

Reevaluation Summary and Conclusions Brightline West High-Speed Passenger Train Project¹

I. Introduction

This memorandum documents the Federal Railroad Administration's (FRA) conclusion that a supplemental environmental document is not necessary for the *Final Environmental Impact Statement and Final Section 4(f) Evaluation for the Proposed DesertXpress High-Speed Passenger Train Victorville, California to Las Vegas, Nevada* issued in March 2011 and Record of Decision (ROD) issued in July 2011 (collectively referred to as the 2011 DesertXpress EIS).

Following FRA's issuance of the 2011 DesertXpress EIS, the project did not proceed to construction. In 2018, the project sponsor (Brightline West) proposed modifications to the project's design, which FRA evaluated and determined did warrant preparation of a supplemental environmental document (September 2020 Reevaluation). Subsequently, Brightline West proposed additional design modifications, which FRA evaluated to determine whether supplemental environmental analysis is necessary for the project modifications (2023 Reevaluation).

II. Standard for Reevaluating Environmental Documents

A reevaluation is a review conducted by the agency of any proposed change in an action, affected environment, anticipated impact, applicable requirements, or mitigation measure as they relate to the environmental document or decision. The purpose of a reevaluation is to determine whether an environmental document or decision remains valid. A reevaluation is a continuation of the project development process, though it does not necessarily reopen the NEPA decision. However, a reevaluation is not considered supplemental analysis or a supplemental environmental document.

Generally, a supplemental EIS is necessary if:

- (1) Changes to the proposed action would result in significant environmental impacts that were not evaluated in the EIS; or
- (2) New information or circumstances relevant to environmental concerns and bearing on the proposed action or its impacts would result in significant environmental impacts not evaluated in the EIS.²

The 2023 Reevaluation includes an assessment of the design modifications and new information relevant to the affected environment, regulatory setting and project effects that have occurred since the September 2020 Reevaluation and, where applicable, incorporates the September 2020 Reevaluation by reference.

III. Summary of Project Changes and Available Information

¹ The project was previously referred to as the DesertXpress Project and was later referred to as the XpressWest High-Speed Train Project.

² See 40 CFR 1502.9(c).

The modifications to the project's design are documented in Attachment A – Project Changes of the 2023 Reevaluation and consist of modifications to the rail alignment and the Victor Valley station, freeway ramp realignments and emergency crossovers, and ancillary features, including a substation, maintenance of way facility and vehicle maintenance facility. In addition, FRA received information relevant to FRA's environmental analysis of potential impacts to cultural resources, including historic properties of religious and cultural significance to federally recognized tribes, and wildlife connectivity.

FRA concluded that the project modifications would generally avoid or minimize the overall effects of the project described in the 2011 DesertXpress EIS. In addition, FRA concluded the project, in consideration of the new information evaluated by FRA, would not result in new significant effects to cultural resources and wildlife connectivity beyond the effects described in the 2011 DesertXpress EIS.

IV. Mitigation Commitments

The 2011 DesertXpress EIS prescribed specific mitigation measures to address significant impacts from implementation of the project. FRA updated these measures in the 2020 reevaluation. FRA has further updated these measures, which are documented in Attachment D – Mitigation Measure Summary of the 2023 Reevaluation. If FRA provides federal funding to construct the project, FRA will incorporate these measures into the applicable funding agreement between FRA and the recipient of federal funds.

V. Related Environmental Reviews

FRA consulted under Section 106 of the National Historic Preservation Act (Section 106) for the project modifications. Through consultation, FRA determined the project would result in adverse effects to historic properties and, FRA and the signatories executed a Programmatic Agreement (PA)³ on August 15, 2023, which establishes a process to resolve adverse effects. Compliance with the terms of the PA fulfills FRA's obligations under Section 106.

FRA reinitiated consultation with the U.S. Fish and Wildlife Service (USFWS), under Section 7 of the Endangered Species Act, for the project modifications. USFWS recommended updates to the mitigation measures described in the project's Biological Opinion prepared in 2011. FRA incorporated these revised mitigation measures into the 2023 Reevaluation. On September 1, 2023, USFWS concluded re-initiation of formal Section 7 consultation was not required for the project.

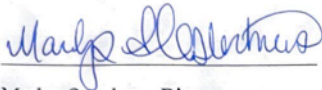
Through the Section 106 consultation, FRA determined the project would result in an adverse effect to historic properties, specifically certain archeological districts. These districts are also protected under Section 4(f) of the Department of Transportation Act (Section 4(f)). FRA determined the project would result in the use of a Section 4(f) resource and completed a Section 4(f) evaluation. FRA determined there was no feasible and prudent alternative to avoid the use of the archeological districts and that the project included all possible planning to minimize harm.

³ FRA executed a PA for the project on February 15, 2011; however, the PA expired by its own terms.

VI. Decision

Based on the information and analysis in the 2023 Reevaluation, FRA concludes the project modifications and new information do not warrant preparation of a supplemental environmental document.

Approved by:



Marlys Osterhues, Director
Office of Environmental Program Management, FRA

09/15/2023

Date: