



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Southern Nevada Fish and Wildlife Office
4701 North Torrey Pines Drive
Las Vegas, Nevada 89130



IN REPLY REFER TO:
2023-01243530

September 1, 2023
Sent electronically

Matthew Mielke
U.S. Department of Transportation
Federal Railroad Administration
Office of Regional Outreach & Project Delivery
1200 New Jersey Avenue, SE
Washington D.C. 20590

Subject: Modifications to the Proposed Action and Concurrence Request: Biological Opinion on Brightline West High-Speed Train Project, Apple Valley, California to Las Vegas, Nevada (FWS-SB-20B0244-21TA0969)

Dear Mr. Mielke,

By correspondence dated August 11, 2023, you requested the U.S. Fish and Wildlife Service's (Service) concurrence that the proposed design modifications for the Brightline West High-Speed Train Project (previously XpressWest, File No.FWS-SB-20B0244-21TA0969), did not require the re-initiation of formal consultation under section 7(a)(2) of the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 et seq.). Your letter provided a history of the Federal Railroad Administration's (FRA) previous consultation, a summary of the design modifications, and a list of revised protective measures for the federally threatened desert tortoise (*Gopherus agassizii*).

Your request described several design modifications including: the realignment or movement of stations and ancillary facilities, additional temporary construction areas, and several culvert redesigns. The 2011 Project design evaluated in the DesertXpress EIS included an operations, maintenance, and storage facility (OMSF) in close proximity to the original Victorville Station west of the I-15 freeway and included facilities for maintaining and storing trains. Project modifications evaluated in 2020 relocated the Victorville Station to the south side of the I-15 freeway at Dale Evans Parkway in Apple Valley. The current modified Project (2022) relocated the vehicle maintenance and storage activities to a site located in Segment 6 west of the I-15 freeway and south of Sloan Road, referred to as the Las Vegas (Sloan) Vehicle Maintenance Facility (VMF). An additional freight track corridor would connect the VMF to the adjacent UPRR. The relocated VMF and adjacent UPRR 7 connection would require 246 acres of permanent footprint and 105 acres of temporary footprint. These facilities would be located on land under BLM jurisdiction.

On June 13, 2023, the Service (Southern Nevada and Palm Springs Fish and Wildlife Offices) met with Bureau of Land Management (BLM) and FRA to review the modified Project (2022) to

the proposed action specific to the Sloan VMF. Through this meeting and subsequent meetings and collaboration, the Service's Southern Nevada Fish and Wildlife Office advised BLM and FRA to consider all areas within and immediately adjacent to the Sloan VMF, including the habitat between the existing Union Pacific Railroad (UPRR) and the I-15 roadway as impacts on desert tortoise habitat. Areas not directly affected and converted from suitable tortoise habitat to railroad infrastructure would become isolated from adjacent tortoise habitat and therefore unusable by desert tortoise. Within the Sloan VMF isolation area prior to construction, the FRA, BLM, and Service plan to translocate all desert tortoises to the Stump Springs regional population-augmentation site (Stump Springs) or a Service approved recipient site. Desert tortoise exclusion fence design will be determined through collaboration with the Service regarding the proposed Sloan VMF location. In addition, the Service and BLM requested that FRA evaluate the culverts south of the Sloan VMF along the UPRR and I-15 for their effectiveness to facilitate tortoise movement. The Service requested the 2021 BO mitigation measures be updated to reflect translocation plan strategy requirements, as well as the culvert assessment. With the assistance of your planning team and the Bureau, revised protective measures have been developed to provide additional clarity and to reflect the current project design modifications. No additional design modifications were requested by the Service's Palm Springs Fish and Wildlife Office.

Overall, the combined modified Project footprints from 2020 and 2022 are smaller than the proposed action area evaluated in the 2011 BO. Although the proposed action has been modified in terms of disturbance acreage and facility location, potential effects remain similar to or less than those described in the 2011 BO. The implementation of the newly revised (2022-2023) protective measures and continued collaboration between FRA, BLM, and the Service, will assist in the conservation needs of the Mojave desert tortoise. All other proposed measures to minimize effects to desert tortoises and their habitat in the project area remain valid as described in the original 2011 biological opinion and subsequent 2021 biological opinion. The Service concurs with the Federal Railroad Administration's determination that re-initiation of formal consultation is unnecessary because the proposed changes to the project do not meet the re-initiation criteria for formal consultation (50 CFR 402.16).

If you have any questions about this biological opinion, please contact Kelly Douglas in the Southern Nevada Fish and Wildlife Office in Las Vegas at (702) 515-5102 or by e-mail at kelly_douglas@fws.gov. Please reference the above file numbers in future correspondence concerning this consultation.

Sincerely,

**GLEN
KNOWLES**

Glen Knowles
Field Supervisor

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cc:

Wildlife Biologist - Bureau of Land Management, Las Vegas Field Office, Nevada

Supervisory Biologist - Habitat, Nevada Department of Wildlife, Las Vegas, Nevada

Habitat Biologist - Nevada Department of Wildlife, Las Vegas, Nevada

Fish and Wildlife Biologist - U.S. Fish and Wildlife Service Ecological Services, Palm Springs, California