



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

REPLY TO
ATTENTION OF

July 5, 2011

Regulatory Division (SPK-2009-01483)

Mr. Dan Leavitt
California High Speed Rail Authority
925 L Street
Sacramento, California 95814

Dear Mr. Leavitt:

I am writing in response to your April 21, 2011 and the June 2, 2011, Checkpoint B letters, and the March 2011, Revised Checkpoint B Summary Report for the proposed Fresno to Bakersfield segment of the California High-Speed Train ("CHST") Project. In accordance with our *National Environmental Policy Act/Clean Water Act Section 404/Rivers and Harbors Act Section 14 Integration Process for the California High-Speed Train Program Memorandum of Understanding* dated November 2010 (NEPA/404/408 MOU). This letter is our formal response.

As a cooperating agency for preparation of the Merced to Fresno Environmental Impact Report/Environmental Impact Statement (EIR/EIS) and in fulfillment of our responsibilities under the NEPA/404/408 MOU, we offered feedback to the Federal Railroad Administration as well as the California High-Speed Rail Authority ("Authority") on the range of alternatives during meetings on January 28, March 17, and May 17, 2011 as well as direct communication with your staff and consultants. The Authority has provided additional information and clarification per our requests. The alternatives were evaluated based on the ability to meet the project purpose and the project performance objectives and evaluation measures presented in the May 2010, *Preliminary Alternatives Analysis Report*.

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

1. Stations
 - a) Fresno Station–Mariposa Alternative
 - b) Fresno Station–Kern Alternative
 - c) Bakersfield Station–North Alternative
 - d) Bakersfield Station–South Alternative
2. North-South Alignments
 - a) BNSF Alternative
 - b) Corcoran Elevated Alternative
 - c) Corcoran Bypass Alignment
 - d) Allensworth Bypass Alignment
 - e) Wasco-Shafter Bypass Alignment
 - f) Bakersfield South Alignment (D2-N)

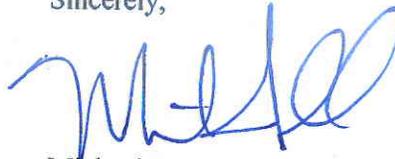
3. Heavy Maintenance Facility

- a) BNSF Alternative
- b) Hanford West Bypass Alternative
- c) Corcoran Elevated Alternative
- d) Corcoran Bypass Alignment
- e) Allensworth Bypass Alignment
- f) Wasco-Shafter Bypass Alignment
- g) Bakersfield South Alignment (D2-N)

We do not agree that the Hanford West Bypass Alternative should be eliminated from the EIR/EIS. This alternative was proposed for elimination because it was determined unsuitable for a regional station proposed between Hanford and Visalia. The data provided for this section shows that this alternative would result in less impacts to riverine habitat, riparian habitat, and residential and commercial parcels, but more impacts to seasonal wetlands, threatened and endangered species, and indirect impacts to residential communities. This alternative meets the purpose and need and is recommended to be carried forward in the reasonable range of alternatives.

We appreciate the opportunity to provide input on the range of alternatives and look forward to your letter identifying the status of each alternative that we did not agree. If you have any questions, please contact Mr. Zachary Simmons at our California South Branch, 650 Capitol Mall, Suite 5-200, Sacramento, California 95814-4708, or by email at: Zachary.M.Simmons@usace.army.mil, or by telephone 916-557-6746. For more information regarding our program, please visit our website at www.spk.usace.army.mil/regulatory.html.

