impacts on wildlife. The ecological impacts due to noise, vibration, lighting, electromagnetic fields (EMF) and electromagnetic interference (EMI) are not analyzed in the DEIS/R.

Noise, vibration and lighting all lead to avoidance by wildlife species and contribute to habitat fragmentation (DeSanto and Smith 1993). Many animals use sound to communicate, navigate, avoid dangers, and find food (Bowles 1997). Thus, Bowles finds that negative impacts of noise are reduced health, altered reproduction, survivorship, habitat use, distribution, abundance, or genetic composition, and harassment. For example, recordings of dune buggy sounds played intermittently for less than ten minutes at a lower intensity than normal caused hearing loss in sand lizards and kangaroo rates, rendering them unable to respond to recorded predator sounds (Andrews 1990). The impacts of sound vary by pitch, duration, loudness, and species. In general, mammals hear from below 10 hertz (Hz) to over 150,000 (Hz) (Bowles 1997, Fay 1988), birds from 100 Hz to about 10,000 Hz (Fay 1988, Kreithen and Quine 1979), reptiles between about 50 and 2000 Hz (although snakes and turtles hear quite poorly – Forman et al. 2003), and amphibians between 100 and 2000 Hz (Forman et al. 2003).

O034-6

Vibrations from low-frequency noise are readily detectible by some animals, especially birds and reptiles (Bowles 1997, Shen 1983). Detection of vibration is particularly important in the detection of predators, probably especially for reptiles because of their poor hearing. The impacts of noise and vibration will depend on the frequency of train passage, the type of construction, the surrounding habitat (e.g. noise will travel further in an open field than in a forest) and the speed of the train itself. Forman et al. (2003) report that noise impacts from a Dutch highway with 50,0000 vehicles per day and a traffic speed of 120 km per hour reach beyond 800 m (approximately a half mile).

O034-6 cont.

Mountain lions are known to avoid crossing areas that are lit at night (Beier 1995). This behavior is expected to be true of other nocturnal species.

Although it was not readily apparent in the DEIR/S, we were able to ascertain through communication with an engineer from the Train Riders Association of California (D. MacNamara, personal communication) that the overhead cables will be continuously electrified. A state of the art European Commission Report (COST 2000) indicates that railways cause bird mortalities through collision with trains, overhead cables, and electrocution. Winter season has the highest number of casualties with one summer study on the North TGV line reporting 3.4 dead birds per kilometer per month. This would lead to over 3800 dead birds in the summer months on the proposed HSR 700 mile length, with yearly estimates expected to be over 7500 as more birds were killed in the winter. Birds of prey were the most vulnerable. Overhead cables are dangerous mostly for low-flying birds and birds of prey that hunt by skimming the ground. This impact can be reduced when: 1) cables form dense, continuous networks (especially near stations and railway junctions); 2) There is vegetation along the track at least as high as the cables; and 3) when the cables are in trench tracks which are avoided by birds. In the COST study, electrocution accounted for a small percentage of the birds killed on railways. It is suggested that in order to reduce this threat, the catenary suspension wire should be insulated, a platform should be installed over the support, or the insulator should be oversized to discourage perching. We have summarized suggestions for fencing and wildlife crossings that would reduce the mortality from collisions in our comments regarding mitigation.

O034-7

Finally, the DEIS/R does not discuss the potential impacts of Electromagnetic Fields (EMF) or Electromagnetic Interference (EMI) on wildlife. Possible impacts could include changes in orientation, for both short and long-distance movements, avoidance of habitat, and disturbance of daily activities, all of which are likely to be significant. These impacts must be analyzed in an updated DEIS/R.

