



# Public Notice

U.S. ARMY CORPS OF ENGINEERS

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**Subject: Public Notice of Permit Application**

**Action ID: SPK-2009-01483**

**Comments Period: August 15, 2011 – September 28, 2011**

**SUBJECT:** The U.S. Army Corps of Engineers, Sacramento District, (Corps) is evaluating a permit application to construct the California High-Speed Train (HST), Merced to Fresno project. This project would result in impacts to 32-48 acres of waters of the United States, including 5 to 16 acres of wetlands. The impacts would occur within the Merced to Fresno HST construction footprint including stations, service, and maintenance facilities. This notice is to inform interested parties of the proposed activity and to solicit comments. This notice may also be viewed at the Corps web site at [www.spk.usace.army.mil/regulatory.html](http://www.spk.usace.army.mil/regulatory.html).

**AUTHORITY:** This application is being evaluated under Section 404 of the Clean Water Act for the discharge of dredged or fill material in waters of the United States.

**APPLICANT:** State of California  
California High Speed Rail Authority  
Attn: Dan Leavitt  
770 L Street, Suite 800  
Sacramento, California 95814-3359

**LOCATION:** The 65-mile Merced to Fresno section of the California HST is located in the central portion of the California Central Valley from the City of Merced (Merced County) to the City of Fresno (Fresno County). The segment travels through portions of Merced, Madera, and Fresno counties. The alternative alignments being considered follow either the Union Pacific Railroad (UPRR) / State Route (SR) 99 or the Burlington Northern Santa Fe (BNSF) corridor.

The northern terminus of the project is north of the City of Merced within the Castle Commerce Center at Latitude 37.36014°, Longitude -120.57094°. The southern project terminus is in the City of Fresno near the intersection of Fresno Street and H Street, Latitude 36.74026°, Longitude -119.80084°.

**PROJECT DESCRIPTION:** The California High-Speed Rail Authority (Authority) proposes to construct, operate, and maintain an electric-powered High-Speed Train (HST) system in California. When completed, the nearly 800-mile train system would provide new passenger rail service to more than 90% of the state's population, connecting the major population centers of Sacramento, the San Francisco Bay Area, the Central Valley, Los Angeles, the Inland Empire, Orange County, and San Diego. More than 200 weekday trains would serve the statewide intercity travel market. The HST system includes the HST tracks, structures, stations, traction power substations, and maintenance facilities and train vehicles. The HST System is envisioned as a state-of-the-art, electrically powered, high-speed, steel-wheel-on-steel-rail technology, which would include the latest technology, safety, signaling, and automated train-control systems. The fully grade-separated, dedicated track alignment

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would allow operating speeds of up to 220 miles per hour (mph), and make a trip from Los Angeles to San Francisco in approximately 2 hours and 40 minutes.

The Merced to Fresno Section is located in the San Joaquin Valley and is one of ten sections identified in the Statewide Programmatic EIR/EIS completed by the Authority and Federal Railroad Administration (FRA) in 2005. The proposed project would construct one of the proposed alignments and design options and would consist of two tracks within a 100-foot right-of-way. The tracks would be either elevated or at-grade within the right-of-way. When the tracks are located at-grade, a security fence would be installed to keep people and animals off of the tracks and prevent collisions. The track would be fully grade-separated for the entire length of the alignment with either the existing roadways being elevated over the tracks, or the tracks being elevated over the existing roadways. The attached drawings provide additional project details.

The overall project purpose is to implement the Merced to Fresno Section of the California HST System to provide the public with electric-powered high-speed rail service that provides predictable and consistent travel times between major urban centers and connectivity to airports, mass transit, and the highway network in the south San Joaquin Valley and connect the northern and southern portions of the system. The applicant believes a need for an HST system exists statewide, with regional areas contributing to this need. The capacity of California's intercity transportation system, including the south San Joaquin Valley region, is insufficient to meet existing and future travel demands, and the current and projected future congestion of the system will continue to result in deteriorating air quality, reduced reliability, and increased travel times.

#### **ADDITIONAL INFORMATION:**

**Roles and Responsibilities:** The FRA is the lead Federal agency for compliance with the National Environmental Policy Act (NEPA), the Endangered Species Act (ESA), and the National Historic Preservation Act (NHPA). The Corps, the U.S. Environmental Protection Agency (USEPA), the FRA, and the Authority signed a Memorandum of Understanding (MOU) in fall of 2010, creating an integrated process for compliance with the NEPA, Clean Water Act, and Rivers and Harbors Act. The MOU includes a series of checkpoints to determine the least environmentally damaging practicable alternative (LEDPA) and result in an integrated NEPA document that would meet the needs of the FRA and the Corps. An EIR/EIS is being prepared for this project by FRA and the Authority with the Corps as a cooperating agency. The Draft EIR/EIS is currently available for public review and comment. A copy of the Draft EIR/EIS can be found on the Authority's website at [www.cahighspeedrail.ca.gov](http://www.cahighspeedrail.ca.gov).