Sincerely,



Michael S. Jewell
Chief, Regulatory Division

Copy Furnished:

Mr. David Valenstein, Federal Railroad Administration, 1200 New Jersey Avenue SE- Mail Stop 20,
Washington, D.C. 20590-0001

Ms. Connell Dunning, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street,
San Francisco, California 94105

Mr. Jason Brush, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street,
San Francisco, California 94105

Mr. Bryan Porter, Parsons Brinckerhoff, 925 L Street, Suite 1425, Sacramento, California 95814-3704



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

JUN 24 2011

David Valenstein
Federal Railroad Administration
1120 Vermont Avenue, NW, MS 20
Washington, D.C. 20590

Dan Leavitt
California High Speed Rail Authority
770 L Street, Suite 800
Sacramento, CA 95814

Subject: Response to Request for Agreement on Range of Alternatives for California High-Speed Rail Project Merced-to-Fresno and Fresno-to-Bakersfield Sections

Dear Messrs. Valenstein and Leavitt:

Thank you for the opportunity to provide comments and recommendations in advance of publication of the Draft Environmental Impact Statements (Draft EIS) for the Merced-to-Fresno and Fresno-to-Bakersfield sections of the California High Speed Rail (HSR). We hope that our early feedback and coordination will lead to early resolution of any potential environmental resource and permitting challenges. The Federal Railroad Administration (FRA) is the lead federal agency for compliance with the National Environmental Policy Act (NEPA) and other federal laws, and California High Speed Rail Authority (CHSRA) is serving as the joint-lead under NEPA and is the lead agency for compliance under the California Environmental Quality Act (CEQA).

EPA feedback is aimed at integrating the future requirements of the Clean Water Act (CWA) Section 404 permitting process with NEPA requirements. This integration process is further described in the *NEPA/ CWA Section 404/Rivers and Harbors Act Section 14 (33 U.S.C. 408) Integration Process for the California High-Speed Train Program Memorandum of Understanding* (MOU) dated December 2010. To facilitate effective integration of CWA Section 404 and NEPA for this project, EPA continues to coordinate closely with the Army Corps of Engineers (Corps) and we concur with the recommended range of alternatives provided by the Corps in the Merced-to-Fresno Checkpoint B agreement letter (June 14, 2011). We also commend CHSRA for working to reduce impacts to aquatic resources along the BNSF alignment of the Fresno-to-Bakersfield section.

Merced-to-Fresno Section

EPA agrees with CHSRA and FRA's decision to carry forward the following station, alignments, and heavy maintenance facilities (HMF) for analysis in the Merced-to-Fresno Draft EIS:

- Merced Transit Center Station Alternative
- UPRR/SR 99 Alignment Alternative with Design Options East and West of Chowchilla
- BNSF Alignment Alternative with Design Options Between Merced and Le Grand

- Hybrid Alignment Alternative
- Castle Commerce Center HMF Site Alternative
- Harris-DeJager HMF Site Alternative
- Fagundes HMF Site Alternative
- Gordon-Shaw HMF Site Alternative
- Kojima Development HMF Site Alternative

In addition, the Corps June 14, 2011 letter highlighted the following issues:

- 1) The BNSF alternative in this section would likely have CWA Section 404 permitting challenges due to aquatic resource impacts, and
- 2) The Western Madera alternative should not be eliminated from analysis in the Draft EIS.

We concur with these two points.

Fresno-to-Bakersfield Section

EPA agrees with CHSRA and FRA's decision to carry forward the following stations, alignments, and heavy maintenance facilities (HMF) for analysis in the Fresno-to-Bakersfield Draft EIS:

- BNSF Alignment Alternative with Two Station Alternatives in Fresno (Mariposa and Kern), the Kings/Tulare Regional Station, and a Station in Bakersfield (Bakersfield North)
- Corcoran Elevated Alternative
- Corcoran Bypass Alignment Alternative
- Allensworth Bypass Alignment Alternative
- Wasco-Shafter Bypass Alignment Alternative
- Bakersfield South Alignment Alternative with a Bakersfield South Station Alternative
- Fresno Works – Fresno HMF Site Alternative
- Kings County – Hanford HMF Site Alternative
- Kern Council of Governments – Wasco HMF Site Alternative
- Kern Council of Governments – Shafter East HMF Site Alternative
- Kern Council of Governments – Shafter West HMF Site Alternative

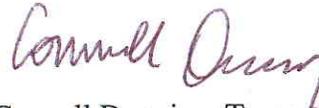
EPA also recommends that the West of Hanford Bypass Alternative be included in the reasonable range of alternatives and not be eliminated from further study at this time.