5. The DEIR/EIS Fails to adequately analyze impacts to proposed and final federally designated critical habitat

The federal Endangered Species Act prohibits the destruction or modification of listed species' critical habitat. See 16 U.S.C. § 1536(a)(2). Section 7 of the ESA requires that federal agencies consult with the US Fish and Wildlife Service to determine if a project will "adversely modify" critical habitat. Id. Recent court rulings clearly emphasize that critical habitat is designated to provide for the survival and recovery of a species. (Center for Biological Diversity vs. Bureau of Land Management, Northern California District Court 2004; Gifford Pinchot Task Force v. U.S. Fish and Wildlife Service, 9th Circuit 2004) Modification that decreases the likelihood of survival or the likelihood of recovery is unlawful. There are numerous species with designated and proposed critical habitat within the impact area of the HSR project. The DEIR/EIS should consider impact in even those areas in which critical habitat is only proposed as potentially

O034-8

Comment Letter O034 Continued

significant impacts because by the time the environmental documents for this project are finalized, most of the proposed designations will have become final.

Critical habitat is comprised of land officially designated by the USFWS to contain the primary constituent elements for a listed species. This habitat cannot be "adversely modified" in any way that would impact the survival or recovery potential of the species. Clearly running a HSR track and fencing the entirety of the alignment within critical habitat would constitute adverse modification.

Here, the DEIS/R fails completely to discuss impacts to critical habitat except in the Los Angeles to San Diego via Inland Empire Biological Resources technical report. This report maps the overlap between the proposed HSR route and critical habitat for the arroyo toad, California gnatcatcher, California red-legged frog, Least Bell's vireo, Quino checkerspot butterfly, Riverside fairy shrimp, San Bernardino kangaroo rat, southwestern willow flycatcher, and vernal pools. However, the document fails to analyze the results of this map. From initial inspection, it would appear that this route would impact the critical habitat of several of these species. O034-8

In the discussion below regarding specific alignments, we have highlighted overlap between species critical habitat beyond the 0.5 m level addressed in the DEIS/R. Forman and Alexander (1998) and Forman et al. (2003) clearly indicate that the road effect zone can be well beyond 1000m. Of additional concern are overlaps with critical habitat of vernal pool species (11 plants and 4 invertebrates), California tiger salamander, California red-legged frog, and Alameda whipsnake (currently remanded). We did not investigate -- but the next DEIS/S must investigate -- the overlap between critical habitat of the Valley elderberry longhorn beetle, Central California coast coho salmon, Central Valley steelhead, Central California coast steelhead, southern steelhead, Sacramento River winter-run Chinook salmon, Central Valley spring-run Chinook salmon, Central Valley fall/ late fall-run Chinook salmon, delta smelt, and tidewater goby.

6. The DEIR/EIS fails to assess consistency with federal threatened and endangered recovery plan goals

The federal ESA also requires the development of a recovery plan for species that are listed as threatened or endangered. The purpose of the ESA is to provide for the ultimate recovery of at-risk species, thus the goal of every recovery plan is to reach a level of conservation to ensure survival of the species and thus allow it to be removed from the ESA list. Recovery plan are often state of the science documents that have been developed by the experts of the relevant species. These plans are excellent road maps, including the identification of core recovery units that provide the necessary context within which to analyze the impacts of particular projects on a listed species. As such, these plans should be consulted and the DEIS/R must analyze consistency of the proposed project with these plans and the ultimate choice of alignment must not conflict with these plans. Currently there are recovery plans in place for the San Joaquin kit fox, desert tortoise, Bay checkerspot butterfly, delta smelt, California red-legged frog, blunt-nosed leopard lizard, California condor, marbled murrelet, giant kangaroo rat, Fresno kangaroo rat, short-nosed kangaroo rat, Tipton kangaroo rat, San Joaquin Valley riparian woodrat, arroyo toad, Pacific pocket mouse, Riverside fairy shrimp, and San Diego fairy shrimp. Recovery plans O034-9

are being developed for 15 vernal pool species, the giant garter snake, Alameda whipsnake, and western snowy plover and these should be incorporated into the DEIS/R analysis if they have become available by the time of the next draft. To the extent possible, input should be solicited from the US Fish and Wildlife Service to receive any draft recovery goals or input for these species. O034-9 cont.

7. Scientific literature not noted

A vast amount of literature exists about the impact of roads on ecological systems, much of which is equally applicable to high speed rail. Notable summaries are covered in Forman et al. 2003, NRDC 1999, Evink 2002, and White and Ernst 2003. We request that an in-depth literature review be conducted on the impacts of high-speed rail on biological resources and be presented as part of an updated DEIS/R. We specifically request that Rodriguez et al. (1997), Andrews (1990), Yanes et al. (1995), DeSanto and Smith (1993) be included in this review. O034-10

8. The DEIR/EIS fails to adequately asses impacts to conservation lands and planning areas

The proposed project traverses several areas that are currently ecological reserves, or are part of regional conservation planning efforts. While the DEIS/EIR mentions some of these, a more complete analyses of all such impacts is required. Included amongst these are state parks, state ecological reserves managed by the California Department of Fish and Game, University of California preserves, National Forests, Griffith Park in Los Angeles, the Pixley National Wildlife Refuge in Tulare County, Don Edwards San Francisco Bay national Wildlife Refuge, the San Luis National Wildlife Refuge, the Grasslands Ecological Area of northern San Joaquin Valley, Henry Coe State Park, as well as several U.S. Department of Defense lands and Bureau of Land Management lands. Regional conservation planning efforts potentially impacted by the HSR project include the San Bruno Mountain HCP, Santa Clara County HCP, San Benito County HCP, South Sacramento County HCP, San Joaquin County HCP, Eastern Merced County HCP/NCCP, Kern Valley Floor HCP, Western Mojave Desert Coordinated Management HCP, West Riverside NCCP, Coachella Valley MSHCP, Orange County Central NCCP Coastal NCCP, Southern Orange County NCCP and the San Diego County Multiple Habitat Conservation Plan. Even those regional conservation plans that are currently in scoping or planning phases must be considered and discussed as impacts from HSR could significantly change their reserve design capabilities. Regional conservation plans and County General plans are both designed to direct development into certain regions based on stated priorities. The addition of HSR service and associated stations will have an enormous impact on growth of this development. The impact of the HSR alignment options must be analyzed for consistency with regional conservation plans and County General Plans. The DEIS/EIR must discuss the impact of the proposed project on all ecological reserves and regional conservation planning efforts. O034-11

9. The DEIR/EIS fails to assess economic costs of wildlife impacts

In France, there are 16,500 km of railway lines: 1500 km of TGV lines (existing and under construction) and 15,000 km of main lines (in service and electrified: electrification is used as a criterion of heavy traffic). The cost of direct collisions with wildlife is considerable. In 1992, on O034-12

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the high speed South East line (Paris-Lyon) 21 collisions incurred an expense of 1.26 million Francs (192,000 euros), due to delays and equipment repair costs (COST 2000).

O034-12 cont.

10. The DEIR/EIS fails to adequately analyze the disruption of wildlife movement corridors

While the DEIS/R analysis identifies alignments that have impacts on the wildlife corridors identified in the Missing Linkages Report, it lacks adequate analysis regarding which species are affected. Additionally, there is no analysis of the level of the impact on these species in terms of the significance of the disruption of their movement corridors on their ability to survive. For instance, a fence that was erected to keep foot and mouth disease from spreading into South Africa caused the death of hundreds of thousands of wildebeest because it prevented them from moving north (Andrews 1990). Impacts that must be discussed include entanglement in fences, restriction of access to needed water supplies, prevention of movement into good habitat, disruption of seasonal movement, limited dispersal which causes local overpopulations, and inbreeding due to genetic isolation. These impacts go well beyond the 1000 ft. to 0.5 mile zone considered in the DEIS/R (Forman and Deblinger 2000). Below in our alignment specific analysis we have identified the species whose movement corridors will be impacted by the HSR proposed project. A revised DEIS/R must include identification of the species, the specific corridors that would be disrupted, and what this disruption means for the species' conservation. For example, it should be noted that Santa Nella is a major choke point for north-south movement of the San Joaquin kit fox. Disruption of this movement corridor would significantly impact the ability of that species to survive and recover.

O034-13

11. The DEIR/EIS fails to include an adequate analysis of impacts to vernal pools/ wetlands

The analysis of the vernal pool and wetlands impacts is based on overlap of the alignments with the National Wetlands Inventory. This inventory is incomplete in California and, similar to the reliance on the CNDDB for species occurrences, is biased towards areas that have been surveyed opportunistically. A complete analysis of wetlands impacts requires on-the-ground surveys to document presence. Additionally, wetlands are impacted far beyond the project footprint, with any changes in watershed hydrology potentially altering wetland functions anywhere within that watershed. For vernal pools, initial proposed critical habitat (67 FR 59883 59932; September 24, 2002) should be used to determine impacts to the 15 listed vernal pool species critical habitat. The final vernal pool critical habitat is currently under litigation due to the exclusion of nearly 1 million acres based on faulty calculations by the US Fish and Wildlife Service. Until an acceptable new designation is released, the original proposal must be used to assess the impacts. In the following analysis of impacts, we have used the GIS coverages for this proposed critical habitat designation to determine overlap with the proposed alignments and the potential impacts from this overlap.

O034-14

12. The DEIR/EIS fails to adequately analyze impacts of loss of habitat

As state previously, the DEIS/R does not adequately analyze the impact of habitat loss on the ability of specific species or plant community types to survive and recover. Noticeably absent is an analysis of the relative quality and importance of any lost habitat. There is simply an accounting of how much habitat fails within a relatively narrow zone. Also, the impact zone must be much larger than the 1000ft. to .5 mile range used in the DEIR/EIS. Forman et al. (2003) indicate that several biological effects of roads (including stream sediment, noise, vibration and light, habitat fragmentation/isolation, disruption of wildlife movement corridors, invasion by non-native species, and increased human access) go well beyond 1000 m.

O034-15

C. Species and habitat concerns that appear in several alignments

1. Impacts to Grasslands

Central Valley grasslands are a highly threatened ecosystem, with over 95% of the native habitat overrun with invasive, annual grasses. The remainder is under imminent threat from urban and suburban development and changing agricultural practices. Special statues birds (including federally and state listed threatened and endangered or special concern) number seventeen and include: Swainson's hawk, California burrowing owl, loggerhead shrike, horned lark, grasshopper sparrow, northern harrier, white-tailed kite, white-faced ibis, tri-colored blackbird, sandhill crane, ferruginous hawk, prairie falcon, short-eared owl, golden eagle, mountain plover, long-billed curlew, and Merlin. Additionally, Central Valley grasslands attract the highest density and diversity of wintering raptors anywhere in the world. This habitat also supports several endemic or near-endemic species or subspecies of reptile and amphibians including the San Joaquin whipsnake, the blunt-nosed leopard lizard, Gilbert's skink, and the giant garter snake. The Delta green ground beetle and Valley elderberry longhorn beetle are federally listed insects that occur in grassland habitats. Grasslands historically supported several large mammals including pronghorn antelope, elk, (including Tule Elk), mule deer, grizzly bear, gray wolf, coyote, mountain lion, ringtail, bobcat, and San Joaquin kit fox, many of which still roam the less developed remnants.

O034-16

The DEIS/R mentions potential impacts to grassland habitats, but does not adequately analyze the impacts in terms of quality of habitat that will be impacted and how this effects the ability of species to survive as well as use this habitat as part of the Pacific Flyway. Of particular concern is the Grasslands Ecological Area of the northern San Joaquin Valley. This is a 160,000-acre area in Merced County located between the towns of Dos Palos, Los Banos, Gustine and Merced. The Grasslands includes seasonally flooded wetlands, semi-permanent marsh, woody riparian habitat, wet meadows, vernal pools, native uplands, grasslands, and native brush land. This collection of diverse habitats is important for a wide variety of wetland species and hundreds of thousands of shorebirds migrate through the area. It has been recognized by the Western Hemisphere Shorebird Reserve Networks one of fifteen internationally significant shorebird habitats, by the American Bird Conservancy as a Globally Important Bird Area, and is currently nominated as a Wetland of International Importance under the Ramsar Convention. All three of the prestigious titles recognize the importance of the grasslands to a variety of wildlife, including