**Environmental Setting:** Typical land uses occurring within the proposed footprint include agricultural, rural residential, and urban (industrial, commercial, and residential). Some undeveloped natural areas occur along the alignment, including Camp Pashayan (within the San Joaquin Ecological Reserve). Aquatic resources include approximately 5 to 16 acres of wetlands and 27 to 31 acres of other waters within the project footprint. The actual acreage of waters depends on the alignment chosen. Wetlands include seasonal wetlands, vernal pools, vernal swales, and vernal pool and swale complexes. Mapped waterways include an extensive network of irrigation canals, ditches, and retention and detention basins.

**Alternatives:** The applicant has provided information concerning project alternatives for review by the Corps and the USEPA. Through this multi-agency review process the project alternatives available have been narrowed down to those identified in the public draft of the EIR/EIS. After the public

comments have been addressed in the EIR/EIS document, the LEDPA will be selected. All reasonable project alternatives, in particular those which may be less damaging to the aquatic environment, will be considered. The following alignment and design options are being considered in the EIR/EIS.

**UPRR/SR 99, East Chowchilla:** This alignment would result in impacts to 5.47 acres of wetlands and 29.97 acres of other waters, for a total of 35.44 acres of waters.

**UPRR/SR 99, West Chowchilla:** This alignment would result in impacts to 5.55 acres of wetlands and 28.22 acres of other waters, for a total of 33.77 acres of waters.

**BNSF, Ave 24:** This alignment would result in impacts to 16.46 acres of wetlands and 31.12 acres of other waters, for a total of 47.58 acres of waters.

**BNSF, Ave 21:** This alignment would result in impacts to 16.25 acres of wetlands and 29.17 acres of other waters, for a total of 45.42 acres of waters.

**Hybrid, Ave 24:** This alignment would result in impacts to 5.39 acres of wetlands and 26.78 acres of other waters, for a total of 32.17 acres of waters.

**Hybrid, Ave 21:** This alignment would result in impacts to 7.59 acres of wetlands and 29.47 acres of other waters, for a total of 37.06 acres of waters.

**Mitigation:** The Corps requires that applicants consider and use all reasonable and practical measures to avoid and minimize impacts to aquatic resources. If the applicant is unable to avoid or minimize all impacts, the Corps may require compensatory mitigation. The applicant has proposed to restore temporary impacts and compensate for permanent impacts to riparian habitat and other waters by preparing and implementing a habitat mitigation and monitoring plan. The applicant is currently preparing a detailed mitigation proposal. A permit cannot be issued for this project until a mitigation and monitoring plan has been approved.

**OTHER GOVERNMENTAL AUTHORIZATIONS:** Water quality certification or a waiver, as required under Section 401 of the Clean Water Act from the Central Valley Regional Water Quality Control Board is required for this project. The applicant is working with the state Water Quality Control Board, but has not yet applied for certification.

**HISTORIC PROPERTIES:** Based on the available information and the California HST Merced to Fresno Historic Properties Survey Report, potentially eligible cultural resources may be affected by the proposed project. The FRA, as lead federal agency, has initiated consultation with the State Historic Preservation Officer under Section 106 of the National Historic Preservation Act.

**ENDANGERED SPECIES:** The proposed activity may affect Federally-listed endangered or threatened species or their critical habitat. The FRA, as lead federal agency, will initiate consultation with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service, pursuant to Section 7 of the Endangered Species Act, as appropriate.

**ESSENTIAL FISH HABITAT:** The proposed project will not adversely affect Essential Fish Habitat (EFH) as defined in the Magnuson-Stevens Fishery Conservation and Management Act.

The above determinations are based on information provided by the applicant and our preliminary review.

**EVALUATION FACTORS:** The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the described activity on the public interest.

That decision will reflect the national concern for both protection and utilization of important resources. The benefit, which reasonably may be expected to accrue from the described activity, must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the described activity will be considered, including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, consideration of property ownership and, in general, the needs and welfare of the people. The activity's impact on the public interest will include application of the Section 404(b)(1) guidelines promulgated by the Administrator, Environmental Protection Agency (40 CFR Part 230).

The Corps is soliciting comments from the public, Federal, State, and local agencies and officials, Indian tribes, and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and other public interest factors listed above. Copies of comments received will be provided to the FRA for use in preparation of the Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

**SUBMITTING COMMENTS:** Written comments, referencing Public Notice SPK-2009-01483 must be submitted to the office listed below on or before September 28, 2011.

Zachary Simmons, Project Manager  
US Army Corps of Engineers, Sacramento District  
650 Capitol Mall, Suite 5-200  
Sacramento, California 95814  
Email: *Zachary.M.Simmons@usace.army.mil*

The Corps is particularly interested in receiving comments related to the proposal's probable impacts on the affected aquatic environment and the secondary and cumulative effects. Anyone may request, in writing, that a public hearing be held to consider this application. Requests shall specifically state, with particularity, the reason(s) for holding a public hearing. If the Corps determines that the information received in response to this notice is inadequate for thorough evaluation, a public hearing may be warranted. If a public hearing is warranted, interested parties will be notified of the time, date, and location. Please note that all comment letters received are subject to release to the public through the Freedom of Information Act. If you have questions or need additional information please contact the applicant or the Corps' project manager Zachary Simmons, 916-557-6746, *Zachary.M.Simmons@usace.army.mil*.

Attachments: 8 drawings