Finally, as discussed during last week's conference call between our agencies, we recommend that FRA and CHSRA defer a decision on the "wye" connection alignments between the Merced-to-Fresno Section and the San Jose-to-Merced Section at this time. The future San Jose-to-Merced EIS provides a forum for more detailed discussions about this important connection in the HSR system.

Thank you for requesting EPA's agreement on the range of alternatives. We look forward to further participation in the development of environmental documents for this project and the plan for overall environmental sustainability of the HSR system. EPA will ultimately review EISs for each section of the California HSR system pursuant to NEPA, Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500-1508), and Section 309 of the Clean Air Act. EPA will also review CWA Section 404 permit applications for each HSR section for compliance with EPA's 404(b)(1) Guidelines (40 CFR 230.10). We appreciate this opportunity to address potential environmental issues as early as possible. If you have any questions or comments please contact the NEPA lead for this project, Jen Blonn, at (415)

972-3855 (blonn.jennifer@epa.gov) or the aquatic resources lead for this project, Sarvy Mahdavi, at (415) 972-3173 (mahdavi.sarvy@epa.gov).

Sincerely,



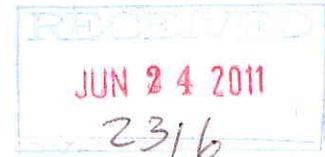
Connell Dunning, Transportation Team Supervisor
Environmental Review Office
Communities and Ecosystems Division

CC Via Email:

Melissa DuMond, Federal Railroad Administration
Dan Leavitt, California High-Speed Rail Authority
Lupe Jimenez, California High-Speed Rail Authority
Bryan Porter, Parsons Brinckerhoff, HSR Project Management Team
Paul Maniccia, U.S. Army Corps of Engineers
Zach Simmons, U.S. Army Corps of Engineers
Greg Brown, U.S. Army Corps of Engineers
Veronica Chan, U.S. Army Corps of Engineers
Kellie Berry, U.S. Fish and Wildlife Service



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REPLY TO
ATTENTION OF

June 14, 2011

Regulatory Division (SPK-2009-01483)

Mr. Dan Leavitt
California High Speed Rail Authority
925 L Street
Sacramento, California 95814

Dear Mr. Leavitt:

I am writing in response to your January 26, 2011, Checkpoint B Package, and the April 22, 2011 Checkpoint B Summary Report for the proposed Merced to Fresno segment of the California High-Speed Train ("CHST") Project. In accordance with our *National Environmental Policy Act/Clean Water Act Section 404/Rivers and Harbors Act Section 14 Integration Process for the California High-Speed Train Program Memorandum of Understanding* dated November 2010 (NEPA/404/408 MOU). This letter is our formal response.

As a cooperating agency for preparation of the Merced to Fresno Environmental Impact Report/Environmental Impact Statement (EIR/EIS) and in fulfillment of our responsibilities under the NEPA/404/408 MOU, we offered feedback to the Federal Railroad Administration as well as the California High-Speed Rail Authority ("Authority") on the range of alternatives during meetings on January 28, March 14, May 17, and May 24, 2011 as well as direct communication with your staff and consultants. The Authority has provided additional information and clarification per our requests. The alternatives were evaluated based on the ability to meet the project purpose and the project performance objectives and evaluation measures presented in the April 2010, *Preliminary Alternatives Analysis Report*.

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

1. Stations
 - a) Merced Downtown Station.

2. East-West Alignments
 - a) Henry Miller/Ave 24
 - b) South SR 152 (Ave 21)

3. Heavy Maintenance Facility
 - a) Castle Commerce Center
 - b) Harris-Dejager
 - c) Gordon-Shaw
 - d) Fangundes
 - e) Kojima Development

4. North-South Alignments
 - a) UPRR/SR 99 (A2)
 - b) Hybrid
 - c) BNSF (A1)

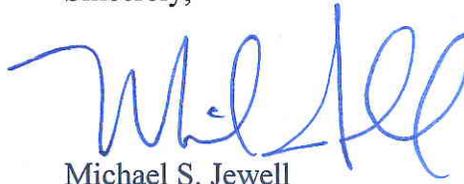
Although we agree the BNSF (A1) alternative and Kojima Development Heavy Maintenance Facility (HMF) site can be carried forward, we note these alternatives are not likely to comply with the requirements of the 404(b)(1) Guidelines (“Guidelines”) due to substantial impacts to waters of U.S., including wetlands. Under the Guidelines, no discharges of dredged or fill material into waters of the U.S., including wetlands, can occur unless it can be demonstrated that such discharges, either individually or cumulatively, will not result in an unacceptable adverse impact on the aquatic ecosystem. The Guidelines specifically require that no discharge of dredged or fill material shall be permitted if there is a practicable alternative to the proposed discharge, which would have less adverse impact on the aquatic ecosystem, so long as the alternative does not have other significant adverse environmental consequences. When considering practicability, the Guidelines define practicable alternative as one that is available and capable of being done after taking into consideration cost, existing technology, and logistics in light of the overall project purpose [40 C.F.R. § 230.3(q)]. Based on the information provided in the Checkpoint B materials and the February 2011, *Draft Wetlands Delineation Report: Merced to Fresno Section*, the BNSF Alternative contains a substantial number of vernal pools (19.5 acres), seasonal wetlands (21.8 acres), vernal pool critical habitat, and agricultural impacts, not present within the other alignments. The Kojima Development site would result in the impacts to approximately 0.75 acre of vernal pools and seasonal wetlands while no other HMF site would result in impacts to these features. Since it has been shown that there are other practicable alternatives which have fewer impacts to the aquatic ecosystem the Corps would have to permit those alternatives over the BNSF (A1) alternative and the Kojima Development site.

We do not agree that the Western Madera (A3) and SR 152 WYE Connection alternatives should be eliminated from the EIR/EIS. Although the Western Madera alternative is reported to have more impacts to agricultural lands due to the divergence from transportation corridors, the data provided shows that this alternative only severs 4.5% more acres than the Hybrid alternative. This alternative impacts 52% (73 acres) more Prime farmland, but impacts 52% (111 acres) less Unique farmland. The agricultural impacts appear to be similar to other alternatives while resulting in fewer community impacts and impacts to the aquatic ecosystem and vernal pool critical habitat. The SR 152 WYE Connection Alternatives should also be carried forward because a cost comparison has not been provided to substantiate the assertion that it could cost

twice as much as any other alternative. This alternative would avoid aquatic and biological resources resulting in impacts to 85% (2.2 acres) less lakes/ponds/streams, 85% (2.3 acres) percent less swamps/marshes, 62% (8 acres) less vernal pool complexes, 46% (11 acres) less wetland habitat, and 24% (73 acres) less San Joaquin kit fox range. Due to the lack of data on estimated costs related to the re-construction of SR 152, this alternative should be carried forward due to the lower impacts to aquatic and biological resources.

We appreciate the opportunity to provide input on the range of alternatives and look forward to your letter identifying the status of each alternative that we did not agree. If you have any questions, please contact Mr. Zachary Simmons at our California South Branch Office, 650 Capitol Mall, Suite 5-200, Sacramento, California 95814-4708, email Zachary.M.Simmons@usace.army.mil, or telephone 916-557-6746. For more information regarding our program, please visit our website at www.spk.usace.army.mil/regulatory.html.

Sincerely,



Michael S. Jewell
Chief, Regulatory Division

Copies Furnished

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Mr. Bryan Porter, Parsons Brinckerhoff, 925 L Street, Suite 1425, Sacramento, California 95814-3704